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1 A bill to be entitled
2 An act relating to abortion; creating the "Florida for
3 Life Act"; creating s. 390.0001, F.S.; providing
4 legislative findings regarding abortion; creating s.
5 390.01113, F.S.; providing definitions; prohibiting
6 inducing, performing, attempting to perform, or
7 assisting in induced abortions; providing criminal
8 penalties; prohibiting inflicting serious bodily
9 injury on a person in the course of performing an
10 abortion; providing criminal penalties; providing
11 enhanced criminal penalties if the serious bodily
12 injury results in death; prohibiting operation of any
13 facility, business, or service within this state for
14 the purpose of providing induced abortion services;
15 providing criminal penalties; prohibiting termination
16 of a pregnancy unless specified conditions are met;
17 requiring that a termination of pregnancy be performed
18 only by a physician; requiring voluntary, informed
19 consent for a termination of pregnancy; providing an
20 exception for medical emergencies; providing for
21 documentation of a medical emergency; providing that
22 violations may subject physicians to discipline under
23 specified provisions; providing a standard of medical
24 care to be used during a termination of pregnancy
25 performed while the patient's fetus is viable;
26 providing that the woman's life is a superior
27 consideration to the concern for the life of the fetus
28 and the woman's health is a superior consideration to

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29 | the concern for the health of the fetus when such life
30 | or health concerns are in conflict; prohibiting a
31 | physician's misrepresentation of the gestational age
32 | or developmental stage of a viable fetus in any
33 | medical record and failing to use the prescribed
34 | standard of care on a viable fetus; providing criminal
35 | penalties; prohibiting fetal experimentation;
36 | providing an exception; requiring that fetal remains
37 | be disposed of according to specified standards;
38 | providing criminal penalties; excluding specified
39 | procedures from application of the section; requiring
40 | physicians and personnel at a medical facility to
41 | provide certain women and minors who have been treated
42 | by the facility with information regarding adoption
43 | and a statewide list of attorneys available to provide
44 | volunteer legal services for adoption; providing that
45 | violation of certain provisions by a physician may be
46 | grounds for discipline; providing rulemaking authority
47 | to the Agency for Health Care Administration and the
48 | Department of Health; creating s. 390.01117, F.S.;
49 | providing that the section takes effect only if s.
50 | 390.01113, F.S., is declared unconstitutional or has
51 | its enforcement enjoined; providing definitions;
52 | prohibiting termination of a pregnancy after a fetus
53 | has been determined to be viable; providing
54 | exceptions; requiring a determination of viability for
55 | women in a certain week of pregnancy or later before
56 | termination may be performed; requiring an ultrasound

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57 | and recordkeeping; providing that determination of
58 | viability and a required ultrasound may not be
59 | performed by a physician providing reproductive health
60 | services at an abortion clinic; requiring that a
61 | termination of pregnancy involving a viable fetus,
62 | when not prohibited, be performed in a hospital or
63 | other medical facility; providing a standard of care
64 | for a termination of pregnancy performed while a fetus
65 | is viable; providing that the woman's life is a
66 | superior consideration to the concern for the life of
67 | the fetus and the woman's health is a superior
68 | consideration to the concern for the health of the
69 | fetus when such life or health concerns are in
70 | conflict; prohibiting a physician' misrepresentation
71 | of the gestational age or developmental stage of a
72 | viable fetus in any medical record and failing to use
73 | the prescribed standard of care on a viable fetus;
74 | providing criminal penalties; providing that only a
75 | physician may perform a termination of pregnancy;
76 | requiring voluntary and informed consent for a
77 | termination of pregnancy; providing an exception for
78 | medical emergencies; providing for documentation of a
79 | medical emergency; providing that violations may
80 | subject physicians to discipline; prohibiting
81 | experimentation on a fetus; providing an exception;
82 | requiring that fetal remains be disposed of according
83 | to specified standards; providing criminal penalties;
84 | providing that no person or facility is required to

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85 | participate in the termination of a pregnancy or be
86 | liable for such refusal; excluding specified
87 | procedures from application of the section;
88 | prohibiting a termination of pregnancy procedure in
89 | violation of specified requirements; providing
90 | criminal penalties; prohibiting inflicting serious
91 | bodily injury on a person in the course of performing
92 | a termination of pregnancy; providing criminal
93 | penalties; providing enhanced criminal penalties if
94 | the serious bodily injury results in death; requiring
95 | physicians and personnel at a medical facility to
96 | provide certain women and minors who have been treated
97 | by the facility with information regarding adoption
98 | and a statewide list of attorneys available to provide
99 | volunteer legal services for adoption; providing
100 | rulemaking authority to the Agency for Health Care
101 | Administration and the Department of Health; providing
102 | that rulemaking authority is supplemental to s.
103 | 390.012, F.S.; amending s. 39.001, F.S.; providing
104 | legislative intent concerning adoption services for
105 | women with unwanted pregnancies; requiring the Office
106 | of Adoption and Child Protection to create and manage
107 | a statewide list of attorneys providing volunteer
108 | adoption services for women with unwanted pregnancies
109 | who would have selected abortion, if lawful, rather
110 | than adoption; providing that all federal moneys
111 | received by the state as a result of efforts made by
112 | the office to provide legal services have deposited,

