

1 A bill to be entitled

2 An act relating to abortion; creating the  
3 "Abolition of Abortion in Florida Act"; providing  
4 legislative findings; interpreting the right to privacy  
5 under art. I, sec. 23, Constitution of the State of  
6 Florida; abolishing abortion in the state of Florida;  
7 declaring as void and of no effect any and all federal  
8 or state acts, laws, treaties, decisions, orders, or  
9 regulations that would deprive a preborn child of the  
10 right to life or prohibit the protection of such right;  
11 specifying the duties of all Florida officials to  
12 enforce this act; defining the duties of the attorney  
13 general relative to this Act; defining the duties of  
14 law enforcement officials relative to this Act;  
15 providing for the arrest of any federal official or  
16 agent who arrests, attempts to arrest, or interferes  
17 with any Florida government official for compliance  
18 with this Act; prohibiting the State of Florida to  
19 enter an appearance, special or otherwise, in any  
20 federal suit challenging this Act; specifying that all  
21 provisions of the Act are effective as of the date of  
22 passage and not retroactively; amending chapter 795,  
23 F.S. to prohibit procuring, performing, or assisting in  
24 the procuring or performing of abortion; defining  
25 "abortion," "person," "preborn child" providing  
26 criminal penalties; removing any exclusions for  
27 prosecution of a mother under the act; prohibiting

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1 inflicting serious bodily injury or death on a preborn  
2 child; providing criminal penalties; prohibiting  
3 operation of any facility, business, or service for the  
4 purpose of providing induced abortion services;  
5 providing criminal penalties; providing civil remedies;  
6 repealing chapter 390, F.S. in its entirety;  
7 prohibiting state or federal funds from covering  
8 abortion; specifying the powers of guardians;  
9 specifying the powers of guardian advocates for health  
10 care decisions; repealing the parental notification  
11 act; making conforming changes.

12

13 WHEREAS, The first stated purposes of "We the  
14 People of the United States" in the United States  
15 Constitution are "to form a more perfect Union,  
16 establish Justice, insure domestic Tranquility, provide  
17 for the common defence, promote the general Welfare,  
18 and secure the Blessings of Liberty to ourselves and  
19 our Posterity"; and

20 WHEREAS, the Preamble to the Constitution of the  
21 State of Florida states that "We, the people of the  
22 State of Florida, being grateful to Almighty God for  
23 our constitutional liberty, in order to secure its  
24 benefits, perfect our government, insure domestic  
25 tranquility, maintain public order, and guarantee equal  
26 civil and political rights to all, do ordain and  
27 establish this constitution," and

1           WHEREAS, Article I, Section 2 of the Constitution  
2 of the State of Florida declares that "All natural  
3 persons, female and male alike, are equal before the  
4 law and have inalienable rights, among which are the  
5 right to enjoy and defend life and liberty, to pursue  
6 happiness, to be rewarded for industry, and to acquire,  
7 possess and protect property. No person shall be  
8 deprived of any right because of race, religion,  
9 national origin, or physical disability;" and

10           WHEREAS, Article 1, Section 9 of the Constitution  
11 of the State of Florida establishes that "No person  
12 shall be deprived of life, liberty or property without  
13 due process of law, or be twice put in jeopardy for the  
14 same offense, or be compelled in any criminal matter to  
15 be a witness against oneself;" and

16           WHEREAS, Section 1.01(3) of Chapter 1, Florida  
17 Statutes, defines the word "person" to include  
18 individuals, children, firms, associations, joint  
19 adventures, partnerships, estates, trusts, business  
20 trusts, syndicates, fiduciaries, corporations, and all  
21 other groups or combinations; and

22           WHEREAS, Modern science has demonstrated beyond any  
23 reasonable doubt that an individual human person's  
24 physical existence begins at the moment of  
25 fertilization upon the fusion of a human spermatozoon  
26 and human ovum; and

1           WHEREAS, every human being, from the moment of  
2 fertilization upon the fusion of a human spermatozoon  
3 and human ovum, whether born or preborn, meets the  
4 definition of "person" as defined by Section 1.01(3) of  
5 Chapter 1, Florida Statutes and the definition of  
6 "natural person" as defined by Article I, Section 2 of  
7 the Constitution of the State of Florida; and

8           WHEREAS, It is the intent of the legislature to  
9 enact laws reflecting the compelling interest of this  
10 state to provide to all persons, including preborn  
11 individual children, the equal protection of the laws  
12 of this state; to establish that a living human child,  
13 from the moment of fertilization upon the fusion of a  
14 human spermatozoon with a human ovum, or in the case of  
15 asexual reproduction, at the equivalent stage of  
16 development, is entitled to the same rights, powers,  
17 privileges, justice, and protections as are secured or  
18 granted by the laws of this state to any other human  
19 person; and

20           WHEREAS, it is the intent of the legislature to  
21 treat as null, void and of no effect any and all  
22 federal or state acts, laws, treaties, decisions,  
23 orders, or regulations that would deprive any  
24 individual person, including a preborn child, of the  
25 right to life, or which would prohibit the protection  
26 of such right, and

