

1 A bill to be entitled

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

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

1 for prosecution of a woman seeking, procuring or self-
2 managing an abortion in violation of the act;
3 prohibiting the infliction of serious bodily injury or
4 death upon a preborn child; providing criminal
5 penalties; prohibiting operation of any facility,
6 business, or service for the purpose of providing
7 induced abortion services; providing criminal
8 penalties; providing civil remedies; superseding
9 chapter 390, F.S. in its entirety; making conforming
10 changes.

11 WHEREAS, the US Declaration of Independence lists
12 the right to life as inalienable; and

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, both the 5th and 14th Amendments to the US
21 Constitution state that "no person shall be deprived of
22 life, liberty or property without due process of law;"
23 and

24 WHEREAS, the 14th Amendment of the Constitution of
25 the United States declares that "no person within the
26 jurisdiction shall be denied equal protection of the
27 laws;" and

1 WHEREAS, the Preamble to the Constitution of the
2 State of Florida states that "We, the people of the
3 State of Florida, being grateful to Almighty God for
4 our constitutional liberty, in order to secure its
5 benefits, perfect our government, insure domestic
6 tranquility, maintain public order, and guarantee equal
7 civil and political rights to all, do ordain and
8 establish this constitution," and

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

18 WHEREAS, Article 1, Section 9 of the Constitution
19 of the State of Florida establishes that "No person
20 shall be deprived of life, liberty or property without
21 due process of law . . . ;" and

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

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

6 WHEREAS, every human being, from the moment of
7 fertilization until the moment of natural death, is a
8 "person" with the God-given right to life, as defined
9 in Section 1.01(3) of Chapter 1, Florida Statutes and a
10 "natural person" as defined in Article I, Section 2 of
11 the Constitution of the State of Florida; and

12 WHEREAS, every law, court ruling or legal opinion
13 that has deprived individual human persons of the
14 inalienable, God-given right to life, constitutional
15 liberty, and equal civil and political rights, is in
16 violation of the Preamble, Article I, Section 2, and
17 Article I, Section 9 of the Constitution of the State
18 of Florida, as well as the 5th and 14th Amendments to
19 the US Constitution; and

20 WHEREAS, Article VI of the US Constitution states
21 that only the U.S. Constitution and the laws of the
22 United States made "in pursuance thereof" shall be the
23 law of the land; and the Judges in every state shall be
24 bound thereby, any Thing in the Constitution or Laws of
25 any State to the contrary notwithstanding; and

26 WHEREAS, any laws, rulings or court opinions that
27 allow the murder of preborn persons were not made "in

1 pursuance" to the US Constitution and, accordingly, are
2 not "the law of the land," and

3 WHEREAS, the 10th Amendment to the US Constitution
4 states that all powers not delegated to the United
5 States by the Constitution, nor prohibited by it to the
6 states, are reserved to the states respectively, OR THE
7 PEOPLE; and

8 WHEREAS, the powers of the State of Florida to
9 enact laws against crime in our state are thus reserved
10 to our state and guaranteed by the 10th amendment to
11 the US Constitution;

12 WHEREAS, It is the intent of the legislature to
13 enact laws reflecting the compelling interest of this
14 state to provide to all persons, including preborn
15 individual children, the equal protection of the laws
16 of this state; to establish that a living human child,
17 from the moment of fertilization, is entitled to the
18 same rights, powers, privileges, justice, and
19 protections as are secured or granted by the laws of
20 this state to any other human person; and

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

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

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

24
25 Section 2: Chapter 390, Florida Statutes, is
26 superseded in its entirety by this Act to the extent

1 that any provision therein conflicts with any
2 provision of this Act.

3 Section 3: Chapter 797, Florida Statutes, is amended
4 as follows:

5 **797.01 Definitions.**

6 "Abortion" means the use or prescription of any
7 procedure, instrument, medicine, drug, or any other
8 substance, device, or action, whose primary purpose
9 is to intentionally kill a preborn child.

10 "Abortifacient" means any medicine, drug, other
11 substance, device or action, which is known or
12 reasonably suspected by medical science to cause, or
13 to have a known risk of causing, the death of a
14 preborn child, at any stage of development from
15 fertilization upon fusion of a spermatozoon with an
16 ovum to live birth, whether directly or indirectly
17 (such as preventing implantation or attachment to the
18 uterine wall); intentionally or unintentionally, and
19 whether as its primary purpose or as a secondary or
20 alternative purpose.