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113 directed and budgeted the full amount for its use;
114 repealing s. 390.011, F.S., relating to definitions;
115 repealing s. 390.0111, F.S., relating to termination
116 of pregnancies; repealing s. 390.01114, F.S., which
117 creates the Parental Notice of Abortion Act; repealing
118 s. 390.01116, F.S., relating to public records
119 exemptions for identifying information regarding
120 minors seeking a waiver of notice requirements under
121 the Parental Notice of Abortion Act; repealing s.
122 390.0112, F.S., relating to termination of pregnancy
123 reporting; repealing s. 390.012, F.S., relating to
124 powers of the Agency for Health Care Administration,
125 rulemaking, and the disposal of fetal remains;
126 repealing s. 390.014, F.S., relating to licenses and
127 fees; repealing s. 390.015, F.S., relating to
128 application for license; repealing s. 390.018, F.S.,
129 relating to administrative fines; repealing s.
130 390.025, F.S., relating to abortion referral or
131 counseling agencies and penalties; repealing s.
132 782.30, F.S., relating to the short title for the
133 Partial-Birth Abortion Act; repealing s. 782.32, F.S.,
134 relating to definitions for the Partial-Birth Abortion
135 Act; repealing s. 782.34, F.S., relating to partial-
136 birth abortion; repealing s. 782.36, F.S., relating to
137 exceptions to the Partial-Birth Abortion Act; amending
138 s. 27.511, F.S.; conforming language relating to
139 court-appointed counsel for minors under the Parental
140 Notice of Abortion Act to the repeal of s. 390.01114,

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141 F.S.; amending ss. 627.64995, 627.6699, 627.66996, and
 142 641.31099, F.S.; providing restrictions on use of
 143 state and federal funds for state exchanges that
 144 provide coverage for induced abortions and
 145 terminations of pregnancies under certain conditions;
 146 amending ss. 743.065 and 765.113, F.S.; conforming
 147 cross-references; providing that if s. 390.01117,
 148 F.S., is declared unconstitutional or has its
 149 enforcement enjoined, the repeal of s. 390.011, F.S.,
 150 and the amendment of s. 39.001, F.S., are void and of
 151 no effect; providing legislative intent; providing
 152 that if s. 390.01113, F.S., is declared
 153 unconstitutional or has its enforcement enjoined,
 154 specified statutory repeals and amendments contained
 155 in this act are void and of no effect; providing
 156 legislative intent; providing an effective date.

157

158 Be It Enacted by the Legislature of the State of Florida:

159

160 Section 1. This act may be cited as the "Florida for Life
 161 Act."

162 Section 2. Section 390.0001, Florida Statutes, is created
 163 to read:

164 390.0001 Legislative findings regarding abortion.—

165 (1) The Legislature acknowledges that all persons are
 166 endowed by their Creator with certain unalienable rights, and
 167 that first among these is their right to life.

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168 (2) The Legislature finds that all human life comes from
169 the Creator, has an inherent value that cannot be quantified by
170 man, and begins at conception.

171 (3) The Legislature finds that the United States
172 Constitution expresses no qualification for, or limitation on,
173 the protection of human life by laws passed by state
174 legislatures which regard human life as the most fundamental
175 gift from God and deserving of paramount importance among all
176 other unalienable rights expressed or implied in the United
177 States Constitution.

178 (4) The Legislature finds that personal liberty is not a
179 license to kill an innocent human life under any provision of
180 the United States Constitution.

181 (5) The Legislature finds that once human life begins
182 there is a compelling state interest in protecting the natural
183 course of its development from that moment through birth. Any
184 act of a person detrimental to an unborn human life, when not
185 necessary in defense of the life of the mother bearing such
186 unborn life, which unnaturally terminates that unborn life, is a
187 deprivation of that unborn child's unalienable right to life.

188 (6) The Legislature finds that the establishment of
189 viability as the point at which the state may restrict
190 abortions, as well as the "undue burden" standard of *Planned*
191 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833
192 (1992) is arbitrary and provides inadequate guidance for this
193 state to enact meaningful protections for fetal life.

194 (7) The Legislature finds that the health exception
195 required of post-viability abortion regulations inadequately

196 protects the health of women seeking post-viability abortions
 197 and impedes the state's protection of viable fetal life.

198 (8) The Legislature finds that the people of Florida seek
 199 to protect unborn human life and prohibit unnecessary abortion
 200 through the exercise of their right to self-government.

201 (9) The Legislature urges the United States Supreme Court
 202 to overturn *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned*
 203 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833
 204 (1992).

205 Section 3. Section 390.01113, Florida Statutes, is created
 206 to read:

207 390.01113 Abortion unlawful; termination of pregnancies
 208 circumstances authorized.—

209 (1) DEFINITIONS.—As used in this section, the term:

210 (a) "Induced abortion" means a medically initiated
 211 termination of a human pregnancy with the intent to kill a human
 212 embryo or fetus that is not dying of natural causes. For
 213 purposes of this paragraph, the term "medically initiated"
 214 refers to the ingestion or administration of pharmaceutical
 215 abortifacients by any means, surgical procedures, or use of any
 216 device or instrument, as well as any combination thereof.

