

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Pafford offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 390.011, Florida Statutes, is amended
6 to read:

7 390.011 Definitions.—As used in this chapter, the term:

8 (1) "Abortion" means the termination of human pregnancy
9 with an intention other than to produce a live birth or to
10 remove a ~~dead~~ fetus that has died of natural causes.

11 (2) "Abortion clinic" or "clinic" means any facility,
12 location, or structure in which abortions are performed. The
13 term does not include:

14 ~~(a)~~ a hospital or medical establishment, as defined in

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15 subsection (7); or

16 ~~(b) A physician's office, provided that the office is not~~
17 ~~used primarily for the performance of abortions.~~

18 (3) "Agency" means the Agency for Health Care
19 Administration.

20 (4) "Born alive" means the complete expulsion or
21 extraction from the mother of a human infant, at any stage of
22 development, who, after such expulsion or extraction, breathes
23 or has a beating heart, or definite and voluntary movement of
24 muscles, regardless of whether the umbilical cord has been cut
25 and regardless of whether the expulsion or extraction occurs as
26 a result of natural or induced labor, caesarean section, induced
27 abortion, or other method.

28 (5) "Department" means the Department of Health.

29 (6) "Gestation" means the development of a human embryo or
30 fetus between fertilization and birth.

31 (7)-(6) "Hospital" means a facility as defined in s.
32 395.002(12) and licensed under chapter 395 and part II of
33 chapter 408.

34 (8) "Induced abortion" means a medically initiated
35 termination of a human pregnancy with the intent to kill a
36 living human organism, zygote, embryo, or fetus. For purposes of
37 this subsection, the term "medically initiated" means the
38 ingestion or administration of pharmaceutical abortifacients by
39 any means, performance of a surgical procedure, or use of any
40 device or instrument and any combination thereof.

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41 (9)~~(7)~~ "Partial-birth abortion" means a termination of
42 pregnancy in which the physician performing the termination of
43 pregnancy partially vaginally delivers a living fetus before
44 killing the fetus and completing the delivery.

45 (10)~~(8)~~ "Physician" means a physician licensed under
46 chapter 458 or chapter 459 or a physician practicing medicine or
47 osteopathic medicine in the employment of the United States.

48 (11)~~(9)~~ "Reasonable medical judgment" means a medical
49 judgment that would be made by a reasonably prudent physician,
50 knowledgeable about the case and the treatment possibilities
51 with respect to the medical conditions involved.

52 (12)~~(10)~~ "Standard medical measure" means the medical care
53 that a physician would provide based on the particular facts of
54 the pregnancy, the information available to the physician, and
55 the technology reasonably available in a hospital, as defined in
56 s. 395.002, with an obstetrical department, to preserve the life
57 and health of the fetus, with or without temporary artificial
58 life-sustaining support, if the fetus were born at the same
59 stage of fetal development.

60 (13) "Termination of pregnancy" means the termination of a
61 human pregnancy under circumstances not prohibited by this
62 chapter.

63 (14)~~(11)~~ "~~Third~~ Trimester" means one of the following
64 three distinct periods of time in the duration of a pregnancy:

65 (a) "First trimester," which is the period of time from
66 fertilization through the end of the 11th week of gestation.

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67 (b) "Second trimester," which is the period of time from
68 the beginning of the 12th week of gestation through the end of
69 the 23rd week of gestation.

70 (c) "Third trimester," which is the period of time from
71 the beginning of the 24th week of gestation through birth ~~the~~
72 ~~weeks of pregnancy after the 24th week of pregnancy.~~

73 (15)-(12) "Viable" or "viability" means the stage of fetal
74 development when, in the judgment of the physician, based on the
75 particular facts of the case before him or her and in light of
76 the most advanced medical technology and information available,
77 there is a reasonable probability of sustained survival of the
78 unborn human person outside his or her mother's womb with or
79 without artificial support ~~the life of a fetus is sustainable~~
80 ~~outside the womb through standard medical measures.~~

81 Section 2. Section 390.0111, Florida Statutes, is amended
82 to read:

83 390.0111 Abortion unlawful; termination of pregnancies;
84 circumstances authorized.-

85 (1) INDUCED ABORTION PROHIBITED; PENALTIES.-

86 (a) Induced abortion for any purpose is unlawful, except
87 as provided in s. 390.01112. Any person who induces an abortion
88 or performs, attempts to perform, or assists another in the
89 performance of an induced abortion on another person commits a
90 felony of the first degree, punishable as provided in s.
91 775.082, s. 775.083, or s. 775.084.

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

97 (c) Any person who, during the course of performing an
98 induced abortion on another person, inflicts serious bodily
99 injury on the person which results in the death of the person
100 commits a life felony, punishable as provided in s. 775.082, s.
101 775.083, or s. 775.084.

