

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 815

2016 Regular Session

Stokes

HUMAN REMAINS: Prohibits post-abortion harvesting of fetal remains and requires burial or cremation of such remains

Synopsis of Senate Amendments

1. Deletes present law requiring that the attending physician inform each woman upon whom he performs or induces an abortion of the provisions of present law and proposed law relative to disposal of fetal remains within 24 hours after the abortion is performed or induced.
2. Deletes proposed law providing that whoever violates the provisions of proposed law shall be subject to criminal penalties relative to the illegal purchase or sale of human organs provided in present law.
3. Revises proposed law providing that nothing therein shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth to provide instead that nothing in proposed law shall be construed to prohibit any transaction related to such a donation.
4. Makes technical changes.

Digest of Bill as Finally Passed by Senate

Present law relative to regulation of abortion provides, in part, that each physician who performs or induces an abortion which does not result in a live birth shall insure that the remains of the child are disposed of in accordance with applicable rules and regulations of the Department of Health and Hospitals. Proposed law revises present law to provide that each such physician shall insure that the remains of the child are disposed of by interment or cremation as required by present law relative to human remains (R.S. 8:651 et seq.).

Proposed law deletes present law requiring that the attending physician inform each woman upon whom he performs or induces an abortion of the provisions of present law and proposed law relative to disposal of fetal remains within 24 hours after the abortion is performed or induced.

Proposed law provides legislative findings regarding post-abortion harvesting of fetal organs, tissues, and cells.

Proposed law provides that it shall be unlawful for any person or entity to buy, sell, donate, accept, distribute, or otherwise transfer or use for any purpose the intact body of a human embryo or fetus whose death was knowingly caused by an induced abortion, or the human organs, tissues or cells obtained from a human embryo or fetus whose death was knowingly caused by an induced abortion. Provides that whoever violates the provisions of proposed law shall be subject to civil penalties relative to abortion, generally, as provided in present law (R.S. 40:1061.29).

Proposed law stipulates that nothing in proposed law shall be construed to prohibit any of the following:

- (1) Final disposition of the bodily remains of the aborted human being in accordance with present law.

- (2) Any conduct permitted under present law that is undertaken with any of the following purposes:
- (a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.
 - (b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a fetal homicide.
- (3) Any transaction related to the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal laws.

Proposed law stipulates that nothing in proposed law shall be construed to alter generally accepted medical standards, affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

Proposed law provides that any provision of proposed law held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event such provision shall be deemed severable and shall not affect the remainder of proposed law or the application of such provision to other persons not similarly situated or to other dissimilar circumstances.

(Amends R.S. 40:1061.25)