217 (b) "Medical emergency" means a condition that, on the
 218 basis of a physician's good faith clinical judgment, so
 219 complicates the medical condition of a patient as to necessitate
 220 the immediate termination of her pregnancy to avert her death,
 221 or for which a delay in the termination of her pregnancy will
 222 create serious risk of substantial and irreversible impairment

223 of a major bodily function or unreasonably reduce the likelihood
 224 of successful treatment of a life-threatening disease.

225 (c) "Patient" means the woman or minor upon whom an
 226 abortion or termination of pregnancy is performed or induced.

227 (d) "Physician" means a physician licensed under chapter
 228 458 or chapter 459 or a physician practicing medicine or
 229 osteopathic medicine in the employment of the United States.

230 (e) "Termination of pregnancy" means the termination of a
 231 human pregnancy under circumstances not prohibited by this
 232 section.

233 (f) "Viability" means that stage of fetal development
 234 when, in the judgment of a physician based on the particular
 235 facts of the case before him or her and in light of the most
 236 advanced medical technology and information available, there is
 237 a reasonable probability of sustained survival of the unborn
 238 child outside his or her mother's womb with or without
 239 artificial support.

240 (2) INDUCED ABORTION PROHIBITED.—

241 (a) Induced abortion for any purpose is unlawful. Any
 242 person who induces, performs, attempts to perform, or assists
 243 another in the performance of an induced abortion on another
 244 person commits a felony of the first degree, punishable as
 245 provided in s. 775.082, s. 775.083, or s. 775.084.

246 (b) Any person who during the course of performing an
 247 induced abortion on another person inflicts serious bodily
 248 injury on the person commits a felony of the first degree,
 249 punishable by imprisonment for a term of years not exceeding
 250 life as provided in s. 775.082, s. 775.083, or s. 775.084.

251 (c) Any person who during the course of performing an
 252 induced abortion on another person inflicts serious bodily
 253 injury on the person which results in the death of the person
 254 commits a life felony, punishable as provided in s. 775.082, s.
 255 775.083, or s. 775.084.

256 (3) OPERATING ABORTION SERVICES PROHIBITED.—A person who
 257 operates any facility, business, or service from any location
 258 within this state for the purpose of providing induced abortion
 259 services commits a felony of the first degree, punishable by
 260 imprisonment for a term of years not exceeding life as provided
 261 in s. 775.082, s. 775.083, or s. 775.084.

262 (4) TERMINATION OF PREGNANCY.—A termination of pregnancy
 263 may not be performed unless:

264 (a) Two physicians certify in writing to the fact that, to
 265 a reasonable degree of medical certainty, the termination of
 266 pregnancy is necessary to prevent the death of the patient;

267 (b) Two physicians certify in writing to the fact that, to
 268 a reasonable degree of medical certainty, the termination of
 269 pregnancy is necessary because to continue the pregnancy would
 270 unreasonably reduce the likelihood of successful treatment of a
 271 life-threatening disease of the patient; or

272 (c) A physician certifies in writing that a medical
 273 emergency existed and another physician was not available for
 274 consultation prior to the time necessary to perform the
 275 termination of pregnancy. The physician's written certification
 276 must clearly describe the medical emergency.

277 (5) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
 278 pregnancy may be performed at any time except by a physician.

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279 (6) CONSENTS REQUIRED.—A termination of pregnancy may not
280 be performed or induced except with the voluntary and informed
281 written consent of the patient or, in the case of a mentally
282 incompetent patient, the voluntary and informed written consent
283 of her court-appointed guardian or, in the case of a minor
284 patient, notwithstanding s. 743.065, the voluntary informed
285 consent of the minor's parent or legal guardian.

286 (a) Except in the case of a medical emergency, consent to
287 a termination of pregnancy is voluntary and informed only if the
288 physician who is to perform the procedure or the referring
289 physician has personally informed the patient, or the court-
290 appointed guardian if the patient is mentally incompetent or a
291 parent or guardian if the patient is a minor, of:

292 1. The nature and risks of undergoing or not undergoing
293 the proposed procedure that a reasonable patient similarly
294 situated may consider relevant to making an informed decision of
295 whether to terminate a pregnancy.

296 2. The medical risks to the patient and fetus of carrying
297 the pregnancy to term.

298 (b) In the event a medical emergency exists and a
299 physician cannot comply with the requirements for informed
300 consent, a physician may terminate a pregnancy if he or she has
301 obtained at least one corroborative medical opinion attesting to
302 the medical necessity for emergency medical procedures and to
303 the fact that, to a reasonable degree of medical certainty, the
304 continuation of the pregnancy would threaten the life of the
305 patient. In the event no second physician is available for a
306 corroborating opinion, the physician may proceed but shall

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307 document reasons for the medical necessity in the patient's
308 medical records.

309 (c) Violation of this subsection by a physician
310 constitutes grounds for disciplinary action under s. 458.331 or
311 s. 459.015. Substantial compliance or reasonable belief that
312 complying with the requirements of informed consent would
313 threaten the life of the patient may be raised as a defense to
314 any action brought for a violation of this subsection.