102 (2) OPERATING ABORTION CLINICS AND SERVICES PROHIBITED.—A
103 person or persons who operate any facility, business, or service
104 from any location within this state for the purpose of providing
105 induced abortion services commits a felony of the first degree,
106 punishable by imprisonment for a term of years not exceeding
107 life, as provided in s. 775.082, s. 775.083, or s. 775.084.

108 (3)-(1) TERMINATION OF PREGNANCY IN THIRD TRIMESTER; WHEN
109 ALLOWED.—A ~~No~~ termination of pregnancy may not shall be
110 performed on any human being in the third trimester of pregnancy
111 unless one of the following conditions is met:

112 (a) Two physicians certify in writing that, to a
113 reasonable degree of medical certainty in reasonable medical
114 judgment, the termination of the pregnancy is necessary to
115 prevent the death of the patient; ~~save the pregnant woman's life~~
116 or avert a serious risk of substantial and irreversible physical

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117 ~~impairment of a major bodily function of the pregnant woman~~
118 ~~other than a psychological condition.~~

119 (b) Two physicians certify ~~The physician certifies~~ in
120 writing that, to a reasonable degree of medical certainty, the
121 termination of pregnancy is necessary because to continue the
122 pregnancy would unreasonably reduce the likelihood of successful
123 treatment of an already life-threatening disease of the patient;
124 or

125 (c) The attending physician certifies in writing that a
126 medical emergency existed as described in paragraph (a) or
127 paragraph (b) and another physician was not available for
128 consultation before the time necessary to perform the
129 termination of pregnancy. The physician's written certification
130 must clearly describe the details of the medical emergency in
131 the patient's medical records.

132
133 Violation of this subsection by a physician constitutes grounds
134 for disciplinary action under s. 458.331 or s. 459.015 in
135 ~~reasonable medical judgment, there is a medical necessity for~~
136 ~~legitimate emergency medical procedures for termination of the~~
137 ~~pregnancy to save the pregnant woman's life or avert a serious~~
138 ~~risk of imminent substantial and irreversible physical~~
139 ~~impairment of a major bodily function of the pregnant woman~~
140 ~~other than a psychological condition, and another physician is~~
141 ~~not available for consultation.~~

142 (4)(2) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination

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143 of pregnancy shall be performed at any time except by a
144 physician as defined in s. 390.011.

145 ~~(5)-(3)~~ CONSENTS REQUIRED.—A termination of pregnancy may
146 not be performed or induced except with the voluntary and
147 informed written consent of the pregnant woman or, in the case
148 of a mental incompetent, the voluntary and informed written
149 consent of her court-appointed guardian.

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

152 1. The physician who is to perform the procedure, or the
153 referring physician, has, at a minimum, orally, while physically
154 present in the same room, and at least 24 hours before the
155 procedure, informed the woman of:

156 a. The nature and risks of undergoing or not undergoing
157 the proposed procedure that a reasonable patient would consider
158 material to making a knowing and willful decision of whether to
159 terminate a pregnancy.

160 b. The probable gestational age of the fetus, verified by
161 an ultrasound, at the time the termination of pregnancy is to be
162 performed.

163 (I) The ultrasound must be performed by the physician who
164 is to perform the abortion or by a person having documented
165 evidence that he or she has completed a course in the operation
166 of ultrasound equipment as prescribed by rule and who is working
167 in conjunction with the physician.

168 (II) The person performing the ultrasound must offer the

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169 woman the opportunity to view the live ultrasound images and
170 hear an explanation of them. If the woman accepts the
171 opportunity to view the images and hear the explanation, a
172 physician or a registered nurse, licensed practical nurse,
173 advanced registered nurse practitioner, or physician assistant
174 working in conjunction with the physician must contemporaneously
175 review and explain the images to the woman before the woman
176 gives informed consent to having an abortion procedure
177 performed.

178 (III) The woman has a right to decline to view and hear
179 the explanation of the live ultrasound images after she is
180 informed of her right and offered an opportunity to view the
181 images and hear the explanation. If the woman declines, the
182 woman shall complete a form acknowledging that she was offered
183 an opportunity to view and hear the explanation of the images
184 but that she declined that opportunity. The form must also
185 indicate that the woman's decision was not based on any undue
186 influence from any person to discourage her from viewing the
187 images or hearing the explanation and that she declined of her
188 own free will.

