

1 A bill to be entitled
2 An act relating to abortion; providing a short title;
3 amending s. 390.011, F.S.; providing and revising
4 definitions; amending s. 390.0111, F.S.; prohibiting a
5 termination of pregnancy if a physician determines a
6 preborn human being has a detectable preborn
7 intrauterine heartbeat; removing provisions relating
8 to a medical necessity or medical emergency exception;
9 revising the informed consent requirements for
10 obtaining an abortion to conform to changes made by
11 the act; requiring a physician to perform an
12 examination for, and inform a woman seeking an
13 abortion of the presence of, a detectable preborn
14 intrauterine heartbeat; revising provisions relating
15 to a physician's standard of medical care; removing
16 provisions relating to partial-birth abortion;
17 revising a provision relating to the prohibition on
18 the experimentation on a preborn human being; revising
19 a provision relating to the refusal to participate in
20 an abortion; providing criminal penalties; removing
21 civil remedies relating to partial-birth abortion;
22 removing exceptions relating to the prohibition on the
23 use of public funds for certain organizations that
24 perform abortions; amending s. 390.01112, F.S.;
25 prohibiting the termination of a pregnancy after a

26 preborn intrauterine heartbeat is detected; removing
27 provisions relating to a medical necessity exception;
28 requiring a physician to perform certain examinations
29 to detect a preborn intrauterine heartbeat; requiring
30 the physician to document such findings in the
31 pregnant woman's medical file; amending s. 390.012,
32 F.S.; conforming terminology; providing an effective
33 date.

34
35 WHEREAS, the Preamble to the United States Constitution of
36 1787 declares that a primary purpose of the Constitution is to
37 "secure the blessings of liberty to ourselves and our
38 posterity," and

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

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

48 WHEREAS, at the time the Fourteenth Amendment was drafted
49 by the United States Congress and submitted to the states in
50 1866, numerous states already had laws in effect that restricted

51 | abortion, thus indicating Congressional awareness of such state
52 | limitations on the practice, and

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

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

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

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

73 | WHEREAS, in *Planned Parenthood of Southeastern Pennsylvania*
74 | *v. Casey*, the United States Supreme Court stated that "viability
75 | marks the earliest point at which the State's interest in fetal

76 | life is constitutionally adequate to justify a legislative ban
77 | on nontherapeutic abortions," and

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

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

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

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

98 | WHEREAS, within the framework of the pregnancy of a preborn
99 | human being, it is established and accepted science that the
100 | viability of the fetus, preborn human being, human individual,

101 or person is determined during the first 6 weeks of gestation
102 through a consistent increase of the pregnancy-specific hormone
103 HCG (*Novak's Gynecology*, 12th Edition), and

104 WHEREAS, viability is clearly established and confirmed
105 once a heartbeat has been detected within the gestational sac at
106 approximately the 6th week of gestation (*Williams Obstetrics*,
107 21st Edition), and

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

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

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

120 WHEREAS, in *Planned Parenthood of Southeastern Pennsylvania*
121 *v. Casey*, the United States Supreme Court wrote in its majority
122 opinion, "Our Constitution is a covenant running from the first
123 generation of Americans to us and then to future generations. It
124 is a coherent succession. Each generation must learn anew that
125 the Constitution's written terms embody ideas and aspirations

126 that must survive more ages than one. We accept our
127 responsibility not to retreat from interpreting the full meaning
128 of the covenant in light of all of our precedents," and

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

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

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

150 WHEREAS, the Florida Legislature believes that there is a

151 "discord between the Constitution's central protections and
152 [the] received legal stricture" articulated in *Roe v. Wade* and
153 *Planned Parenthood v. Casey* with respect to the central
154 protection of the Ninth Amendment and the "absolute right" at
155 common law of "personal security" that "consists in the
156 uninterrupted enjoyment of [one's] life," and the understanding
157 of liberty that *Planned Parenthood v. Casey* ascribed to "human
158 autonomy," which is far different from the absolute right of
159 liberty at common law and protected by the Ninth Amendment that
160 "consists in the power of locomotion, of changing situation, or
161 moving one's person to whatsoever place one's own inclination
162 may direct, without imprisonment or restraint, unless by due
163 course of law," and

