

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

Words ~~stricken~~ are deletions; words underlined are additions.

criminal penalties; removing any exclusions for prosecution of a mother under the act; prohibiting inflicting serious bodily injury or death on a preborn child; providing criminal penalties; prohibiting operation of any facility, business, or service for the purpose of providing induced abortion services; providing criminal penalties; providing civil remedies; repealing chapter 390, F.S. in its entirety; prohibiting state or federal funds from covering abortion; specifying the powers of guardians; specifying the powers of guardian advocates for health care decisions; repealing the parental notification act; making conforming changes.

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

WHEREAS, the Preamble to the Constitution of the State of Florida states that "We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its

Words ~~stricken~~ are deletions; words underlined are additions.

benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution," and

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

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

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

Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

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

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

Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

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

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

797.02 Definitions.

"Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill a preborn child.

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

Words ~~stricken~~ are deletions; words underlined are additions.

797.03 Abortion is Prohibited; acts; penalties.-

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

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

797.034 Operation of Abortion Clinic prohibited.-

It is unlawful for any person or public body to establish, conduct, manage, or operate an abortion clinic. Anyone who violates this section will be guilty of a felony in the first degree, punishable as provided in s. 775.082 or s. 775.083. ~~without a valid current license.~~ .

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

Words ~~stricken~~ are deletions; words underlined are additions.

797.025 Advertising drugs, etc., for abortion.

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

797.06 Acts not protected under the right to privacy. - Notwithstanding any other provision of law, the intentional taking of innocent human life before, during, or after birth is not protected by any right to privacy under the Constitution of the State of Florida or the United States Constitution.

Words ~~stricken~~ are deletions; words underlined are additions.

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

797.08 Attorney General to Monitor Enforcement.- The attorney general has concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions under this chapter. The attorney general shall monitor enforcement of this chapter by prosecuting attorneys in the state in relation to abortion, regardless of any contrary or conflicting federal acts, laws, treaties, decisions, orders, or regulations.

797.09 Compliance by Government Officials and Law Enforcement.- No government agency or official of this state, including any sheriff, deputy sheriff, or other law enforcement officer, may give force or effect to any court order that conflicts with this chapter. Cooperative agreements with federal agencies

Words ~~stricken~~ are deletions; words underlined are additions.

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

797.10 Non-Severability.- The provisions of this act are not severable.

797.11 Non-Retroactivity. - This act applies prospectively and not retroactively. It applies only to offenses committed, or causes of action that arise, on or after the effective date of this section. For purposes of this section, an offense is committed before the effective date of this section if any element of the offense occurs before the effective date of this section.

Words ~~stricken~~ are deletions; words underlined are additions.

797.12 Civil Actions Pursuant to Illegal**Abortion; Relief.-**

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

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

797.13 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.

Words ~~stricken~~ are deletions; words underlined are additions.

(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 for evaluation and treatment.

(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 felony of the third 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.

Words ~~stricken~~ are deletions; words underlined are additions.

797.14 Experimentation Prohibited.-

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

797.15 Failure to Comply-

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

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

797.16 Urgency - This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Words ~~stricken~~ are deletions; words underlined are additions.

Section 5: Section 27.511, Subsections (6)(a) and (7), Florida Statutes, are amended as follows:

(6)(a) The office of criminal conflict and civil regional counsel has primary responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law in civil proceedings, including, but not limited to, proceedings under s. 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and proceedings to terminate parental rights under chapter 63. ~~Private court-appointed counsel eligible under s. 27.40 have primary responsibility for representing minors who request counsel under s. 390.01114, the Parental Notice of Abortion Act, however, the office of criminal conflict and civil regional counsel may represent a minor under that section if the court finds that no private court-appointed attorney is available.~~

(7)The court may not appoint the office of criminal conflict and civil regional counsel to represent, even on a temporary basis, any person who is not indigent, except to the extent that appointment of counsel is specifically provided for in chapters ~~390~~, 394, 415, 743, and 744 without regard to the indigent status of

Words ~~stricken~~ are deletions; words underlined are additions.

the person entitled to representation.

