

New law, the "Human Life Protection Act," shall become effective immediately upon, and to the extent permitted, by either:

- (1) A U.S. Supreme Court decision which reverses, in whole or in part, Roe v. Wade, thereby restoring to the state the authority to prohibit abortion.
- (2) Adoption of an amendment to the U. S. Constitution which, in whole or in part, restores to the state the authority to prohibit abortion.

Provides that new law shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the U. S. President, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds.

Provides that no person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being.

Provides that no person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

Provides that any violation of new law shall be prosecuted pursuant to R.S. 14:87.

Provides that nothing in new law may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

Provides that it shall not be a violation of new law for a licensed physician to perform 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. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

Provides that medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of new law.

Provides that nothing in new law may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

Provides that following definitions:

- (1) "Pregnant" means the human female reproductive condition, of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.
- (2) "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.
- (3) "Fertilization" means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

Prior law, relative to abortion, provided that abortion is the performance of any of the following, 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.

Prior law permitted a physician to perform any of the acts described above if performed under the following circumstances:

- (1) The physician terminated the pregnancy in order to preserve the life or health of the unborn child or to remove a dead unborn child.
- (2) The physician terminated a pregnancy for the express purpose of saving the life of the mother.
- (3) The physician terminated a pregnancy which is the result of rape and in which all of the following requirements are met prior to the pregnancy termination:
 - (a) The rape victim obtained a physical examination and/or treatment from a physician other than the physician who is to terminate the pregnancy within five days of the rape to determine whether she was pregnant prior to the rape and to prevent pregnancy and venereal disease, unless the rape victim is incapacitated to such a degree that she is unable to obtain this examination. If the victim is unable to obtain the examination due to such incapacity, then an examination shall be performed within five days after the incapacity is removed.
 - (b) The rape victim reported the rape to law enforcement officials within seven days of the rape unless the victim is incapacitated to such a degree that she is unable to report the rape. If the victim is unable to report the rape due to such incapacity, then a report shall be made within seven days after the incapacity is removed.
 - (c) The abortion is performed within 13 weeks of conception.
- (4) The physician terminated a pregnancy which is the result of incest, provided the crime is reported to law enforcement officials and the abortion is performed within 13 weeks of conception.

New law permits a physician to perform any of the acts described above 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.

Prior law required that prior to termination of a pregnancy the result of rape or incest, the physician had to obtain from the victim a statement in writing verifying that she has obtained the physical examination and shall obtain written verification by a law enforcement official that the victim reported the rape to law enforcement officials. Required every physician who conducted a physical examination of a rape victim within five days of the rape to immediately, upon written request of either the victim or the physician who is to perform the abortion on the victim, provide to the victim or the requesting physician written verification of his examination. Required every law enforcement official who received a report of a rape victim within seven days of the rape or received a report of incest immediately, upon written request of either the victim or the physician who is to perform the abortion, provide to the

victim or requesting physician written verification of the report which was made to the official.

New law deletes prior law.

Prior law defined "unborn child" as the unborn offspring of human beings from the moment of conception until birth and defined "conception" means the contact of spermatozoan with the ovum.

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

Prior law provided that whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one nor more than 10 years and shall be fined not less than \$10,000 nor more than \$100,000. New law retains prior law.

Prior law did not apply to the female who has an abortion. New law retains prior law.

Effective August 15, 2006.

(Amends R.S. 14:87; adds R.S. 40:1299.30)