
DIGEST

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SB 181 Reengrossed

2018 Regular Session

Milkovich

Present law defines "abortion" as the performance of any of the following acts, with the specific intent of terminating a pregnancy:

- (1) Administering or prescribing any drug, potion, medicine, or any other substance to a female.
- (2) Using any instrument or external force whatsoever on a female.

Present law provides that present law relative to abortion does not apply to the female who has an abortion.

Present law provides that it is not unlawful for a physician to perform any of the acts defined by present law as abortion if performed under the following circumstances:

- (1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a stillborn child.
- (2) The physician terminates a pregnancy for the express purpose of saving the life, preventing the permanent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother.
- (3) The physician terminates a pregnancy by performing a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.

Present law defines "physician" as any person licensed to practice medicine in this state.

Present law defines "unborn child" as the unborn offspring of human beings from the moment of fertilization until birth.

Present law provides that whoever commits the crime of abortion is to be imprisoned at hard labor for between one year and 10 years and fined between \$10,000 and \$100,000. Present law further provides that this penalty does not apply to the female who has an abortion.

Proposed law retains present law but adds that, relative to the crime of abortion, it is unlawful for a physician to perform an abortion after 15 weeks following the date of conception.

Proposed law adds definitions of "abortion" and "gestational age".

Proposed law also provides that, relative to the crime of abortion, proposed law will become effective upon final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for a state within the jurisdiction of that court of appeals to restrict abortion past 15 weeks of gestational age.

Proposed law provides that certain provisions are repealed in favor of the provisions of R.S. 40:1061 (health provisions: abortion), immediately upon and to the extent that the U.S. Supreme Court upholds the authority of states to prohibit elective abortions on demand or by the adoption of an amendment to the U.S. Constitution that would restore the state's authority to prohibit elective abortions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 14:87(D); Adds R.S. 14:87(E), (F), and (G))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Adds definitions of "abortion" and "gestational age".
2. Adds provision that proposed law will become effective upon any final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, thereby authorizing a state within the jurisdiction of that court of appeals to restrict abortion past 15 weeks of gestational age.
3. Adds language specifying that certain provisions are repealed in favor of the provisions of present law, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the U.S. Constitution that would restore the state's authority to prohibit elective abortions.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill:

1. Provide that proposed law will become effective upon final decision of the U.S. Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature.