

2019 Regular Session

SENATE BILL NO. 184

BY SENATOR MILKOVICH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ABORTION. Prohibits the abortion of an unborn human being with a detectable heartbeat.
(gov sig)

AN ACT

To enact R.S. 40:1061.1.3, relative to abortion; to prohibit the abortion of an unborn human being with a detectable heartbeat; to provide definitions; to provide penalties; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1061.1.3 is hereby enacted to read as follows:

§1061.1.3. Abortion prohibited; detectable fetal heartbeat

A.(1) Except as provided in Paragraph (2) or (3) of this Subsection, it shall be unlawful for any person to knowingly perform an abortion with the specific intent of causing or abetting the termination of the life of an unborn human being when a fetal heartbeat has been detected. Any person who acts based on the exception provided in Paragraph (2) or (3) of this Subsection shall so note in the pregnant woman's medical records and shall specify in the pregnant woman's medical records which of the exceptions the person performing the abortion has invoked.

(2)(a) A person shall not be in violation of Paragraph (1) of this Subsection if the person performs a medical procedure designed to or intended,

1 in that person's reasonable medical judgment, to prevent the death of a
2 pregnant woman or to prevent a serious risk of the substantial and irreversible
3 impairment of a major bodily function of the pregnant woman.

4 (b)(i) A person who performs a medical procedure as described in
5 Subparagraph (a) of this Paragraph shall declare in writing, under penalty of
6 perjury, that the medical procedure was necessary, to the best of that person's
7 reasonable medical judgment, to prevent the death of the pregnant woman or
8 to prevent a serious risk of the substantial and irreversible impairment of a
9 major bodily function of the pregnant woman. The person shall also provide
10 in that written statement the specific medical condition of the pregnant woman
11 that the medical procedure was performed to address, and the medical rationale
12 for the conclusion that the medical procedure was necessary to prevent the
13 death of the pregnant woman or to prevent a serious risk of the substantial and
14 irreversible impairment of a major bodily function of the pregnant woman.

15 (ii) The person who performs a medical procedure as described in
16 Subparagraph (a) of this Paragraph shall place the written documentation
17 required by this Subparagraph in the pregnant woman's medical records, and
18 shall maintain a copy of the written documentation for not less than seven years.

19 (3) A person shall not be in violation of Paragraph (1) of this Subsection
20 if the person has performed an examination for the presence of a fetal heartbeat
21 in the unborn human individual using standard medical practice and that
22 examination does not reveal a fetal heartbeat, or the person has been informed
23 by a physician who has performed the examination for a fetal heartbeat that the
24 examination did not reveal a fetal heartbeat.

25 B. For purposes of this Section:

26 (1) "Fetal heartbeat" means cardiac activity or the steady and repetitive
27 rhythmic contraction of the fetal heart within the gestational sac.

28 (2) "Physician" means an individual licensed by the Louisiana State
29 Board of Medical Examiners.

1 **(3) "Unborn human being" means an individual living member of the**
2 **species Homo sapiens throughout the entire embryonic and fetal stages, from**
3 **fertilization through full gestation and birth.**

4 **C. Whoever violates this Section shall be prosecuted pursuant to the**
5 **effective provisions of R.S. 14:87 and shall be subject to the penalties provided**
6 **in R.S. 40:1061.29.**

7 **D. In addition to any other grounds provided by law, it shall be grounds**
8 **for the nonissuance, suspension, revocation, or restriction of a license, or the**
9 **denial of reinstatement or renewal of a license, issued by the Louisiana State**
10 **Board of Medical Examiners, that the applicant or licensee has performed an**
11 **abortion in violation of this Section.**

12 **E. This Section shall not be construed to repeal any other provision of**
13 **law that restricts or regulates the performance of an abortion by a particular**
14 **method or during a particular stage of a pregnancy.**

15 **F. The provisions of this Section are hereby repealed in favor of the**
16 **provisions of R.S. 40:1061 immediately upon and to the extent that either:**

17 **(1) A decision of the United States Supreme Court upholds the authority**
18 **of each of the several states of the United States or of the state of Louisiana to**
19 **prohibit elective abortions.**

20 **(2) An amendment to the Constitution of the United States of America**
21 **is adopted that restores to each of the several states of the United States or to**
22 **the state of Louisiana the authority to prohibit elective abortions.**

23 Section 2. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

Examiners, that the applicant or licensee has performed an abortion in violation of proposed law.

Proposed law provides that proposed law cannot be construed to repeal any other provision of present law that restricts or regulates the performance of an abortion by a particular method or during a particular stage of a pregnancy.

Proposed law provides that the provisions of proposed law are repealed in favor of the provisions of present law banning all elective abortions immediately upon and to the extent that either:

- (1) A decision of the U.S. Supreme Court upholds the authority of each of the several states of the United States or Louisiana to prohibit elective abortions.
- (2) An amendment to the U.S. Constitution is adopted that restores to each of the several states of the United States or to Louisiana the authority to prohibit elective abortions.

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

(Adds R.S. 40:1061.1.3)