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HOUSE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Representative Emerson to Reengrossed Senate Bill No. 342 by Senator Jackson

1 AMENDMENT NO. 1

2 Delete House Committee Amendment No. 1 by the House Committee on Health and Welfare
3 (#4596)

4 AMENDMENT NO. 2

5 On page 1, line 2, after "amend and reenact" delete the remainder of the line and delete line
6 3 in its entirety and insert in lieu thereof the following:

7 "the heading of R.S.14:32.9 and (A) and the introductory paragraph of (D), the
8 heading of 32.9.1 and (A) and the introductory paragraph of (D), 87.1, 87.2, and
9 87.5, R.S. 40:1061(A), (D), and (I), 1061.1(D) and (E), 1061.1.3(C), 1061.8,
10 1061.11(A), 1061.12, 1061.22, 1061.23, 1061.24, 1061.26, 1061.28, 1061.30,
11 2175.1, 2175.2, and 2175.3, to enact R.S. 1:18, R.S. 14:32.9(E), 87.1.1, 87.7, and
12 87.8, and R.S. 40:1061.1(H), 1061.1.1(I), 1061.10(F), 1061.11(G), 1061.11.1(G),
13 1061.13(D) and (E), 1061.14(E), 1061.14.1(C), 1061.15(E), 1061.16(F),
14 1061.17(J)(3), 1061.19(H), 1061.20(D), 1061.21(F), 1061.25(F), 2175.4(F),
15 2175.6(J), 2175.7(C), 2175.8, and 2175.9, and to repeal R.S. 14:32.9(B), 32.9.1(B),
16 32.10, 32.11(B), 87, 87.3(B) and R.S. 40:1061.1.1(B), 1061.1.2(A), 1061.1.3(B),
17 1061.9(1) through (11), 1061.12(A), 1061.27, and 1061.28(B), relative to abortion;
18 to provide for legislative intent; to provide for the"

19 AMENDMENT NO. 3

20 On page 1, line 8, after "abortion;" insert "to provide with respect to partial birth abortion;"

21 AMENDMENT NO. 4

22 On page 1, delete lines 13 through 17 and insert in lieu thereof the following:

23 **"A. It is the intention of the Legislature of Louisiana to prohibit and**
24 **restrict abortion and to thereby preserve the life of each unborn child to the**
25 **fullest extent permitted by law.**
26 **B.(1) All laws or parts of laws prohibiting or restricting abortion shall**
27 **not be negated or superseded by the laws regulating outpatient abortion**
28 **facilities or regulating the practice of abortion, as provided in R.S. 40:1061.8.**
29 **(2) Laws regulating or prohibiting an abortion at a certain gestational**
30 **age of the unborn child shall not be in considered to be in conflict with other**
31 **laws that regulate or prohibit abortion at a different gestational age of the**
32 **unborn child."**

33 AMENDMENT NO. 5

34 In House Committee Amendment No. 2 by the House Committee on Health and Welfare
35 (#4596), on page 1, line 5, change "**B.**" to "**C.**"

1 AMENDMENT NO. 6

2 On page 2, line 7, change "C." to "D."

3 AMENDMENT NO. 7

4 On page 2, line 14, change "D." to "E."

5 AMENDMENT NO. 8

6 On page 2, line 19, after "Section 2." delete the remainder of the line and insert lieu thereof
7 the following:

8 "The heading of R.S.14:32.9 and (A) and the introductory paragraph of (D), the
9 heading of 32.9.1 and (A) and the introductory paragraph of (D), 87.1, 87.2, and
10 87.5 are hereby amended and reenacted and R.S. 14:32.9(E), 87.1.1, 87.7, and 87.8
11 are hereby enacted to read as follows:"

12 AMENDMENT NO. 9

13 On page 2, between lines 19 and 20, insert the following:

14 "~~§32.9. Criminal abortion~~ **Abortion by an unlicensed physician**

15 A. ~~Criminal abortion~~ **The crime of abortion by an unlicensed physician** is
16 an abortion performed, with or without the consent of the pregnant woman or her
17 legal guardian, that results in the death of an unborn child when the abortion is
18 performed by any individual who is not a physician licensed by the state of
19 Louisiana.

20 * * *

21 D. Statutory Construction. None of the following shall be construed to create
22 the crime of ~~criminal abortion~~ **by an unlicensed physician**:

23 * * *

24 **E. The provisions of R.S. 40:1061.8 shall apply to this Section.**

25 * * *

26 §32.9.1. Aggravated ~~criminal abortion~~ by dismemberment

27 A. Aggravated ~~criminal abortion~~ by dismemberment is the commission of a
28 ~~criminal an~~ **abortion**, as defined in R.S. 14:32.9(A), when the unborn child is
29 intentionally dismembered, whether the act of dismemberment was in the course of
30 or following the death of the unborn child.

