

Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Burgin offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 161-478 and insert:

7 (8) "Instillation Abortion" means an abortion induced by
8 the injection of saline, urea, prostaglandin, or other chemical
9 solution into the amniotic sac within the uterine cavity.

10 (9) "Medical emergency" means a condition that, on the
11 basis of a physician's good faith clinical judgment, so
12 complicates the medical condition of a pregnant woman as to
13 necessitate the immediate termination of her pregnancy to avert
14 her death, or for which a delay in the termination of her
15 pregnancy will create serious risk of substantial and
16 irreversible impairment of a major bodily function.

17 (10)~~(6)~~ "Partial-birth abortion" means an abortion a
18 termination of pregnancy in which the physician performing the
19 abortion: termination of pregnancy partially vaginally delivers

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20 ~~a living fetus before killing the fetus and completing the~~
21 ~~delivery.~~

22 (a) Deliberately and intentionally vaginally delivers a
23 living fetus until, in the case of a head-first presentation,
24 the entire fetal head is outside the body of the mother, or, in
25 the case of breech presentation, any part of the fetal trunk
26 past the navel is outside the body of the mother, for the
27 purpose of performing an overt act that the person knows will
28 kill the partially delivered living fetus; and

29 (b) Performs the overt act, other than completion of
30 delivery, which kills the partially delivered living fetus.

31 (11)-(7) "Physician" means a physician licensed under
32 chapter 458 or chapter 459 or a physician practicing medicine or
33 osteopathic medicine in the employment of the United States.

34 (12)-(8) "Third trimester" means the weeks of pregnancy
35 after the 24th week of pregnancy.

36 (13) "Viability" means that stage of fetal development
37 when the life of the unborn child may, with a reasonable degree
38 of medical probability, be continued indefinitely outside the
39 womb.

40 Section 2. Section 390.0111, Florida Statutes, is amended
41 to read:

42 390.0111 Abortions ~~Termination of pregnancies.-~~

43 (1) ABORTION TERMINATION IN THIRD TRIMESTER OR AFTER
44 VIABILITY; WHEN ALLOWED.-An abortion may not ~~No termination of~~
45 ~~pregnancy shall be performed on any human being in the third~~
46 trimester or after the period at which, in the best medical

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47 judgment of the physician, the fetus has attained viability ~~of~~
48 ~~pregnancy~~ unless:

49 (a) Two physicians certify in writing to the fact that, to
50 a reasonable degree of medical probability, the abortion
51 ~~termination of pregnancy~~ is necessary to prevent the death of
52 the pregnant woman or the substantial and irreversible
53 impairment of a major bodily function ~~save the life or preserve~~
54 ~~the health~~ of the pregnant woman; or

55 (b) The physician certifies in writing to the existence of
56 a medical emergency ~~medical necessity for legitimate emergency~~
57 ~~medical procedures for termination of pregnancy in the third~~
58 ~~trimester~~, and another physician is not available for
59 consultation.

60 (2) PHYSICIAN AND LOCATION REQUIREMENTS ~~PERFORMANCE BY~~
61 ~~PHYSICIAN REQUIRED.~~—

62 (a) An abortion may not ~~No termination of pregnancy shall~~
63 ~~be performed at any time except by a physician as defined in s.~~
64 ~~390.011.~~

65 (b) A physician who offers to perform or who performs
66 abortions in an abortion clinic must annually complete a minimum
67 of 3 hours of continuing education related to ethics.

68 (c) Except in the case of a medical emergency, an abortion
69 may not be performed:

70 1. In the third trimester, or after the fetus has attained
71 viability, in a location other than in a hospital. If such an
72 abortion is to be performed, the physician shall offer to
73 administer an anesthetic or analgesic to the fetus. The
74 physician shall document in the medical record whether the

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75 administration of anesthetic or analgesic was accepted or
76 declined.

77 2. In cases in which subparagraph 1. does not apply, in a
78 location other than a hospital, a validly licensed abortion
79 clinic, or a physician's office.

80 (3) EXPRESS PROHIBITION.-Performance of instillation
81 abortions are prohibited.

82 (4) ~~(3)~~ CONSENTS REQUIRED.-An abortion ~~A termination of~~
83 ~~pregnancy~~ may not be performed or induced except with the
84 voluntary and informed written consent of the pregnant woman or,
85 in the case of a mental incompetent, the voluntary and informed
86 written consent of her court-appointed guardian.

87 (a) Except in the case of a medical emergency, consent to
88 an abortion ~~a termination of pregnancy~~ is voluntary and informed
89 only if the following requirements are completed at least 24
90 hours before the abortion is performed:

91 1. The physician who is to perform the procedure, or the
92 referring physician, has, at a minimum, orally, in person,
93 informed the woman of:

94 a. The nature and risks of undergoing or not undergoing
95 the proposed procedure which ~~that~~ a reasonable patient would
96 consider material to making a knowing and willful decision of
97 whether to obtain an abortion ~~terminate a pregnancy~~.

