

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

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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, is a "person"
4 with the God-given right to life, as stated in Section
5 1.01(3) of Chapter 1, Florida Statutes and a "natural
6 person" as stated in Article I, Section 2 of the
7 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, device, or action, whose primary purpose
21 is to intentionally kill a preborn child.

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

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

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

11
12 **797.03 Abortion is Prohibited; acts; penalties.**—

13 (1) It is unlawful for any person to procure,
14 perform, aid, or assist in procuring or performing an
15 abortion on a person, ~~except in an emergency care~~
16 ~~situation, other than in a validly licensed hospital or~~
17 ~~abortion clinic or in a physician's office.~~ Nothing in
18 this section shall be construed as to prohibit a
19 physician from performing such treatment as necessary
20 to preserve the life and health of the mother,
21 including premature delivery of the preborn child, even
22 if such treatment results in the unintentional injury
23 or death of the preborn child, so long as every
24 reasonable effort is made to also preserve the life and
25 health of the preborn child, and so long as such
26 treatment is not based upon the emotional or
27 psychological state of the mother, nor upon a mother's

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1 threat to inflict death or harm upon herself.

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

8

9 ~~——~~ **797.034 Operation of Abortion Clinic prohibited.-**

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

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

20 ~~——~~ **797.025 Advertising drugs, etc., for abortion.**

21 Whoever knowingly advertises, prints, publishes,
 22 distributes or circulates, or knowingly causes to be
 23 advertised, printed, published, distributed or
 24 circulated, any pamphlet, printed paper, book,
 25 newspaper notice, advertisement, or reference
 26 containing words or language giving or conveying any
 27 notice, hint, or reference to any person, or the name

1 of any person, real or fictitious, from whom, or to any
2 place, house, shop, or office where any poison, drug,
3 mixture, preparation, medicine, or noxious thing, or
4 any instrument or means whatever, or any advice,
5 direction, information, or knowledge may be obtained
6 for the purpose of causing or procuring an abortion or
7 the miscarriage of any pregnant woman ~~pregnant with~~
8 ~~child~~, shall be guilty of a ~~misdemeanor~~ felony of the
9 third degree, punishable as provided in s. 775.082 or
10 s. 775.083.

11 **797.06 Sale of Abortifacient Drugs Forbidden. -**

12 No person can prescribe, sell or purchase any medicine,
13 drug, chemical, tincture or compound that is known to
14 be, or reasonably suspected to be, an abortifacient.
15 Anyone violating this provision is guilty of a felony
16 of the first degree, punishable as provided in s.
17 775.082 or 2.775.083. This act is not to be construed
18 as to prohibit the purchase, sale or use of
19 contraceptives so long as the sole function of such
20 contraceptive is to prohibit fertilization without the
21 possibility of a secondary abortifacient effect.

22 **797.07 Acts not protected under the right to**

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

1 **797.08 Nullification of Interfering Acts.** - Any

2 federal act, law, treaty, decision, order, or
3 regulation that purports to supersede, stay, or
4 overrule this act is in violation of the Constitution
5 of the State of Florida and the Constitution of the
6 United States of America and is therefore null and
7 void. The state of Florida, and its political
8 subdivisions, and agents thereof, may not enter an
9 appearance, special or otherwise, in any federal suit
10 challenging this act.

11 **797.09 Attorney General to Monitor Enforcement.**-

12 The attorney general has concurrent authority and power
13 with the prosecuting attorneys to investigate crimes
14 and initiate and conduct prosecutions under this
15 chapter. The attorney general shall monitor enforcement
16 of this chapter by prosecuting attorneys in the state
17 in relation to abortion, regardless of any contrary or
18 conflicting federal acts, laws, treaties, decisions,
19 orders, or regulations.