21 "Preborn child" means an individual organism of the
22 species Homo sapiens from fertilization upon fusion
23 of a spermatozoon with an ovum, whether fertilization
24 occurs inside or outside of the human body, until
25 live birth or natural death;

26 "Conception" means fertilization upon fusion of a
27 spermatozoon with an ovum, whether occurring inside

1 or outside of the human body.

2 **797.032 Abortion is Prohibited as Homicide;**~~aets;~~
3 ~~penalties.-~~

4 (1) Abortion is prohibited as homicide. It is
5 unlawful for any person to procure, perform, aid, or
6 assist in procuring or performing an abortion on a
7 ~~person, except in an emergency care situation, other~~
8 ~~than in a validly licensed hospital or abortion clinic~~
9 ~~or in a physician's office.~~ Nothing in this section
10 shall be construed as to prohibit a physician from
11 removal of a deceased child, treatment for miscarriage
12 or an ectopic pregnancy, so long as the preborn child
13 is not intentionally killed. This section does not
14 prohibit a physician from performing such treatment as
15 is necessary, in his or her professional medical
16 judgment, to preserve the life or to prevent
17 substantial and/or irreversible risk to the health of
18 the mother. Such treatment may include premature
19 delivery of the preborn child, even if such treatment
20 results in the unintentional injury or death of the
21 preborn child, so long as the child is not
22 intentionally killed, and so long as every possible
23 effort is made to also preserve the life and health of
24 the preborn child, and so long as such treatment is not
25 based upon the emotional or psychological state of the
26 mother, nor upon a mother's threat to inflict death or
27 harm upon herself.

(2) It is unlawful for any person or public body to establish, conduct, manage, or operate an abortion facility. ~~clinic without a valid current license~~ Anyone who violates this section will be guilty of a life felony, in addition to any other charges which may be applicable, punishable as provided in s. 775.082 and/or 775.083.

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

(4) Any person who willfully violates any provision of this section ~~is guilty of a misdemeanor of the second degree,~~ will be charged in the same manner as if they had committed the same or a comparable crime against an already-born person, punishable as provided in s. 775.082 or s. 775.083. No person will be exempt from prosecution under this Act.

—797.023 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

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, instruction, information, or knowledge may
6 be obtained for the purpose of causing or procuring an
7 abortion or the miscarriage of any woman pregnant with
8 child, shall be guilty of a ~~misdemeanor~~felony of the
9 first degree, punishable as provided in s. 775.082
10 and/or s. 775.083.

11 **797.04 Purchase or Sale of Drugs For Use in**
12 **Abortion is Forbidden.**

13 No person may prescribe, sell, purchase, give or convey
14 abortion drugs in any form within the state of Florida,
15 or any other drug formulated for the primary purpose of
16 causing or inducing an abortion or miscarriage upon a
17 human. Anyone who violates this section is guilty of a
18 life felony, in addition to any other charges which may
19 be applicable, punishable as provided in s. 775.082 or
20 775.083.

21 **797.05 Use of Abortifacient Drugs. - No person**
22 shall prescribe, sell, convey or purchase any medicine,
23 drug, chemical, tincture or compound in order to
24 knowingly commit, procure, aid or assist in abortion
25 homicide. Anyone violating this provision is guilty of
26 a first-degree felony, punishable as provided in s.
27 775.082 or s. 775.083, in addition to any other civil

1 or criminal charges that may be applicable. This act is
2 not to be construed as to prohibit the purchase or sale
3 of contraceptives so long as the main function of such
4 contraceptive is to prohibit fertilization.

5 **797.06 Acts not protected under the right to**
6 **privacy.** - Notwithstanding any other provision of law,
7 the intentional taking of innocent human life before,
8 during, or after birth is not protected by any right to
9 privacy under the Constitution of the State of Florida
10 or the United States Constitution.

11 **797.07 Nullification of Interfering Acts.** - Any
12 federal or state act, law, treaty, decision, order, or
13 regulation that purports to supersede, stay, or
14 overrule this act is in violation of the Constitution
15 of the State of Florida and the Constitution of the
16 United States of America, and is therefore null and
17 void. The state of Florida, and its political
18 subdivisions, and agents thereof, may not enter an
19 appearance, special or otherwise, in any federal suit
20 challenging this act.