98 b. The probable gestational age of the fetus, verified by
99 an ultrasound, at the time the abortion ~~termination of pregnancy~~
100 is to be performed.

101 (I) The ultrasound must be performed by the physician who
102 is to perform the abortion or by a person having documented

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103 evidence that he or she has completed a course in the operation
104 of ultrasound equipment as prescribed by rule and who is working
105 in conjunction with the physician.

106 (II) The person performing the ultrasound must offer the
107 woman the opportunity to view the live ultrasound images and
108 hear an explanation of them. If the woman accepts the
109 opportunity to view the images and hear the explanation, a
110 physician or a registered nurse, licensed practical nurse,
111 advanced registered nurse practitioner, or physician assistant
112 working in conjunction with the physician must contemporaneously
113 review and explain the images to the woman before the woman
114 gives informed consent to having an abortion procedure
115 performed.

116 (III) The woman has a right to decline to view and hear
117 the explanation of the live ultrasound images after she is
118 informed of her right and offered an opportunity to view the
119 images and hear the explanation. If the woman declines, the
120 woman shall complete a form acknowledging that she was offered
121 an opportunity to view and hear the explanation of the images
122 but that she declined that opportunity. The form must also
123 indicate that the woman's decision was not based on any undue
124 influence from any person to discourage her from viewing the
125 images or hearing the explanation and that she declined of her
126 own free will.

127 (IV) Unless requested by the woman, the person performing
128 the ultrasound may not offer the opportunity to view the images
129 and hear the explanation and the explanation may not be given
130 if, at the time the woman schedules or arrives for her

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131 appointment to obtain an abortion, a copy of a restraining
132 order, police report, medical record, or other court order or
133 documentation is presented which provides evidence that the
134 woman is obtaining the abortion because the woman is a victim of
135 rape, incest, domestic violence, or human trafficking or that
136 the woman has been diagnosed as having a condition that, on the
137 basis of a physician's good faith clinical judgment, would
138 create a serious risk of substantial and irreversible impairment
139 of a major bodily function if the woman delayed terminating her
140 pregnancy.

141 c. the ability of the fetus to feel pain, if the
142 gestational age of the fetus is determined to be 20 weeks or
143 more. This information shall include, but need not be limited
144 to, the following:

145 (I) By 20 weeks gestational age, the fetus possesses all
146 the anatomical structures, including pain receptors, spinal
147 cord, nerve tracts, thalamus, and cortex, that are necessary to
148 feel pain.

149 (II) A description of the actual steps in the abortion
150 procedure to be performed or induced, and which steps could be
151 painful to the fetus.

152 (III) There is evidence that, by 20 weeks of gestational
153 age, fetuses seek to evade certain stimuli in a manner that, in
154 an infant or an adult, would be interpreted as a response to
155 pain.

156 (IV) Anesthesia is given to fetuses who are 20 weeks or
157 more gestational age that undergo prenatal surgery.

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158 (V) Anesthesia is given to premature infants who are 22
159 weeks or more gestational age who undergo surgery.

160 (VI) Anesthesia or analgesics are available in order to
161 minimize or alleviate pain to the fetus.

162 (VII) The medical risks associated with a particular
163 anesthetic or analgesic.

164 ~~d.e.~~ The medical risks to the woman and fetus of carrying
165 the pregnancy to term.

166 2. Printed materials prepared and provided by the
167 department have been provided to the pregnant woman, if she
168 chooses to view these materials, including:

169 a. A description of the fetus, including a description of
170 the various stages of development.

171 b. A list of entities that offer alternatives to abortion
172 ~~terminating the pregnancy.~~

173 c. Detailed information on the availability of medical
174 assistance benefits for prenatal care, childbirth, and neonatal
175 care.

176 3. The woman acknowledges in writing, ~~before the~~
177 ~~termination of pregnancy,~~ that the information required to be
178 provided under this subsection has been provided.

179
180 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a
181 physician from providing any additional information that ~~which~~
182 the physician deems material to the woman's informed decision to
183 obtain an abortion ~~terminate her pregnancy.~~

184 (b) If a medical emergency exists and a physician cannot
185 comply with the requirements for informed consent, a physician

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186 may perform an abortion ~~terminate a pregnancy~~ if he or she has
187 obtained at least one corroborative medical opinion attesting to
188 the medical necessity for emergency medical procedures and to
189 the fact that to a reasonable degree of medical certainty the
190 continuation of the pregnancy would threaten the life of the
191 pregnant woman. If a second physician is not available for a
192 corroborating opinion, the physician may proceed but shall
193 document reasons for the medical necessity in the patient's
194 medical records.

