

By Senator Wise

5-01412B-12

20121374

1 A bill to be entitled
2 An act relating to abortion; creating the "Florida for
3 Life Act"; creating s. 390.0001, F.S.; providing
4 legislative findings regarding abortion; creating s.
5 390.01113, F.S.; providing definitions; prohibiting
6 inducing, performing, attempting to perform, or
7 assisting in induced abortions; providing criminal
8 penalties; prohibiting inflicting serious bodily
9 injury on a person in the course of performing an
10 abortion; providing criminal penalties; providing
11 enhanced criminal penalties if the serious bodily
12 injury results in death; prohibiting operation of any
13 facility, business, or service within this state for
14 the purpose of providing induced abortion services;
15 providing criminal penalties; prohibiting termination
16 of a pregnancy unless specified conditions are met;
17 requiring that a termination of pregnancy be performed
18 only by a physician; requiring voluntary, informed
19 consent for a termination of pregnancy; providing an
20 exception for medical emergencies; providing for
21 documentation of a medical emergency; providing that
22 violations may subject physicians to discipline under
23 specified provisions; providing a standard of medical
24 care to be used during a termination of pregnancy
25 performed while the patient's fetus is viable;
26 providing that the woman's life is a superior
27 consideration to the concern for the life of the fetus
28 and the woman's health is a superior consideration to
29 the concern for the health of the fetus when such life

5-01412B-12

20121374

30 or health concerns are in conflict; prohibiting a
31 physician's misrepresentation of the gestational age
32 or developmental stage of a viable fetus in any
33 medical record and failing to use the prescribed
34 standard of care on a viable fetus; providing criminal
35 penalties; prohibiting fetal experimentation;
36 providing an exception; requiring that fetal remains
37 be disposed of according to specified standards;
38 providing criminal penalties; excluding specified
39 procedures from application of the section; requiring
40 physicians and personnel at a medical facility to
41 provide certain women and minors who have been treated
42 by the facility with information regarding adoption
43 and a statewide list of attorneys available to provide
44 volunteer legal services for adoption; providing that
45 violation of certain provisions by a physician may be
46 grounds for discipline; providing rulemaking authority
47 to the Agency for Health Care Administration and the
48 Department of Health; creating s. 390.01117, F.S.;
49 providing that the section takes effect only if s.
50 390.01113, F.S., is declared unconstitutional or has
51 its enforcement enjoined; providing definitions;
52 prohibiting termination of a pregnancy after a fetus
53 has been determined to be viable; providing
54 exceptions; requiring a determination of viability for
55 women in a certain week of pregnancy or later before
56 termination may be performed; requiring an ultrasound
57 and recordkeeping; providing that determination of
58 viability and a required ultrasound may not be

5-01412B-12

20121374

59 performed by a physician providing reproductive health
60 services at an abortion clinic; requiring that a
61 termination of pregnancy involving a viable fetus,
62 when not prohibited, be performed in a hospital or
63 other medical facility; providing a standard of care
64 for a termination of pregnancy performed while a fetus
65 is viable; providing that the woman's life is a
66 superior consideration to the concern for the life of
67 the fetus and the woman's health is a superior
68 consideration to the concern for the health of the
69 fetus when such life or health concerns are in
70 conflict; prohibiting a physician' misrepresentation
71 of the gestational age or developmental stage of a
72 viable fetus in any medical record and failing to use
73 the prescribed standard of care on a viable fetus;
74 providing criminal penalties; providing that only a
75 physician may perform a termination of pregnancy;
76 requiring voluntary and informed consent for a
77 termination of pregnancy; providing an exception for
78 medical emergencies; providing for documentation of a
79 medical emergency; providing that violations may
80 subject physicians to discipline; prohibiting
81 experimentation on a fetus; providing an exception;
82 requiring that fetal remains be disposed of according
83 to specified standards; providing criminal penalties;
84 providing that no person or facility is required to
85 participate in the termination of a pregnancy or be
86 liable for such refusal; excluding specified
87 procedures from application of the section;

5-01412B-12

20121374

88 prohibiting a termination of pregnancy procedure in
89 violation of specified requirements; providing
90 criminal penalties; prohibiting inflicting serious
91 bodily injury on a person in the course of performing
92 a termination of pregnancy; providing criminal
93 penalties; providing enhanced criminal penalties if
94 the serious bodily injury results in death; requiring
95 physicians and personnel at a medical facility to
96 provide certain women and minors who have been treated
97 by the facility with information regarding adoption
98 and a statewide list of attorneys available to provide
99 volunteer legal services for adoption; providing
100 rulemaking authority to the Agency for Health Care
101 Administration and the Department of Health; providing
102 that rulemaking authority is supplemental to s.
103 390.012, F.S.; amending s. 39.001, F.S.; providing
104 legislative intent concerning adoption services for
105 women with unwanted pregnancies; requiring the Office
106 of Adoption and Child Protection to create and manage
107 a statewide list of attorneys providing volunteer
108 adoption services for women with unwanted pregnancies
109 who would have selected abortion, if lawful, rather
110 than adoption; providing that all federal moneys
111 received by the state as a result of efforts made by
112 the office to provide legal services have deposited,
113 directed and budgeted the full amount for its use;
114 repealing s. 390.011, F.S., relating to definitions;
115 repealing s. 390.0111, F.S., relating to termination
116 of pregnancies; repealing s. 390.01114, F.S., which