Section 6: Section 27.5304, Florida Statutes, is amended to read: (7) Counsel entitled to receive compensation from the state for representation pursuant to court appointment in a proceeding under chapter 384, ~~chapter 390~~, chapter 392, chapter 393, chapter 394, chapter 397, chapter 415, chapter 743, chapter 744, or chapter 984 shall receive compensation not to exceed the limits prescribed in the General Appropriations Act.

Section 7: Section 394.4598, Florida Statutes, is amended as follows:

(7) If a guardian with the authority to consent to medical treatment has not already been appointed or if the patient has not already designated a health care surrogate, the court may authorize the guardian advocate to consent to medical treatment, as well as mental health treatment. Unless otherwise limited by the court, a guardian advocate with authority to consent to medical treatment shall have the same authority to make health care decisions and be subject to the same restrictions as a proxy appointed under part IV of chapter 765. Unless the guardian

Words ~~stricken~~ are deletions; words underlined are additions.

advocate has sought and received express court approval in proceeding separate from the proceeding to determine the competence of the patient to consent to medical treatment, the guardian advocate may not consent to:

~~(a) Abortion.~~

~~(b)~~ (a) Sterilization.

~~(c)~~ (b) Electroconvulsive treatment.

~~(d)~~ (c) Psychosurgery.

~~(e)~~ (d) Experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56.

The court must base its decision on evidence that the treatment or procedure is essential to the care of the patient and that the treatment does not present an unreasonable risk of serious, hazardous, or irreversible side effects. The court shall follow the procedures set forth in subsection (1) of this section.

(8) Under no circumstances may a guardian advocate consent to the performance of an abortion upon the patient. This shall not prohibit a physician from taking such measures as are necessary to save the

Words ~~stricken~~ are deletions; words underlined are additions.

life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

~~(8)~~ (9) The guardian advocate shall be discharged when the patient is discharged from an order for involuntary outpatient placement or involuntary inpatient placement or when the patient is transferred from involuntary to voluntary status. The court or a hearing officer shall consider the competence of the patient pursuant to subsection (1) and may consider an involuntarily placed patient's competence to consent to treatment at any hearing. Upon sufficient evidence, the court may restore, or the hearing officer may recommend that the court restore, the patient's competence. A copy of the order restoring competence or the certificate of discharge containing the restoration of competence shall be provided to the patient and the guardian advocate.

Section 8: Section 397.6978, Florida Statutes, is amended as follows:

7) If a guardian with the authority to consent to

Words ~~stricken~~ are deletions; words underlined are additions.

medical treatment has not already been appointed or if the patient has not already designated a health care surrogate, the court may authorize the guardian advocate to consent to medical treatment, as well as mental health treatment. Unless otherwise limited by the court, a guardian advocate with authority to consent to medical treatment shall have the same authority to make health care decisions and be subject to the same restrictions as a proxy appointed under part IV of chapter 765. Unless the guardian advocate has sought and received express court approval in proceeding separate from the proceeding to determine the competence of the patient to consent to medical treatment, the guardian advocate may not consent to:

~~(a) Abortion.~~

~~(b)~~ (a) Sterilization.

~~(c)~~ (b) Electroconvulsive treatment.

~~(d)~~ (c) Psychosurgery.

~~(e)~~ (d) Experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56.

The court must base its decision on evidence that the treatment or procedure is essential to the care of the patient and that the treatment does not present an

Words ~~stricken~~ are deletions; words underlined are additions.

unreasonable risk of serious, hazardous, or irreversible side effects. The court shall follow the procedures set forth in subsection (1) of this section.

(8) Under no circumstances may a guardian advocate consent to the performance of an abortion upon the patient. This shall not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

~~(8)~~ (9) The guardian advocate shall be discharged when the patient is discharged from an order for involuntary outpatient placement or involuntary inpatient placement or when the patient is transferred from involuntary to voluntary status. The court or a hearing officer shall consider the competence of the patient pursuant to subsection (1) and may consider an involuntarily placed patient's competence to consent to treatment at any hearing. Upon sufficient evidence, the court may restore, or the hearing officer may recommend that the court restore, the patient's competence. A copy of the order restoring competence or the certificate of discharge containing the restoration of competence shall be provided to the patient and the

Words ~~stricken~~ are deletions; words underlined are additions.

guardian advocate.