21 **797.08 Attorney General to Monitor Enforcement.-**
22 The attorney general of the State of Florida has
23 concurrent authority and power with the prosecuting
24 attorneys to investigate crimes and initiate and
25 conduct prosecutions under this chapter. The attorney
26 general shall monitor enforcement of this chapter by
27 prosecuting attorneys in the state in relation to

abortion, regardless of any contrary or conflicting federal acts, laws, treaties, decisions, orders, or regulations. Any prosecuting attorney who refuses to comply with this Act shall be subject to any disciplinary action allowable under law, including removal from office or impeachment, if applicable.

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 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 for the crime of false imprisonment as defined in

1 787.02(1)(a), a felony of the third degree, punishable
2 as provided in s. 775.082, s. 775.083, or s. 775.084,
3 in addition to any other civil or criminal charges
4 which may be applicable.

5 **797.10 Non-Severability.** The provisions of this
6 Act are not severable.

7 **797.11 Non-Retroactivity.** This Act applies
8 prospectively and not retroactively. It applies only to
9 offenses committed, or causes of action that arise, on
10 or after the effective date of this Act. For purposes
11 of this section, an offense is committed before the
12 effective date of this Act if any element of the
13 offense occurs before the effective date of this Act.

14 **797.12 Civil Actions Pursuant to Illegal**
15 **Abortion; Relief.**

16 (a) Any person adversely affected by an abortion
17 (or the estate of any person killed during the
18 commission of an abortion) may, in a civil action,
19 obtain appropriate relief from all parties who
20 procured, performed, aided or assisted in the
21 commission of the abortion, unless the pregnancy
22 resulted from or was aided by the plaintiff's
23 criminal conduct, or the plaintiff consented to the
24 illegal abortion.

25 (b) In a civil action under this section,
26 appropriate relief includes a monetary award for
27 all psychological and physical injuries, and up to

1 three times the amount of any financial damages,
2 occasioned by the violation of this section.

3 **797.13 Infants Born Alive.—**

4 (a) Any infant born alive prematurely is entitled
5 to the same rights, powers, and privileges as are
6 granted by the laws of this state to a full-term
7 child.

8 (b) If an infant is born alive prematurely, any
9 health care practitioner present at the time shall
10 humanely exercise the same degree of professional
11 skill, care, and diligence to preserve the life and
12 health of the infant as a reasonably diligent and
13 conscientious health care practitioner would render
14 to a full-term infant, including palliative comfort
15 care when appropriate.

16 (c) An infant born alive prematurely must be
17 immediately transported and admitted to a hospital
18 for evaluation and treatment.

19 (d) A health care practitioner or any employee of
20 any health care facility who has knowledge of a
21 violation of this subsection must report the
22 violation to the department.

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

1 prosecution of a more general offense, regardless of
2 the penalty.

3
4 **797.14 Experimentation Prohibited.—**

5 No person shall use any live preborn child for any type
6 of scientific, research, laboratory, or other kind of
7 experimentation, nor shall any person or entity convey
8 any live preborn child to any person or entity outside
9 of the state of Florida known to conduct such type of
10 experimentation upon live preborn children. Nothing in
11 this section shall be construed as to prohibit a
12 physician from rendering treatment, including
13 experimental treatment, where necessary to preserve the
14 life and health of such preborn child.

15
16 **797.15 Freezing Prohibited.**

17 No person or entity shall freeze any live preborn child
18 in conjunction with the process of in-vitro
19 fertilization or assistive reproductive technology, nor
20 shall any person or entity convey any live preborn
21 child to any other person or entity outside of the
22 state of Florida for freezing. No preborn child already
23 frozen prior to the effective date of this Act shall be
24 intentionally destroyed, discarded to die, nor conveyed
25 to any other person or entity outside of the state of
26 Florida for destruction, experimentation, or
27 continuation of his or her frozen state. Nothing in

this section shall be construed as to prohibit in-vitro fertilization or assistive reproductive technology, so long as no preborn children are intentionally killed, discarded to die, sold or given over for medical experimentation, or routinely frozen in the process. The legislature retains the authority to further regulate in-vitro fertilization and assistive reproductive technology.

797.16 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, in addition to any criminal charges which may apply.

(2) Rules.— The department shall adopt rules necessary to implement the provisions of this section.

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

797.18 Conflicting Law - Any law, statute, ordinance, or administrative code conflicting with this Act shall be amended or conformed to comply with this

1 Act. In the event of any conflicting language, this Act
2 shall govern.