5-01412B-12

20121374

117 creates the Parental Notice of Abortion Act; repealing
118 s. 390.01116, F.S., relating to public records
119 exemptions for identifying information regarding
120 minors seeking a waiver of notice requirements under
121 the Parental Notice of Abortion Act; repealing s.
122 390.0112, F.S., relating to termination of pregnancy
123 reporting; repealing s. 390.012, F.S., relating to
124 powers of the Agency for Health Care Administration,
125 rulemaking, and the disposal of fetal remains;
126 repealing s. 390.014, F.S., relating to licenses and
127 fees; repealing s. 390.015, F.S., relating to
128 application for license; repealing s. 390.018, F.S.,
129 relating to administrative fines; repealing s.
130 390.025, F.S., relating to abortion referral or
131 counseling agencies and penalties; repealing s.
132 782.30, F.S., relating to the short title for the
133 Partial-Birth Abortion Act; repealing s. 782.32, F.S.,
134 relating to definitions for the Partial-Birth Abortion
135 Act; repealing s. 782.34, F.S., relating to partial-
136 birth abortion; repealing s. 782.36, F.S., relating to
137 exceptions to the Partial-Birth Abortion Act; amending
138 s. 27.511, F.S.; conforming language relating to
139 court-appointed counsel for minors under the Parental
140 Notice of Abortion Act to the repeal of s. 390.01114,
141 F.S.; amending ss. 627.64995, 627.6699, 627.66996, and
142 641.31099, F.S.; providing restrictions on use of
143 state and federal funds for state exchanges that
144 provide coverage for induced abortions and
145 terminations of pregnancies under certain conditions;

5-01412B-12

20121374

146 amending ss. 743.065 and 765.113, F.S.; conforming
147 cross-references; providing that if s. 390.01117,
148 F.S., is declared unconstitutional or has its
149 enforcement enjoined, the repeal of s. 390.011, F.S.,
150 and the amendment of s. 39.001, F.S., are void and of
151 no effect; providing legislative intent; providing
152 that if s. 390.01113, F.S., is declared
153 unconstitutional or has its enforcement enjoined,
154 specified statutory repeals and amendments contained
155 in this act are void and of no effect; providing
156 legislative intent; providing an effective date.

157

158 Be It Enacted by the Legislature of the State of Florida:

159

160 Section 1. This act may be cited as the "Florida for Life
161 Act."

162 Section 2. Section 390.0001, Florida Statutes, is created
163 to read:

164 390.0001 Legislative findings regarding abortion.-

165 (1) The Legislature acknowledges that all persons are
166 endowed by their Creator with certain unalienable rights, and
167 that first among these is their right to life.

168 (2) The Legislature finds that all human life comes from
169 the Creator, has an inherent value that cannot be quantified by
170 man, and begins at conception.

171 (3) The Legislature finds that the United States
172 Constitution expresses no qualification for, or limitation on,
173 the protection of human life by laws passed by state
174 legislatures which regard human life as the most fundamental

5-01412B-12

20121374

175 gift from God and deserving of paramount importance among all
176 other unalienable rights expressed or implied in the United
177 States Constitution.

178 (4) The Legislature finds that personal liberty is not a
179 license to kill an innocent human life under any provision of
180 the United States Constitution.

181 (5) The Legislature finds that once human life begins there
182 is a compelling state interest in protecting the natural course
183 of its development from that moment through birth. Any act of a
184 person detrimental to an unborn human life, when not necessary
185 in defense of the life of the mother bearing such unborn life,
186 which unnaturally terminates that unborn life, is a deprivation
187 of that unborn child's unalienable right to life.

188 (6) The Legislature finds that the establishment of
189 viability as the point at which the state may restrict
190 abortions, as well as the "undue burden" standard of *Planned*
191 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833
192 (1992) is arbitrary and provides inadequate guidance for this
193 state to enact meaningful protections for fetal life.

194 (7) The Legislature finds that the health exception
195 required of post-viability abortion regulations inadequately
196 protects the health of women seeking post-viability abortions
197 and impedes the state's protection of viable fetal life.

198 (8) The Legislature finds that the people of Florida seek
199 to protect unborn human life and prohibit unnecessary abortion
200 through the exercise of their right to self-government.

201 (9) The Legislature urges the United States Supreme Court
202 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*
203 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833

5-01412B-12

20121374

204 (1992).

205 Section 3. Section 390.01113, Florida Statutes, is created
206 to read:

207 390.01113 Abortion unlawful; termination of pregnancies
208 circumstances authorized.—

209 (1) DEFINITIONS.—As used in this section, the term:

210 (a) "Induced abortion" means a medically initiated
211 termination of a human pregnancy with the intent to kill a human
212 embryo or fetus that is not dying of natural causes. For
213 purposes of this paragraph, the term "medically initiated"
214 refers to the ingestion or administration of pharmaceutical
215 abortifacients by any means, surgical procedures, or use of any
216 device or instrument, as well as any combination thereof.