Section 9: Section 627.64995, Florida Statutes, is amended as follows:

(1) A health insurance policy under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an abortion as defined in s. 797.02. ~~390.011(1),~~ ~~except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the health insurance policy.

(2) This section does ~~not~~ prohibits a health insurance policy from offering separate coverage for any abortion in Florida, regardless of whether ~~if~~ such coverage is ~~not~~ purchased in whole or in part

Words ~~stricken~~ are deletions; words underlined are additions.

with state or federal funds. Nothing in this section shall be construed as to prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

(3) As used in this section, the term "state" means this state or any political subdivision of the state.

Section 10: Subsection (1) of Subsection 16 of Section 627.6699 of Chapter 627, Florida Statutes, is amended as follows:

(a) A plan under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an abortion, as defined in s. 797.02. ~~390.011(1)~~, ~~except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical~~

Words ~~stricken~~ are deletions; words underlined are additions.

~~condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the plan.

(b) This subsection ~~does not~~ prohibits a plan from providing any person or entity with separate coverage for an abortion in Florida, regardless of whether if such coverage is ~~not~~ purchased in whole or in part with state or federal funds. Nothing in this subsection shall be construed as to prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

Section 11: Section 627.66996, Florida Statutes, is amended as follows:

(1) A group, franchise, or blanket health insurance policy under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient

Words ~~stricken~~ are deletions; words underlined are additions.

Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an abortion as defined in s. 797.02, ~~390.011(1)~~, ~~except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the group, franchise, or blanket health insurance policy.

(2) This section ~~does not~~ prohibits any group, franchise, or blanket health insurance policy from offering separate coverage for an abortion ~~if in~~ Florida, regardless of whether such coverage is ~~not~~ purchased in whole or in part with state or federal funds. Nothing in this section shall be construed as to prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases,

Words ~~stricken~~ are deletions; words underlined are additions.

to save the preborn child's life.

(3) As used in this section, the term "state" means this state or any political subdivision of the state.

Section 12: Subsection (1) of Section 641.31099, Florida Statutes, is amended as follows:

(1) A health maintenance contract under which coverage is purchased in whole or in part with any state or federal funds through an exchange created pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, may not provide coverage for an abortion as defined in s. 797.02. ~~390.011(1), except if the pregnancy is the result of an act of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, which would, as certified by a physician, place the woman in danger of death unless an abortion is performed.~~ Coverage is deemed to be purchased with state or federal funds if any tax credit or cost-sharing credit is applied toward the health maintenance contract.

(2) This section ~~does not~~ prohibits a health maintenance contract from offering separate coverage

Words ~~stricken~~ are deletions; words underlined are additions.

for any abortion in Florida, regardless of whether ~~if~~ such coverage is ~~not~~ purchased in whole or in part with state or federal funds. Nothing in this section shall be construed as to prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

(3) As used in this section, the term "state" means this state or any political subdivision of the state.

Section 13: Section 743.065, Florida Statutes, is amended to read:

743.065 Unwed pregnant minor or minor mother; consent to medical services for minor or minor's child valid.—

(1) An unwed pregnant minor may consent to the performance of medical or surgical care or services relating to her pregnancy by a hospital or clinic or by a physician licensed under chapter 458 or chapter 459, and such consent is valid and binding as if she had achieved her majority.

Words ~~stricken~~ are deletions; words underlined are additions.

(2) An unwed minor mother may consent to the performance of medical or surgical care or services for her child by a hospital or clinic or by a physician licensed under chapter 458 or chapter 459, and such consent is valid and binding as if she had achieved her majority.

~~(3) Nothing in this act shall affect the provisions of s. 390.0111.~~

Section 14: Section 765.113, Florida Statutes, is amended to read:

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

(1) ~~Abortion,~~ Sterilization, electroshock therapy, psychosurgery, experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or voluntary admission to a mental health facility.

(2)

Words ~~stricken~~ are deletions; words underlined are additions.

(2) Withholding or withdrawing life-prolonging procedures from a pregnant patient prior to ~~viability~~ the stage of fetal development when the life of her preborn child is sustainable outside the womb through standard medical measures ~~as defined in s. 390.0111(4)~~.

