A bill to be entitled
An act relating to abortion; providing a short title;
amending s. 390.011, F.S.; providing and revising
definitions; amending s. 390.0111, F.S.; prohibiting a
termination of pregnancy if a physician determines a
preborn human being has a detectable preborn
intrauterine heartbeat; removing provisions relating
to a medical necessity or medical emergency exception;
revising the informed consent requirements for
obtaining an abortion to conform to changes made by
the act; requiring a physician to perform an
examination for, and inform a woman seeking an
abortion of the presence of, a detectable preborn
intrauterine heartbeat; revising provisions relating
to a physician's standard of medical care; removing
provisions relating to partial-birth abortion;
revising a provision relating to the prohibition on
the experimentation on a preborn human being; revising
a provision relating to the refusal to participate in
an abortion; providing criminal penalties; removing
civil remedies relating to partial-birth abortion;
removing exceptions relating to the prohibition on the
use of public funds for certain organizations that
perform abortions; amending s. 390.01112, F.S.;
prohibiting the termination of a pregnancy after a
preborn intrauterine heartbeat is detected; removing provisions relating to a medical necessity exception; requiring a physician to perform certain examinations to detect a preborn intrauterine heartbeat; requiring the physician to document such findings in the pregnant woman's medical file; amending s. 390.012, F.S.; conforming terminology; providing an effective date.

WHEREAS, the Preamble to the United States Constitution of 1787 declares that a primary purpose of the Constitution is to "secure the blessings of liberty to ourselves and our posterity," and

WHEREAS, according to the contemporary definition of the word, at the time the United States Constitution was drafted, the term "posterity" was widely understood to mean a person's children and succeeding generations of children, and

WHEREAS, the Fourteenth Amendment to the United States Constitution declares that no state shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws," and

WHEREAS, at the time the Fourteenth Amendment was drafted by the United States Congress and submitted to the states in 1866, numerous states already had laws in effect that restricted
abortion, thus indicating Congressional awareness of such state
limitations on the practice, and

WHEREAS, the United States Congress nevertheless made no
attempt to distinguish persons born from those preborn in the
language of the Fourteenth Amendment, and instead established
protections against deprivation of life or denial of equal
protection for all persons, born and preborn, and

WHEREAS, the United States Supreme Court held, in Roe v.
Wade, 410 U.S. 113 (1973), that a woman's right to an abortion
is not absolute, disagreeing with the assertion that a woman "is
entitled to terminate her pregnancy at whatever time, in
whatever way, and for whatever reason she alone chooses," and

WHEREAS, in Planned Parenthood of Southeastern Pennsylvania
v. Casey, 505 U.S. 833 (1992), the United States Supreme Court
upheld one of its key holdings in Roe v. Wade by confirming "the
State's power to restrict abortions after fetal viability," and

WHEREAS, in Planned Parenthood of Southeastern Pennsylvania
v. Casey, the United States Supreme Court upheld another key
holding from Roe v. Wade "that the State has legitimate
interests from the outset of the pregnancy in protecting the
health of the woman and the life of the fetus that may become a
child," and

WHEREAS, in Planned Parenthood of Southeastern Pennsylvania
v. Casey, the United States Supreme Court stated that "viability
marks the earliest point at which the State's interest in fetal
life is constitutionally adequate to justify a legislative ban on nontherapeutic abortions," and

WHEREAS, it is established and accepted science that, within the framework of human existence, life begins at conception (Dr. Keith L. Moore, *The Developing Human: Clinically Oriented Embryology*, 2nd Edition), and

WHEREAS, it is established and accepted science that the beginning of human life is the fertilization of the egg by the sperm (Dr. Bradley M. Patten, *Human Embryology*, 3rd Edition), and

WHEREAS, the use of serial human chorionic gonadotropin (HCG) determinations and sonographic evaluation to document the presence or absence of cardiac activity is standard medical practice outlined in standard medical texts that instruct medical providers in the proper determination of pregnancy viability (*Novak’s Gynecology*, 12th Edition; Dr. F. Gary Cunningham et al., *Williams Obstetrics*, 21st Edition), and