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

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

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

174 WHEREAS, it was said by Blackstone in his Commentaries on
175 the Laws of England that at common law "The right of personal

176 security consists in a person's legal and uninterrupted
177 enjoyment of his life, his limbs, his body, his health, and his
178 reputation," and

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

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

198 WHEREAS, the United States Constitution does not deprive
199 the States of their power to declare and make more secure
200 natural rights and duties inhering in this fundamental law, and

201 WHEREAS, the Fourteenth Amendment provides that Florida
 202 cannot "make or enforce any law which ... shall ... deprive any
 203 person of life ... without due process of law; nor deny to any
 204 person ... the equal protection of the laws," and

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

210

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

212

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

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

217 390.011 Definitions.—As used in this chapter, the term:

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

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

223 (a) A hospital; or

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

226 (3) "Agency" means the Agency for Health Care
 227 Administration.

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

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

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

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

243 (8)-(7) "Hospital" means a facility as defined in s.
 244 395.002(12) and licensed under chapter 395 and part II of
 245 chapter 408.

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

250 (9) "Physician" means a physician licensed under chapter

251 458 or chapter 459 or a physician practicing medicine or
252 osteopathic medicine in the employment of the United States.

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

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

258 (12)~~(10)~~ "Reasonable medical judgment" means a medical
259 judgment that would be made by a reasonably prudent physician,
260 knowledgeable about the case and the treatment possibilities
261 with respect to the medical conditions involved.

262 (13)~~(11)~~ "Standard medical measure" means the medical care
263 that a physician would provide based on the particular facts of
264 the pregnancy, the information available to the physician, and
265 the technology reasonably available in a hospital, as defined in
266 s. 395.002, with an obstetrical department, to preserve the life
267 and health of the preborn human being fetus, with or without
268 temporary artificial life-sustaining support, if the preborn
269 human being fetus were born at the same stage of gestational
270 ~~fetal~~ development.

271 (14)~~(12)~~ "Trimester" means one of the following three
272 distinct periods of time in the duration of a pregnancy:

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

275 (b) "Second trimester," which is the period of time from

276 | the beginning of the 12th week of gestation through the end of
 277 | the 23rd week of gestation.

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

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

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

285 | 390.0111 Termination of pregnancies.—

286 | (1) ~~TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.—~~A ~~No~~
 287 | ~~termination of pregnancy may not shall~~ be performed on any woman
 288 | ~~human being~~ in the third trimester of pregnancy if a physician
 289 | determines that, in reasonable medical judgment, the preborn
 290 | human being has a detectable preborn intrauterine heartbeat.
 291 | ~~unless one of the following conditions is met:~~

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

298 | ~~(b) The physician certifies in writing that, in reasonable~~
 299 | ~~medical judgment, there is a medical necessity for legitimate~~
 300 | ~~emergency medical procedures for termination of the pregnancy to~~

301 ~~save the pregnant woman's life or avert a serious risk of~~
302 ~~imminent substantial and irreversible physical impairment of a~~
303 ~~major bodily function of the pregnant woman other than a~~
304 ~~psychological condition, and another physician is not available~~
305 ~~for consultation.~~

306 (2) PERFORMANCE BY PHYSICIAN REQUIRED.—A ~~No~~ termination of
307 pregnancy may ~~shall~~ be performed only ~~at any time except~~ by a
308 physician as defined in s. 390.011.

309 (3) CONSENTS REQUIRED.—

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

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

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

326 a. The nature and risks of undergoing or not undergoing
327 the proposed procedure that a reasonable patient would consider
328 material to making a knowing and willful decision of whether to
329 terminate a pregnancy.