2. Under no circumstances may a surrogate or proxy provide consent for an abortion. This does not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

Section 15: Section 775.021, Subsection(5), Florida Statutes, is amended to read:

(5) Whoever commits an act that violates a provision of this code or commits a criminal offense defined by another statute and thereby causes the death of, or bodily injury to, ~~an unborn~~ a preborn child commits a separate offense if the provision or statute does not otherwise specifically provide a separate offense for such death or injury to ~~an unborn~~ a preborn child.

Words ~~stricken~~ are deletions; words underlined are additions.

(a) Except as otherwise provided in this subsection, the punishment for a separate offense under this subsection is the same as the punishment provided under this code or other statute for that conduct had the injury or death occurred to the mother of the ~~unborn~~ preborn child.

(b) An offense under this subsection does not require proof that the person engaging in the conduct:

1. Had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or
2. Intended to cause the death of, or bodily injury to, the ~~unborn~~ preborn child.

~~(c) Notwithstanding any other provision of law, the death penalty may not be imposed for an offense under this subsection.~~

~~(d) (c) This subsection does not permit the prosecution:~~

- ~~1. Of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law,~~

Words ~~stricken~~ are deletions; words underlined are additions.

~~2. Of~~ of a person for providing medical treatment of the pregnant woman or her preborn ~~unborn child, or~~

~~3. Of a woman with respect to her unborn child.~~

(e) As used in this subsection, the term "~~unborn~~ preborn child" means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.

Section 16: Section 782.36, Florida Statutes, is amended to read:

~~(1) A patient receiving a partial-birth-abortion procedure may not be prosecuted under this act.~~

~~(2) This act does not apply to a suction or sharp curettage abortion.~~

~~(3) This act does not constitute implicit approval of other types of abortion, which remain subject to all other applicable laws of this state.~~

~~(4)~~ (1) This act does not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn

Words ~~stricken~~ are deletions; words underlined are additions.

child's ~~fetus's~~ life.

Section 17: Section 782.09, Florida Statutes, is amended to read as follows:

782.09 Killing of ~~unborn~~ a preborn child by injury to mother.—

(1) The unlawful killing of ~~an unborn~~ a preborn child, by any injury to the mother of such child which would be murder if it resulted in the death of the ~~such~~ mother, shall be deemed murder in the same degree as that which would have been committed against the mother. Any person, ~~other than the mother,~~ who unlawfully kills ~~an unborn~~ a preborn child by any injury to the mother:

(a) Which would be murder in the first degree constituting a capital felony if it resulted in the mother's death commits murder in the first degree constituting a capital felony, punishable as provided in s. 775.082.

(b) Which would be murder in the second degree if it resulted in the mother's death commits murder in the second degree, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Words ~~stricken~~ are deletions; words underlined are additions.

(c) Which would be murder in the third degree if it resulted in the mother's death commits murder in the third degree, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The unlawful killing of ~~an unborn~~ a preborn child by any injury to the mother of such child which would be manslaughter if it resulted in the death of the ~~such~~ mother shall be deemed manslaughter. A person who unlawfully kills ~~an unborn~~ a preborn child by any injury to the mother which would be manslaughter if it resulted in the mother's death commits manslaughter, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) The death of the mother resulting from the same act or criminal episode that caused the death of the ~~unborn~~ preborn child does not bar prosecution under this section.

~~(4) This section does not authorize the prosecution of any person in connection with a termination of pregnancy pursuant to chapter 390.~~

Words ~~stricken~~ are deletions; words underlined are additions.

~~(5)~~ (4) For purposes of this section, the term "~~unborn~~ preborn child" has the same meaning as provided in s. 775.021(5).

Section 18: Section 782.32, subsection (3), Florida Statutes, is amended to read:

(3) "Suction or sharp curettage abortion" means an abortion, as defined in chapter ~~390~~, 797, in which the developing ~~fetus and the products of conception are evacuated~~ preborn child is chopped apart and torn from the uterus through a suction cannula with an attached vacuum apparatus or with a sharp curette.