315 (7) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

316 (a) If a termination of pregnancy is performed while the
317 patient's fetus is viable, no person who performs or induces the
318 termination of pregnancy shall fail to use that degree of
319 professional skill, care, and diligence to preserve the life and
320 health of the fetus that such person would be required to
321 exercise in order to preserve the life and health of a fetus
322 intended to be born and not aborted. Notwithstanding the
323 provisions of this subsection, the patient's life shall
324 constitute an overriding and superior consideration to the
325 concern for the life of the fetus, and the patient's health
326 shall constitute an overriding and superior consideration to the
327 concern for the health of the fetus when such life or health
328 concerns are in conflict. For purposes of this subsection,
329 health considerations refer to medical judgment exercised in
330 light of factors exclusively regarding the physical well-being
331 of the patient.

332 (b) Any physician who, once the matter of the viability or
333 nonviability of the fetus has been determined within a
334 reasonable degree of medical probability, knowingly and

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335 willfully misrepresents the gestational age or stage of fetal
336 development of a viable fetus in an entry into any medical
337 record and who fails to use the standard of care required under
338 paragraph (a) on any fetus determined to be viable commits a
339 felony of the first degree, punishable as provided in s.
340 775.082, s. 775.083, or s. 775.084.

341 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
342 person shall use any live fetus or live, premature infant for
343 any type of scientific, research, laboratory, or other kind of
344 experimentation prior to or subsequent to any termination of
345 pregnancy procedure except as necessary to protect or preserve
346 the life and health of such fetus or premature infant.

347 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
348 sanitary and appropriate manner and in accordance with standard
349 health practices, as provided by rule of the Department of
350 Health. A person who fails to dispose of fetal remains in
351 accordance with department rules commits a misdemeanor of the
352 first degree, punishable as provided in s. 775.082 or s.
353 775.083.

354 (10) EXCLUSION FROM APPLICATION.— The provisions of this
355 section do not apply to the performance of a procedure that
356 terminates a pregnancy in order to deliver a live child or to
357 remove a dead or dying fetus whose demise was not the product of
358 a termination of pregnancy or an induced abortion from the
359 patient's body.

360 (11) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
361 authorized personnel of a medical facility who learns that a
362 pregnant woman or minor treated at the facility wishes to obtain

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363 an induced abortion, or that a patient has had a termination of
 364 pregnancy where the fetus survived, shall provide the woman or
 365 minor with information concerning the availability of adoption
 366 for her unwanted child. Compliance with this subsection may be
 367 accomplished by providing the woman with the address and
 368 telephone number of the Office of Adoption and Child Protection
 369 within the Executive Office of the Governor and inform her of
 370 the existence of the statewide list of attorneys available to
 371 provide volunteer legal services for adoption maintained by that
 372 office.

373 (12) PENALTIES FOR CERTAIN VIOLATIONS.—Violation of
 374 subsection (4), subsection (7), or subsection (8) by a physician
 375 constitutes grounds for disciplinary action under s. 458.331 or
 376 s. 459.015.

377 (13) RULEMAKING AUTHORITY.—

378 (a) Except for subsection (9), the Agency for Health Care
 379 Administration may adopt rules pursuant to ss. 120.536(1) and
 380 120.54 to implement the provisions of this section. These rules
 381 shall be for the purpose of protecting the health and safety of
 382 women and unborn human life and for the purpose of securing
 383 compliance with the requirements of this section and to
 384 facilitate the enforcement of sanctions for those violations to
 385 which administrative penalties apply.

386 (b) The Department of Health may adopt rules pursuant to
 387 ss. 120.536(1) and 120.54 to implement the provisions of
 388 subsection (9).

389 Section 4. Section 390.01117, Florida Statutes, is created
 390 to read:

391 390.01117 Termination of pregnancies.—
 392 (1) APPLICATION.—This section is superseded by s.
 393 390.01113 and shall become effective only in the event that s.
 394 390.01113 is declared unconstitutional or has its enforcement
 395 enjoined. In the event this section becomes effective, it shall
 396 supersede s. 390.0111.
 397 (2) DEFINITIONS.—As used in this section and elsewhere in
 398 this chapter, the term:
 399 (a) "Abortion" means the termination of human pregnancy
 400 with an intention other than to produce a live birth or to
 401 remove a fetus that died of natural causes.
 402 (b) "Abortion clinic" or "clinic" means any facility or
 403 structure in which abortions are performed. The term does not
 404 include:
 405 1. A hospital; or
 406 2. A physician's office, provided that the office is not
 407 used primarily for the performance of abortions.
 408 (c) "Agency" means the Agency for Health Care
 409 Administration.
 410 (d) "Department" means the Department of Health.
 411 (e) "Hospital" means a facility as defined in s.
 412 395.002(12) and licensed under chapter 395 and part II of
 413 chapter 408.
 414 (f) "Patient" means the woman or minor upon whom an
 415 abortion or termination of pregnancy is performed or induced.
 416 (g) "Physician" means a physician licensed under chapter
 417 458 or chapter 459 or a physician practicing medicine or
 418 osteopathic medicine in the employment of the United States.

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419 (h) "Viability" means that stage of fetal development
420 when, in the judgment of the physician based on the particular
421 facts of the case before him or her and in light of the most
422 advanced medical technology and information available, there is
423 a reasonable probability of sustained survival of the unborn
424 child outside his or her mother's womb with or without
425 artificial support.