189 (IV) Unless requested by the woman, the person performing
190 the ultrasound may not offer the opportunity to view the images
191 and hear the explanation and the explanation may not be given
192 if, at the time the woman schedules or arrives for her
193 appointment to obtain an abortion, a copy of a restraining
194 order, police report, medical record, or other court order or

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195 documentation is presented which provides evidence that the
196 woman is obtaining the abortion because the woman is a victim of
197 rape, incest, domestic violence, or human trafficking or that
198 the woman has been diagnosed as having a condition that, on the
199 basis of a physician's good faith clinical judgment, would
200 create a serious risk of substantial and irreversible impairment
201 of a major bodily function if the woman delayed terminating her
202 pregnancy.

203 c. The medical risks to the woman and fetus of carrying
204 the pregnancy to term.

205

206 The physician may provide the information required in this
207 subparagraph within 24 hours before the procedure if requested
208 by the woman at the time she schedules or arrives for her
209 appointment to obtain an abortion and if she presents to the
210 physician a copy of a restraining order, police report, medical
211 record, or other court order or documentation evidencing that
212 she is obtaining the abortion because she is a victim of rape,
213 incest, domestic violence, or human trafficking.

214 2. Printed materials prepared and provided by the
215 department have been provided to the pregnant woman, if she
216 chooses to view these materials, including:

217 a. A description of the fetus, including a description of
218 the various stages of development.

219 b. A list of entities that offer alternatives to
220 terminating the pregnancy.

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221 c. Detailed information on the availability of medical
222 assistance benefits for prenatal care, childbirth, and neonatal
223 care.

224 3. The woman acknowledges in writing, before the
225 termination of pregnancy, that the information required to be
226 provided under this subsection has been provided.

227
228 Nothing in this paragraph is intended to prohibit a physician
229 from providing any additional information which the physician
230 deems material to the woman's informed decision to terminate her
231 pregnancy.

232 (b) If a medical emergency exists and a physician cannot
233 comply with the requirements for informed consent, a physician
234 may terminate a pregnancy if he or she has obtained at least one
235 corroborative medical opinion attesting to the medical necessity
236 for emergency medical procedures and to the fact that to a
237 reasonable degree of medical certainty the continuation of the
238 pregnancy would threaten the life of the pregnant woman. If a
239 second physician is not available for a corroborating opinion,
240 the physician may proceed but shall document reasons for the
241 medical necessity in the patient's medical records.

242 (c) Violation of this subsection by a physician
243 constitutes grounds for disciplinary action under s. 458.331 or
244 s. 459.015. Substantial compliance or reasonable belief that
245 complying with the requirements of informed consent would
246 threaten the life ~~or health~~ of the patient as described in

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247 paragraph (3) (a) or would unreasonably reduce the successful
248 treatment of an already life-threatening disease of the patient
249 as described in paragraph (3) (b) may be raised as ~~is~~ a defense
250 to any action brought under this subsection paragraph.

251 ~~(4) STANDARD OF MEDICAL CARE TO BE USED IN THIRD~~
252 ~~TRIMESTER. If a termination of pregnancy is performed in the~~
253 ~~third trimester, the physician performing the termination of~~
254 ~~pregnancy must exercise the same degree of professional skill,~~
255 ~~care, and diligence to preserve the life and health of the fetus~~
256 ~~which the physician would be required to exercise in order to~~
257 ~~preserve the life and health of a fetus intended to be born and~~
258 ~~not aborted. However, if preserving the life and health of the~~
259 ~~fetus conflicts with preserving the life and health of the~~
260 ~~pregnant woman, the physician must consider preserving the~~
261 ~~woman's life and health the overriding and superior concern.~~

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

263 ~~(a) No physician shall knowingly perform a partial-birth~~
264 ~~abortion.~~

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

268 ~~(c) This subsection shall not apply to a partial-birth~~
269 ~~abortion that is necessary to save the life of a mother whose~~
270 ~~life is endangered by a physical disorder, illness, or injury,~~
271 ~~provided that no other medical procedure would suffice for that~~
272 ~~purpose.~~

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273 (6) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
274 person shall use any live fetus or live, premature infant for
275 any type of scientific, research, laboratory, or other kind of
276 experimentation either prior to or subsequent to any termination
277 of pregnancy procedure except as necessary to protect or
278 preserve the life and health of such fetus or premature infant.

279 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
280 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and
281 rules adopted thereunder ~~and in accordance with standard health~~
282 ~~practices, as provided by rule of the Department of Health.~~
283 Failure to dispose of fetal remains in accordance with this
284 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~
285 degree, punishable as provided in s. 775.082 or s. 775.083.

286 (8) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—
287 Nothing in this section shall require any hospital or any person
288 to participate in the termination of a pregnancy, nor shall any
289 hospital or any person be liable for such refusal. No person who
290 is a member of, or associated with, the staff of a hospital, nor
291 any employee of a hospital or physician in which or by whom the
292 termination of a pregnancy has been authorized or performed, who
293 shall state an objection to such procedure on moral or religious
294 grounds shall be required to participate in the procedure which
295 will result in the termination of pregnancy. The refusal of any
296 such person or employee to participate shall not form the basis
297 for any disciplinary or other recriminatory action against such
298 person.

