

SENATE BILL NO. 33

BY SENATORS NEVERS, ELLINGTON, B. GAUTREAUX, N. GAUTREAUX, MOUNT, ROMERO AND SCHEDLER AND REPRESENTATIVES ALARIO, BALDONE, BARROW, BAUDOIN, BEARD, BOWLER, BRUCE, BURNS, CHANDLER, CRANE, CRAVINS, CROWE, DARTEZ, DOERGE, DOVE, DOWNS, DURAND, ERDEY, FANNIN, FARRAR, FAUCHEUX, FRITH, GEYMAN, GREENE, E. GUILLORY, M. GUILLORY, HEATON, HEBERT, HILL, HOPKINS, HUTTER, JOHNS, KATZ, KENNEY, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MARTINY, MCDONALD, MONTGOMERY, MORRISH, ODINET, PIERRE, PINAC, M. POWELL, T. POWELL, RITCHIE, ROMERO, SCALISE, SCHNEIDER, SMILEY, JACK SMITH, JANE SMITH, JOHN SMITH, ST. GERMAIN, STRAIN, THOMPSON, TOWNSEND, TRAHAN, WADDELL, WALSWORTH, WHITE AND WOOTON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

AN ACT

To amend and reenact R.S. 14:87 and to enact R.S. 40:1299.30, relative to abortion; to prohibit abortion of a human being, except when necessary to save the life of the mother and when necessary to prevent substantial risk of death or permanent impairment under certain circumstances; to provide for criminal consequences for violations; to provide for the act to only become effective upon the occurrence of certain events; to provide for severability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.30 is hereby enacted to read as follows:

§1299.30. Abortion; prohibition

A. The provisions of this Act shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

(1) Any decision of the United States Supreme Court which reverses, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby, restoring to the state of Louisiana the authority to prohibit abortion.

1 (2) Adoption of an amendment to the United States Constitution which,
2 in whole or in part, restores to the state of Louisiana the authority to prohibit
3 abortion.

4 B. The provisions of this Act shall be effective relative to the
5 appropriation of Medicaid funds, to the extent consistent with any executive
6 order by the President of the United States, federal statute, appropriation rider,
7 or federal regulation that sets forth the limited circumstances in which states
8 must fund abortion to remain eligible to receive federal Medicaid funds
9 pursuant to 42 U.S.C. 1396, et. seq.

10 C. No person may knowingly administer to, prescribe for, or procure
11 for, or sell to any pregnant woman any medicine, drug, or other substance with
12 the specific intent of causing or abetting the termination of the life of an unborn
13 human being. No person may knowingly use or employ any instrument or
14 procedure upon a pregnant woman with the specific intent of causing or
15 abetting the termination of the life of an unborn human being.

16 D. Any violation of this Section shall be prosecuted pursuant to R.S.
17 14:87.

18 E. Nothing in this Section may be construed to prohibit the sale, use,
19 prescription, or administration of a contraceptive measure, drug or chemical,
20 if it is administered prior to the time when a pregnancy could be determined
21 through conventional medical testing and if the contraceptive measure is sold,
22 used, prescribed, or administered in accordance with manufacturer
23 instructions.

24 F. It shall not be a violation of Subsection C of this Section for a licensed
25 physician to perform a medical procedure necessary in reasonable medical
26 judgment to prevent the death or substantial risk of death due to a physical
27 condition, or to prevent the serious, permanent impairment of a life-sustaining
28 organ of a pregnant woman. However, the physician shall make reasonable
29 medical efforts under the circumstances to preserve both the life of the mother
30 and the life of her unborn child in a manner consistent with reasonable medical

1 practice.

2 G. Medical treatment provided to the mother by a licensed physician
3 which results in the accidental or unintentional injury or death to the unborn
4 child is not a violation of Subsection C of this Section.

5 H. Nothing in this Section may be construed to subject the pregnant
6 mother upon whom any abortion is performed or attempted to any criminal
7 conviction and penalty.

8 I. The following terms as used in this Section shall have the following
9 meanings:

10 (1) "Pregnant" means the human female reproductive condition, of
11 having a living unborn human being within her body throughout the entire
12 embryonic and fetal stages of the unborn child from fertilization to full
13 gestation and childbirth.

14 (2) "Unborn human being" means an individual living member of the
15 species, homo sapiens, throughout the entire embryonic and fetal stages of the
16 unborn child from fertilization to full gestation and childbirth.

17 (3) "Fertilization" means that point in time when a male human sperm
18 penetrates the zona pellucida of a female human ovum.

19 J. This Section shall be known, and may be cited, as the Human Life
20 Protection Act.

21 Section 2. R.S. 14:87 is hereby amended and reenacted to read as follows:

22 §87. Abortion

23 A.(1) Abortion is the performance of any of the following acts, with the
24 specific intent of terminating a pregnancy:

25 (a) Administering or prescribing any drug, potion, medicine or any other
26 substance to a female; or

27 (b) Using any instrument or external force whatsoever on a female.