31 * * *

32 D. Exceptions. None of the following shall be construed to create the crime
33 of ~~criminal aggravated~~ **abortion by dismemberment**:

34 * * *

35 §87.1. **Definitions**

36 **Wherever used in this Subpart, unless a different meaning clearly**
37 **appears in the context, the following terms, whether used in the singular or**
38 **plural, shall have the following meanings:**

39 **(1)(a) "Abortion" or "induced abortion" means the performance of any**
40 **act with the intent to terminate a clinically diagnosable pregnancy with**
41 **knowledge that the termination by those means will, with reasonable likelihood,**
42 **cause the death of the unborn child by one or more of the following means:**

43 **(i) Administering, prescribing, or providing any abortion-inducing drug,**
44 **potion, medicine, or any other substance, device, or means to a pregnant female.**

45 **(ii) Using an instrument or external force on a pregnant female.**

46 **(b) Abortion shall not mean any one or more of the following acts, if**
47 **performed by a physician:**

48 **(i) A medical procedure performed with the intention to save the life or**
49 **preserve the health of an unborn child.**

1 (ii) The removal of a dead unborn child or the inducement or delivery of
 2 the uterine contents in case of a positive diagnosis, certified in writing in the
 3 woman's medical record along with the results of an obstetric ultrasound test,
 4 that the pregnancy has ended or is in the unavoidable and untreatable process
 5 of ending due to spontaneous miscarriage, also known in medical terminology
 6 as spontaneous abortion, missed abortion, inevitable abortion, incomplete
 7 abortion, or septic abortion.

8 (iii) The removal of an ectopic pregnancy.

9 (iv) The use of methotrexate to treat an ectopic pregnancy.

10 (v) The performance of a medical procedure necessary in good faith
 11 medical judgment or reasonable medical judgment to prevent the death or
 12 substantial risk of death to the pregnant woman due to a physical condition, or
 13 to prevent the serious, permanent impairment of a life-sustaining organ of a
 14 pregnant woman. However, the physician shall make reasonable medical
 15 efforts under the circumstances to preserve both the life of the mother and the
 16 life of her unborn child in a manner consistent with reasonable medical
 17 practice.

18 (vi) The removal of an unborn child who is deemed to be medically
 19 futile. The diagnosis shall be a medical judgment certified by two qualified
 20 physicians and recorded in the woman's medical record. The medical procedure
 21 shall be performed in a licensed ambulatory surgical center or hospital. Upon
 22 the completion of the procedure, the physician shall submit an individual
 23 abortion report consistent with R.S. 40:1061.21 that includes appropriate
 24 evidence of the certified diagnosis.

25 (2)(a) "Abortion-inducing drug" means any drug or chemical, or any
 26 combination of drugs or chemicals, or any other substance when used with the
 27 intent to cause an abortion, including but not limited to RU-486, the Mifeprex
 28 regimen, misoprostol (Cytotec), or methotrexate.

29 (b) Abortion-inducing drug shall not mean a contraceptive, an
 30 emergency contraceptive, or the use of methotrexate to treat an ectopic
 31 pregnancy.

32 (3) "Bona fide medical reason" means a medical condition which is
 33 recognized by any medical licensing board as a standard of care, except that
 34 "bona fide medical reason" shall not include abortion, as defined in Paragraph
 35 (1) of this Section.

36 (4) "Clinically diagnosable pregnancy" means a pregnancy that is
 37 capable of being verified by one of the following conventional medical testing
 38 methods, whether or not any testing was in fact performed by any person:

39 (a) A blood or urine test, whether used at-home or in a medical setting,
 40 that tests for the human pregnancy hormone known as human chorionic
 41 gonadotropin (hCG) that medically indicates that implantation has occurred.

42 (b) An ultrasound examination.

43 (5) "Conception" or "fertilization" means the fusion of a human
 44 spermatozoon with a human ovum.

45 (6) "Contraceptive" means any device, measure, drug, chemical, or
 46 product, including single-ingredient levonorgestrel, that has been approved by
 47 the United States Food and Drug Administration for the purpose of preventing
 48 pregnancy and is intended to be administered prior to the time when a clinically
 49 diagnosable pregnancy can be determined, provided that the contraceptive is
 50 sold, prescribed, or administered in accordance with manufacturer's
 51 instructions.

52 (7) "Dismembered" or "dismemberment" means the use of a clamp,
 53 forceps, curette, suction cannula, or any other surgical tool or instrument with
 54 the intent to disarticulate the head or limbs from the body of the unborn child
 55 during an abortion, including but not limited to the common abortion methods
 56 known as suction curettage and dilation and evacuation.

57 (8) "Emergency contraceptive" means a drug, chemical, or product,
 58 including but not limited to single-ingredient levonorgestrel or ulipristal, that
 59 has been approved by the United States Food and Drug Administration

1 designed or intended to be taken after sexual intercourse but prior to the time
 2 when a clinically diagnosable pregnancy can be determined, provided that the
 3 emergency contraceptive is sold, prescribed, or administered in accordance with
 4 manufacturer's instructions or is prescribed in accordance with the standard
 5 of care that generally accepted by the American College of Obstetricians and
 6 Gynecologists.

7 (9) "Fetal body part" means a cell, tissue, organ, or other part of an
 8 unborn child who is aborted by an induced abortion.

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

11 (11) "Fertilization" means the fusion of a human spermatozoon with a
 12 human ovum.

13 (12) "Gestational age" means the age of the unborn child as measured
 14 by the time elapsed since the first day of the last menstrual period as
 15 determined by a physician and confirmed through the use of an ultrasound test
 16 of a quality generally used in existing medical practice.