426 (3) TERMINATION AFTER VIABILITY PROHIBITED; EXCEPTION.—No
427 termination of pregnancy shall be performed on any human being
428 when it has been determined, in accordance with subsection (4),
429 that the fetus is viable unless:

430 (a) Two physicians certify in writing to the fact that, to
431 a reasonable degree of medical certainty, the termination of
432 pregnancy is necessary to prevent the death of the patient or
433 avert a significant risk to her physical health;

434 (b) Two physicians certify in writing to the fact that, to
435 a reasonable degree of medical certainty, the termination of
436 pregnancy is necessary because to continue the pregnancy would
437 unreasonably reduce the likelihood of successful treatment of a
438 life-threatening disease of the patient; or

439 (c) The physician certifies in writing to the medical
440 necessity for legitimate emergency medical procedures for the
441 termination of pregnancy and another physician is not available
442 for consultation. The physician's written certification must
443 clearly describe the medical emergency.

444 (4) DETERMINATION OF VIABILITY.—No termination of
445 pregnancy may be induced or performed on any patient who is in
446 the 22nd week of pregnancy or later without first obtaining an

447 ultrasound from a physician to determine the stage of fetal
 448 development. The physician shall estimate as accurately as
 449 possible the stage of fetal development and shall indicate on
 450 the patient's medical records the gestational age, length and
 451 weight, and lung maturity of the fetus. The physician shall also
 452 indicate on the patient's medical records whether, within a
 453 reasonable degree of medical probability, the fetus is viable.
 454 Due to the potential of an inherent conflict of interest, the
 455 determination of viability and the performance of the ultrasound
 456 required under this subsection may not be performed by a
 457 physician who provides reproductive health services at an
 458 abortion clinic.

459 (5) STANDARD OF MEDICAL CARE TO BE USED DURING VIABILITY.—

460 (a) A termination of pregnancy involving a viable fetus,
 461 when not prohibited in accordance with subsection (3), must be
 462 performed in a hospital or other medical facility capable of
 463 providing all necessary lifesaving or life-sustaining medical
 464 services to the viable fetus.

465 (b) If a termination of pregnancy is performed while the
 466 patient's fetus is viable, no person who performs or induces the
 467 termination of pregnancy shall fail to use that degree of
 468 professional skill, care, and diligence to preserve the life and
 469 health of the fetus which such person would be required to
 470 exercise in order to preserve the life and health of any fetus
 471 intended to be born and not aborted. Notwithstanding the
 472 provisions of this subsection, the patient's life shall
 473 constitute an overriding and superior consideration to the
 474 concern for the life of the fetus, and the patient's health

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475 shall constitute an overriding and superior consideration to the
 476 concern for the health of the fetus when such life or health
 477 concerns are in conflict. For purposes of this subsection,
 478 health considerations refer to medical judgment exercised in
 479 light of factors exclusively regarding the physical well-being
 480 of the patient. Violation of this subsection by a physician
 481 constitutes grounds for disciplinary action under s. 458.331 or
 482 s. 459.015.

483 (c) Any physician who, once the matter of the viability or
 484 nonviability of the fetus has been determined within a
 485 reasonable degree of medical probability, knowingly and
 486 willfully misrepresents the gestational age or stage of fetal
 487 development of a viable fetus in an entry into any medical
 488 record and who fails to use the standard of care required under
 489 paragraph (b) on any fetus determined to be viable commits a
 490 felony of the first degree, punishable as provided in s.
 491 775.082, s. 775.083, or s. 775.084.

492 (6) PERFORMANCE BY PHYSICIAN REQUIRED.—No termination of
 493 pregnancy may be performed at any time except by a physician.

494 (7) CONSENTS REQUIRED.—A termination of pregnancy may not
 495 be performed or induced except with the voluntary and informed
 496 written consent of the patient or, in the case of a mentally
 497 incompetent patient, the voluntary and informed written consent
 498 of her court-appointed guardian or, in the case of a pregnant
 499 minor, notwithstanding s. 743.065, the voluntary informed
 500 consent of the minor's parent or guardian.

501 (a) Except in the case of a medical emergency, consent to
 502 a termination of pregnancy is voluntary and informed only if:

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- 503 1. The physician who is to perform the procedure or the
504 referring physician has personally informed the patient, or the
505 court-appointed guardian if the patient is mentally incompetent
506 or a parent or guardian in the case of a minor patient, of:
- 507 a. The nature and risks of undergoing or not undergoing
508 the proposed procedure that a reasonable patient similarly
509 situated may consider relevant to making an informed decision of
510 whether to terminate a pregnancy.
- 511 b. The probable gestational age of the fetus at the time
512 the termination of pregnancy is to be performed.
- 513 c. The medical risks to the patient and fetus of carrying
514 the pregnancy to term.
- 515 d. All other factors, physical, emotional, psychological,
516 and familial, relevant to the short-term and long-term well-
517 being of the patient, including emotional and psychological
518 impact relating to the loss of the life of a child.
- 519 2. Printed materials prepared and provided by the
520 department have been provided to the patient, if she chooses to
521 view these materials, including:
- 522 a. A description of the fetus.
- 523 b. A list of agencies that offer alternatives to
524 terminating the pregnancy.
- 525 c. Detailed information on the availability of medical
526 assistance benefits for prenatal care, childbirth, and neonatal
527 care.
- 528 3. The person required to give consent under this
529 subsection acknowledges in writing, before the termination of
530 pregnancy, that the information required to be provided under

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531 this subsection has been provided.