195 (c) Violation of this subsection by a physician
196 constitutes grounds for disciplinary action under s. 458.331 or
197 s. 459.015. Substantial compliance or reasonable belief that
198 noncompliance ~~complying~~ with the requirements of this subsection
199 is necessary to prevent the death of the pregnant woman or a
200 substantial and irreversible impairment of a major bodily
201 function of the pregnant woman ~~informed consent would threaten~~
202 ~~the life or health of the patient~~ is a defense to any action
203 brought under this paragraph.

204 ~~(5)~~(4) STANDARD OF MEDICAL CARE TO BE USED DURING
205 VIABILITY.-If an abortion ~~a termination of pregnancy~~ is
206 performed during viability, a ~~no~~ person who performs or induces
207 the abortion ~~termination of pregnancy~~ shall ~~fail to~~ use that
208 degree of professional skill, care, and diligence to preserve
209 the life and health of the fetus which such person would be
210 required to exercise in order to preserve the life and health of
211 any fetus intended to be born and not aborted. ~~"Viability" means~~
212 ~~that stage of fetal development when the life of the unborn~~
213 ~~child may with a reasonable degree of medical probability be~~

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214 ~~continued indefinitely outside the womb.~~ Notwithstanding the
215 provisions of this subsection, the prevention of the death of
216 the pregnant woman or a substantial and irreversible impairment
217 of a major bodily function of the pregnant woman constitutes ~~the~~
218 ~~woman's life and health shall constitute~~ an overriding and
219 superior consideration to the concern for the life and health of
220 the fetus when such concerns are in conflict.

221 ~~(6)-(5)~~ PARTIAL-BIRTH ABORTION PROHIBITED; EXCEPTION.—

222 (a) A ~~No~~ physician may not ~~shall~~ knowingly perform a
223 partial-birth abortion.

224 (b) A woman upon whom a partial-birth abortion is
225 performed may not be prosecuted under this section for a
226 conspiracy to violate the provisions of this section.

227 (c) This subsection does ~~shall~~ not apply to a partial-
228 birth abortion that is necessary to save the life of a mother
229 whose life is endangered by a physical disorder, physical
230 illness, or physical injury, including a life-endangering
231 physical condition caused by or arising from the pregnancy
232 itself, if provided that no other medical procedure would
233 suffice for that purpose.

234 ~~(7)-(6)~~ EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—A
235 ~~No~~ person may not ~~shall~~ use any live fetus, ~~or~~ alive or dead,
236 premature infant for any type of scientific, research,
237 laboratory, or other kind of experimentation before ~~either prior~~
238 ~~to~~ or subsequent to any abortion ~~termination of pregnancy~~
239 procedure except as necessary to protect or preserve the life
240 and health of such fetus or premature infant.

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241 (8)~~(7)~~ FETAL REMAINS.—Fetal remains shall be disposed of
242 in a sanitary and appropriate manner and in accordance with
243 standard health practices, as provided by rule of the department
244 ~~of Health~~. Failure to dispose of fetal remains in accordance
245 with department rules is a misdemeanor of the first ~~second~~
246 degree, punishable as provided in s. 775.082 or s. 775.083.

247 (9)~~(8)~~ REFUSAL TO PARTICIPATE IN ABORTION ~~TERMINATION~~
248 PROCEDURE.—~~Nothing in~~ This section does not ~~shall~~ require any
249 hospital or any person to participate in an abortion ~~the~~
250 ~~termination of a pregnancy~~, and a ~~nor shall any~~ hospital or any
251 person is not ~~be~~ liable for such refusal. A ~~No~~ person who is a
252 member of, or associated with, the staff of a hospital, or ~~nor~~
253 any employee of a hospital or physician in which or by whom the
254 abortion ~~termination of a pregnancy~~ has been authorized or
255 performed, who states ~~shall state~~ an objection to such procedure
256 on moral or religious grounds is not ~~shall be~~ required to
257 participate in the procedure that ~~which~~ will result in the
258 abortion ~~termination of pregnancy~~. The refusal of any such
259 person or employee to participate does ~~shall~~ not form the basis
260 for any disciplinary or other recriminatory action against such
261 person.

262 (10)~~(9)~~ EXCEPTION.—The provisions of this section do ~~shall~~
263 not apply to the performance of a procedure that ~~which~~
264 terminates a pregnancy in order to deliver a live child.