1           WHEREAS, It was never the intent of Article I,  
2 Section 23; Article 10, Section 22, or any other  
3 section of the Constitution of the State of Florida, to  
4 recognize any right of any person to take the life of  
5 an innocent preborn child; and

6           WHEREAS, It was never the intent of the United  
7 States Constitution to recognize any right of any  
8 person to take the life of an innocent preborn child;

9  
10 NOW, THEREFORE, BE IT ENACTED BY THE LEGISLATURE OF THE  
11 STATE OF FLORIDA:

12

13 Section 1: This act may be cited as the "Abolition of  
14 Abortion in Florida Act."

15

1 Section 2: Section 1.01, Subchapter (3) of Chapter 1,  
2 Florida Statutes, is amended to read:

3 (3) The word "person" includes individuals, human  
4 beings at any stage of development, ~~children,~~ firms,  
5 associations, joint adventures, partnerships,  
6 estates, trusts, business trusts, syndicates,  
7 fiduciaries, corporations, and all other groups or  
8 combinations.

9  
10 Section 3: Chapter 390, Florida Statutes, is repealed  
11 in its entirety.

12  
13 Section 4: Chapter 797, Florida Statutes, is amended  
14 as follows:

15 797.01 This Act may be cited as the "Abolition of  
16 Abortion in Florida Act."

17 797.02 Definitions.

18 "Abortion" means the use or prescription of any  
19 procedure, instrument, medicine, drug, or any other  
20 substance or device whose primary purpose is to  
21 intentionally kill a preborn child.

22 "Abortifacient" means any medicine, drug or other  
23 substance or device which is known or reasonably  
24 suspected by medical science to cause the death of a  
25 preborn child, at any stage of development from  
26 fertilization upon fusion of a spermatozoon with an  
27 ovum to live birth, whether directly or indirectly

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1 (such as preventing implantation or attachment to the  
2 uterine wall); intentionally or unintentionally, and  
3 whether as its primary purpose or as a secondary or  
4 alternative purpose.

5 "Preborn child" means an individual organism of the  
6 species Homo sapiens from fertilization upon fusion  
7 of a spermatozoon with an ovum, whether fertilization  
8 occurs inside or outside of the human, until live  
9 birth;

10  
11 **797.03 Abortion is Prohibited; acts; penalties.-**

12 (1) It is unlawful for any person to procure,  
13 perform, aid, or assist in procuring or performing an  
14 abortion on a person, ~~except in an emergency care~~  
15 situation, ~~other than in a validly licensed hospital or~~  
16 abortion clinic or in a physician's office.

17 ~~—(4)~~ (2) Any person who procures, performs, aids,  
18 or assists in procuring or performing an abortion  
19 willfully violates any provision of this section is  
20 guilty of a misdemeanor of the second degree, murder in  
21 the first degree, a capital felony, punishable as  
22 provided in s. 775.082 ~~or s. 775.083.~~

23  
24 **797.034 Operation of Abortion Clinic prohibited.-**

25 It is unlawful for any person or public body to  
26 establish, conduct, manage, or operate an abortion  
27 clinic. Anyone who violates this section will be guilty

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1 of a felony in the first degree, punishable as provided  
2 in s. 775.082 or s. 775.083. without a valid current  
3 license. .

4 ~~(3) It is unlawful for any person to perform or~~  
5 ~~assist in performing an abortion on a person during~~  
6 ~~viability or in the third trimester other than in a~~  
7 ~~hospital.~~

8 ~~—~~ **797.025 Advertising drugs, etc., for abortion.**

9 Whoever knowingly advertises, prints, publishes,  
10 distributes or circulates, or knowingly causes to be  
11 advertised, printed, published, distributed or  
12 circulated, any pamphlet, printed paper, book,  
13 newspaper notice, advertisement, or reference  
14 containing words or language giving or conveying any  
15 notice, hint, or reference to any person, or the name  
16 of any person, real or fictitious, from whom, or to any  
17 place, house, shop, or office where any poison, drug,  
18 mixture, preparation, medicine, or noxious thing, or  
19 any instrument or means whatever, or any advice,  
20 direction, information, or knowledge may be obtained  
21 for the purpose of causing or procuring an abortion or  
22 the miscarriage of any pregnant woman ~~pregnant with~~  
23 ~~child~~, shall be guilty of a ~~misdemeanor~~ felony of the  
24 third degree, punishable as provided in s. 775.082 or  
25 s. 775.083.

26 **797.06 Sale of Abortifacient Drugs Forbidden. -**

27 No person can prescribe, sell or purchase any medicine,

1 drug, chemical, tincture or compound that is known to  
2 be, or reasonably suspected to be, an abortifacient.  
3 Anyone violating this provision is guilty of a felony  
4 of the first degree, punishable as provided in s.  
5 775.082 or 2.775.083.

6 **797.07 Acts not protected under the right to**  
7 **privacy.** - Notwithstanding any other provision of law,  
8 the intentional taking of innocent human life before,  
9 during, or after birth is not protected by any right to  
10 privacy under the Constitution of the State of Florida  
11 or the United States Constitution.