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299 (9) EXCEPTION.—~~The provisions of This section does shall~~
300 not apply to the performance of a procedure which terminates a
301 pregnancy in order to deliver a live child or to remove a dead
302 child whose demise was not the result of a termination of
303 pregnancy or an induced abortion from the patient's body.

304 (10) PENALTIES FOR VIOLATION.—Except as provided in
305 subsections (5) ~~(3)~~, (7), and (12):

306 (a) Any person who willfully performs, or actively
307 participates in, a termination of pregnancy in violation of the
308 requirements of this section or s. 390.01112 commits a felony of
309 the third degree, punishable as provided in s. 775.082, s.
310 775.083, or s. 775.084.

311 (b) Any person who performs, or actively participates in,
312 a termination of pregnancy in violation of this section or s.
313 390.01112 which results in the death of the woman commits a
314 felony of the second degree, punishable as provided in s.
315 775.082, s. 775.083, or s. 775.084.

316 (11) CIVIL ACTION PURSUANT TO PARTIAL-BIRTH ABORTION;
317 RELIEF.—

318 (a) The father, if married to the mother at the time she
319 receives a partial-birth abortion, and, if the mother has not
320 attained the age of 18 years at the time she receives a partial-
321 birth abortion, the maternal grandparents of the fetus may, in a
322 civil action, obtain appropriate relief, unless the pregnancy
323 resulted from the plaintiff's criminal conduct or the plaintiff
324 consented to the abortion.

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325 (b) In a civil action under this section, appropriate
326 relief includes:

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

329 2. Damages equal to three times the cost of the partial-
330 birth abortion.

331 (12) INFANTS BORN ALIVE.—

332 (a) An infant born alive during or immediately after an
333 attempted abortion is entitled to the same rights, powers, and
334 privileges as are granted by the laws of this state to any other
335 child born alive in the course of natural birth.

336 (b) If an infant is born alive during or immediately after
337 an attempted abortion, any health care practitioner present at
338 the time shall humanely exercise the same degree of professional
339 skill, care, and diligence to preserve the life and health of
340 the infant as a reasonably diligent and conscientious health
341 care practitioner would render to an infant born alive at the
342 same gestational age in the course of natural birth.

343 (c) An infant born alive during or immediately after an
344 attempted abortion must be immediately transported and admitted
345 to a hospital pursuant to s. 390.012(3)(c) or rules adopted
346 thereunder.

347 (d) A health care practitioner or any employee of a
348 hospital, a physician's office, or an abortion clinic who has
349 knowledge of a violation of this subsection must report the
350 violation to the department.

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351 (e) A person who violates this subsection commits a
352 misdemeanor of the first degree, punishable as provided in s.
353 775.082 or s. 775.083. This subsection shall not be construed as
354 a specific provision of law relating to a particular subject
355 matter that would preclude prosecution of a more general
356 offense, regardless of the penalty.

357 (f) This subsection does not affirm, deny, expand, or
358 contract any legal status or legal right applicable to any
359 member of the species Homo sapiens at any point prior to being
360 born alive as defined in s. 390.011.

361 (13) FAILURE TO COMPLY.—Failure to comply with the
362 requirements of this section or s. 390.01112 constitutes grounds
363 for disciplinary action under each respective practice act and
364 under s. 456.072.

365 (14) RULES.—The applicable boards, or the department if
366 there is no board, shall adopt rules necessary to implement the
367 provisions of this section.

368 (15) USE OF PUBLIC FUNDS RESTRICTED.—A state agency, a
369 local governmental entity, or a managed care plan providing
370 services under part IV of chapter 409 may not expend funds for
371 the benefit of, pay funds to, or initiate or renew a contract
372 with an organization that owns, operates, or is affiliated with
373 one or more clinics that are licensed under this chapter and
374 perform abortions unless one or more of the following apply:

375 (a) All abortions performed by such clinics are:

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376 1. On fetuses that are conceived through rape or incest;

377 or

378 2. Medically necessary to preserve the life of the
379 pregnant woman or to avert a serious risk of substantial and
380 irreversible physical impairment of a major bodily function of
381 the pregnant woman, other than a psychological condition.

382 (b) The funds must be expended to fulfill the terms of a
383 contract entered into before July 1, 2016.

384 (c) The funds must be expended as reimbursement for
385 Medicaid services provided on a fee-for-service basis.