265 (11)~~(10)~~ PENALTIES FOR VIOLATION.—Except as provided in
266 subsections (3) and (7):

267 (a) Any person who willfully performs, or actively
268 participates in, an abortion ~~a termination of pregnancy~~

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269 procedure in violation of the requirements of this section
270 commits a felony of the third degree, punishable as provided in
271 s. 775.082, s. 775.083, or s. 775.084.

272 (b) Any person who performs, or actively participates in,
273 an abortion a termination of pregnancy procedure in violation of
274 ~~the provisions of~~ this section which results in the death of the
275 woman commits a felony of the second degree, punishable as
276 provided in s. 775.082, s. 775.083, or s. 775.084.

277 (c) The department shall permanently revoke the license of
278 any licensed health care practitioner who has been convicted or
279 found guilty of, or entered a plea of guilty or nolo contendere
280 to, regardless of adjudication, a felony as provided in this
281 subsection.

282 ~~(12)(11)~~ CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;
283 RELIEF.—

284 (a) The father, if married to the mother at the time she
285 receives a partial-birth abortion, and, if the mother has not
286 attained the age of 18 years at the time she receives a partial-
287 birth abortion, the maternal grandparents of the fetus may, in a
288 civil action, obtain appropriate relief, unless the pregnancy
289 resulted from the plaintiff's criminal conduct or the plaintiff
290 consented to the abortion.

291 (b) In a civil action under this section, appropriate
292 relief includes:

293 1. Monetary damages for all injuries, psychological and
294 physical, occasioned by the violation of subsection (5).

295 2. Damages equal to three times the cost of the partial-
296 birth abortion.

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297 (13) INFANTS BORN ALIVE.—

298 (a) An infant born alive subsequent to an attempted
299 abortion is entitled to the same rights, powers, and privileges
300 as are granted by the laws of this state to any other child born
301 alive in the course of birth that is not subsequent to an
302 attempted abortion.

303 (b) If an infant is born alive subsequent to an attempted
304 abortion, any health care practitioner present at the time shall
305 humanely exercise the same degree of professional skill, care,
306 and diligence to preserve the life and health of the infant as a
307 reasonably diligent and conscientious health care practitioner
308 would render to an infant born alive in the course of birth that
309 is not subsequent to an attempted abortion.

310 (c) An abortion may not be attempted pursuant to paragraph
311 (1) (a) unless a physician other than the physician performing
312 the abortion is in attendance to take control of any infant born
313 alive, to provide immediate medical care to the infant, and to
314 discharge the obligations imposed by paragraph (b). The
315 physician who performs the abortion shall take all reasonable
316 steps consistent with the abortion procedure to preserve the
317 life and health of the unborn child.

318 (d) A health care practitioner who has knowledge of a
319 violation of this subsection shall report the violation to the
320 department.

321 (14) PUBLIC NOTICES AND ADVERTISEMENTS.—

322 (a) A person may not knowingly advertise, print, publish,
323 distribute, or circulate, or knowingly cause to be advertised,
324 printed, published, distributed, or circulated, any pamphlet,

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325 printed paper, book, newspaper notice, advertisement, or
326 reference containing words or language giving or conveying any
327 notice, hint, or reference to any person, or the name of any
328 person, real or fictitious, from whom, or to any place, house,
329 shop, or office where any poison, drug, mixture, preparation,
330 medicine, or noxious thing, or any instrument or means whatever,
331 or any advice, direction, information, or knowledge that may be
332 obtained for the purpose of performing an abortion in violation
333 of this chapter.

334 (b) An abortion clinic must provide conspicuous written
335 notice on its premises and on any advertisement that the
336 abortion clinic is prohibited, except in a medical emergency,
337 from performing abortions in the third trimester or after the
338 fetus has attained viability.

339 (c) Any person who violates this subsection commits a
340 misdemeanor of the first degree, punishable as provided in s.
341 775.082 or s. 775.083.

342 (15) RESPONSIBILITIES OF THE AGENCY.—Before each regular
343 legislative session, the agency shall report aggregate
344 statistical data relating to abortions, which has been reported
345 to the Division of Reproductive Health within the Centers for
346 Disease Control and Prevention, on its website and provide an
347 annual report to the Governor, the President of the Senate, and
348 the Speaker of the House of Representatives regarding such data.
349 Any information required to be reported under this subsection
350 must not include any personal identifying information.

351 (16)-(12) FAILURE TO COMPLY.—Failure to comply with the
352 requirements of this section constitutes grounds for

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353 disciplinary action under each respective practice act and under
354 s. 456.072.

355 (17)~~(13)~~ RULES.—The applicable boards, or the department
356 if there is no board, shall adopt rules necessary to implement
357 the provisions of this section.

358

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360 **T I T L E A M E N D M E N T**

361 Remove line 70 and insert:

362 such data on its website; prohibiting instillation abortions;
363 amending s. 390.01114, F.S.;

364