WHEREAS, when a pregnancy is evaluated before the preborn intrauterine heartbeat is detectable, the accepted medical science within obstetrics presumes that the pregnancy is viable when there is a 66-percent increase in HCG within a 48-hour period (*ACOG Practice Bulletin*, Number 3, December 1998), and

WHEREAS, within the framework of the pregnancy of a preborn human being, it is established and accepted science that the viability of the fetus, preborn human being, human individual,
or person is determined during the first 6 weeks of gestation through a consistent increase of the pregnancy-specific hormone HCG (Novak's Gynecology, 12th Edition), and

WHEREAS, viability is clearly established and confirmed once a heartbeat has been detected within the gestational sac at approximately the 6th week of gestation (Williams Obstetrics, 21st Edition), and

WHEREAS, once the viability of a preborn human being has been confirmed by an intrauterine heartbeat, that preborn human being is both an individual and a person with an inalienable and fundamental right to life, and

WHEREAS, the state has a compelling interest in protecting the life of a preborn human being with all the rights of personhood, and

WHEREAS, United States Supreme Court Justice Harry Blackmun stated in Roe v. Wade, if the "suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [Fourteenth] Amendment," and

WHEREAS, in Planned Parenthood of Southeastern Pennsylvania v. Casey, the United States Supreme Court wrote in its majority opinion, "Our Constitution is a covenant running from the first generation of Americans to us and then to future generations. It is a coherent succession. Each generation must learn anew that the Constitution's written terms embody ideas and aspirations
that must survive more ages than one. We accept our
responsibility not to retreat from interpreting the full meaning
of the covenant in light of all of our precedents," and

WHEREAS, the Florida Legislature desires to accept such
responsibility by considering not just "all" of the United
States Supreme Court "precedents," but all the law that informs
and undergirds that "covenant" whereby it is indeed made a
"coherent succession" of "ideas and aspirations" "running from
the first generation of Americans ... to future generations,"
without becoming myopically lost in concerns only for the
present generation, and

WHEREAS, in Obergefell v. Hodges, 576 U.S. ____ (2015), the
United States Supreme Court, wrote, "The nature of injustice is
that we may not always see it in our own times ... When new
insight reveals discord between the Constitution's central
protections and a received legal stricture, a claim to liberty
must be addressed," and

WHEREAS, the Ninth Amendment to the United States
Constitution expressly contemplates that civil government will
continue to give legal recognition to the rights and duties that
the people enjoy as a matter of fundamental law by noting that
even enumerated rights in the Constitution, much less such
rights as are not enumerated therein, "shall ... be construed to
deny or disparage others retained by the people," and

WHEREAS, the Florida Legislature believes that there is a
"discord between the Constitution's central protections and [the] received legal stricture" articulated in Roe v. Wade and Planned Parenthood v. Casey with respect to the central protection of the Ninth Amendment and the "absolute right" at common law of "personal security" that "consists in the uninterrupted enjoyment of [one's] life," and the understanding of liberty that Planned Parenthood v. Casey ascribed to "human autonomy," which is far different from the absolute right of liberty at common law and protected by the Ninth Amendment that "consists in the power of locomotion, of changing situation, or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint, unless by due course of law," and

WHEREAS, common law recognizes that there are laws or rules of action founded in those relations of justice that existed in the nature of things antecedent to any positive precept of enacted civil law, and

WHEREAS, these laws or rules of action are referred to by William Blackstone and other common law commentators as "superior" or "fundamental" law, and

WHEREAS, the common law recognizes and emphasizes an antecedent source of obligations upon officials, which legislators and judges declare but do not generate, and

WHEREAS, it was said by Blackstone in his Commentaries on the Laws of England that at common law "The right of personal
security consists in a person's legal and uninterrupted
enjoyment of his life, his limbs, his body, his health, and his
reputation," and