386 Section 3. Section 390.01112, Florida Statutes, is amended
387 to read:

388 390.01112 Termination of pregnancies during viability.—

389 (1) A ~~No~~ termination of pregnancy may not ~~shall~~ be
390 performed on any human being if the physician determines that,
391 in reasonable medical judgment, the fetus has achieved
392 viability, unless:

393 (a) Two physicians certify in writing that, in their
394 reasonable medical judgments ~~judgment~~, the termination of the
395 pregnancy is necessary to save the pregnant woman's life or
396 avert a serious risk of substantial and irreversible physical
397 impairment of a major bodily function of the pregnant woman
398 other than a psychological condition; or

399 (b) The physician certifies in writing that, in his or her
400 reasonable medical judgment, there is a medical necessity for
401 legitimate emergency medical procedures for termination of the

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402 pregnancy to save the pregnant woman's life or avert a serious
403 risk of imminent substantial and irreversible physical
404 impairment of a major bodily function of the pregnant woman
405 other than a psychological condition, and another physician is
406 not available for consultation.

407 (2) Before performing a termination of pregnancy, a
408 physician must determine if the fetus is viable by, at a
409 minimum, performing a medical examination of the pregnant woman
410 and, to the maximum extent possible through reasonably available
411 tests and the ultrasound required under s. 390.0111(5)
412 ~~390.0111(3)~~, an examination of the fetus. The physician must
413 document in the pregnant woman's medical file the physician's
414 determination and the method, equipment, fetal measurements, and
415 any other information used to determine the viability of the
416 fetus.

417 (3) If a termination of pregnancy is performed while the
418 patient's fetus is viable ~~during viability~~, the physician
419 performing the termination of pregnancy must exercise the same
420 degree of professional skill, care, and diligence to preserve
421 the life and health of the fetus that the physician would be
422 required to exercise in order to preserve the life and health of
423 a fetus intended to be born and not aborted. However, if
424 preserving the life and health of the fetus conflicts with
425 preserving the life and health of the woman, the physician must
426 consider preserving the woman's life and health the overriding
427 and superior concern. Violation of this subsection by a

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428 physician constitutes grounds for disciplinary action under s.
429 458.331 or s. 459.015.

430 (4) A termination of pregnancy involving a viable fetus,
431 when not prohibited under s. 390.0111(3), must be performed in a
432 hospital or other medical establishment as defined in s.
433 390.011(7) that is capable of providing all necessary lifesaving
434 and life-sustaining medical services to the viable fetus.

435 (5) A physician who, once the matter of the viability or
436 nonviability of the fetus is determined within a reasonable
437 degree of medical probability, knowingly and willfully
438 misrepresents the gestational age or stage of fetal development
439 of a viable fetus in an entry into any medical record and who
440 fails to use the standard of care required under subsection (3)
441 for any fetus determined to be viable commits a felony of the
442 first degree, punishable as provided in s. 775.082, s. 775.083,
443 or s. 775.084.

444 Section 4. Subsections (2), (3), and (4) of section
445 390.0112, Florida Statutes, are renumbered as subsections (3),
446 (4), and (5), respectively, and subsection (1) of that section
447 is amended to read:

448 390.0112 Termination of pregnancies; reporting.—

449 (1) The director of any medical facility in which
450 abortions are performed, including a physician's office, any
451 pregnancy is terminated shall submit a monthly report each month
452 to the agency. The report may be submitted electronically, may
453 not include personal identifying information, and must include:

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454 (a) Until the agency begins collecting data under
455 paragraph (e), the number of abortions performed.

456 (b) The reasons such abortions were performed.

457 (c) For each abortion, the period of gestation at the time
458 the abortion was performed.

459 ~~(d) which contains the number of procedures performed, the~~
460 ~~reason for same, the period of gestation at the time such~~
461 ~~procedures were performed, and~~ The number of infants born alive
462 or alive during or immediately after an attempted abortion.

463 (e) Beginning no later than January 1, 2017, information
464 consistent with the United States Standard Report of Induced
465 Termination of Pregnancy adopted by the Centers for Disease
466 Control and Prevention.

467 (2) The agency shall keep ~~be responsible for keeping~~ such
468 reports in a central location for the purpose of compiling and
469 analyzing ~~place from which~~ statistical data and shall submit
470 data reported pursuant to paragraph (1)(e) to the Division of
471 Reproductive Health within the Centers for Disease Control and
472 Prevention, as requested by the Centers for Disease Control and
473 Prevention ~~analysis can be made.~~

474 Section 5. Paragraph (c) of subsection (1), subsection
475 (2), paragraphs (c) and (f) of subsection (3), and subsection
476 (7) of section 390.012, Florida Statutes, are amended, and
477 subsection (8) is added to that section, to read:

478 390.012 Powers of agency; rules; disposal of fetal
479 remains.-

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480 (1) The agency may develop and enforce rules pursuant to
481 ss. 390.011-390.018 and part II of chapter 408 for the health,
482 care, and treatment of persons in abortion clinics and for the
483 safe operation of such clinics.