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

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

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

348 (III) The woman has a right to decline to view and hear
349 the explanation of the live ultrasound images after she is
350 informed of her right and offered an opportunity to view the

351 images and hear the explanation. If the woman declines, the
352 woman shall complete a form acknowledging that she was offered
353 an opportunity to view and hear the explanation of the images
354 but that she declined that opportunity. The form must also
355 indicate that the woman's decision was not based on any undue
356 influence from any person to discourage her from viewing the
357 images or hearing the explanation and that she declined of her
358 own free will.

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

375 ~~(IV) Unless requested by the woman, the person performing~~

376 ~~the ultrasound may not offer the opportunity to view the images~~
377 ~~and hear the explanation and the explanation may not be given~~
378 ~~if, at the time the woman schedules or arrives for her~~
379 ~~appointment to obtain an abortion, a copy of a restraining~~
380 ~~order, police report, medical record, or other court order or~~
381 ~~documentation is presented which provides evidence that the~~
382 ~~woman is obtaining the abortion because the woman is a victim of~~
383 ~~rape, incest, domestic violence, or human trafficking or that~~
384 ~~the woman has been diagnosed as having a condition that, on the~~
385 ~~basis of a physician's good faith clinical judgment, would~~
386 ~~create a serious risk of substantial and irreversible impairment~~
387 ~~of a major bodily function if the woman delayed terminating her~~
388 ~~pregnancy.~~

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

391
392 ~~The physician may provide the information required in this~~
393 ~~subparagraph within 24 hours before the procedure if requested~~
394 ~~by the woman at the time she schedules or arrives for her~~
395 ~~appointment to obtain an abortion and if she presents to the~~
396 ~~physician a copy of a restraining order, police report, medical~~
397 ~~record, or other court order or documentation evidencing that~~
398 ~~she is obtaining the abortion because she is a victim of rape,~~
399 ~~incest, domestic violence, or human trafficking.~~

400 ~~2. Printed materials prepared and provided by the~~

401 department have been provided to the pregnant woman, if she
402 chooses to view these materials, including:

403 a. A description of the preborn human being ~~fetus~~,
404 including a description of the various stages of development.

405 b. A list of entities that offer alternatives to
406 terminating the pregnancy.

407 c. Detailed information on the availability of medical
408 assistance benefits for prenatal care, childbirth, and neonatal
409 care.

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

413
414 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a
415 physician from providing any additional information that ~~which~~
416 the physician deems material to the woman's informed decision to
417 terminate her pregnancy.

418 ~~(b) If a medical emergency exists and a physician cannot~~
419 ~~comply with the requirements for informed consent, a physician~~
420 ~~may terminate a pregnancy if he or she has obtained at least one~~
421 ~~corroborative medical opinion attesting to the medical necessity~~
422 ~~for emergency medical procedures and to the fact that to a~~
423 ~~reasonable degree of medical certainty the continuation of the~~
424 ~~pregnancy would threaten the life of the pregnant woman. If a~~
425 ~~second physician is not available for a corroborating opinion,~~

426 | ~~the physician may proceed but shall document reasons for the~~
427 | ~~medical necessity in the patient's medical records.~~

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

434 | (4) STANDARD OF MEDICAL CARE TO BE USED IN THIRD
435 | TRIMESTER.—If a termination of pregnancy is performed in the
436 | third trimester, the physician performing the termination of
437 | pregnancy must exercise the same degree of professional skill,
438 | care, and diligence to preserve the life and health of the
439 | preborn human being ~~fetus~~ which the physician would be required
440 | to exercise in order to preserve the life and health of a
441 | preborn human being ~~a fetus~~ intended to be born and not aborted.
442 | ~~However, if preserving the life and health of the fetus~~
443 | ~~conflicts with preserving the life and health of the pregnant~~
444 | ~~woman, the physician must consider preserving the woman's life~~
445 | ~~and health the overriding and superior concern.~~

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

447 | ~~(a) No physician shall knowingly perform a partial-birth~~
448 | ~~abortion.~~

449 | ~~(b) A woman upon whom a partial-birth abortion is~~
450 | ~~performed may not be prosecuted under this section for a~~

451 ~~conspiracy to violate the provisions of this section.~~

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

457 (5)~~(6)~~ EXPERIMENTATION ON PREBORN HUMAN BEING FETUS
458 PROHIBITED; EXCEPTION.—~~A~~ ~~no~~ person may not shall use any live
459 preborn human being fetus or live, premature infant for any type
460 of scientific, research, laboratory, or other kind of
461 experimentation before ~~either prior to or subsequent to~~ any
462 termination of pregnancy procedure except as necessary to
463 protect or preserve the life and health of such preborn human
464 being fetus or premature infant.