WHEREAS, in explication of such right of personal security
and the persons to whom that right extended, Blackstone said
"Life is the immediate gift of God, a right inherent by nature
in every individual; and it begins in contemplation of law as
soon as an infant is able to stir in the mother's womb ... An
infant en ventre sa mere, or in the mother's womb, is supposed
in law to be born for many purposes. It is capable of having a
legacy, or a surrender of a copyhold estate, made to it. It may
have a guardian assigned to it; and it is enabled to have an
estate limited to its use, and to take afterwards by such
limitation, as if it were then actually born ... This natural
life, being, as was before observed, the immediate donation of
the great Creator, cannot legally be disposed of or destroyed by
any individual, neither by the person himself, not by any other
of his fellow-creatures, merely upon their own authority," and

WHEREAS, the Declaration of Independence through which our
"covenant" was eventually born, recognized this right to life,
noting its "self-evident" nature and its inalienability as that
which is endowed by "our Creator," and

WHEREAS, the United States Constitution does not deprive
the States of their power to declare and make more secure
natural rights and duties inhering in this fundamental law, and
WHEREAS, the Fourteenth Amendment provides that Florida cannot "make or enforce any law which ... shall ... deprive any person of life ... without due process of law; nor deny to any person ... the equal protection of the laws," and

WHEREAS, abortion is the unilateral decision of one person to end the life of one who was considered a person at common law and thus having rights secured by the Ninth Amendment, particularly in the absence of any legal due process, NOW,

THEREFORE,

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

Section 1. This act may be cited as the "Preborn Intrauterine Heartbeat Act."

Section 2. Section 390.011, Florida Statutes, is amended to read:

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

(1) "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead preborn human being fetus.

(2) "Abortion clinic" or "clinic" means any facility in which abortions are performed. The term does not include:

(a) A hospital; or

(b) A physician's office, provided that the office is not used primarily for the performance of abortions.
(3) "Agency" means the Agency for Health Care Administration.

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

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

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

(7) "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the preborn human being and that is typically visible by ultrasound after the 4th week of pregnancy.

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

(8) "Partial-birth abortion" means a termination of pregnancy in which the physician performing the termination of pregnancy partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

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

(10) "Preborn human being" means an individual organism of the species Homo sapiens from fertilization until live birth.

(11) "Preborn intrauterine heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of a preborn human being's heart within the gestational sac.

(12) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(13) "Standard medical measure" means the medical care that a physician would provide based on the particular facts of the pregnancy, the information available to the physician, and the technology reasonably available in a hospital, as defined in s. 395.002, with an obstetrical department, to preserve the life and health of the preborn human being fetus, with or without temporary artificial life-sustaining support, if the preborn human being fetus were born at the same stage of gestational fetal development.

(14) "Trimester" means one of the following three distinct periods of time in the duration of a pregnancy:

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

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

(c) "Third trimester," which is the period of time from
the beginning of the 24th week of gestation through birth.

(13) "Viable" or "viability" means the stage of fetal
development when the life of a fetus is sustainable outside the
womb through standard medical measures.

Section 3. Section 390.0111, Florida Statutes, is amended
to read:

390.0111 Termination of pregnancies.—

(1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.—No
termination of pregnancy shall be performed on any woman
in the third trimester of pregnancy if a physician
determines that, in reasonable medical judgment, the preborn
human being has a detectable preborn intrauterine heartbeat.
unless one of the following conditions is met:

(a) Two physicians certify in writing that, in reasonable
medical judgment, the termination of the pregnancy is necessary
to save the pregnant woman’s life or avert a serious risk of
substantial and irreversible physical impairment of a major
bodily function of the pregnant woman other than a psychological
condition.

(b) The physician certifies in writing that, in reasonable
medical judgment, there is a medical necessity for legitimate
emergency medical procedures for termination of the pregnancy to
save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(2) PERFORMANCE BY PHYSICIAN REQUIRED.—A termination of pregnancy may be performed only at any time except by a physician as defined in s. 390.011.

(3) CONSENTS REQUIRED.—

(a) A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian. However, if a physician determines that, in reasonable medical judgment, the preborn human being has a detectable preborn intrauterine heartbeat, a termination of pregnancy may not be performed or induced, regardless of whether the pregnant woman has given voluntary and informed written consent.