Section 782.34 is amended as follows:

782.34 Partial-birth abortion. ~~Except as provided in s. 782.36, a~~ Any person who intentionally kills a living fetus preborn child while that ~~fetus~~ preborn child is partially born commits the crime of ~~partial-birth abortion~~ murder in the first degree, which is a capital ~~felony of the second degree~~, punishable as provided in s. 775.082, ~~s. 775.083, or s. 775.084.~~

Section 782.36 Exceptions.

(1) A patient ~~receiving~~ procuring a partial-birth-abortion procedure may ~~not~~ be prosecuted under this act.

Words ~~stricken~~ are deletions; words underlined are additions.

~~(2) This act does not apply to a suction or sharp
curettage abortion.~~

~~(3)~~ (2) This act does not constitute implicit approval of other types of abortion, which remain subject to all other applicable laws of this state.

~~(4)~~ (3) This act does not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the ~~fetus's~~ preborn child's life.

Section 19: Section 873.05(2), Florida Statutes, is amended to read:

(2) A person may not advertise or offer to purchase, sell, donate, or transfer, or purchase, sell, donate, or transfer, fetal remains obtained from an abortion, as defined in s. ~~390.011~~ 795.01. This subsection does not prohibit the transportation or transfer of human ~~fetal~~ remains for disposal pursuant to s. 381.0098 or rules adopted thereunder.

Words ~~stricken~~ are deletions; words underlined are additions.

Section 20: Section 408.033(2)(a), Florida Statutes, is amended as follows:

(2) FUNDING.—

(a) The Legislature intends that the cost of local health councils be borne by assessments on selected health care facilities subject to facility licensure by the Agency for Health Care Administration, including ~~abortion clinics,~~ assisted living facilities, ambulatory surgical centers, birth centers, home health agencies, hospices, hospitals, intermediate care facilities for the developmentally disabled, nursing homes, health care clinics, and multiphasic testing centers and by assessments on organizations subject to certification by the agency pursuant to chapter 641, part III, including health maintenance organizations and prepaid health clinics. Fees assessed may be collected prospectively at the time of licensure renewal and prorated for the licensure period.

Section 21: Section 408.802, Florida Statutes, is amended as follows:

408.802 Applicability.—The provisions of this part apply to the provision of services that require licensure as defined in this part and to the

Words ~~stricken~~ are deletions; words underlined are additions.

following entities licensed, registered, or certified by the agency, as described in chapters 112, 383, ~~390~~, 394, 395, 400, 429, 440, 483, and 765:

(1) Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102.

(2) Birth centers, as provided under chapter 383.

~~(3) Abortion clinics, as provided under chapter 390.~~

~~(4)~~ (3) Crisis stabilization units, as provided under parts I and IV of chapter 394.

~~(5)~~ (4) Short-term residential treatment facilities, as provided under parts I and IV of chapter 394.

~~(6)~~ (5) Residential treatment facilities, as provided under part IV of chapter 394.

~~(7)~~ (6) Residential treatment centers for children and adolescents, as provided under part IV of chapter 394.

~~(8)~~ (7) Hospitals, as provided under part I of chapter 395.

~~(9)~~ (8) Ambulatory surgical centers, as provided under part I of chapter 395.

Words ~~stricken~~ are deletions; words underlined are additions.

- ~~(10)~~ (9) Nursing homes, as provided under part II of chapter 400.
- ~~(11)~~ (10) Assisted living facilities, as provided under part I of chapter 429.
- ~~(12)~~ (11) Home health agencies, as provided under part III of chapter 400.
- ~~(13)~~ (12) Nurse registries, as provided under part III of chapter 400.
- ~~(14)~~ (13) Companion services or homemaker services providers, as provided under part III of chapter 400.
- ~~(15)~~ (14) Adult day care centers, as provided under part III of chapter 429.
- ~~(16)~~ (15) Hospices, as provided under part IV of chapter 400.
- ~~(17)~~ (16) Adult family-care homes, as provided under part II of chapter 429.
- ~~(18)~~ (17) Homes for special services, as provided under part V of chapter 400.
- ~~(19)~~ (18) Transitional living facilities, as provided under part XI of chapter 400.
- ~~(20)~~ (19) Prescribed pediatric extended care centers, as provided under part VI of chapter 400.