17 (13) "Genetic abnormality" means any defect, disease, or disorder that
 18 is inherited genetically. The term includes, without limitation, any physical
 19 disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any
 20 other type of physical, mental, or intellectual disability, abnormality, or disease.

21 (14) "Good faith medical judgment" or "reasonable medical judgment"
 22 means a physician's use of reasonable care and diligence, along with his best
 23 judgment, in the application of his skill. The standard of care required of every
 24 healthcare provider, in rendering professional services or health care to a
 25 patient, shall be to exercise that degree of skill ordinarily employed, under
 26 similar circumstances, by the members of his profession in good standing in the
 27 same community or locality.

28 (15) "Infant" means the offspring of human parents from the moment
 29 of live birth, regardless of the duration of gestation in the womb prior to live
 30 birth.

31 (16) "Late term abortion" means the performance of an abortion when
 32 the gestational age of the unborn child is fifteen weeks or more.

33 (17) "Live birth", "born alive", or "live born human being", means a
 34 member of the species homo sapiens that is expelled or extracted from its
 35 mother, at any stage of development, who after that expulsion or extraction
 36 breathes or shows signs of life such as beating of the heart, pulsation of the
 37 umbilical cord, or definite movement of voluntary muscles, whether or not the
 38 umbilical cord has been cut or the placenta is attached, and regardless of
 39 whether the expulsion or extraction occurs as a result of natural or induced
 40 labor, cesarean section, or induced abortion.

41 (18) "Medical emergency" means the existence of any physical condition,
 42 not including any emotional, psychological, or mental condition, within the
 43 reasonable medical judgment of a reasonably prudent physician, with
 44 knowledge of the case and treatment possibilities with respect to the medical
 45 conditions involved, would determine necessitates the immediate abortion of the
 46 pregnancy to avert the pregnant woman's death or to avert substantial and
 47 irreversible impairment of a major bodily function arising from continued
 48 pregnancy.

49 (19) "Medically futile" means that, in reasonable medical judgment as
 50 certified by two physicians, the unborn child has a profound and irremediable
 51 congenital or chromosomal anomaly that is incompatible with sustaining life
 52 after birth.

53 (20) "Miscarriage" or "stillbirth" means the spontaneous or accidental
 54 death of an unborn child, whether the death occurred in the womb or in the
 55 process of birth. Death of the unborn child is indicated by the lack of signs of
 56 breathing or any other evidence of life, such as beating of the heart, pulsation
 57 of the umbilical cord, or definite movement of voluntary muscles.

58 (21) "Partial birth abortion" means an abortion in which:

1 (a) The person performing the abortion deliberately and intentionally
 2 vaginally delivers a living fetus until, in the case of a head-first presentation, the
 3 entire fetal head is outside the body of the mother, or, in the case of breech
 4 presentation, any part of the fetal trunk past the navel is outside the body of the
 5 mother, for the purpose of performing an overt act that the person knows will
 6 kill the partially delivered living fetus.

7 (b) The person performing the abortion performs the overt act, other
 8 than completion of delivery, that kills the partially delivered living fetus.

9 (22) "Physician" means a person licensed to practice medicine in the state
 10 of Louisiana.

11 (23) "Pregnant" means that female reproductive condition of having a
 12 developing embryo or fetus in the uterus which commences at fertilization and
 13 implantation.

14 (24) "Receive a fetal organ" means acquiring any fetal organ or fetal
 15 body part, or the rights to any fetal organ or fetal body part, through an act of
 16 donation or sale via any transaction prohibited by this Subpart.

17 (25) "Serious bodily injury" shall have the same meaning as defined in
 18 R.S. 14:2. For the purposes of this Section, "serious bodily injury" that includes
 19 the loss of an organ shall include a hysterectomy.

20 (26) "Serious health risk to the unborn child's mother" means that in
 21 reasonable medical judgment the mother has a condition that so complicates
 22 her medical condition that it necessitates the abortion of her pregnancy to avert
 23 her death or to avert serious risk of substantial and irreversible physical
 24 impairment of a major bodily function, not including psychological or
 25 emotional conditions. No such condition may be determined to exist if it is based
 26 on a claim or diagnosis that the woman will engage in conduct which she intends
 27 to result in her death or in substantial and irreversible physical impairment of
 28 a major bodily function.

29 (27) "Unborn child", "unborn human being", or "fetus" shall have the
 30 same meaning as "unborn child" as defined in R.S. 14:2.

31 (28) "Viable" or "viability" means that stage of fetal development when,
 32 in the judgment of the physician based upon the particular facts of the case
 33 before the physician, and in light of the most advanced medical technology and
 34 information available to the physician, there is a reasonable likelihood of
 35 sustained survival of the unborn child outside the body of his mother, with or
 36 without artificial support.

37 (29) "Woman" or "mother" means a female human being, whether or
 38 not she has reached the age of majority.

39 **§87.1.1. Killing a child during delivery; penalties**

40 A. Killing a child during delivery is the intentional destruction, during
 41 parturition of the mother, of the vitality or life of a child in a state of being born and
 42 before actual birth, which child would otherwise have been born alive; provided,
 43 however, that the crime of killing a child during delivery shall not be construed to
 44 include any case in which the death of a child results from the use by a physician of
 45 a procedure during delivery which is necessary to save the life of the child or of the
 46 mother and is used for the express purpose of and with the specific intent of saving
 47 the life of the child or of the mother.