12 **797.08 Nullification of Interfering Acts.** - Any  
13 federal act, law, treaty, decision, order, or  
14 regulation that purports to supersede, stay, or  
15 overrule this act is in violation of the Constitution  
16 of the State of Florida and the Constitution of the  
17 United States of America and is therefore null and  
18 void. The state of Florida, and its political  
19 subdivisions, and agents thereof, may not enter an  
20 appearance, special or otherwise, in any federal suit  
21 challenging this act.

22 **797.09 Attorney General to Monitor Enforcement.-**  
23 The attorney general has concurrent authority and power  
24 with the prosecuting attorneys to investigate crimes  
25 and initiate and conduct prosecutions under this  
26 chapter. The attorney general shall monitor enforcement  
27 of this chapter by prosecuting attorneys in the state

1 in relation to abortion, regardless of any contrary or  
2 conflicting federal acts, laws, treaties, decisions,  
3 orders, or regulations.

4 **797.10 Compliance by Government Officials and Law**

5 **Enforcement.**- No government agency or official of this  
6 state, including any sheriff, deputy sheriff, or other  
7 law enforcement officer, may give force or effect to  
8 any court order that conflicts with this chapter.

9 Cooperative agreements with federal agencies

10 notwithstanding, no law enforcement agency or law  
11 enforcement officer in this state may assist or  
12 cooperate in any way with the arrest or imprisonment of  
13 any government official or individual who complies with  
14 this chapter and refuses to comply with any contrary  
15 court order. Such contrary orders include, but are not  
16 limited to, any order to levy upon property, seize bank  
17 accounts, arrest the person, or serve process for the  
18 purpose of causing any person to violate this chapter,  
19 or for the purpose of punishing any person for the  
20 failure to comply with an order contrary to this  
21 chapter. A federal officer or agent who arrests any  
22 Florida government employee for compliance with this  
23 chapter is subject to arrest by Florida law  
24 enforcement.

25 **797.11 Non-Severability.**- The provisions of this  
26 act are not severable.

1        **797.12 Non-Retroactivity.** - This act applies  
2 prospectively and not retroactively. It applies only to  
3 offenses committed, or causes of action that arise, on  
4 or after the effective date of this section. For  
5 purposes of this section, an offense is committed  
6 before the effective date of this section if any  
7 element of the offense occurs before the effective date  
8 of this section.

9        **797.13 Civil Actions Pursuant to Illegal**  
10 **Abortion; Relief.-**

11        (a) The father, if married to the mother at the  
12 time she receives an abortion, or, if the mother  
13 has not attained the age of 18 years at the time  
14 she receives an illegal abortion, the maternal  
15 grandparents of the preborn child may, in a civil  
16 action, obtain appropriate relief from all parties  
17 who procured, performed, aided or assisted in the  
18 commission of the abortion, unless the pregnancy  
19 resulted from or was aided by the plaintiff's  
20 criminal conduct, or the plaintiff consented to the  
21 illegal abortion.

22        (b) In a civil action under this section,  
23 appropriate relief includes a monetary award for  
24 all psychological, and physical injuries, and up to  
25 three times the amount of any financial damages,  
26 occasioned by the violation of this section.

27 **797.14 Infants Born Alive.-**

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

6 (b) If an infant is born alive during or  
7 immediately after an attempted abortion, any health  
8 care practitioner present at the time shall  
9 humanely exercise the same degree of professional  
10 skill, care, and diligence to preserve the life and  
11 health of the infant as a reasonably diligent and  
12 conscientious health care practitioner would render  
13 to an infant born alive at the same gestational age  
14 in the course of natural birth.

15 (c) An infant born alive during or immediately  
16 after an attempted abortion must be immediately  
17 transported and admitted to a hospital for  
18 evaluation and treatment.

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

24 (e) A person who violates this subsection commits a  
25 felony of the third degree, punishable as provided in  
26 s. 775.082 or s. 775.083. This subsection shall not be  
27 construed as a specific provision of law relating to a

1 particular subject matter that would preclude  
2 prosecution of a more general offense, regardless of  
3 the penalty.

4

5 **797.15 Experimentation Prohibited.-**

6 No person shall use any live preborn child for any type  
7 of scientific, research, laboratory, or other kind of  
8 experimentation. Nothing in this section shall be  
9 construed as to prohibit a physician from rendering  
10 treatment necessary to preserve the life and health of  
11 such preborn child.

12

13 **797.16 Failure to Comply-**

14 (1) Failure to comply with the requirements of this  
15 section constitutes grounds for disciplinary action  
16 under each respective practice act and under s.  
17 456.072.

18 (2) Rules.-The applicable boards, or the department if  
19 there is no board, shall adopt rules necessary to  
20 implement the provisions of this section.

21 **797.17 Urgency** - This act is necessary for the  
22 immediate preservation of the public peace, health, or  
23 safety, or support of the state government and its  
24 existing public institutions, and takes effect  
25 immediately.

26

1        **797.18 Conflicting Law** - Any law, statute,  
2 ordinance, or administrative code conflicting with this  
3 Act shall be amended to comply with this Act. In the  
4 event of any conflicting language, this Act shall  
5 govern.