465 (6)~~(7)~~ FETAL REMAINS OF PREBORN HUMAN BEING.—The Fetal
466 remains of a preborn human being shall be disposed of in a
467 sanitary manner pursuant to s. 381.0098 and rules adopted
468 thereunder. Failure to dispose of such fetal remains in
469 accordance with this subsection is a misdemeanor of the first
470 degree, punishable as provided in s. 775.082 or s. 775.083.

471 (7)~~(8)~~ REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—
472 Nothing in this section shall require any hospital or any person
473 to participate in the termination of a pregnancy, nor shall any
474 hospital or any person be liable for such refusal. No person who
475 is a member of, or associated with, the staff of a hospital, nor

476 any employee of a hospital or physician in which or by whom the
477 termination of a pregnancy has been authorized or performed, who
478 shall state an objection to such procedure ~~on moral or religious~~
479 ~~grounds~~ shall be required to participate in the procedure which
480 will result in the termination of pregnancy. The refusal of any
481 such person or employee to participate shall not form the basis
482 for any disciplinary or other recriminatory action against such
483 person.

484 (8) ~~(9)~~ EXCEPTION.—~~The provisions of~~ This section does
485 ~~shall~~ not apply to the performance of a procedure which
486 terminates a pregnancy in order to deliver a live child.

487 (9) ~~(10)~~ PENALTIES FOR VIOLATION.—Except as provided in
488 subsections (3), (6) ~~(7)~~, and (10) ~~(12)~~:

489 (a) Any person who willfully performs, or actively
490 participates in, a termination of pregnancy in violation of the
491 requirements of this section or s. 390.01112 commits a felony of
492 the third degree, punishable as provided in s. 775.082, s.
493 775.083, or s. 775.084.

494 (b) Any person who knowingly or purposefully performs or
495 induces an abortion on a pregnant woman with the specific intent
496 of causing or abetting the termination of the life of the
497 preborn human being whose preborn intrauterine heartbeat has
498 been detected pursuant to this section commits a felony of the
499 third degree, punishable as provided in s. 775.082, s. 775.083,
500 or s. 775.084.

501 (c) ~~(b)~~ Any person who performs, or actively participates
 502 in, a termination of pregnancy in violation of this section or
 503 s. 390.01112 which results in the death of the woman commits a
 504 felony of the second degree, punishable as provided in s.
 505 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

521 (10) ~~(12)~~ INFANTS BORN ALIVE.—

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

526 (b) If an infant is born alive during or immediately after
527 an attempted abortion, any health care practitioner present at
528 the time shall humanely exercise the same degree of professional
529 skill, care, and diligence to preserve the life and health of
530 the infant as a reasonably diligent and conscientious health
531 care practitioner would render to an infant born alive at the
532 same gestational age in the course of natural birth.

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

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

541 (e) A person who violates this subsection commits a
542 misdemeanor of the first degree, punishable as provided in s.
543 775.082 or s. 775.083. This subsection shall not be construed as
544 a specific provision of law relating to a particular subject
545 matter that would preclude prosecution of a more general
546 offense, regardless of the penalty.

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

551 (11) ~~(13)~~ FAILURE TO COMPLY.—Failure to comply with the
552 requirements of this section or s. 390.01112 constitutes grounds
553 for disciplinary action under each respective practice act and
554 under s. 456.072.