48 B. Whoever commits the crime of killing a child during delivery shall be
 49 imprisoned at hard labor in the penitentiary for life.

50 **§87.2. Human experimentation on an infant born alive**

51 A. Human experimentation is the use of any ~~live born human being~~ **infant**
 52 **who is born alive**, without consent of that live born human being, ~~as hereinafter~~
 53 ~~defined~~, for any scientific or laboratory research or any other kind of
 54 experimentation or study except to protect or preserve the life and health of the live
 55 born human being, or the conduct, on a human embryo or fetus in utero, of any
 56 experimentation or study except to preserve the life or to improve the health of the
 57 human embryo or fetus.

1 B. A human being is live born, or there is a live birth, whenever there is the
2 complete expulsion or extraction from its mother of a human embryo or fetus,
3 irrespective of the duration of pregnancy, which after such separation, breathes or
4 shows any other evidence of life such as beating of the heart, pulsation of the
5 umbilical cord, or movement of voluntary muscles, whether or not the umbilical cord
6 has been cut or the placenta is attached.

7 ~~C.~~ Whoever commits the crime of human experimentation on an infant born
8 alive shall be imprisoned at hard labor for not less than five nor more than twenty
9 years, or fined not more than ten thousand dollars, or both.

10 * * *

11 §87.5. Intentional failure to sustain life and health of aborted viable infant

12 A. The intentional failure to sustain the life and health of an aborted viable
13 infant shall be a crime. The intentional failure to sustain the life and health of an
14 aborted viable infant is the intentional failure, by any physician or person performing
15 or inducing an abortion, to exercise that degree of professional care and diligence,
16 and to perform such measures as constitute good medical practice, necessary to
17 sustain the life and health of an aborted viable infant, when the death of the infant
18 results.

19 ~~B.~~ For purposes of this Section, "viable" means that stage of fetal
20 development when the life of the unborn child may be continued indefinitely outside
21 the womb by natural or artificial life-supporting systems. Any person who commits
22 the crime of intentional failure to sustain the life and health of an aborted viable
23 infant shall be imprisoned at hard labor for not more than twenty-one years.

24 * * *"

25 AMENDMENT NO. 10

26 On page 2, delete lines 23 through 29 in their entirety and insert in lieu thereof the following:

27 "B. The terms used in this Section have the same meaning as the
28 definitions provided in R.S. 14:87.1."

29 AMENDMENT NO. 11

30 Delete House Committee Amendment No. 4 by the House Committee on Health and Welfare
31 (#4596)

32 AMENDMENT NO. 12

33 On page 3, delete lines 1 through 17 in their entirety

34 AMENDMENT NO. 13

35 Delete House Committee Amendment No. 5 by the House Committee on Health and Welfare
36 (#4596)

37 AMENDMENT NO. 14

38 On page 3, line 26, after "**contraceptive**" delete the remainder of the line and delete lines
39 27 through 29 in their entirety and insert in lieu thereof "or an emergency contraceptive."

40 AMENDMENT NO. 15

41 In House Committee Amendment No. 6 by the House Committee on Health and Welfare
42 (#4596), on page 1, line 25, change "United States Supreme Court" to "Supreme Court
43 of the United States"

1 AMENDMENT NO. 16

2 In House Committee Amendment No. 6 by the House Committee on Health and Welfare
3 (#4596), on page 1, lines 27 and 28, delete "~~prohibit, limit, or regulate~~" and insert
4 "**prohibit or limit**"

5 AMENDMENT NO. 17

6 In House Committee Amendment No. 6 by the House Committee on Health and Welfare
7 (#4596), on page 1, line 32, change "~~United States Supreme Court~~" to "**Supreme Court**
8 **of the United States**"

9 AMENDMENT NO. 18

10 In House Committee Amendment No. 6 by the House Committee on Health and Welfare
11 (#4596), on page 1, lines 35 and 36, delete "~~prohibit, limit, or regulate~~" and insert
12 "**prohibit or limit**"

13 AMENDMENT NO. 19

14 On page 4, delete lines 9 through 19 in their entirety

15 AMENDMENT NO. 20

16 On page 4, line 20, change "C." to "**B.**"

17 AMENDMENT NO. 21

18 On page 4, line 24, change "D." to "**C.**"

19 AMENDMENT NO. 22

20 On page 4, line 28, change "E." to "**D.**"

21 AMENDMENT NO. 23

22 Delete House Committee Amendment No. 7 by the House Committee on Health and Welfare
23 (#4596)

24 AMENDMENT NO. 24

25 On page 4, line 29, after "**contraceptive**" delete the remainder of the line and insert in lieu
26 thereof "**or an emergency contraceptive.**"

27 AMENDMENT NO. 25

28 On page 5, delete lines 1 through 3 in their entirety

29 AMENDMENT NO. 26

30 In House Committee Amendment No. 8 by the House Committee on Health and Welfare
31 (#4596), on page 2, line 10, change "~~United States Supreme Court~~" to "**Supreme Court**
32 **of the United States**"

33 AMENDMENT NO. 27

34 In House Committee Amendment No. 8 by the House Committee on Health and Welfare
35 (#4596), on page 2, line 17, change "~~United States Supreme Court~~" to "**the Supreme**
36 **Court of the United States**"