20 **797.10 Compliance by Government Officials and Law**

21 **Enforcement.**- No government agency or official of this
22 state, including any sheriff, deputy sheriff, or other
23 law enforcement officer, may give force or effect to
24 any court order that conflicts with this chapter.
25 Cooperative agreements with federal agencies
26 notwithstanding, no law enforcement agency or law
27 enforcement officer in this state may assist or

1 cooperate in any way with the arrest or imprisonment of
2 any government official or individual who complies with
3 this chapter and refuses to comply with any contrary
4 court order. Such contrary orders include, but are not
5 limited to, any order to levy upon property, seize bank
6 accounts, arrest the person, or serve process for the
7 purpose of causing any person to violate this chapter,
8 or for the purpose of punishing any person for the
9 failure to comply with an order contrary to this
10 chapter. A federal officer or agent who arrests any
11 Florida government employee for compliance with this
12 chapter is subject to arrest by Florida law
13 enforcement.

14 **797.11 Non-Severability.** - The provisions of this
15 act are not severable.

16 **797.12 Non-Retroactivity.** - This act applies
17 prospectively and not retroactively. It applies only to
18 offenses committed, or causes of action that arise, on
19 or after the effective date of this section. For
20 purposes of this section, an offense is committed
21 before the effective date of this section if any
22 element of the offense occurs before the effective date
23 of this section.

24 **797.13 Civil Actions Pursuant to Illegal**
25 **Abortion; Relief.** -

26 (a) The father, if married to the mother at the
27 time she receives an abortion, or, if the mother

1 has not attained the age of 18 years at the time
2 she receives an illegal abortion, the maternal
3 grandparents of the preborn child may, in a civil
4 action, obtain appropriate relief from all parties
5 who procured, performed, aided or assisted in the
6 commission of the abortion, unless the pregnancy
7 resulted from or was aided by the plaintiff's
8 criminal conduct, or the plaintiff consented to the
9 illegal abortion.

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

15 **797.14 Infants Born Alive.-**

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

21 (b) If an infant is born alive during or
22 immediately after an attempted abortion, any health
23 care practitioner present at the time shall
24 humanely exercise the same degree of professional
25 skill, care, and diligence to preserve the life and
26 health of the infant as a reasonably diligent and
27 conscientious health care practitioner would render

1 to an infant born alive at the same gestational age
2 in the course of natural birth.

3 (c) An infant born alive during or immediately
4 after an attempted abortion must be immediately
5 transported and admitted to a hospital for
6 evaluation and treatment.

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

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

19
20 **797.15 Experimentation Prohibited.—**

21 No person shall use any live preborn child for any type
22 of scientific, research, laboratory, or other kind of
23 experimentation, nor shall any person or entity convey
24 any live preborn child to any person or entity outside
25 of the state of Florida known to conduct such type of
26 experimentation upon live preborn children. Nothing in
27 this section shall be construed as to prohibit a

1 physician from rendering treatment, including
2 experimental treatment, where necessary to preserve the
3 life and health of such preborn child.

4

5 **797.16 Freezing Prohibited.**

6 No person or entity shall freeze any live preborn child
7 in conjunction with the process of in-vitro
8 fertilization or assistive reproductive technology, nor
9 shall any person or entity convey any live preborn
10 child to any other person or entity outside of the
11 state of Florida for freezing, except in such
12 situations where, due to an unforeseen inability to
13 timely implant said preborn child, the failure to
14 immediately freeze such a preborn child would result in
15 that child's imminent death. No preborn child frozen in
16 conjunction with this Act or already frozen prior to
17 the effective date of this Act shall be intentionally
18 destroyed or discarded to die. Nothing in this section
19 shall be construed as to prohibit in-vitro
20 fertilization or assistive reproductive technology, so
21 long as no preborn children are killed, discarded to
22 die, sold or given over for medical experimentation, or
23 routinely frozen in the process. The legislature
24 retains the authority to further regulate in-vitro
25 fertilization and assistive reproductive technology.

26

1 **797.17 Failure to Comply-**

2 (1) Failure to comply with the requirements of this
3 section constitutes grounds for disciplinary action
4 under each respective practice act and under s.
5 456.072.

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

9 **797.18 Urgency** - This act is necessary for the
10 immediate preservation of the public peace, health, or
11 safety, or support of the state government and its
12 existing public institutions, and takes effect
13 immediately upon being enacted into law.

14
15 **797.19 Conflicting Law** - Any law, statute,
16 ordinance, or administrative code conflicting with this
17 Act shall be amended or conformed to comply with this
18 Act. In the event of any conflicting language, this Act
19 shall govern.