Words ~~stricken~~ are deletions; words underlined are additions.

~~(21)~~ (20) Home medical equipment providers, as provided under part VII of chapter 400.

~~(22)~~ (21) Intermediate care facilities for persons with developmental disabilities, as provided under part VIII of chapter 400.

~~(23)~~ (22) Health care services pools, as provided under part IX of chapter 400.

~~(24)~~ (23) Health care clinics, as provided under part X of chapter 400.

~~(25)~~ (24) Multiphasic health testing centers, as provided under part II of chapter 483.

~~(26)~~ (25) Organ, tissue, and eye procurement organizations, as provided under part V of chapter 765.

Section 22: Section 408.803 (3), Florida Statutes, is amended as follows:

(3) "Authorizing statute" means the statute authorizing the licensed operation of a provider listed in s. 408.802 and includes chapters 112, 383, ~~390,~~ 394, 395, 400, 429, 440, 483, and 765.

Section 23: Section 408.820, Florida Statutes, is amended as follows:

408.820 Exemptions.—Except as prescribed in

Words ~~stricken~~ are deletions; words underlined are additions.

authorizing statutes, the following exemptions shall apply to specified requirements of this part:

(1) Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102, are exempt from s. 408.810(5)-(10).

(2) Birth centers, as provided under chapter 383, are exempt from s. 408.810(7)-(10).

~~(3) Abortion clinics, as provided under chapter 390, are exempt from s. 408.810(7)-(10).~~

~~(4)~~ (3) Crisis stabilization units, as provided under parts I and IV of chapter 394, are exempt from s. 408.810(8)-(10).

~~(5)~~ (4) Short-term residential treatment facilities, as provided under parts I and IV of chapter 394, are exempt from s. 408.810(8)-(10).

~~(6)~~ (4) Residential treatment facilities, as provided under part IV of chapter 394, are exempt from s. 408.810(8)-(10).

~~(7)~~ (6) Residential treatment centers for children and adolescents, as provided under part IV of chapter 394, are exempt from s. 408.810(8)-(10).

Words ~~stricken~~ are deletions; words underlined are additions.

~~(8)~~ (7) Hospitals, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(9).

~~(9)~~ (8) Ambulatory surgical centers, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(10).

~~(10)~~ (9) Nursing homes, as provided under part II of chapter 400, are exempt from ss. 408.810(7) and 408.813(2).

~~(11)~~ (10) Assisted living facilities, as provided under part I of chapter 429, are exempt from s. 408.810(10).

~~(12)~~ (11) Home health agencies, as provided under part III of chapter 400, are exempt from s. 408.810(10).

~~(13)~~ (12) Nurse registries, as provided under part III of chapter 400, are exempt from s. 408.810(6) and (10).

~~(14)~~ (13) Companion services or homemaker services providers, as provided under part III of chapter 400, are exempt from s. 408.810(6)-(10).

~~(15)~~ (14) Adult day care centers, as provided under part III of chapter 429, are exempt from s. 408.810(10).

~~(16)~~ (15) Adult family-care homes, as provided under part II of chapter 429, are exempt from s. 408.810(7)-(10).

~~(17)~~ (16) Homes for special services, as provided under part V of chapter 400, are exempt from s. 408.810(7)-(10).

~~(18)~~ (17) Transitional living facilities, as provided under part XI of chapter 400, are exempt from s. 408.810(10).

~~(19)~~ (18) Prescribed pediatric extended care centers, as provided under part VI of chapter 400, are exempt from s. 408.810(10).

~~(20)~~ (19) Home medical equipment providers, as provided under part VII of chapter 400, are exempt from s. 408.810(10).

~~(21)~~ (20) Intermediate care facilities for persons with developmental disabilities, as provided under part VIII of chapter 400, are exempt from s. 408.810(7).

~~(22)~~ (21) Health care services pools, as provided under part IX of chapter 400, are exempt from s. 408.810(6)-(10).

~~(23)~~ (22) Health care clinics, as provided under part X of chapter 400, are exempt from s. 408.810(6), (7), and (10).

Words ~~stricken~~ are deletions; words underlined are additions.