1 AMENDMENT NO. 28

2 In House Committee Amendment No. 8 by the House Committee on Health and Welfare
 3 (#4596), on page 2, lines 20 and 21, delete "**prohibit, limit, or regulate**" and insert
 4 "**prohibit or limit**"

5 AMENDMENT NO. 29

6 Delete House Committee Amendment No. 9 by the House Committee on Health and Welfare
 7 (#4596)

8 AMENDMENT NO. 30

9 On page 5, line 9, after "Section 3." delete the remainder of the line and insert in lieu thereof
 10 the following:

11 "R.S. 40:1061(A), (D), and (I), 1061.1(D) and (E), 1061.1.3(C), 1061.8, 1061.11(A),
 12 1061.12, 1061.22, 1061.23, 1061.24, 1061.26, 1061.28, 1061.30, 2175.1, 2175.2,
 13 and 2175.3 are hereby amended and reenacted and R.S. 40:1061.1(H), 1061.1.1(I),
 14 1061.10(F), 1061.11(G), 1061.11.1(G), 1061.13(D) and (E), 1061.14(E),
 15 1061.14.1(C), 1061.15(E), 1061.16(F), 1061.17(J)(3), 1061.19(H), 1061.20(D),
 16 1061.21(F), 1061.25(F), 2175.4(F), 2175.6(J), 2175.7(C), 2175.8, and 2175.9 are
 17 hereby enacted to"

18 AMENDMENT NO. 31

19 In House Committee Amendment No. 10 by the House Committee on Health and Welfare
 20 (#4596), on page 2, line 28, delete "United States Supreme Court" and insert "**Supreme**
 21 **Court of the United States**"

22 AMENDMENT NO. 32

23 In House Committee Amendment No. 10 by the House Committee on Health and Welfare
 24 (#4596), on page 2, lines 30 and 31 delete the comma "," and "**limit, or regulate**" and insert
 25 in lieu thereof "**or limit**"

26 AMENDMENT NO. 33

27 In House Committee Amendment No. 10 by the House Committee on Health and Welfare
 28 (#4596), on page 2, line 35, change "**United States Supreme Court**" to "**Supreme Court**
 29 **of the United States**"

30 AMENDMENT NO. 34

31 In House Committee Amendment No. 10 by the House Committee on Health and Welfare
 32 (#4596), on page 2, line 38 and 39 delete "**prohibit, limit, or regulate**" and insert "**prohibit**
 33 **or limit**"

34 AMENDMENT NO. 35

35 On page 5, between lines 16 and 17, insert the following:

36 "I. The ~~following~~ terms as used in this Section ~~shall~~ have the ~~following~~
 37 meanings: **same meaning as the definitions provided in R.S. 14:87.1.**
 38 (1) "Fertilization" means that point in time when a male human sperm
 39 penetrates the zona pellucida of a female human ovum.
 40 (2) "Pregnant" means the human female reproductive condition, of having a
 41 living unborn human being within her body throughout the entire embryonic and
 42 fetal stages of the unborn child from fertilization to full gestation and childbirth.

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

* * *

§1061.1. Pain-Capable Unborn Child Protection Act

* * *

D. Determination of ~~postfertilization~~ post fertilization age.

(1) Except in the case of a medical emergency or when a pregnancy is diagnosed as medically futile, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable ~~postfertilization~~ post fertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to ~~postfertilization~~ post fertilization age.

(2) Failure by any physician to conform to any requirement of this Section constitutes "unprofessional conduct" pursuant to R.S. 37:1261.

E. Abortion of unborn child of twenty or more weeks ~~postfertilization~~ post fertilization age prohibited.

(1) No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable ~~postfertilization~~ post fertilization age of the woman's unborn child is twenty or more weeks, unless the pregnancy is diagnosed as medically futile or, in reasonable medical judgment, she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(2) When an abortion upon a woman whose unborn child has been determined to have a probable ~~postfertilization~~ post fertilization of twenty or more weeks is not prohibited by Paragraph (1) of this Subsection, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

* * *

H. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.1.1. Louisiana Unborn Child Protection from Dismemberment Abortion Act

* * *

I. The provisions of R.S. 40:1061.8 shall apply to this Section.

* * *"

AMENDMENT NO. 36

On page 5, between lines 22 and 23, insert the following:

1 "§1061.8. Legislative intent, **construction of abortion provisions law regulating**
2 **abortion**

3 A.(1) It is the intention of the Legislature of ~~the State of Louisiana~~ to
4 regulate, **prohibit, or restrict** abortion to the **fullest** extent permitted by the
5 decisions of the ~~United States~~ Supreme Court **of the United States**. The Legislature
6 **legislature** does solemnly declare, and find, and ~~in reaffirmation of~~ **reaffirm** the
7 longstanding **public** policy of this State; **state** that ~~the every~~ **every** unborn child is a human
8 being from the ~~time~~ **moment** of conception and is, therefore, a legal person for
9 purposes ~~of the unborn child's right to life and is entitled to the right to life from~~
10 ~~conception~~ under the laws **of this state** and Constitution of ~~this State~~ **Louisiana**.
11 Further, the Legislature

12 **(2) The legislature further** finds and declares that the longstanding policy
13 of this state is to protect the right to life of ~~the every~~ **every** unborn child from conception
14 by prohibiting abortion **is** impermissible only because of the decisions of the ~~United~~
15 ~~States~~ Supreme Court **of the United States** and that, therefore, if those decisions of
16 the United States Supreme Court are ever reversed or modified or the United States
17 Constitution is amended to allow protection of the unborn then the ~~former~~ **public**
18 policy of this State **state** to prohibit abortions shall be enforced.