217 (b) "Medical emergency" means a condition that, on the
218 basis of a physician's good faith clinical judgment, so
219 complicates the medical condition of a patient as to necessitate
220 the immediate termination of her pregnancy to avert her death,
221 or for which a delay in the termination of her pregnancy will
222 create serious risk of substantial and irreversible impairment
223 of a major bodily function or unreasonably reduce the likelihood
224 of successful treatment of a life-threatening disease.

225 (c) "Patient" means the woman or minor upon whom an
226 abortion or termination of pregnancy is performed or induced.

227 (d) "Physician" means a physician licensed under chapter
228 458 or chapter 459 or a physician practicing medicine or
229 osteopathic medicine in the employment of the United States.

230 (e) "Termination of pregnancy" means the termination of a
231 human pregnancy under circumstances not prohibited by this
232 section.

5-01412B-12

20121374

233 (f) "Viability" means that stage of fetal development when,
234 in the judgment of a physician based on the particular facts of
235 the case before him or her and in light of the most advanced
236 medical technology and information available, there is a
237 reasonable probability of sustained survival of the unborn child
238 outside his or her mother's womb with or without artificial
239 support.

240 (2) INDUCED ABORTION PROHIBITED.—

241 (a) Induced abortion for any purpose is unlawful. Any
242 person who induces, performs, attempts to perform, or assists
243 another in the performance of an induced abortion on another
244 person commits a felony of the first degree, punishable as
245 provided in s. 775.082, s. 775.083, or s. 775.084.

246 (b) Any person who during the course of performing an
247 induced abortion on another person inflicts serious bodily
248 injury on the person commits a felony of the first degree,
249 punishable by imprisonment for a term of years not exceeding
250 life as provided in s. 775.082, s. 775.083, or s. 775.084.

251 (c) Any person who during the course of performing an
252 induced abortion on another person inflicts serious bodily
253 injury on the person which results in the death of the person
254 commits a life felony, punishable as provided in s. 775.082, s.
255 775.083, or s. 775.084.

256 (3) OPERATING ABORTION SERVICES PROHIBITED.—A person who
257 operates any facility, business, or service from any location
258 within this state for the purpose of providing induced abortion
259 services commits a felony of the first degree, punishable by
260 imprisonment for a term of years not exceeding life as provided
261 in s. 775.082, s. 775.083, or s. 775.084.

5-01412B-12

20121374

262 (4) TERMINATION OF PREGNANCY.—A termination of pregnancy
263 may not be performed unless:

264 (a) Two physicians certify in writing to the fact that, to
265 a reasonable degree of medical certainty, the termination of
266 pregnancy is necessary to prevent the death of the patient;

267 (b) Two physicians certify in writing to the fact that, to
268 a reasonable degree of medical certainty, the termination of
269 pregnancy is necessary because to continue the pregnancy would
270 unreasonably reduce the likelihood of successful treatment of a
271 life-threatening disease of the patient; or

272 (c) A physician certifies in writing that a medical
273 emergency existed and another physician was not available for
274 consultation prior to the time necessary to perform the
275 termination of pregnancy. The physician's written certification
276 must clearly describe the medical emergency.

277 (5) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
278 pregnancy may be performed at any time except by a physician.

279 (6) CONSENTS REQUIRED.—A termination of pregnancy may not
280 be performed or induced except with the voluntary and informed
281 written consent of the patient or, in the case of a mentally
282 incompetent patient, the voluntary and informed written consent
283 of her court-appointed guardian or, in the case of a minor
284 patient, notwithstanding s. 743.065, the voluntary informed
285 consent of the minor's parent or legal guardian.

286 (a) Except in the case of a medical emergency, consent to a
287 termination of pregnancy is voluntary and informed only if the
288 physician who is to perform the procedure or the referring
289 physician has personally informed the patient, or the court-
290 appointed guardian if the patient is mentally incompetent or a

5-01412B-12

20121374

291 parent or guardian if the patient is a minor, of:

292 1. The nature and risks of undergoing or not undergoing the
293 proposed procedure that a reasonable patient similarly situated
294 may consider relevant to making an informed decision of whether
295 to terminate a pregnancy.

296 2. The medical risks to the patient and fetus of carrying
297 the pregnancy to term.

298 (b) In the event a medical emergency exists and a physician
299 cannot comply with the requirements for informed consent, a
300 physician may terminate a pregnancy if he or she has obtained at
301 least one corroborative medical opinion attesting to the medical
302 necessity for emergency medical procedures and to the fact that,
303 to a reasonable degree of medical certainty, the continuation of
304 the pregnancy would threaten the life of the patient. In the
305 event no second physician is available for a corroborating
306 opinion, the physician may proceed but shall document reasons
307 for the medical necessity in the patient's medical records.

308 (c) Violation of this subsection by a physician constitutes
309 grounds for disciplinary action under s. 458.331 or s. 459.015.
310 Substantial compliance or reasonable belief that complying with
311 the requirements of informed consent would threaten the life of
312 the patient may be raised as a defense to any action brought for
313 a violation of this subsection.