532 (b) In the event a medical emergency exists and a
533 physician cannot comply with the requirements for informed
534 consent, a physician may terminate a pregnancy if he or she has
535 obtained at least one corroborative medical opinion attesting to
536 the medical necessity for emergency medical procedures and to
537 the fact that, to a reasonable degree of medical certainty, the
538 continuation of the pregnancy would threaten the life of the
539 patient. In the event no second physician is available for a
540 corroborating opinion, the physician may proceed but shall
541 document reasons for the medical necessity in the patient's
542 medical records.

543 (c) Violation of this subsection by a physician
544 constitutes grounds for disciplinary action under s. 458.331 or
545 s. 459.015. Substantial compliance or reasonable belief that
546 complying with the requirements of informed consent would
547 threaten the life or health of the patient may be raised as a
548 defense to any action brought under this subsection.

549 (8) EXPERIMENTATION ON FETUS PROHIBITED; EXCEPTION.—No
550 person shall use any live fetus or live, premature infant for
551 any type of scientific, research, laboratory, or other kind of
552 experimentation prior to or subsequent to any termination of
553 pregnancy procedure except as necessary to protect or preserve
554 the life and health of such fetus or premature infant. Violation
555 of this subsection by a physician constitutes grounds for
556 disciplinary action under s. 458.331 or s. 459.015.

557 (9) FETAL REMAINS.—Fetal remains shall be disposed of in a
558 sanitary and appropriate manner and in accordance with standard

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559 health practices, as provided by rule of the Department of
560 Health. A person who fails to dispose of fetal remains in
561 accordance with department rules commits a misdemeanor of the
562 first degree, punishable as provided in s. 775.082 or s.
563 775.083.

564 (10) REFUSAL TO PARTICIPATE IN TERMINATION PROCEDURE.—
565 Nothing in this section shall require any hospital or any person
566 to participate in the termination of a pregnancy, nor shall any
567 hospital or any person be liable for such refusal. No person who
568 is a member of, or associated with, the staff of a hospital, nor
569 any employee of a hospital or physician in which or by whom the
570 termination of a pregnancy has been authorized or performed, who
571 states an objection to such procedure shall be required to
572 participate in the procedure which will result in the
573 termination of pregnancy. The refusal of any such person or
574 employee to participate shall not form the basis for any
575 disciplinary or other recriminatory action against such person.

576 (11) EXCLUSION FROM APPLICATION.—The provisions of this
577 section do not apply to the performance of a procedure that
578 terminates a pregnancy in order to deliver a live child or to
579 remove a dead or dying fetus whose demise was not the product of
580 a termination of pregnancy or an abortion, from the patient's
581 body.

582 (12) PENALTIES FOR VIOLATION.—

583 (a) Any person who willfully induces, performs, or assists
584 in a termination of pregnancy procedure on another person in
585 violation of the requirements of subsection (4), paragraph
586 (5) (a), or subsection (6) commits a felony of the second degree,

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587 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

588 (b) Any person who willfully induces, performs, or assists
589 in a termination of pregnancy procedure on another person in
590 violation of subsection (3) commits a felony of the first
591 degree, punishable as provided in s. 775.082, s. 775.083, or s.
592 775.084.

593 (c) Any person who willfully induces, performs, or assists
594 in a termination of pregnancy procedure on another person in
595 violation of subsection (3) which results in serious bodily
596 injury to the person commits a felony of the first degree,
597 punishable by imprisonment for a term of years not exceeding
598 life as provided in s. 775.082, s. 775.083, or s. 775.084.

599 (d) Any person who induces, performs, or assists in a
600 termination of pregnancy procedure on another person in
601 violation of the provisions of this section which results in the
602 death of the person commits a life felony, punishable as
603 provided in s. 775.082, s. 775.083, or s. 775.084.

604 (13) ADOPTION ALTERNATIVE INFORMATION.—Any physician or
605 authorized personnel of a medical facility who learns that a
606 pregnant woman or minor treated at the facility wishes to obtain
607 an abortion, or that a patient has had a termination of
608 pregnancy at the facility under circumstances where the fetus
609 survived, shall provide the woman or minor with the address and
610 telephone number of the Office of Adoption and Child Protection
611 within the Executive Office of the Governor and inform her of
612 the existence of the statewide list of attorneys available to
613 provide volunteer legal services for adoption maintained by that
614 office.

615 (14) RULEMAKING AUTHORITY.—

616 (a) Except for subsection (9), the Agency for Health Care
 617 Administration may adopt rules pursuant to ss. 120.536(1) and
 618 120.54 to implement the provisions of this section. These rules
 619 shall be for the purpose of protecting the health and safety of
 620 women and unborn human life. These rules are also for the
 621 purpose of securing compliance with the requirements of this
 622 section and to facilitate the enforcement of sanctions for those
 623 violations to which administrative penalties apply.

624 (b) The Department of Health may adopt rules pursuant to
 625 ss. 120.536(1) and 120.54 to implement the provisions of
 626 subsection (9).

627 (c) The rulemaking authority granted in this subsection is
 628 supplemental to the rulemaking authority provided in s. 390.012.