~~(24)~~ (23) Multiphasic health testing centers, as provided under part II of chapter 483, are exempt from s. 408.810(5)-(10).

~~(25)~~ (24) Organ, tissue, and eye procurement organizations, as provided under part V of chapter 765, are exempt from s. 408.810(5)-(10).

Section 24: Section 408.831(3), Florida statutes, is amended as follows:

(3) This section provides standards of enforcement applicable to all entities licensed or regulated by the Agency for Health Care Administration. This section controls over any conflicting provisions of chapters 39, 383, ~~390~~, 391, 394, 395, 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to those chapters.

Section 25: Section 408.832, Florida Statutes, is amended as follows:

408.832 Conflicts.—In case of conflict between the provisions of this part and the authorizing statutes governing the licensure of health care providers by the Agency for Health Care Administration found in s. 112.0455 and chapters 383, ~~390~~, 394, 395, 400, 429,

Words ~~stricken~~ are deletions; words underlined are additions.

440, 483, and 765, the provisions of this part shall prevail.

Section 26: Section 409.815(2)(t) is amended as follows:

(t) Exclusions.—

1. Experimental or investigational procedures that have not been clinically proven by reliable evidence are excluded;
2. Services performed for cosmetic purposes only or for the convenience of the enrollee are excluded; and
3. Abortion may not be covered. ~~only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.~~ This shall not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

Section 27: Subsection (4)(e) of Section 744.3215, Florida Statutes, is amended, and a new Subsection

Words ~~stricken~~ are deletions; words underlined are additions.

(5) is added, as follows:

(4) Without first obtaining specific authority from the court, as described in s. 744.3725, a guardian may not:

(a) Commit the ward to a facility, institution, or licensed service provider without formal placement proceeding, pursuant to chapter 393, chapter 394, or chapter 397.

(b) Consent on behalf of the ward to the performance on the ward of any experimental biomedical or behavioral procedure or to the participation by the ward in any biomedical or behavioral experiment. The court may permit such performance or participation only if:

1. It is of direct benefit to, and is intended to preserve the life of or prevent serious impairment to the mental or physical health of the ward; or

2. It is intended to assist the ward to develop or regain his or her abilities.

(c) Initiate a petition for dissolution of marriage for the ward.

(d) Consent on behalf of the ward to termination of the ward's parental rights.

Words ~~stricken~~ are deletions; words underlined are additions.

(e) Consent on behalf of the ward to the performance of a sterilization ~~or abortion~~ procedure on the ward.

(5) Under no circumstances may a guardian consent to an abortion procedure on a ward. This does not prohibit a physician from taking such measures as are necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, provided that every reasonable precaution is also taken, in such cases, to save the preborn child's life.

Section 28: Section 744.3725, Florida Statutes, is amended as follows:

744.3725 Procedure for extraordinary authority.—

Before the court may grant authority to a guardian to exercise any of the rights specified in s.

744.3215(4), the court must:

- (1) Appoint an independent attorney to act on the incapacitated person's behalf, and the attorney must have the opportunity to meet with the person and to present evidence and cross-examine witnesses at any hearing on the petition for authority to act;
- (2) Receive as evidence independent medical, psychological, and social evaluations with respect to

Words ~~stricken~~ are deletions; words underlined are additions.

the incapacitated person by competent professionals or appoint its own experts to assist in the evaluations;

(3) Personally meet with the incapacitated person to obtain its own impression of the person's capacity, so as to afford the incapacitated person the full opportunity to express his or her personal views or desires with respect to the judicial proceeding and issue before the court;

(4) Find by clear and convincing evidence that the person lacks the capacity to make a decision about the issue before the court and that the incapacitated person's capacity is not likely to change in the foreseeable future; and

(5) Be persuaded by clear and convincing evidence that the authority being requested is in the best interests of the incapacitated person.

The provisions of this section and s. 744.3215(4) are procedural and do not establish any new or independent right to or authority over the termination of parental rights, dissolution of marriage, sterilization, ~~abortion,~~ or the termination of life support systems.

Section 29: This Act shall take effect immediately upon passage.

Words ~~stricken~~ are deletions; words underlined are additions.