314 (7) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.-

315 (a) If a termination of pregnancy is performed while the
316 patient's fetus is viable, no person who performs or induces the
317 termination of pregnancy shall fail to use that degree of
318 professional skill, care, and diligence to preserve the life and
319 health of the fetus that such person would be required to

5-01412B-12

20121374

320 exercise in order to preserve the life and health of a fetus
321 intended to be born and not aborted. Notwithstanding the
322 provisions of this subsection, the patient's life shall
323 constitute an overriding and superior consideration to the
324 concern for the life of the fetus, and the patient's health
325 shall constitute an overriding and superior consideration to the
326 concern for the health of the fetus when such life or health
327 concerns are in conflict. For purposes of this subsection,
328 health considerations refer to medical judgment exercised in
329 light of factors exclusively regarding the physical well-being
330 of the patient.

331 (b) Any physician who, once the matter of the viability or
332 nonviability of the fetus has been determined within a
333 reasonable degree of medical probability, knowingly and
334 willfully misrepresents the gestational age or stage of fetal
335 development of a viable fetus in an entry into any medical
336 record and who fails to use the standard of care required under
337 paragraph (a) on any fetus determined to be viable commits a
338 felony of the first degree, punishable as provided in s.
339 775.082, s. 775.083, or s. 775.084.

340 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
341 person shall use any live fetus or live, premature infant for
342 any type of scientific, research, laboratory, or other kind of
343 experimentation prior to or subsequent to any termination of
344 pregnancy procedure except as necessary to protect or preserve
345 the life and health of such fetus or premature infant.

346 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
347 sanitary and appropriate manner and in accordance with standard
348 health practices, as provided by rule of the Department of

5-01412B-12

20121374

349 Health. A person who fails to dispose of fetal remains in
350 accordance with department rules commits a misdemeanor of the
351 first degree, punishable as provided in s. 775.082 or s.
352 775.083.

353 (10) EXCLUSION FROM APPLICATION.— The provisions of this
354 section do not apply to the performance of a procedure that
355 terminates a pregnancy in order to deliver a live child or to
356 remove a dead or dying fetus whose demise was not the product of
357 a termination of pregnancy or an induced abortion from the
358 patient's body.

359 (11) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
360 authorized personnel of a medical facility who learns that a
361 pregnant woman or minor treated at the facility wishes to obtain
362 an induced abortion, or that a patient has had a termination of
363 pregnancy where the fetus survived, shall provide the woman or
364 minor with information concerning the availability of adoption
365 for her unwanted child. Compliance with this subsection may be
366 accomplished by providing the woman with the address and
367 telephone number of the Office of Adoption and Child Protection
368 within the Executive Office of the Governor and inform her of
369 the existence of the statewide list of attorneys available to
370 provide volunteer legal services for adoption maintained by that
371 office.

372 (12) PENALTIES FOR CERTAIN VIOLATIONS.—Violation of
373 subsection (4), subsection (7), or subsection (8) by a physician
374 constitutes grounds for disciplinary action under s. 458.331 or
375 s. 459.015.

376 (13) RULEMAKING AUTHORITY.—

377 (a) Except for subsection (9), the Agency for Health Care

5-01412B-12

20121374

378 Administration may adopt rules pursuant to ss. 120.536(1) and
379 120.54 to implement the provisions of this section. These rules
380 shall be for the purpose of protecting the health and safety of
381 women and unborn human life and for the purpose of securing
382 compliance with the requirements of this section and to
383 facilitate the enforcement of sanctions for those violations to
384 which administrative penalties apply.

385 (b) The Department of Health may adopt rules pursuant to
386 ss. 120.536(1) and 120.54 to implement the provisions of
387 subsection (9).

388 Section 4. Section 390.01117, Florida Statutes, is created
389 to read:

390 390.01117 Termination of pregnancies.-

391 (1) APPLICATION.-This section is superseded by s. 390.01113
392 and shall become effective only in the event that s. 390.01113
393 is declared unconstitutional or has its enforcement enjoined. In
394 the event this section becomes effective, it shall supersede s.
395 390.0111.

396 (2) DEFINITIONS.-As used in this section and elsewhere in
397 this chapter, the term:

398 (a) "Abortion" means the termination of human pregnancy
399 with an intention other than to produce a live birth or to
400 remove a fetus that died of natural causes.

401 (b) "Abortion clinic" or "clinic" means any facility or
402 structure in which abortions are performed. The term does not
403 include:

404 1. A hospital; or

405 2. A physician's office, provided that the office is not
406 used primarily for the performance of abortions.

5-01412B-12

20121374

407 (c) "Agency" means the Agency for Health Care
408 Administration.

409 (d) "Department" means the Department of Health.

410 (e) "Hospital" means a facility as defined in s.
411 395.002(12) and licensed under chapter 395 and part II of
412 chapter 408.

413 (f) "Patient" means the woman or minor upon whom an
414 abortion or termination of pregnancy is performed or induced.

415 (g) "Physician" means a physician licensed under chapter
416 458 or chapter 459 or a physician practicing medicine or
417 osteopathic medicine in the employment of the United States.