19 **B.(1) The provisions of this Chapter that regulate the practice of**
20 **abortion shall not be construed to repeal any other provision of law that**
21 **restricts or prohibits abortion.**

22 **(2) The provisions of this Chapter that regulate the practice of abortion**
23 **are enacted to provide for the health, safety, and welfare of women in outpatient**
24 **abortion facilities until such time and to the extent that the state of Louisiana**
25 **no longer regulates outpatient abortion facilities.**

26 **C. The provisions of this Chapter that regulate the practice of abortion**
27 **are subject to R.S. 40:2175.9.**

28 §1061.9. Definitions

29 As used in R.S. 40:1061.8 through 1061.29, the following words have the
30 following meanings: **Wherever used in this Chapter, unless a different meaning**
31 **clearly appears in the context, the terms, whether singular or plural, have the**
32 **same meaning as the definitions provided in R.S. 14:87.1.**

33 §1061.10. Abortion by physician; determination of viability; ultrasound test
34 required; exceptions; penalties

35 * * *

36 **F. The provisions of R.S. 40:1061.8 shall apply to this Section.**

37 §1061.11. Drugs or chemicals used; penalties

38 A. When any drug or chemical is used for the purpose of inducing an
39 abortion ~~as defined in R.S. 40:1061.9~~, the physician who prescribed the drug or
40 chemical shall be in the same room and in the physical presence of the pregnant
41 woman when the drug or chemical is initially administered, dispensed, or otherwise
42 provided to the pregnant woman.

43 * * *

44 **G. The provisions of R.S. 40:1061.8 shall apply to this Section.**

45 §1061.11.1. Chemically-induced abortion; required disclosure

46 * * *

47 **G. The provisions of R.S. 40:1061.8 shall apply to this Section.**

48 §1061.12. Born-Alive Infant Protection Act

49 A. ~~In determining the meaning of any statute or of any rule, regulation, or~~
50 ~~interpretation of the various administrative agencies of this state, the words "person",~~
51 ~~"human being", "child", and "individual" include every infant member of the species~~
52 ~~homo sapiens who is born alive at any stage of development.~~

~~B.~~ An infant at any stage of development who has survived an abortion procedure resulting in his or her live birth shall be given reasonable and immediate medical care as provided in R.S. 40:1061.13(C), whether the abortion was considered legal or illegal under the law at the time that the abortion was performed.

B. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.13. Abortion after viability; second attendant physician required; duties

* * *

D. The provisions of this Section shall apply to an infant born alive and the infant born alive shall be given immediate medical care regardless of whether the abortion was considered legal or illegal under the law at the time the abortion was performed.

E. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.14. Minors

* * *

E. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.14.1. Fraudulent interference with parental consent

* * *

C. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.15. Prevention of forced abortion; signage in abortion facilities

* * *

E. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.16. Information on psychological impacts, illegal coercion, abuse, and human trafficking required prior to abortion; task force on information resources

* * *

F. The provisions of R.S. 40:1061.8 shall apply to this Section.

* * *

§1061.17. Woman's right to know

* * *

J. Construction.

* * *

(3) The provisions of R.S. 40:1061.8 shall apply to this Section.

* * *

§1061.19. Records

* * *

H. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.20. Conscience in health care protection; definitions

* * *

D. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.21. Reports

* * *

F. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.22. Forms

A. The Louisiana Department of Health shall make available to physicians performing abortions in this state the forms for preparing the records and reports required pursuant to the provisions of this Chapter.

B. The provisions of R.S. 40:1061.8 shall apply to this Section.

§1061.23. Emergency

1 The provisions of this Chapter shall not apply when a medical emergency
2 compels the immediate performance of an abortion because the continuation of the
3 pregnancy poses an immediate threat and grave risk to the life or ~~permanent physical~~
4 ~~health of the pregnant woman~~ **serious health risk to the unborn child's mother.**
5 Within twenty-four hours, the attending physician shall certify to the **medical**
6 emergency ~~need~~ for the abortion and shall enter such certification in the medical
7 record of the pregnant woman.

8 §1061.24. Experimentation

9 **A.** No person shall experiment on an unborn child or on a child born as the
10 result of an abortion, whether the unborn child or child is alive or dead, unless the
11 experimentation is therapeutic to the unborn child or child.

12 **B. The provisions of R.S. 40:1061.8 shall apply to this Section.**

13
14 §1061.25. Remains; disposal in accordance with applicable regulations;
15 post-abortion harvesting of fetal organs prohibited; penalties
16 * * *

17 **F. The provisions of R.S. 40:1061.8 shall apply to this Section.**

18 §1061.26. Instructions to be provided subsequent to abortion

19 **A.** Any physician who shall perform or induce an abortion, shall subsequent
20 to the abortion being performed or induced, provide his patient with specific oral and
21 written medical instructions to be followed by that patient in order to insure her safe
22 recovery from the abortion.