484 (c) The rules shall provide for:

485 1. The performance of pregnancy termination procedures
486 only by a licensed physician.

487 2. The making, protection, and preservation of patient
488 records, which shall be treated as medical records under chapter
489 458. When performing a license inspection of a clinic, the
490 agency shall inspect at least 50 percent of patient records
491 generated since the clinic's last license inspection.

492 3. Annual inspections by the agency of all clinics
493 licensed under this chapter to ensure that such clinics are in
494 compliance with this chapter and agency rules.

495 4. The prompt investigation of credible allegations of
496 abortions being performed at a clinic that is not licensed to
497 perform such procedures.

498 (2) For clinics that perform abortions in the first
499 trimester of pregnancy only, these rules must ~~shall~~ be
500 comparable to rules that apply to all surgical procedures
501 requiring approximately the same degree of skill and care as the
502 performance of first trimester abortions and must require:

503 (a) Clinics to have a written patient transfer agreement
504 with a hospital within reasonable proximity to the clinic which
505 includes the transfer of the patient's medical records held by

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506 the clinic and the treating physician to the licensed hospital;

507 or

508 (b) Physicians who perform abortions at the clinic to have
509 admitting privileges at a hospital within reasonable proximity
510 to the clinic.

511 (3) For clinics that perform or claim to perform abortions
512 after the first trimester of pregnancy, the agency shall adopt
513 rules pursuant to ss. 120.536(1) and 120.54 to implement the
514 provisions of this chapter, including the following:

515 (c) Rules relating to abortion clinic personnel. At a
516 minimum, these rules shall require that:

517 1. The abortion clinic designate a medical director who is
518 licensed to practice medicine in this state, and all physicians
519 who perform abortions in the clinic have ~~who has~~ admitting
520 privileges at a ~~licensed~~ hospital within reasonable proximity to
521 the clinic unless the clinic in this state or has a written
522 patient transfer agreement with a ~~licensed~~ hospital within
523 reasonable proximity to ~~of~~ the clinic which includes the
524 transfer of the patient's medical records held by both the
525 clinic and the treating physician.

526 2. If a physician is not present after an abortion is
527 performed, a registered nurse, licensed practical nurse,
528 advanced registered nurse practitioner, or physician assistant
529 ~~shall~~ be present and remain at the clinic to provide
530 postoperative monitoring and care until the patient is
531 discharged.

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532 3. Surgical assistants receive training in counseling,
533 patient advocacy, and the specific responsibilities associated
534 with the services the surgical assistants provide.

535 4. Volunteers receive training in the specific
536 responsibilities associated with the services the volunteers
537 provide, including counseling and patient advocacy as provided
538 in the rules adopted by the director for different types of
539 volunteers based on their responsibilities.

540 (f) Rules that prescribe minimum recovery room standards.
541 At a minimum, these rules must ~~shall~~ require that:

542 1. Postprocedure recovery rooms be ~~are~~ supervised and
543 staffed to meet the patients' needs.

544 2. Immediate postprocedure care consist ~~consists~~ of
545 observation in a supervised recovery room for as long as the
546 patient's condition warrants.

547 ~~3. The clinic arranges hospitalization if any complication~~
548 ~~beyond the medical capability of the staff occurs or is~~
549 ~~suspected.~~

550 ~~3.4.~~ A registered nurse, licensed practical nurse,
551 advanced registered nurse practitioner, or physician assistant
552 who is trained in the management of the recovery area and is
553 capable of providing basic cardiopulmonary resuscitation and
554 related emergency procedures remain ~~remains~~ on the premises of
555 the abortion clinic until all patients are discharged.

556 ~~4.5.~~ A physician ~~shall~~ sign the discharge order and be
557 readily accessible and available until the last patient is

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558 discharged to facilitate the transfer of emergency cases if
559 hospitalization of the patient or viable fetus is necessary.

560 ~~5.6.~~ A physician discuss ~~discusses~~ Rho(D) immune globulin
561 with each patient for whom it is indicated and ensure ~~ensures~~
562 that it is offered to the patient in the immediate postoperative
563 period or ~~that it~~ will be available to her within 72 hours after
564 completion of the abortion procedure. If the patient refuses the
565 Rho(D) immune globulin, she and a witness must sign a refusal
566 form approved by the agency which must be ~~shall be signed by the~~
567 ~~patient and a witness~~ and included in the medical record.

568 ~~6.7.~~ Written instructions with regard to postabortion
569 coitus, signs of possible problems, and general aftercare which
570 are specific to the patient be ~~are~~ given to each patient. The
571 instructions must include information ~~Each patient shall have~~
572 ~~specific written instructions~~ regarding access to medical care
573 for complications, including a telephone number for use in the
574 event of a to call for medical emergency ~~emergencies~~.