418 (h) "Viability" means that stage of fetal development when,
419 in the judgment of the physician based on the particular facts
420 of the case before him or her and in light of the most advanced
421 medical technology and information available, there is a
422 reasonable probability of sustained survival of the unborn child
423 outside his or her mother's womb with or without artificial
424 support.

425 (3) TERMINATION AFTER VIABILITY PROHIBITED; EXCEPTION.—No
426 termination of pregnancy shall be performed on any human being
427 when it has been determined, in accordance with subsection (4),
428 that the fetus is viable unless:

429 (a) Two physicians certify in writing to the fact that, to
430 a reasonable degree of medical certainty, the termination of
431 pregnancy is necessary to prevent the death of the patient or
432 avert a significant risk to her physical health;

433 (b) Two physicians certify in writing to the fact that, to
434 a reasonable degree of medical certainty, the termination of
435 pregnancy is necessary because to continue the pregnancy would

5-01412B-12

20121374

436 unreasonably reduce the likelihood of successful treatment of a
437 life-threatening disease of the patient; or

438 (c) The physician certifies in writing to the medical
439 necessity for legitimate emergency medical procedures for the
440 termination of pregnancy and another physician is not available
441 for consultation. The physician's written certification must
442 clearly describe the medical emergency.

443 (4) DETERMINATION OF VIABILITY.—No termination of pregnancy
444 may be induced or performed on any patient who is in the 22nd
445 week of pregnancy or later without first obtaining an ultrasound
446 from a physician to determine the stage of fetal development.
447 The physician shall estimate as accurately as possible the stage
448 of fetal development and shall indicate on the patient's medical
449 records the gestational age, length and weight, and lung
450 maturity of the fetus. The physician shall also indicate on the
451 patient's medical records whether, within a reasonable degree of
452 medical probability, the fetus is viable. Due to the potential
453 of an inherent conflict of interest, the determination of
454 viability and the performance of the ultrasound required under
455 this subsection may not be performed by a physician who provides
456 reproductive health services at an abortion clinic.

457 (5) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

458 (a) A termination of pregnancy involving a viable fetus,
459 when not prohibited in accordance with subsection (3), must be
460 performed in a hospital or other medical facility capable of
461 providing all necessary lifesaving or life-sustaining medical
462 services to the viable fetus.

463 (b) If a termination of pregnancy is performed while the
464 patient's fetus is viable, no person who performs or induces the

5-01412B-12

20121374

465 termination of pregnancy shall fail to use that degree of
466 professional skill, care, and diligence to preserve the life and
467 health of the fetus which such person would be required to
468 exercise in order to preserve the life and health of any fetus
469 intended to be born and not aborted. Notwithstanding the
470 provisions of this subsection, the patient's life shall
471 constitute an overriding and superior consideration to the
472 concern for the life of the fetus, and the patient's health
473 shall constitute an overriding and superior consideration to the
474 concern for the health of the fetus when such life or health
475 concerns are in conflict. For purposes of this subsection,
476 health considerations refer to medical judgment exercised in
477 light of factors exclusively regarding the physical well-being
478 of the patient. Violation of this subsection by a physician
479 constitutes grounds for disciplinary action under s. 458.331 or
480 s. 459.015.

481 (c) Any physician who, once the matter of the viability or
482 nonviability of the fetus has been determined within a
483 reasonable degree of medical probability, knowingly and
484 willfully misrepresents the gestational age or stage of fetal
485 development of a viable fetus in an entry into any medical
486 record and who fails to use the standard of care required under
487 paragraph (b) on any fetus determined to be viable commits a
488 felony of the first degree, punishable as provided in s.
489 775.082, s. 775.083, or s. 775.084.

490 (6) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
491 pregnancy may be performed at any time except by a physician.

492 (7) CONSENTS REQUIRED.—A termination of pregnancy may not
493 be performed or induced except with the voluntary and informed

5-01412B-12

20121374

494 written consent of the patient or, in the case of a mentally
495 incompetent patient, the voluntary and informed written consent
496 of her court-appointed guardian or, in the case of a pregnant
497 minor, notwithstanding s. 743.065, the voluntary informed
498 consent of the minor's parent or guardian.

499 (a) Except in the case of a medical emergency, consent to a
500 termination of pregnancy is voluntary and informed only if:

501 1. The physician who is to perform the procedure or the
502 referring physician has personally informed the patient, or the
503 court-appointed guardian if the patient is mentally incompetent
504 or a parent or guardian in the case of a minor patient, of:

505 a. The nature and risks of undergoing or not undergoing the
506 proposed procedure that a reasonable patient similarly situated
507 may consider relevant to making an informed decision of whether
508 to terminate a pregnancy.

509 b. The probable gestational age of the fetus at the time
510 the termination of pregnancy is to be performed.

511 c. The medical risks to the patient and fetus of carrying
512 the pregnancy to term.

513 d. All other factors, physical, emotional, psychological,
514 and familial, relevant to the short-term and long-term well-
515 being of the patient, including emotional and psychological
516 impact relating to the loss of the life of a child.

517 2. Printed materials prepared and provided by the
518 department have been provided to the patient, if she chooses to
519 view these materials, including:

520 a. A description of the fetus.