629 Section 5. Subsection (6) of section 39.001, Florida
 630 Statutes, is amended, and paragraph (d) is added to subsection
 631 (7) of that section, to read:

632 39.001 Purposes and intent; personnel standards and
 633 screening.—

634 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
 635 ABANDONMENT, AND NEGLECT OF CHILDREN; ADOPTION SERVICES FOR
 636 WOMEN WITH UNWANTED PREGNANCIES.—The incidence of known child
 637 abuse, abandonment, and neglect has increased rapidly in recent
 638 ~~ever the past 5~~ years. The impact that abuse, abandonment, or
 639 neglect has on the victimized child, siblings, family structure,
 640 and inevitably on all citizens of the state has caused the
 641 Legislature to determine that the prevention of child abuse,
 642 abandonment, and neglect shall be a priority of this state. In

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643 addition, to provide assistance for women or minors with
 644 unwanted pregnancies who would have selected abortion, if lawful
 645 in this state, rather than adoption as an alternative for their
 646 unborn child, the Legislature has determined to offer such women
 647 or minors volunteer legal services to accomplish an appropriate
 648 adoptive placement for such newborn children. To further these
 649 ends ~~this end~~, it is the intent of the Legislature that an
 650 Office of Adoption and Child Protection be established.

651 (7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

652 (d) In connection with the provision of volunteer legal
 653 services for women or minors with unwanted pregnancies who would
 654 have selected abortion, if lawful in this state, rather than
 655 adoption, the office shall:

656 1. Create and manage a statewide list of attorneys
 657 providing volunteer adoption services for such women and minors.

658 2. Have deposited, directed, and budgeted in the full
 659 amount for its use, in addition to funds that would have or are
 660 otherwise budgeted for it, all moneys received by or otherwise
 661 awarded to the state from the Federal Government, the United
 662 States Treasury, or any other federal agency as a result of
 663 efforts made by the office to provide legal services.

664 Section 6. Section 390.011, Florida Statutes, is repealed.

665 Section 7. Section 390.0111, Florida Statutes, is
 666 repealed.

667 Section 8. Section 390.01114, Florida Statutes, is
 668 repealed.

669 Section 9. Section 390.01116, Florida Statutes, is
 670 repealed.

671 Section 10. Section 390.0112, Florida Statutes, is
 672 repealed.

673 Section 11. Section 390.012, Florida Statutes, is
 674 repealed.

675 Section 12. Section 390.014, Florida Statutes, is
 676 repealed.

677 Section 13. Section 390.015, Florida Statutes, is
 678 repealed.

679 Section 14. Section 390.018, Florida Statutes, is
 680 repealed.

681 Section 15. Section 390.025, Florida Statutes, is
 682 repealed.

683 Section 16. Section 782.30, Florida Statutes, is repealed.

684 Section 17. Section 782.32, Florida Statutes, is repealed.

685 Section 18. Section 782.34, Florida Statutes, is repealed.

686 Section 19. Section 782.36, Florida Statutes, is repealed.

687 Section 20. Paragraph (a) of subsection (6) of section
 688 27.511, Florida Statutes, is amended to read:

689 27.511 Offices of criminal conflict and civil regional
 690 counsel; legislative intent; qualifications; appointment;
 691 duties.—

692 (6) (a) The office of criminal conflict and civil regional
 693 counsel has primary responsibility for representing persons
 694 entitled to court-appointed counsel under the Federal or State
 695 Constitution or as authorized by general law in civil
 696 proceedings, including, but not limited to, proceedings under s.
 697 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and
 698 proceedings to terminate parental rights under chapter 63.

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699 ~~Private court appointed counsel eligible under s. 27.40 have~~
 700 ~~primary responsibility for representing minors who request~~
 701 ~~counsel under s. 390.01114, the Parental Notice of Abortion Act;~~
 702 ~~however, the office of criminal conflict and civil regional~~
 703 ~~counsel may represent a minor under that section if the court~~
 704 ~~finds that no private court appointed attorney is available.~~

705 Section 21. Subsection (1) of section 627.64995, Florida
 706 Statutes, is amended to read:

707 627.64995 Restrictions on use of state and federal funds
 708 for state exchanges.—

709 (1) A health insurance policy under which coverage is
 710 purchased in whole or in part with any state or federal funds
 711 through an exchange created pursuant to the federal Patient
 712 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
 713 provide coverage for an induced abortion as defined in and
 714 prohibited under s. 390.01113 or for a termination of pregnancy
 715 in violation of s. 390.01113(4) s. 390.011(1), ~~except if the~~
 716 ~~pregnancy is the result of an act of rape or incest, or in the~~
 717 ~~case where a woman suffers from a physical disorder, physical~~
 718 ~~injury, or physical illness, including a life-endangering~~
 719 ~~physical condition caused by or arising from the pregnancy~~
 720 ~~itself, which would, as certified by a physician, place the~~
 721 ~~woman in danger of death unless an abortion is performed.~~

722 Coverage is deemed to be purchased with state or federal funds
 723 if any tax credit or cost-sharing credit is applied toward the
 724 health insurance policy.

