

1                   A bill to be entitled  
2     An act relating to abortion; providing a short title;  
3     providing findings and intent; amending s. 390.0111,  
4     F.S.; requiring a person performing a termination of  
5     pregnancy to first sign an affidavit stating that he  
6     or she is not performing the termination of pregnancy  
7     because of the child's sex or race and has no  
8     knowledge that the pregnancy is being terminated  
9     because of the child's sex or race; providing criminal  
10    penalties; prohibiting performing or inducing a  
11    termination of pregnancy knowing that it is sought  
12    based on the sex or race of the child or the race of a  
13    parent of that child, using force or the threat of  
14    force to intentionally injure or intimidate any person  
15    for the purpose of coercing a sex-selection or race-  
16    selection termination of pregnancy, and soliciting or  
17    accepting moneys to finance a sex-selection or race-  
18    selection termination of pregnancy; providing criminal  
19    penalties; providing for injunctions against specified  
20    violations; providing for civil actions by certain  
21    persons with respect to certain violations; specifying  
22    appropriate relief in such actions; authorizing civil  
23    fines of up to a specified amount against physicians  
24    and other medical or mental health professionals who  
25    knowingly fail to report known violations; providing  
26    that a woman on whom a sex-selection or race-selection  
27    termination of pregnancy is performed is not subject  
28    to criminal prosecution or civil liability for any

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29 | violation or for a conspiracy to commit a violation;  
30 | conforming a cross-reference; providing an effective  
31 | date.

32 |  
33 | WHEREAS, women are a vital part of American society and  
34 | culture and possess the same fundamental human rights and civil  
35 | rights as men, and

36 | WHEREAS, United States law prohibits the dissimilar  
37 | treatment for males and females who are similarly situated and  
38 | prohibits sex discrimination in various contexts, including the  
39 | provision of employment, education, housing, health insurance  
40 | coverage, and athletics, and

41 | WHEREAS, sex is an immutable characteristic, and is  
42 | ascertainable at the earliest stages of human development  
43 | through existing medical technology and procedures commonly in  
44 | use, including maternal-fetal bloodstream DNA sampling,  
45 | amniocentesis, chorionic villus sampling or "CVS," and medical  
46 | sonography. In addition to medically assisted sex-determinations  
47 | carried out by medical professionals, a growing sex-  
48 | determination niche industry has developed and is marketing low-  
49 | cost commercial products, widely advertised and available, that  
50 | aid in the sex determination of an unborn child without the aid  
51 | of medical professionals. Experts have demonstrated that the  
52 | sex-selection industry is on the rise and predict that it will  
53 | continue to be a growing trend in the United States. Sex  
54 | determination is always a necessary step to the procurement of a  
55 | sex-selection abortion, and

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56 WHEREAS, a "sex-selection abortion" is an abortion  
57 undertaken for purposes of eliminating an unborn child of an  
58 undesired sex. Sex-selection abortion is barbaric, and described  
59 by scholars and civil rights advocates as an act of sex-based or  
60 gender-based violence predicated on sex discrimination. By  
61 definition, sex-selection abortions do not implicate the health  
62 of the mother of the unborn, but instead are elective procedures  
63 motivated by sex or gender bias, and

64 WHEREAS, the targeted victims of sex-selection abortions  
65 performed in the United States and worldwide are overwhelmingly  
66 female. The selective abortion of females is female infanticide,  
67 the intentional killing of unborn females, due to the preference  
68 for male offspring or "son preference." Son preference is  
69 reinforced by the low value associated, by some segments of the  
70 world community, with female offspring. Those segments tend to  
71 regard female offspring as financial burdens to a family over  
72 their lifetime due to their perceived inability to earn or  
73 provide financially for the family unit as can a male. In  
74 addition, due to social and legal convention, female offspring  
75 are less likely to carry on the family name. "Son preference" is  
76 one of the most evident manifestations of sex or gender  
77 discrimination in any society, undermining female equality, and  
78 fueling the elimination of females' right to exist in instances  
79 of sex-selection abortion, and

80 WHEREAS, sex-selection abortions are not expressly  
81 prohibited by United States law and the laws of 48 states. Sex-  
82 selection abortions are performed in the United States. In a  
83 March 2008 report published in the Proceedings of the National

