Committee on Health Policy

CS/HB 1047 — Termination of Pregnancies

by Health and Human Services Committee; and Rep. Adkins and others (CS/SB 918 by Health Policy Committee; and Senators Flores and Benacquisto)

The bill amends sections of the Florida Statues related to abortions.

The bill limits the circumstances in which an abortion may be lawfully performed on a viable fetus. "Viable or viability" is defined in the bill as the state of fetal development when the life of a fetus is sustainable outside the womb through standard medical measures. "Standard medical measure" is also defined in the bill as the medical care that a physician would provide based on the particular facts of the pregnancy, the information available to the physician, and the technology reasonably available in a hospital to preserve the life and health of the fetus, with or without temporary artificial life-sustaining support, if the fetus were born at the same stage of fetal development.

Before performing any termination of pregnancy, a physician must determine if the fetus is viable by, at a minimum, performing a medical examination of the woman and the fetus to the maximum extent possible through reasonably available tests and the required ultrasound. The physician must also document his or her determination on viability as well as the method, fetal measurements, and other information used to determine viability.

The bill creates exceptions from the prohibitions on abortions during viability, and modifies the current exceptions to the prohibition on abortions in the third trimester, so that an abortion may be performed if two physicians certify in writing that in their reasonable medical judgment the abortion is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function other than a psychological condition. If a second physician is not available, one physician may certify in writing that, in reasonable medical judgment, there is a medical necessity for emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition. "Reasonable medical judgment" is defined in the bill to mean medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect the medical conditions involved.

Abortions after viability, similar to abortions during the third trimester, must be performed in a hospital. When performing such abortions the physician must use the same level of care to preserve the life of the fetus as would be used to preserve the life and health of a fetus intended to be born unless doing so conflicts with preserving the life and health of the pregnant woman.

Any person who performs, or actively participates in, an abortion, except as authorized by law, after the physician determines that, in his or her reasonable medical judgment, the fetus has achieved viability commits a felony of the third degree, or felony of the second degree if the termination of pregnancy results in the death of the woman.

The bill provides that the provisions of the act are severable and, if the provisions relating to termination of pregnancy during viability are found unconstitutional, the Florida Statutes revert to the law as it existed on January 1, 2014.

If approved by the Governor, these provisions take effect July 1, 2014.
Vote: Senate 24-15; House 70-45