

RÉSUMÉ DIGEST

ACT 264 (HB 1081)

2016 Regular Session

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New law provides that "dismemberment abortion" means, with the purpose of causing the death of an unborn child, to purposely dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors, or a similar instrument that, through the convergence of two rigid levers, slices, crushes, or grasps a portion of the unborn child's body to cut or rip it off or apart. Stipulates that the term does not include an abortion which uses suction to dismember the body of an unborn child by vacuuming fetal parts into a collection container, although it does include an instance in which a dismemberment abortion is used to cause the death of an unborn child and suction is subsequently used to extract fetal parts after the death of the unborn child.

New law provides that it shall be unlawful for any person to intentionally perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

New law stipulates that none of the following persons shall be liable for performing or attempting to perform a dismemberment abortion:

- (1) The woman upon whom an abortion is performed or attempted.
- (2) A nurse, technician, secretary, receptionist, or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician.

New law provides that whoever violates the provisions of new law shall be fined not more than \$1,000 per incidence or occurrence, or imprisoned for not more than two years, or both. Provides that in addition to whatever remedies are otherwise available under existing law, failure to comply with the provisions of new law shall provide all of the following:

- (1) A basis for a cause of action for civil damages for injuries and wrongful death as more fully set forth in existing law (C.C. Arts. 2315.1 and 2315.2), whether or not the unborn child was viable at the time the abortion was performed, or was born alive, except that such causes of action shall only be maintained by the following persons:
 - (a) The natural or biological father of the aborted infant or fetus, unless the father's criminal conduct caused the pregnancy.
 - (b) The mother of the aborted infant or fetus.
 - (c) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the dismemberment abortion.
- (2) A basis for professional disciplinary action under existing law relative to licensure of physicians and regulation of the practice of medicine (R.S. 37:1261 et seq.).

New law authorizes courts, when requested, to allow a woman to proceed in a cause of action pursuant to new law using solely her initials or a pseudonym; and to close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

New law provides that any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a dismemberment abortion, shall be subject to the provisions of new law.

New law provides that nothing therein shall be construed as creating or recognizing a right to abortion, or a right to a particular method of abortion.

Effective August 1, 2016.

(Adds R.S. 40:1061.1.1)