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

1. The physician who is to perform the procedure, or the referring physician, has, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, informed the woman of:
a. The nature and risks of undergoing or not undergoing the proposed procedure that a reasonable patient would consider material to making a knowing and willful decision of whether to terminate a pregnancy.

b. The probable gestational age of the preborn human being fetus, verified by an ultrasound, at the time the termination of pregnancy is to be performed.

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

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

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

c. Whether the preborn human being has a detectable
preborn intrauterine heartbeat. The physician who performs the
examination for the presence of a preborn intrauterine heartbeat
must inform the pregnant woman that a termination of pregnancy
may not be performed or induced if the preborn human being has a
detectable preborn intrauterine heartbeat. Such physician must
also offer the woman the opportunity to view or hear the preborn
intrauterine heartbeat and present the statistical data
regarding the probability of survival. If the woman declines,
the woman shall complete a form acknowledging that she was
offered an opportunity to view and hear the preborn intrauterine
heartbeat but that she declined that opportunity. The form must
also indicate that the woman's decision was not based on any
undue influence from any person to discourage her from viewing
or hearing the preborn intrauterine heartbeat and that she
declined of her own free will.

(IV) Unless requested by the woman, the person performing
the ultrasound may not offer the opportunity to view the images and hear the explanation and the explanation may not be given if, at the time the woman schedules or arrives for her appointment to obtain an abortion, a copy of a restraining order, police report, medical record, or other court order or documentation is presented which provides evidence that the woman is obtaining the abortion because the woman is a victim of rape, incest, domestic violence, or human trafficking or that the woman has been diagnosed as having a condition that, on the basis of a physician's good faith clinical judgment, would create a serious risk of substantial and irreversible impairment of a major bodily function if the woman delayed terminating her pregnancy.

e. The medical risks to the woman and fetus of carrying the pregnancy to term.

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

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

   a. A description of the preborn human being fetus, including a description of the various stages of development.
   b. A list of entities that offer alternatives to terminating the pregnancy.
   c. Detailed information on the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care.

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

Nothing in this paragraph does not is intended to prohibit a physician from providing any additional information that which the physician deems material to the woman's informed decision to terminate her pregnancy.

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

   (e) Violation of this subsection by a physician
constitutes grounds for disciplinary action under s. 458.331 or
s. 459.015. Substantial compliance or reasonable belief that
complying with the requirements of informed consent would
threaten the life or health of the patient is a defense to any
action brought under this paragraph.

(4) STANDARD OF MEDICAL CARE TO BE USED IN THIRD
TRIMESTER.—If a termination of pregnancy is performed in the
third trimester, the physician performing the termination of
pregnancy must exercise the same degree of professional skill,
care, and diligence to preserve the life and health of the
pregnancy which the physician would be required
to exercise in order to preserve the life and health of a
preborn human being a fetus intended to be born and not aborted.

However, if preserving the life and health of the fetus
conflicts with preserving the life and health of the pregnant
woman, the physician must consider preserving the woman's life
and health the overriding and superior concern.

(5) PARTIAL-BIRTH ABORTION PROHIBITED; EXCEPTION.—
   (a) No physician shall knowingly perform a partial-birth
abortion.
   (b) A woman upon whom a partial-birth abortion is
performed may not be prosecuted under this section for a
conspiracy to violate the provisions of this section.

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

(5) EXPERIMENTATION ON PREBORN HUMAN BEING FETUS PROHIBITED; EXCEPTION.—A person may not use any live preborn human being fetus or live, premature infant for any type of scientific, research, laboratory, or other kind of experimentation before either prior to or subsequent to any termination of pregnancy procedure except as necessary to protect or preserve the life and health of such preborn human being fetus or premature infant.

(6) FETAL REMAINS OF PREBORN HUMAN BEING.—The fetal remains of a preborn human being shall be disposed of in a sanitary manner pursuant to s. 381.0098 and rules adopted thereunder. Failure to dispose of such fetal remains in accordance with this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

(8) EXCEPTION.—The provisions of This section does
shall not apply to the performance of a procedure which
terminates a pregnancy in order to deliver a live child.