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84 Academy of Sciences, Columbia University economists Douglas  
85 Almond and Lena Edlund examined the sex ratio of United States-  
86 born children and found "evidence of sex selection, most likely  
87 at the prenatal stage." The data revealed obvious "son  
88 preference" in the form of unnatural sex-ratio imbalances within  
89 certain segments of the United States population, primarily  
90 those segments tracing their ethnic or cultural origins to  
91 countries where sex-selection abortion is prevalent. The  
92 evidence strongly suggests that some Americans are exercising  
93 sex-selection abortion practices within the United States  
94 consistent with discriminatory practices common to their country  
95 of origin, or the country to which they trace their ancestry.  
96 While sex-selection abortions are more common outside the United  
97 States, the evidence reveals that female infanticide is also  
98 occurring in the United States, and

99 WHEREAS, the American public supports a prohibition of sex-  
100 selection abortion. In a March 2006 Zogby International poll, 86  
101 percent of Americans agreed that sex-selection abortion should  
102 be illegal, yet only two states have proscribed sex-selection  
103 abortion, and

104 WHEREAS, despite the failure of the United States to  
105 proscribe sex-selection abortion, the United States Congress has  
106 expressed repeatedly, through Congressional resolution, strong  
107 condemnation of policies promoting sex-selection abortion in the  
108 "Communist Government of China." Likewise, at the 2007 United  
109 Nation's Annual Meeting of the Commission on the Status of  
110 Women, 51st Session, the United States' delegation spearheaded a  
111 resolution calling on countries to eliminate sex-selective

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112 | abortion, a policy directly contradictory to the permissiveness  
113 | of current United States' law, which places no restriction on  
114 | the practice of sex-selection abortion. The United Nations  
115 | Commission on the Status of Women has urged governments of all  
116 | nations "to take necessary measures to prevent . . . prenatal  
117 | sex selection," and

118 |       WHEREAS, a 1990 report by Harvard University economist  
119 | Amartya Sen estimated that more than 100 million women were  
120 | "demographically missing" from the world as early as 1990 due to  
121 | sexist practices, including sex-selection abortion. Many experts  
122 | believe sex-selection abortion is the primary cause. As of 2008,  
123 | estimates of women missing from the world range in the hundreds  
124 | of millions, and

125 |       WHEREAS, countries with longstanding experience with sex-  
126 | selection abortion—such as the Republic of India, the United  
127 | Kingdom, and the People's Republic of China—have enacted  
128 | complete bans on sex-selection abortion, and have steadily  
129 | continued to strengthen prohibitions and penalties. The United  
130 | States, by contrast, has no law in place to restrict sex-  
131 | selection abortion, establishing the United States as affording  
132 | less protection from sex-based infanticide than the Republic of  
133 | India or the People's Republic of China, whose recent practices  
134 | of sex-selection abortion were vehemently and repeatedly  
135 | condemned by United States congressional resolutions and by the  
136 | United States' Ambassador to the Commission on the Status of  
137 | Women. Public statements from within the medical community  
138 | reveal that citizens of other countries come to the United  
139 | States for sex-selection procedures that would be criminal in

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140 their country of origin. Because the United States permits  
141 abortion on the basis of sex, the United States may effectively  
142 function as a "safe haven" for those who seek to have American  
143 physicians do what would otherwise be criminal in their home  
144 countries—a sex-selection abortion, most likely late-term, and

145 WHEREAS, the American medical community opposes sex-  
146 selection abortion. The American College of Obstetricians and  
147 Gynecologists, commonly known as "ACOG," stated in its February  
148 2007 Ethics Committee Opinion, Number 360, that sex-selection is  
149 inappropriate for family planning purposes because sex-selection  
150 "ultimately supports sexist practices." Likewise, the American  
151 Society for Reproductive Medicine has opined that sex-selection  
152 for family planning purposes is ethically problematic,  
153 inappropriate, and should be discouraged, and

154 WHEREAS, sex-selection abortion results in an unnatural  
155 sex-ratio imbalance. An unnatural sex-ratio imbalance is  
156 undesirable, due to the inability of the numerically predominant  
157 sex to find mates. Experts worldwide document that a significant  
158 sex-ratio imbalance in which males numerically predominate can  
159 be a cause of increased violence and militancy within a society.  
160 Likewise, an unnatural sex-ratio imbalance gives rise to the  
161 commoditization of humans in the form of human trafficking, and  
162 a consequent increase in kidnapping and other violent crime, and

163 WHEREAS, sex-selection abortions have the effect of  
164 diminishing the representation of women in the American  
165 population, and therefore, the American electorate, and

166 WHEREAS, sex-selection abortion reinforces sex  
167 discrimination and has no place in a civilized society, and

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168 WHEREAS, minorities are a vital part of American society  
169 and culture and possess the same fundamental human rights and  
170 civil rights as the majority, and