555 (12) ~~(14)~~ RULES.—The applicable boards, or the department
556 if there is no board, shall adopt rules necessary to implement
557 the provisions of this section.

558 (13) ~~(15)~~ USE OF PUBLIC FUNDS RESTRICTED.—A state agency, a
559 local governmental entity, or a managed care plan providing
560 services under part IV of chapter 409 may not expend funds for
561 the benefit of, pay funds to, or initiate or renew a contract
562 with an organization that owns, operates, or is affiliated with
563 one or more clinics that are licensed under this chapter and
564 perform abortions ~~unless one or more of the following applies:~~

565 ~~(a) All abortions performed by such clinics are:~~

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

567 ~~or~~

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

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

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

576 Section 4. Section 390.01112, Florida Statutes, is amended
577 to read:

578 390.01112 Termination of pregnancies after preborn
579 intrauterine heartbeat is detected prohibited during viability.-

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

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

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

599 (2) Before performing a termination of pregnancy, a
600 physician must determine whether ~~if~~ the preborn human being has

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601 a detectable preborn intrauterine heartbeat and fetus is viable
602 ~~by~~, at a minimum, perform ~~performing~~ a medical examination of
603 the pregnant woman and, to the maximum extent possible through
604 reasonably available tests and the ultrasound required under s.
605 390.0111(3), an examination of the preborn human being fetus.
606 The physician must document in the pregnant woman's medical file
607 the physician's determination and the method, equipment, ~~fetal~~
608 measurements, and any other information used to determine
609 whether the preborn human being has a detectable preborn
610 intrauterine heartbeat ~~the viability of the fetus~~.

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

623 Section 5. Paragraphs (d), (e), (f), and (h) of subsection
624 (3) and subsections (6) and (7) of section 390.012, Florida
625 Statutes, are amended to read:

626 390.012 Powers of agency; rules; disposal of ~~fetal~~
627 remains.—

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

632 (d) Rules relating to the medical screening and evaluation
633 of each abortion clinic patient. At a minimum, these rules shall
634 require:

635 1. A medical history including reported allergies to
636 medications, antiseptic solutions, or latex; past surgeries; and
637 an obstetric and gynecological history.

638 2. A physical examination, including a bimanual
639 examination estimating uterine size and palpation of the adnexa.

640 3. The appropriate laboratory tests, including:

641 a. Urine or blood tests for pregnancy performed before the
642 abortion procedure.

643 b. A test for anemia.

644 c. Rh typing, unless reliable written documentation of
645 blood type is available.

646 d. Other tests as indicated from the physical examination.

647 4. An ultrasound evaluation for all patients. The rules
648 shall require that if a person who is not a physician performs
649 an ultrasound examination, that person shall have documented
650 evidence that he or she has completed a course in the operation

651 of ultrasound equipment as prescribed in rule. The rules shall
652 require clinics to be in compliance with s. 390.0111.

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

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

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

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

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

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

676 trimester abortions.

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

681 (f) Rules that prescribe minimum recovery room standards.
682 At a minimum, these rules must require that:

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

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

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

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

699 5. A physician discuss Rho(D) immune globulin with each
700 patient for whom it is indicated and ensure that it is offered

701 to the patient in the immediate postoperative period or will be
702 available to her within 72 hours after completion of the
703 abortion procedure. If the patient refuses the Rho(D) immune
704 globulin, she and a witness must sign a refusal form approved by
705 the agency which must be included in the medical record.

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

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

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

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

725 (h) Rules to prescribe minimum abortion clinic incident

726 reporting. At a minimum, these rules shall require that:

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

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

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

742 (7) If an owner, operator, or employee of an abortion
 743 clinic fails to dispose of the ~~fetal~~ remains and tissue of a
 744 preborn human being in a sanitary manner pursuant to s.
 745 381.0098, rules adopted thereunder, and rules adopted by the
 746 agency pursuant to this section, the license of such clinic may
 747 be suspended or revoked, and such person commits a misdemeanor
 748 of the first degree, punishable as provided in s. 775.082 or s.
 749 775.083.

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