(9) PENALTIES FOR VIOLATION.—Except as provided in
subsections (3), (6), and (10):

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

(b) Any person who knowingly or purposefully performs or
induces an abortion on a pregnant woman with the specific intent
of causing or abetting the termination of the life of the
preborn human being whose preborn intrauterine heartbeat has
been detected pursuant to this section commits a felony of the
third degree, punishable as provided in s. 775.082, s. 775.083,
or s. 775.084.
Any person who performs, or actively participates in, a termination of pregnancy in violation of this section or s. 390.01112 which results in the death of the woman commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

(10)(12) INFANTS BORN ALIVE.—

(a) An infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive in the course of natural birth.
(b) If an infant is born alive during or immediately after an attempted abortion, any health care practitioner present at the time shall humanely exercise the same degree of professional skill, care, and diligence to preserve the life and health of the infant as a reasonably diligent and conscientious health care practitioner would render to an infant born alive at the same gestational age in the course of natural birth.

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

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

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

(f) This subsection does not affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species Homo sapiens at any point prior to being born alive as defined in s. 390.011.
(11) (13) FAILURE TO COMPLY.—Failure to comply with the requirements of this section or s. 390.01112 constitutes grounds for disciplinary action under each respective practice act and under s. 456.072.

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

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

(a) All abortions performed by such clinics are:

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

or

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

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

(c) The funds must be expended as reimbursement for Medicaid services provided on a fee-for-service basis.
Section 4. Section 390.01112, Florida Statutes, is amended to read:

390.01112  Termination of pregnancies after preborn intrauterine heartbeat is detected prohibited during viability.—

(1) No termination of pregnancy may not shall be performed on any woman human being if the physician determines that, in reasonable medical judgment, the preborn human being fetus has a detectable preborn intrauterine heartbeat, achieved viability, unless:

(a) Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman’s life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition; or

(b) The physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman’s life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(2) Before performing a termination of pregnancy, a physician must determine whether if the preborn human being has
a detectable preborn intrauterine heartbeat and fetus is viable by, at a minimum, perform performing a medical examination of the pregnant woman and, to the maximum extent possible through reasonably available tests and the ultrasound required under s. 390.0111(3), an examination of the preborn human being fetus. The physician must document in the pregnant woman's medical file the physician's determination and the method, equipment, fetal measurements, and any other information used to determine whether the preborn human being has a detectable preborn intrauterine heartbeat the viability of the fetus.

(3) If a termination of pregnancy is performed after a preborn intrauterine heartbeat has been detected during viability, the physician performing the termination of pregnancy must exercise the same degree of professional skill, care, and diligence to preserve the life and health of the preborn human being fetus that the physician would be required to exercise in order to preserve the life and health of a preborn human being fetus intended to be born and not aborted. However, if preserving the life and health of the fetus conflicts with preserving the life and health of the woman, the physician must consider preserving the woman's life and health the overriding and superior concern.

Section 5. Paragraphs (d), (e), (f), and (h) of subsection (3) and subsections (6) and (7) of section 390.012, Florida Statutes, are amended to read:
390.012 Powers of agency; rules; disposal of fetal remains.—
(3) For clinics that perform or claim to perform abortions after the first trimester of pregnancy, the agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter, including the following:
(d) Rules relating to the medical screening and evaluation of each abortion clinic patient. At a minimum, these rules shall require:
1. A medical history including reported allergies to medications, antiseptic solutions, or latex; past surgeries; and an obstetric and gynecological history.
2. A physical examination, including a bimanual examination estimating uterine size and palpation of the adnexa.
3. The appropriate laboratory tests, including:
   a. Urine or blood tests for pregnancy performed before the abortion procedure.
   b. A test for anemia.
   c. Rh typing, unless reliable written documentation of blood type is available.
   d. Other tests as indicated from the physical examination.
4. An ultrasound evaluation for all patients. The rules shall require that if a person who is not a physician performs an ultrasound examination, that person shall have documented evidence that he or she has completed a course in the operation
of ultrasound equipment as prescribed in rule. The rules shall require clinics to be in compliance with s. 390.0111.