575 ~~7.8.~~ ~~There is~~ A specified minimum length of time be
576 specified, by type of abortion procedure and duration of
577 gestation, during which ~~that~~ a patient must remain ~~remains~~ in
578 the recovery room ~~by type of abortion procedure and duration of~~
579 ~~gestation~~.

580 ~~8.9.~~ The physician ensure ~~ensures~~ that, with the patient's
581 consent, a registered nurse, licensed practical nurse, advanced
582 registered nurse practitioner, or physician assistant from the
583 abortion clinic makes a good faith effort to contact the patient

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584 by telephone, ~~with the patient's consent,~~ within 24 hours after
585 surgery to assess the patient's recovery.

586 ~~9.10.~~ Equipment and services be ~~are~~ readily accessible to
587 provide appropriate emergency resuscitative and life support
588 procedures pending the transfer of the patient or viable fetus
589 to the hospital.

590 (7) If an ~~any~~ owner, operator, or employee of an abortion
591 clinic fails to dispose of fetal remains and tissue in a
592 sanitary manner pursuant to s. 381.0098, rules adopted
593 thereunder, and rules adopted by the agency pursuant to this
594 section consistent with the disposal of other human tissue in a
595 ~~competent professional manner,~~ the license of such clinic may be
596 suspended or revoked, and such person commits ~~is guilty of~~ a
597 misdemeanor of the first degree, punishable as provided in s.
598 775.082 or s. 775.083.

599 (8) Beginning February 1, 2017, and annually thereafter,
600 the agency shall submit a report to the President of the Senate
601 and the Speaker of the House of Representatives which summarizes
602 all regulatory actions taken during the prior year by the agency
603 under this chapter.

604 Section 6. Subsection (3) of section 390.014, Florida
605 Statutes, is amended to read:

606 390.014 Licenses; fees.—

607 (3) In accordance with s. 408.805, an applicant or
608 licensee shall pay a fee for each license application submitted
609 under this chapter and part II of chapter 408. The amount of the

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610 fee shall be established by rule and may not be more than
611 required to pay for the costs incurred by the agency in
612 administering this chapter ~~less than \$70 or more than \$500.~~

613 Section 7. Effective January 1, 2017, subsection (3) of
614 section 390.025, Florida Statutes, is amended, and new
615 subsections (3), (4), and (5) are added to that section, to
616 read:

617 390.025 Abortion referral or counseling agencies;
618 penalties.—

619 (3) An abortion referral or counseling agency, as defined
620 in subsection (1), shall register with the Agency for Health
621 Care Administration. To register or renew a registration, an
622 applicant must pay an initial or renewal registration fee
623 established by rule, which must not exceed the costs incurred by
624 the agency in administering this section. Registrants must
625 include in any advertising materials the registration number
626 issued by the agency and must renew their registration
627 biennially.

628 (4) The following are exempt from the requirement to
629 register pursuant to subsection (3):

630 (a) Facilities licensed pursuant to this chapter, chapter
631 395, chapter 400, or chapter 408;

632 (b) Facilities that are exempt from licensure as a clinic
633 under s. 400.9905(4) and that refer five or fewer patients for
634 abortions per month; and

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635 (c) Health care practitioners, as defined in s. 456.001,
636 who, in the course of their practice outside of a facility
637 licensed pursuant to this chapter, chapter 395, chapter 400, or
638 chapter 408, refer five or fewer patients for abortions each
639 month.

640 (5) The agency shall adopt rules to administer this
641 section and part II of chapter 408.

642 (6)~~(3)~~ Any person who violates subsection (2) commits the
643 provisions of this section is guilty of a misdemeanor of the
644 first degree, punishable as provided in s. 775.082 or s.
645 775.083. In addition to any other penalties imposed pursuant to
646 this chapter, the Agency for Health Care Administration may
647 assess costs related to an investigation of violations of this
648 section which results in a successful prosecution. Such costs
649 may not include attorney fees.

650 Section 8. Subsection (2) of section 765.113, Florida
651 Statutes, is amended to read:

652 765.113 Restrictions on providing consent.—Unless the
653 principal expressly delegates such authority to the surrogate in
654 writing, or a surrogate or proxy has sought and received court
655 approval pursuant to rule 5.900 of the Florida Probate Rules, a
656 surrogate or proxy may not provide consent for:

657 (2) Withholding or withdrawing life-prolonging procedures
658 from a pregnant patient before ~~prior to~~ viability as defined in
659 s. 390.011(15) ~~390.0111(4)~~.