521 b. A list of agencies that offer alternatives to
522 terminating the pregnancy.

5-01412B-12

20121374

523 c. Detailed information on the availability of medical
524 assistance benefits for prenatal care, childbirth, and neonatal
525 care.

526 3. The person required to give consent under this
527 subsection acknowledges in writing, before the termination of
528 pregnancy, that the information required to be provided under
529 this subsection has been provided.

530 (b) In the event a medical emergency exists and a physician
531 cannot comply with the requirements for informed consent, a
532 physician may terminate a pregnancy if he or she has obtained at
533 least one corroborative medical opinion attesting to the medical
534 necessity for emergency medical procedures and to the fact that,
535 to a reasonable degree of medical certainty, the continuation of
536 the pregnancy would threaten the life of the patient. In the
537 event no second physician is available for a corroborating
538 opinion, the physician may proceed but shall document reasons
539 for the medical necessity in the patient's medical records.

540 (c) Violation of this subsection by a physician constitutes
541 grounds for disciplinary action under s. 458.331 or s. 459.015.
542 Substantial compliance or reasonable belief that complying with
543 the requirements of informed consent would threaten the life or
544 health of the patient may be raised as a defense to any action
545 brought under this subsection.

546 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
547 person shall use any live fetus or live, premature infant for
548 any type of scientific, research, laboratory, or other kind of
549 experimentation prior to or subsequent to any termination of
550 pregnancy procedure except as necessary to protect or preserve
551 the life and health of such fetus or premature infant. Violation

5-01412B-12

20121374

552 of this subsection by a physician constitutes grounds for
553 disciplinary action under s. 458.331 or s. 459.015.

554 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
555 sanitary and appropriate manner and in accordance with standard
556 health practices, as provided by rule of the Department of
557 Health. A person who fails to dispose of fetal remains in
558 accordance with department rules commits a misdemeanor of the
559 first degree, punishable as provided in s. 775.082 or s.
560 775.083.

561 (10) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—
562 Nothing in this section shall require any hospital or any person
563 to participate in the termination of a pregnancy, nor shall any
564 hospital or any person be liable for such refusal. No person who
565 is a member of, or associated with, the staff of a hospital, nor
566 any employee of a hospital or physician in which or by whom the
567 termination of a pregnancy has been authorized or performed, who
568 states an objection to such procedure shall be required to
569 participate in the procedure which will result in the
570 termination of pregnancy. The refusal of any such person or
571 employee to participate shall not form the basis for any
572 disciplinary or other recriminatory action against such person.

573 (11) EXCLUSION FROM APPLICATION.—The provisions of this
574 section do not apply to the performance of a procedure that
575 terminates a pregnancy in order to deliver a live child or to
576 remove a dead or dying fetus whose demise was not the product of
577 a termination of pregnancy or an abortion, from the patient's
578 body.

579 (12) PENALTIES FOR VIOLATION.—

580 (a) Any person who willfully induces, performs, or assists

5-01412B-12

20121374

581 in a termination of pregnancy procedure on another person in
582 violation of the requirements of subsection (4), paragraph
583 (5) (a), or subsection (6) commits a felony of the second degree,
584 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

585 (b) Any person who willfully induces, performs, or assists
586 in a termination of pregnancy procedure on another person in
587 violation of subsection (3) commits a felony of the first
588 degree, punishable as provided in s. 775.082, s. 775.083, or s.
589 775.084.

590 (c) Any person who willfully induces, performs, or assists
591 in a termination of pregnancy procedure on another person in
592 violation of subsection (3) which results in serious bodily
593 injury to the person commits a felony of the first degree,
594 punishable by imprisonment for a term of years not exceeding
595 life as provided in s. 775.082, s. 775.083, or s. 775.084.

596 (d) Any person who induces, performs, or assists in a
597 termination of pregnancy procedure on another person in
598 violation of the provisions of this section which results in the
599 death of the person commits a life felony, punishable as
600 provided in s. 775.082, s. 775.083, or s. 775.084.

601 (13) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
602 authorized personnel of a medical facility who learns that a
603 pregnant woman or minor treated at the facility wishes to obtain
604 an abortion, or that a patient has had a termination of
605 pregnancy at the facility under circumstances where the fetus
606 survived, shall provide the woman or minor with the address and
607 telephone number of the Office of Adoption and Child Protection
608 within the Executive Office of the Governor and inform her of
609 the existence of the statewide list of attorneys available to

5-01412B-12

20121374

610 provide volunteer legal services for adoption maintained by that
611 office.

612 (14) RULEMAKING AUTHORITY.-

613 (a) Except for subsection (9), the Agency for Health Care
614 Administration may adopt rules pursuant to ss. 120.536(1) and
615 120.54 to implement the provisions of this section. These rules
616 shall be for the purpose of protecting the health and safety of
617 women and unborn human life. These rules are also for the
618 purpose of securing compliance with the requirements of this
619 section and to facilitate the enforcement of sanctions for those
620 violations to which administrative penalties apply.

621 (b) The Department of Health may adopt rules pursuant to
622 ss. 120.536(1) and 120.54 to implement the provisions of
623 subsection (9).