23 **B. The provisions of R.S. 40:1061.8 shall apply to this Section.**

24 §1061.28. Partial birth abortion, civil action against abortionist

25 **A.** No licensed physician or any other person shall perform a partial birth
26 abortion on a female unless the procedure performed is necessary **because of a**
27 **medical emergency or** to save the life of the **female mother.** ~~because her life is~~
28 ~~endangered by a physical disorder, physical illness or physical injury, including a~~
29 ~~life-endangering physical condition caused by or arising from the pregnancy itself.~~
30 * * *

31 §1061.30. **Standing Suspension or revocation of license; grounds;** action to close
32 outpatient abortion clinic

33 **A.** In addition to any violation of this Chapter, the following acts shall
34 subject licensed outpatient abortion facilities to the provisions of R.S. 40:2175.6
35 regarding license suspension or revocation :

36 (1) Systematically, intentionally, or deliberately falsifying or destroying
37 patient files or records in violation of R.S. 40:1061.17.

38 (2) Completing in advance of an appointment with a woman seeking abortion
39 any portion of patient records or forms required by R.S. 40:1061.17 to include
40 patient-specific data or a physician's signature.

41 **B. The provisions of R.S. 40:2175.8 and R.S. 40:2175.9 shall apply to this**
42 **Chapter.**

43 * * *

44 §2175.1. Short title

45 **A.** This Part may be cited as the "Outpatient Abortion Facility Licensing
46 Law".

47 **B. The provisions of R.S. 40:1061.8 shall apply to this Part.**

48 §2175.2. Purpose

49 The purpose of this Part is to authorize the Louisiana Department of Health
50 to promulgate and publish rules and regulations to provide for the health, safety, and
51 welfare of women in outpatient abortion facilities and for the safe operation of such
52 facilities. The rules shall be reasonably related to the purpose expressed in this
53 Section and shall not impose a legally significant burden on a woman's freedom to
54 decide whether to terminate her pregnancy, **except when the provisions of R.S.**
55 **40:1061.8 apply.**

§2175.3. Definitions

A. Except as provided in Subsection B of this Section, the terms used in this Part, unless a different meaning clearly appears in the context, whether singular or plural, have the same meaning as the definitions provided in R.S. 14:87.8.

B. For purposes of this Part, the following definitions apply:

~~(1)~~ "Abortion" shall have the meaning set forth in R.S. 40:1061.9.

~~(2)~~ "Abortion facility professional" or "outpatient abortion facility professional" means an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility.

~~(3)~~ **(2)** "Abortion facility staff member" or "outpatient abortion facility staff member" means an individual who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.

~~(4)~~ **(3)** "First trimester" means the time period up to fourteen weeks after the first day of the last menstrual period.

~~(5)~~ **(4)** "Licensee" means the person, partnership, corporation, association, organization, or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.

~~(6)~~ **(5)** "Licensing agency" means the Louisiana Department of Health.

~~(7)~~ **(6)** "Mandatory reporter to law enforcement" means any abortion facility staff member or any abortion facility professional.

~~(8)~~ **(7)** "Outpatient abortion facility" means any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per calendar year are performed.

~~(9)~~ **(8)** "Second trimester" means the time period from fourteen to twenty-three weeks after the first day of the last menstrual period.

~~(10)~~ **(9)** "Secretary" means the secretary of the Louisiana Department of Health.

§2175.4. License required

* * *

F. The provisions of R.S. 40:1061.8 shall apply to this Part.

* * *

§2175.6. License issuance; application; on-site inspection

* * *

J. The provisions of R.S. 40:1061.8 shall apply to this Part.

§2175.7. Mandatory reports to law enforcement; human trafficking awareness and prevention training

* * *

C. The provisions of R.S. 40:1061.8 shall apply to this Part.

§2175.8. Cease and desist order; due process rights; penalty for violation

A. In addition to the provisions of R.S. 40:2175.6(H), the secretary is empowered to issue a written cease and desist order to prevent or terminate an unsafe condition or an illegal practice or for a violation of this Chapter or Chapter 5 of this Title or a violation of any regulation or order of the department issued pursuant thereto whenever the secretary knows or has reasonable cause to believe that such unsafe condition or illegal practice exists or is likely to occur related to an outpatient abortion facility.

B.(1) An aggrieved party, who is licensed by this Part and who is affected by the secretary's decision or order, may seek an appeal in the same manner as provided for in R.S. 40:2175.6(H).

1 (2) An aggrieved party, who is not licensed by this Part, may seek a de
 2 novo review of the secretary's decision or order by filing a petition for review
 3 in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

4 C. Any order issued pursuant to this Section shall become effective upon
 5 service thereof in person or by registered mail on the violator, and shall remain
 6 effective except to the extent modified, stayed, terminated, or set aside by action
 7 of the secretary or by Nineteenth Judicial District Court in parish of East Baton
 8 Rouge.

9 D. If no timely appeal is demanded by the aggrieved party pursuant to
 10 Subsection B of this Section, the cease and desist order shall become final.