5. That the physician is responsible for estimating the gestational age of the preborn human being fetus based on the ultrasound examination and obstetric standards in keeping with established standards of care regarding the estimation of the gestational fetal age of the preborn human being as defined in rule and shall write the estimate in the patient's medical history. The physician shall keep original prints of each ultrasound examination of a patient in the patient's medical history file.

(e) Rules relating to the abortion procedure. At a minimum, these rules shall require:

1. That a physician, registered nurse, licensed practical nurse, advanced practice registered nurse, or physician assistant is available to all patients throughout the abortion procedure.

2. Standards for the safe conduct of abortion procedures that conform to obstetric standards in keeping with established standards of care regarding the estimation of the gestational fetal age of the preborn human being as defined in rule.

3. Appropriate use of general and local anesthesia, analgesia, and sedation if ordered by the physician.

4. Appropriate precautions, such as the establishment of intravenous access at least for patients undergoing post-first
trimester abortions.

5. Appropriate monitoring of the vital signs and other
defined signs and markers of the patient's status throughout the
abortion procedure and during the recovery period until the
patient's condition is deemed to be stable in the recovery room.

(f) Rules that prescribe minimum recovery room standards.

At a minimum, these rules must require that:

1. Postprocedure recovery rooms be supervised and staffed
to meet the patients' needs.

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

3. A registered nurse, licensed practical nurse, advanced
practice registered nurse, or physician assistant who is trained
in the management of the recovery area and is capable of
providing basic cardiopulmonary resuscitation and related
emergency procedures remain on the premises of the abortion
clinic until all patients are discharged.

4. A physician sign the discharge order and be readily
accessible and available until the last patient is discharged to
facilitate the transfer of emergency cases if hospitalization of
the patient or the preborn human being viable fetus is
necessary.

5. A physician discuss Rho(D) immune globulin with each
patient for whom it is indicated and ensure that it is offered
to the patient in the immediate postoperative period or will be
available to her within 72 hours after completion of the
abortion procedure. If the patient refuses the Rho(D) immune
globulin, she and a witness must sign a refusal form approved by
the agency which must be included in the medical record.

6. Written instructions with regard to postabortion
coitus, signs of possible problems, and general aftercare which
are specific to the patient be given to each patient. The
instructions must include information regarding access to
medical care for complications, including a telephone number for
use in the event of a medical emergency.

7. A minimum length of time be specified, by type of
abortion procedure and duration of gestation, during which a
patient must remain in the recovery room.

8. The physician ensure that, with the patient's consent,
a registered nurse, licensed practical nurse, advanced practice
registered nurse, or physician assistant from the abortion
clinic makes a good faith effort to contact the patient by
telephone within 24 hours after surgery to assess the patient's
recovery.

9. Equipment and services be readily accessible to provide
appropriate emergency resuscitative and life support procedures
pending the transfer of the patient or the preborn human being
viable fetus to the hospital.

(h) Rules to prescribe minimum abortion clinic incident
reporting. At a minimum, these rules shall require that:

1. The abortion clinic records each incident that results in serious injury to a patient or a preborn human being at a viable fetus at an abortion clinic and shall report an incident in writing to the agency within 10 days after the incident occurs. For the purposes of this paragraph, "serious injury" means an injury that occurs at an abortion clinic and that creates a serious risk of substantial impairment of a major bodily organ.

2. If a patient's death occurs, other than the death of a preborn human being properly reported pursuant to law, the abortion clinic reports it to the department not later than the next department workday.

(6) The agency may adopt and enforce rules, in the interest of protecting the public health, to ensure the prompt and proper disposal of the fetal remains and tissue of a preborn human being resulting from pregnancy termination.

(7) If an owner, operator, or employee of an abortion clinic fails to dispose of the fetal remains and tissue of a preborn human being in a sanitary manner pursuant to s. 381.0098, rules adopted thereunder, and rules adopted by the agency pursuant to this section, the license of such clinic may be suspended or revoked, and such person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. This act shall take effect July 1, 2020.