624 (c) The rulemaking authority granted in this subsection is
625 supplemental to the rulemaking authority provided in s. 390.012.

626 Section 5. Subsection (6) of section 39.001, Florida
627 Statutes, is amended, and paragraph (d) is added to subsection
628 (7) of that section, to read:

629 39.001 Purposes and intent; personnel standards and
630 screening.-

631 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
632 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR
633 WOMEN WITH UNWANTED PREGNANCIES.-The incidence of known child
634 abuse, abandonment, and neglect has increased rapidly in recent
635 ~~over the past 5~~ years. The impact that abuse, abandonment, or
636 neglect has on the victimized child, siblings, family structure,
637 and inevitably on all citizens of the state has caused the
638 Legislature to determine that the prevention of child abuse,

5-01412B-12

20121374

639 abandonment, and neglect shall be a priority of this state. In
640 addition, to provide assistance for women or minors with
641 unwanted pregnancies who would have selected abortion, if lawful
642 in this state, rather than adoption as an alternative for their
643 unborn child, the Legislature has determined to offer such women
644 or minors volunteer legal services to accomplish an appropriate
645 adoptive placement for such newborn children. To further these
646 ends ~~this end~~, it is the intent of the Legislature that an
647 Office of Adoption and Child Protection be established.

648 (7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

649 (d) In connection with the provision of volunteer legal
650 services for women or minors with unwanted pregnancies who would
651 have selected abortion, if lawful in this state, rather than
652 adoption, the office shall:

653 1. Create and manage a statewide list of attorneys
654 providing volunteer adoption services for such women and minors.

655 2. Have deposited, directed, and budgeted in the full
656 amount for its use, in addition to funds that would have or are
657 otherwise budgeted for it, all moneys received by or otherwise
658 awarded to the state from the Federal Government, the United
659 States Treasury, or any other federal agency as a result of
660 efforts made by the office to provide legal services.

661 Section 6. Section 390.011, Florida Statutes, is repealed.

662 Section 7. Section 390.0111, Florida Statutes, is repealed.

663 Section 8. Section 390.01114, Florida Statutes, is
664 repealed.

665 Section 9. Section 390.01116, Florida Statutes, is
666 repealed.

667 Section 10. Section 390.0112, Florida Statutes, is

5-01412B-12

20121374

668 repealed.

669 Section 11. Section 390.012, Florida Statutes, is repealed.

670 Section 12. Section 390.014, Florida Statutes, is repealed.

671 Section 13. Section 390.015, Florida Statutes, is repealed.

672 Section 14. Section 390.018, Florida Statutes, is repealed.

673 Section 15. Section 390.025, Florida Statutes, is repealed.

674 Section 16. Section 782.30, Florida Statutes, is repealed.

675 Section 17. Section 782.32, Florida Statutes, is repealed.

676 Section 18. Section 782.34, Florida Statutes, is repealed.

677 Section 19. Section 782.36, Florida Statutes, is repealed.

678 Section 20. Paragraph (a) of subsection (6) of section
679 27.511, Florida Statutes, is amended to read:

680 27.511 Offices of criminal conflict and civil regional
681 counsel; legislative intent; qualifications; appointment;
682 duties.-

683 (6) (a) The office of criminal conflict and civil regional
684 counsel has primary responsibility for representing persons
685 entitled to court-appointed counsel under the Federal or State
686 Constitution or as authorized by general law in civil
687 proceedings, including, but not limited to, proceedings under s.
688 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and
689 proceedings to terminate parental rights under chapter 63.
690 ~~Private court-appointed counsel eligible under s. 27.40 have~~
691 ~~primary responsibility for representing minors who request~~
692 ~~counsel under s. 390.01114, the Parental Notice of Abortion Act;~~
693 ~~however, the office of criminal conflict and civil regional~~
694 ~~counsel may represent a minor under that section if the court~~
695 ~~finds that no private court-appointed attorney is available.~~

696 Section 21. Subsection (1) of section 627.64995, Florida

5-01412B-12

20121374

697 Statutes, is amended to read:

698 627.64995 Restrictions on use of state and federal funds
699 for state exchanges.—

700 (1) A health insurance policy under which coverage is
701 purchased in whole or in part with any state or federal funds
702 through an exchange created pursuant to the federal Patient
703 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
704 provide coverage for an induced abortion as defined in and
705 prohibited under s. 390.01113 or for a termination of pregnancy
706 in violation of s. 390.01113(4) s. 390.011(1), except if the
707 ~~pregnancy is the result of an act of rape or incest, or in the~~
708 ~~case where a woman suffers from a physical disorder, physical~~
709 ~~injury, or physical illness, including a life-endangering~~
710 ~~physical condition caused by or arising from the pregnancy~~
711 ~~itself, which would, as certified by a physician, place the~~
712 ~~woman in danger of death unless an abortion is performed.~~
713 Coverage is deemed to be purchased with state or federal funds
714 if any tax credit or cost-sharing credit is applied toward the
715 health insurance policy.