11 E. If the violator subsequently engages in activities that violate a final
 12 cease and desist order, the secretary may seek the enforcement of such order by
 13 civil action filed in the Nineteenth Judicial District Court for the parish of East
 14 Baton Rouge.

15 F. Except as provided in R.S. 40:2175.9, any person who violates a cease
 16 and desist order of the secretary after it has become final and while such order
 17 is in effect shall, upon proof thereof to the satisfaction of the court, be ordered
 18 by the court to forfeit and pay to the attorney general a sum not less than five
 19 hundred dollars nor more than five thousand dollars per violation.

20 §2175.9. Procedure for closing outpatient abortion clinics in the event abortion
 21 is declared illegal

22 A. Except as provided in Subsection C of this Section, the secretary shall
 23 apply the provisions of R.S. 40:1061.8 and R.S. 40:2175.8 and based upon the
 24 final decision of the Supreme Court of the United States in the case of Dobbs v.
 25 Jackson Women's Health Organization, Docket No. 19-1392, the secretary shall
 26 issue whichever one of the applicable cease and desist orders apply, as follows:

27 (1) The outpatient abortion facility shall be ordered closed and the
 28 facility shall immediately cease and desist performing abortions because the
 29 Human Life Protection Act, R.S. 40:1061, or R.S. 14:87.7 has been enacted and
 30 the practice of abortion in Louisiana has been prohibited by law.

31 (2) The outpatient abortion facility shall be ordered to cease and desist
 32 performing late term abortions, as is prohibited in R.S. 14:87.8, because the
 33 Supreme Court of the United States has provided for the states to prohibit
 34 abortions when the gestational age of the unborn child is fifteen weeks or more.

35 B.(1) Any person who violates a cease and desist order of the secretary
 36 after it has become final and while such order is in effect shall, upon proof
 37 thereof to the satisfaction of the court, be ordered by the court to forfeit and pay
 38 to the attorney general a sum not less than ten thousand dollars nor more than
 39 fifty thousand dollars per violation.

40 (2) Each abortion performed in violation of the cease and desist order
 41 issued pursuant to this Section shall constitute a separate violation.

42 C. The provisions of Subsection A and B of this Section shall not apply
 43 if the decision rendered by the United States Supreme Court in the case of
 44 Dobbs v. Jackson Women's Health Organization, Docket No. 19-1392, which
 45 overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.
 46 2d 147 (1973), does not restore to the states the authority to prohibit or limit
 47 abortion."

48 AMENDMENT NO. 37

49 On page 5, delete line 23 in its entirety and insert in lieu thereof the following:

50 "Section 4. R.S. 14:32.9(B), 32.9.1(B), 32.10, 32.11(B), 87, 87.3(B), and R.S.
 51 40:1061.1.1(B), 1061.1.2(A), 1061.1.3(B), 1061.9(1) through (11), 1061.12(A), 1061.27, and
 52 1061.28(B) are hereby repealed.

53 Section 5. If the bill that originated as Senate Bill No. 388 of the 2022 Regular
 54 Session of the Legislature is enacted and becomes law, the provisions containing definitions

1 in R.S. 14:87.9(B) in Section 1 of the Act which originated as Senate Bill No. 388 and R.S.
 2 40:962.2(B) of Section 2 of the Act which originated as Senate Bill No. 388 shall be null and
 3 void.

4 Section 6. The Louisiana State Law Institute, pursuant to its statutory authority, is
 5 hereby authorized and directed to make the following technical changes:

6 (A) Redesignate the provisions of R.S. 14:32.9, 32.9.1, 32.11 and relocate the
 7 provisions to Subpart A.3. Abortion. of Part V of Title 14 of the Louisiana Revised Statutes
 8 of 1950.

9 (B) Redesignate R.S. 40:1061.8 (Legislative intent) and 1061.9 (Definitions) and
 10 relocate those same provisions of law to follow directly after R.S. 40:1061.1.

11 (C) Redesignate R.S. 40:1061.1 (Pain-capable Unborn Child Protection Act) and
 12 1061.1.1 (Louisiana Unborn Child Protection from Dismemberment Abortion Act) and
 13 relocate those same provisions of law to follow directly after the provisions that have been
 14 redesignated and relocated pursuant to Subsection (B) of this Section.

15 (D) Make changes to any internal citation references in this Act to reflect the
 16 changes made pursuant to Subsections (B) and (C) of this Section.

17 (E) Arrange in alphabetical order and renumber the provisions of law, in particular
 18 arrange in alphabetical order and renumber those provisions of law to reflect that the
 19 provisions of law contained in Section 5 of this Act were repealed in favor of the
 20 consolidated "Definitions" provisions of law in R.S. 14:87.1 in Section 1 of this Act and R.S.
 21 40:1061.1 in Section 2 of this Act.

22 (F) Make changes to any references in the Codes or Louisiana Revised Statutes of
 23 1950 to reflect the citation changes contained in this Act.

24 (G) If the provisions of Section 5 of this Act are in effect because the bill that
 25 originated as Senate Bill No. 388 of the 2022 Regular Session of the Legislature is enacted
 26 and becomes law, arrange in alphabetical order and renumber the Subsections of R.S.
 27 14:87.9 and R.S. 40:962.2."

28 AMENDMENT NO. 38

29 On page 5, line 24, change "Section 5" to "Section 7"