

GREEN SHEET REDIGEST

HB 575

2025 Regular Session

Ventrella

**ABORTION: Provides relative to liability for the unlawful termination of a pregnancy.**

DIGEST

Present law (R.S. 9:2800.12(A)) provides that any person who performs an abortion is liable to the mother of the unborn child for any damages. The action survives a period of three years from the date of discovery of the damage with a peremptive period of 10 years from the date of the abortion.

Proposed law provides that the mother or the unborn child and those persons defined in proposed law shall have a right and cause of action for damages against any person or entity as provided in proposed law who knowingly performs, causes, or substantially facilitates an abortion with the intent to achieve that result.

Proposed law changes present law by increasing the prescriptive period from three years from the date of discovery of the damage to five years.

Proposed law provides that in addition to the mother of the unborn child, the biological or legal father of the child, or either the mother or the biological or legal father of the child, may bring an action for damages under proposed law, except that when the father impregnated the mother of the unborn child through an act of rape, sexual assault or incest, the father may not bring an action for damages under proposed law.

Present law (R.S. 9:2800.12(B)) defines "abortion", "damage", and "unborn child".

Proposed law retains the definition of "unborn child", and provides that "abortion" and "abortion-inducing drug" shall have the same meaning as provided by R.S. 14:87.1.

Proposed law deletes the definition of "damage" and defines "substantially facilitates" to mean administering, prescribing, dispensing, distributing, selling, or coordinating the sale for an abortion-inducing drug to a person in this state. Provides further that "substantially facilitates" shall not include the provision of medications for legal, therapeutic purposes under the laws of this state.

Present law (R.S. 9:2800.12(C)(1)) provides that the signing of a consent form by the mother prior to the abortion does not negate a cause of action but reduces the recovery of damages to the extent that the content of the consent form informed the mother of the risk of the type of injuries or loss for which she is seeking to recover.

Proposed law removes present law.

Present law provides that medical malpractice or limitations of liability provided in present law do not apply to present law.

Proposed law retains present law, except as provided in proposed law, and adds that there shall be a rebuttable presumption that medical malpractice law, pursuant to present law (R.S. 40:1231.1) et seq., applies to any covered health care provider licensed to practice in Louisiana and practicing within the lawful scope of practice in accordance with law.

Proposed law provides that a person bringing an action under proposed law may recover certain statutory damages, special damages, general damages, exemplary damages, court costs, and reasonable attorney fees.

Proposed law provides that courts shall have personal jurisdiction over any defendant sued under proposed law.

Proposed law provides the following list of persons who are exempt from liability for the provisions of proposed law:

- (1) The woman upon whom an abortion was performed, caused, or substantially facilitated.
- (2) A healthcare provider licensed to practice medicine in this state.
- (3) A pharmacist or pharmacy licensed in this state for actions and acting within the scope of regulations promulgated by the Board of Pharmacy.
- (4) An advocate for sexual assault survivors or a mental health professional who provides counseling or support services in a manner that does not substantially facilitate procuring an abortion or abortion-inducing drugs.

Proposed law provides that an individual bringing an action under proposed law may proceed using the initials or a pseudonym of the mother of the unborn child, and may seek to close any proceedings in the case or enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed, attempted or caused.

Proposed law provides that it may be known and cited as the "Justice for Victims of Abortion Drug Dealers Act".

(Amends R.S. 9:2800.12)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.
2. Define "substantially facilitates".
3. Add an exemption to liability for any mental health professional or advocate in certain circumstances.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Remove manufacturing from the definition of "substantially facilitates".

#### Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Specifies that the mother, the biological or legal father of the child, and certain persons shall have a civil action for damages against any person or entity who, with intent, knowingly performs, causes, or substantially facilitates an abortion.
2. Provides an exception when the father impregnated the mother through rape, sexual assault or incest.
3. Deletes the provisions of proposed law granting a civil action for damages to the maternal and paternal grandparents of the unborn child, and the legal custodian of the mother of the unborn child, if the mother was a minor at the time of the abortion.
4. Clarifies meaning of "abortion-inducing drug" and defines "substantially facilitates".
5. Creates rebuttable presumption that medical malpractice law applies to health care providers under certain circumstances.

6. Provides statutory damages not less than \$100,000 to persons allowed to bring a civil action pursuant to the provisions of proposed law. Provides for exemplary damages under certain circumstances. Allows recovery of reasonable attorney fees.
7. Specifies persons and entities against whom a civil action for damages may not be brought.
8. Clarifies privacy rights of an individual bringing the civil action by allowing the use of initials or pseudonyms of the mother, closed proceeding, or other protective orders.