28 (2) This Section shall not apply to the female who has an abortion.

29 B. It shall not be unlawful for a physician to perform any of the acts
30 described in Subsection A of this Section if performed under the following

1 circumstances:

2 (1) The physician terminates the pregnancy in order to preserve the life or
3 health of the unborn child or to remove a stillborn child.

4 (2) The physician terminates a pregnancy for the express purpose of saving
5 the life, preventing the permanent impairment of a life sustaining organ or
6 organs, or to prevent a substantial risk of death of the mother.

7 ~~(3) The physician terminates a pregnancy which is the result of rape as~~
8 ~~defined in either R.S. 14:42, R.S. 14:42.1, or R.S. 14:43 and in which all of the~~
9 ~~following requirements are met prior to the pregnancy termination:~~

10 ~~(a) The rape victim obtains a physical examination and/or treatment from a~~
11 ~~physician other than the physician who is to terminate the pregnancy within five days~~
12 ~~of the rape to determine whether she was pregnant prior to the rape and to prevent~~
13 ~~pregnancy and venereal disease, unless the rape victim is incapacitated to such a~~
14 ~~degree that she is unable to obtain this examination. If the victim is unable to obtain~~
15 ~~the examination due to such incapacity, then an examination shall be performed~~
16 ~~within five days after the incapacity is removed; and~~

17 ~~(b) The rape victim reports the rape to law enforcement officials within~~
18 ~~seven days of the rape unless the victim is incapacitated to such a degree that she is~~
19 ~~unable to report the rape. If the victim is unable to report the rape due to such~~
20 ~~incapacity, then a report shall be made within seven days after the incapacity is~~
21 ~~removed; and~~

22 ~~(c) The abortion is performed within thirteen weeks of conception.~~

23 The physician terminates a pregnancy by performing a medical
24 procedure necessary in reasonable medical judgment to prevent the death or
25 substantial risk of death due to a physical condition, or to prevent the serious,
26 permanent impairment of a life-sustaining organ of a pregnant woman.

27 ~~(4) The physician terminates a pregnancy which is the result of incest as~~
28 ~~defined in R.S. 14:78, provided the crime is reported to law enforcement officials~~
29 ~~and the abortion is performed within thirteen weeks of conception.~~

30 ~~C.(1) Prior to the performance of any abortion under Subsection (B)(3) or~~

1 ~~(B)(4) of this Section, the physician who is to perform the abortion shall obtain from~~
 2 ~~the victim a statement in writing verifying that she has obtained the physical~~
 3 ~~examination and shall obtain written verification by a law enforcement official that~~
 4 ~~the victim reported the rape to law enforcement officials as required under this~~
 5 ~~Section.~~

6 ~~(2) Every physician who conducts a physical examination of a rape victim~~
 7 ~~within five days of the rape shall immediately, upon written request of either the~~
 8 ~~victim or the physician who is to perform the abortion on the victim, provide to the~~
 9 ~~victim or the requesting physician written verification of his examination.~~

10 ~~(3) Every law enforcement official who receives a report of a rape victim~~
 11 ~~within seven days of the rape or receives a report of incest shall immediately, upon~~
 12 ~~written request of either the victim or the physician who is to perform the abortion,~~
 13 ~~provide to the victim or requesting physician written verification of the report which~~
 14 ~~was made to the official.~~

15 ~~DC.~~ As used in this Section, the following words and phrases are defined as
 16 follows:

17 ~~(1) "Law enforcement official or officer" means any peace officer or agency~~
 18 ~~empowered to enforce the law in criminal matters within his or its respective~~
 19 ~~jurisdiction, including but not limited to a state police officer, sheriff, constable,~~
 20 ~~local police officer, and district attorney.~~

21 ~~(2)(1)~~ "Physician" means any person licensed to practice medicine in this
 22 state.

23 ~~(3)(2)~~ "Unborn child" means the unborn offspring of human beings from the
 24 moment of ~~conception~~ **fertilization** until birth.

25 ~~(4) "Conception" means the contact of spermatozoan with the ovum.~~

26 ~~E.D.~~(1) Whoever commits the crime of abortion shall be imprisoned at hard
 27 labor for not less than one nor more than ten years and shall be fined not less than ten
 28 thousand dollars nor more than one hundred thousand dollars.

29 (2) This penalty shall not apply to the female who has an abortion.

30 Section 3. The provisions of this Act are severable. If any provision, item, sentence,

1 or word of this Act, or application thereof, is held invalid, such invalidity shall not effect
2 other provisions, items, sentences, or words of this Act which are to be given effect without
3 the invalid provision, item, sentence, or word of the Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____