725 Section 22. Paragraph (a) of subsection (17) of section
 726 627.6699, Florida Statutes, is amended to read:

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727 627.6699 Employee Health Care Access Act.—

728 (17) RESTRICTIONS ON COVERAGE.—

729 (a) A plan under which coverage is purchased in whole or
 730 in part with any state or federal funds through an exchange
 731 created pursuant to the federal Patient Protection and
 732 Affordable Care Act, Pub. L. No. 111-148, may not provide
 733 coverage for an induced abortion, as defined in and prohibited
 734 under s. 390.01113 or for a termination of pregnancy in
 735 violation of s. 390.01113(4) s. 390.011(1), except if the
 736 ~~pregnancy is the result of an act of rape or incest, or in the~~
 737 ~~case where a woman suffers from a physical disorder, physical~~
 738 ~~injury, or physical illness, including a life-endangering~~
 739 ~~physical condition caused by or arising from the pregnancy~~
 740 ~~itself, which would, as certified by a physician, place the~~
 741 ~~woman in danger of death unless an abortion is performed.~~
 742 Coverage is deemed to be purchased with state or federal funds
 743 if any tax credit or cost-sharing credit is applied toward the
 744 plan.

745 Section 23. Subsection (1) of section 627.66996, Florida
 746 Statutes, is amended to read:

747 627.66996 Restrictions on use of state and federal funds
 748 for state exchanges.—

749 (1) A group, franchise, or blanket health insurance policy
 750 under which coverage is purchased in whole or in part with any
 751 state or federal funds through an exchange created pursuant to
 752 the federal Patient Protection and Affordable Care Act, Pub. L.
 753 No. 111-148, may not provide coverage for an induced abortion as
 754 defined in and prohibited under s. 390.01113 or for a

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755 termination of pregnancy in violation of s. 390.01113(4) s.
756 ~~390.011(1), except if the pregnancy is the result of an act of~~
757 ~~rape or incest, or in the case where a woman suffers from a~~
758 ~~physical disorder, physical injury, or physical illness,~~
759 ~~including a life-endangering physical condition caused by or~~
760 ~~arising from the pregnancy itself, which would, as certified by~~
761 ~~a physician, place the woman in danger of death unless an~~
762 ~~abortion is performed.~~ Coverage is deemed to be purchased with
763 state or federal funds if any tax credit or cost-sharing credit
764 is applied toward the group, franchise, or blanket health
765 insurance policy.

766 Section 24. Subsection (1) of section 641.31099, Florida
767 Statutes, is amended to read:

768 641.31099 Restrictions on use of state and federal funds
769 for state exchanges.—

770 (1) A health maintenance contract under which coverage is
771 purchased in whole or in part with any state or federal funds
772 through an exchange created pursuant to the federal Patient
773 Protection and Affordable Care Act, Pub. L. No. 111-148, may not
774 provide coverage for an induced abortion as defined in and
775 prohibited under s. 390.01113 or for a termination of pregnancy
776 in violation of s. 390.01113(4) s. 390.011(1), except if the
777 ~~pregnancy is the result of an act of rape or incest, or in the~~
778 ~~case where a woman suffers from a physical disorder, physical~~
779 ~~injury, or physical illness, including a life-endangering~~
780 ~~physical condition caused by or arising from the pregnancy~~
781 ~~itself, which would, as certified by a physician, place the~~
782 ~~woman in danger of death unless an abortion is performed.~~

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783 Coverage is deemed to be purchased with state or federal funds
 784 if any tax credit or cost-sharing credit is applied toward the
 785 health maintenance contract.

786 Section 25. Subsection (3) of section 743.065, Florida
 787 Statutes, is amended to read:

788 743.065 Unwed pregnant minor or minor mother; consent to
 789 medical services for minor or minor's child valid.—

790 ~~(3) Nothing in this act shall affect the provisions of s.~~
 791 ~~390.0111.~~

792 Section 26. Subsection (2) of section 765.113, Florida
 793 Statutes, is amended to read:

794 765.113 Restrictions on providing consent.—Unless the
 795 principal expressly delegates such authority to the surrogate in
 796 writing, or a surrogate or proxy has sought and received court
 797 approval pursuant to rule 5.900 of the Florida Probate Rules, a
 798 surrogate or proxy may not provide consent for:

799 (2) Withholding or withdrawing life-prolonging procedures
 800 from a pregnant patient prior to viability as defined in s.
 801 390.01113 ~~390.0111(4)~~.

802 Section 27. If section 390.01117, Florida Statutes, as
 803 created by this act, is declared unconstitutional or has its
 804 enforcement permanently enjoined, the repeal of section 390.011,
 805 Florida Statutes, and the amendment of section 39.001, Florida
 806 Statutes, by this act, shall be deemed to be void and of no
 807 effect, it being the legislative intent that these provisions
 808 would not have been enacted had section 390.01113, Florida
 809 Statutes, or section 390.01117, Florida Statutes, not been
 810 enacted as well.

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811 Section 28. If section 390.01113, Florida Statutes, as
812 created by this act, is declared unconstitutional or has its
813 enforcement permanently enjoined, the statutory repeals and
814 amendments contained in sections 6 through 26 of this act shall
815 be deemed to be void and of no effect, and the text of any
816 amended provisions shall revert to that in existence on the day
817 before the effective date of this act, except that any
818 amendments to such text enacted other than by this act shall be
819 preserved and continue to operate, it being the legislative
820 intent that these provisions would not have been enacted had
821 section 390.01113, Florida Statutes, not been enacted as well.

822 Section 29. This act shall take effect July 1, 2012.