716 Section 22. Paragraph (a) of subsection (17) of section
717 627.6699, Florida Statutes, is amended to read:

718 627.6699 Employee Health Care Access Act.—

719 (17) RESTRICTIONS ON COVERAGE.—

720 (a) A plan under which coverage is purchased in whole or in
721 part with any state or federal funds through an exchange created
722 pursuant to the federal Patient Protection and Affordable Care
723 Act, Pub. L. No. 111-148, may not provide coverage for an
724 induced abortion, as defined in and prohibited under s.
725 390.01113 or for a termination of pregnancy in violation of s.

5-01412B-12

20121374__

726 390.01113(4) ~~s. 390.011(1)~~, except if the pregnancy is the
727 result of an act of rape or incest, or in the case where a woman
728 suffers from a physical disorder, physical injury, or physical
729 illness, including a life-endangering physical condition caused
730 by or arising from the pregnancy itself, which would, as
731 certified by a physician, place the woman in danger of death
732 unless an abortion is performed. Coverage is deemed to be
733 purchased with state or federal funds if any tax credit or cost-
734 sharing credit is applied toward the plan.

735 Section 23. Subsection (1) of section 627.66996, Florida
736 Statutes, is amended to read:

737 627.66996 Restrictions on use of state and federal funds
738 for state exchanges.—

739 (1) A group, franchise, or blanket health insurance policy
740 under which coverage is purchased in whole or in part with any
741 state or federal funds through an exchange created pursuant to
742 the federal Patient Protection and Affordable Care Act, Pub. L.
743 No. 111-148, may not provide coverage for an induced abortion as
744 defined in and prohibited under s. 390.01113 or for a
745 termination of pregnancy in violation of s. 390.01113(4) ~~s.~~
746 ~~390.011(1)~~, except if the pregnancy is the result of an act of
747 rape or incest, or in the case where a woman suffers from a
748 physical disorder, physical injury, or physical illness,
749 including a life-endangering physical condition caused by or
750 arising from the pregnancy itself, which would, as certified by
751 a physician, place the woman in danger of death unless an
752 abortion is performed. Coverage is deemed to be purchased with
753 state or federal funds if any tax credit or cost-sharing credit
754 is applied toward the group, franchise, or blanket health

5-01412B-12

20121374

755 insurance policy.

756 Section 24. Subsection (1) of section 641.31099, Florida
757 Statutes, is amended to read:

758 641.31099 Restrictions on use of state and federal funds
759 for state exchanges.—

760 (1) A health maintenance contract under which coverage is
761 purchased in whole or in part with any state or federal funds
762 through an exchange created pursuant to the federal Patient
763 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
764 provide coverage for an induced abortion as defined in and
765 prohibited under s. 390.01113 or for a termination of pregnancy
766 in violation of s. 390.01113(4) s. 390.011(1), except if the
767 ~~pregnancy is the result of an act of rape or incest, or in the~~
768 ~~case where a woman suffers from a physical disorder, physical~~
769 ~~injury, or physical illness, including a life-endangering~~
770 ~~physical condition caused by or arising from the pregnancy~~
771 ~~itself, which would, as certified by a physician, place the~~
772 ~~woman in danger of death unless an abortion is performed.~~

773 Coverage is deemed to be purchased with state or federal funds
774 if any tax credit or cost-sharing credit is applied toward the
775 health maintenance contract.

776 Section 25. Subsection (3) of section 743.065, Florida
777 Statutes, is amended to read:

778 743.065 Unwed pregnant minor or minor mother; consent to
779 medical services for minor or minor's child valid.—

780 ~~(3) Nothing in this act shall affect the provisions of s.~~
781 ~~390.0111.~~

782 Section 26. Subsection (2) of section 765.113, Florida
783 Statutes, is amended to read:

5-01412B-12

20121374

784 765.113 Restrictions on providing consent.—Unless the
785 principal expressly delegates such authority to the surrogate in
786 writing, or a surrogate or proxy has sought and received court
787 approval pursuant to rule 5.900 of the Florida Probate Rules, a
788 surrogate or proxy may not provide consent for:

789 (2) Withholding or withdrawing life-prolonging procedures
790 from a pregnant patient prior to viability as defined in s.
791 390.01113 ~~390.0111(4)~~.

792 Section 27. If s. 390.01117, Florida Statutes, as created
793 by this act, is declared unconstitutional or has its enforcement
794 permanently enjoined, the repeal of s. 390.011, Florida
795 Statutes, and the amendment of s. 39.001, Florida Statutes, by
796 this act, shall be deemed to be void and of no effect, it being
797 the legislative intent that these provisions would not have been
798 enacted had s. 390.01113 or s. 390.01117, Florida Statutes, not
799 been enacted as well.

800 Section 28. If s. 390.01113, Florida Statutes, as created
801 by this act, is declared unconstitutional or has its enforcement
802 permanently enjoined, the statutory repeals and amendments
803 contained in sections 6 through 26 of this act shall be deemed
804 to be void and of no effect, and the text of any amended
805 provisions shall revert to that in existence on the day before
806 the effective date of this act, except that any amendments to
807 such text enacted other than by this act shall be preserved and
808 continue to operate, it being the legislative intent that these
809 provisions would not have been enacted had s. 390.01113, Florida
810 Statutes, not been enacted as well.

811 Section 29. This act shall take effect July 1, 2012.