660 Section 9. Section 873.05, Florida Statutes, is amended to

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661 read:

662 873.05 Advertising, purchase, or sale, or transfer of
663 human embryos or fetal remains prohibited.-

664 (1) A ~~No~~ person may not shall knowingly advertise or offer
665 to purchase or sell, or purchase, sell, or otherwise transfer, a
666 any human embryo for valuable consideration.

667 ~~(2)~~ As used in this subsection ~~section~~, the term "valuable
668 consideration" does not include the reasonable costs associated
669 with the removal, storage, and transportation of a human embryo.

670 (2) A person may not advertise or offer to purchase, sell,
671 donate, or transfer, or purchase, sell, donate, or transfer,
672 fetal remains obtained from an abortion as defined in s.
673 390.011. This subsection does not prohibit the transportation or
674 transfer of fetal remains for disposal pursuant to s. 381.0098
675 or rules adopted thereunder.

676 (3) A person who violates ~~the provisions of~~ this section
677 commits is guilty of a felony of the second degree, punishable
678 as provided in s. 775.082, s. 775.083, or s. 775.084.

679 Section 10. For the 2016-2017 fiscal year, the sums of
680 \$59,951 in recurring funds and \$185,213 in nonrecurring funds
681 from the Health Care Trust Fund are appropriated to the Agency
682 for Health Care Administration, and 0.5 full-time equivalent
683 positions with associated salary rate of 39,230 are authorized,
684 for the purpose of implementing this act.

685 Section 11. Except as otherwise expressly provided in this
686 act, this act shall take effect July 1, 2016.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to termination of pregnancies;
amending s. 390.011, F.S.; revising and providing
definitions; amending s. 390.0111, F.S.; prohibiting
inducing an abortion or performing, attempting to
perform, or assisting in an induced abortion;
providing criminal penalties; prohibiting inflicting
serious bodily injury on a person in the course of
performing an abortion; providing criminal penalties;
providing enhanced criminal penalties if the serious
bodily injury results in death; prohibiting operation
of any facility, business, or service for the purpose
of providing induced abortion services; providing
criminal penalties; prohibiting termination of a
pregnancy unless specified conditions are met;
providing that violations may subject physicians to
discipline under specified provisions; deleting
provisions relating to standards of medical care to be
used in third trimester abortions and the prohibition
of partial-birth abortions; revising requirements for
disposal of fetal remains; revising the criminal

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713 punishment for failure to properly dispose of fetal
714 remains; revising applicability; prohibiting state
715 agencies, local governmental entities, and Medicaid
716 managed care plans from expending or paying funds to
717 or initiating or renewing contracts under certain
718 circumstances with certain organizations that perform
719 abortions; providing exceptions; amending s.
720 390.01112, F.S.; providing grounds for disciplinary
721 action against a physician performing a termination of
722 pregnancy during viability under certain
723 circumstances; specifying where a termination of
724 pregnancy during viability may be performed;
725 prohibiting misrepresentation of the gestational age
726 or developmental stage of a viable fetus in any
727 medical record or failure to use the prescribed
728 standard of care for a viable fetus by a physician;
729 providing criminal penalties; amending s. 390.0112,
730 F.S.; requiring directors of certain medical
731 facilities and physicians' offices to submit monthly
732 reports to the Agency for Health Care Administration;
733 providing report requirements; requiring the agency to
734 submit certain data to the Centers for Disease Control
735 and Prevention; amending s. 390.012, F.S.; requiring
736 the agency to inspect a certain percentage of patient
737 records during a license inspection; requiring the
738 agency to develop and enforce rules relating to

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739 license inspections and investigations of certain
740 clinics; requiring the agency to adopt rules to
741 require all physicians performing abortions to have
742 admitting privileges at a hospital within a reasonable
743 proximity unless the clinic has a transfer agreement
744 with the hospital; revising requirements for rules
745 that prescribe minimum recovery room standards;
746 revising requirements for the disposal of fetal
747 remains; requiring the agency to submit an annual
748 report to the Legislature; amending s. 390.014, F.S.;
749 revising a limitation on the amount of a fee; amending
750 s. 390.025, F.S.; requiring certain organizations that
751 provide abortion referral services or abortion
752 counseling services to register with the agency, pay a
753 specified fee, and include certain information in
754 advertisements; requiring biennial renewal of a
755 registration; providing exemptions from the
756 registration requirement; requiring the agency to
757 adopt rules; providing for the assessment of costs in
758 certain circumstances; amending s. 765.113, F.S.;
759 conforming a cross-reference; amending s. 873.05,
760 F.S.; prohibiting an offer to purchase, sell, donate,
761 or transfer fetal remains obtained from an abortion
762 and the purchase, sale, donation, or transfer of such
763 remains; providing construction; providing criminal

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764 penalties; providing an appropriation; providing
765 effective dates.

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