171 WHEREAS, United States law prohibits the dissimilar  
172 treatment of persons of different races who are similarly  
173 situated. United States law prohibits discrimination on the  
174 basis of race in various contexts, including the provision of  
175 employment, education, housing, health insurance coverage, and  
176 athletics, and

177 WHEREAS, a "race-selection abortion" is an abortion  
178 performed for purposes of eliminating an unborn child because  
179 the child or a parent of the child is of an undesired race.  
180 Race-selection abortion is barbaric, and described by civil  
181 rights advocates as an act of race-based violence, predicated on  
182 race discrimination. By definition, race-selection abortions do  
183 not implicate the health of mother of the unborn, but instead  
184 are elective procedures motivated by race bias, and

185 WHEREAS, no state has enacted law to proscribe the  
186 performance of race-selection abortions, and

187 WHEREAS, race-selection abortions have the effect of  
188 diminishing the number of minorities in the American population  
189 and therefore, the American electorate, and

190 WHEREAS, race-selection abortion reinforces racial  
191 discrimination and has no place in a civilized society, and

192 WHEREAS, the history of the United States includes examples  
193 of both sex discrimination and race discrimination. The people  
194 of the United States ultimately responded in the strongest  
195 possible legal terms by enacting constitutional amendments

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196 correcting elements of such discrimination. Women, once  
197 subjected to sex discrimination that denied them the right to  
198 vote, now have suffrage guaranteed by the Nineteenth Amendment  
199 to the United States Constitution. African-Americans, once  
200 subjected to race discrimination through slavery that denied  
201 them equal protection of the laws, now have that right  
202 guaranteed by the Fourteenth Amendment to the United States  
203 Constitution. The elimination of discriminatory practices has  
204 been and is among the highest priorities and greatest  
205 achievements of American history, and

206 WHEREAS, implicitly approving the discriminatory practices  
207 of sex-selection abortion and race-selection abortion by  
208 choosing not to prohibit them will reinforce these inherently  
209 discriminatory practices, and evidence a failure to protect a  
210 segment of certain unborn Americans because those unborn are of  
211 a sex or racial makeup that is disfavored. Sex-selection and  
212 race-selection abortions trivialize the value of the unborn on  
213 the basis of sex or race, reinforcing sex and race  
214 discrimination, and coarsening society to the humanity of all  
215 vulnerable and innocent human life, making it increasingly  
216 difficult to protect such life. Thus, this state has a  
217 compelling interest in acting—indeed it must act—to prohibit  
218 sex-selection abortion and race-selection abortion, NOW,  
219 THEREFORE,

220  
221 Be It Enacted by the Legislature of the State of Florida:  
222



223           Section 1. This act may be cited as the "Susan B. Anthony  
 224 and Frederick Douglass Prenatal Nondiscrimination and Equal  
 225 Opportunity for Life Act".

226           Section 2. The Legislature declares that there is no place  
 227 for discrimination and inequality in human society in the form  
 228 of abortions due to a child's sex or race. Sex-selection and  
 229 race-selection abortions are elective procedures that do not in  
 230 any way implicate a woman's health. The purpose of this act is  
 231 to protect unborn children from prenatal discrimination in the  
 232 form of being subjected to an abortion based on the child's sex  
 233 or race by prohibiting sex-selection or race-selection  
 234 abortions. The intent of this act is not to establish or  
 235 recognize a right to an abortion or to make lawful an abortion  
 236 that is currently unlawful.

237           Section 3. Subsections (6) through (13) of section  
 238 390.0111, Florida Statutes, are renumbered as subsections (7)  
 239 through (14), respectively, a new subsection (6) is added to  
 240 that section, and present subsections (2) and (10) of that  
 241 section are amended, to read:

242           390.0111 Termination of pregnancies.—

243           (2) PERFORMANCE BY PHYSICIAN; REQUIRED AFFIDAVIT.—

244           (a) A ~~No~~ termination of pregnancy may not shall be  
 245 performed at any time except by a physician as defined in s.  
 246 390.011.

247           (b) A person may not knowingly perform a termination of  
 248 pregnancy before that person completes and signs an affidavit  
 249 stating that he or she is not performing the termination of  
 250 pregnancy because of the child's sex or race and has no

251 knowledge that the pregnancy is being terminated because of the  
 252 child's sex or race.

253 (6) SEX AND RACE SELECTION.—

254 (a) A person may not knowingly do any of the following:

255 1. Perform or induce a termination of pregnancy knowing  
 256 that it is sought based on the sex or race of the child or the  
 257 race of a parent of that child.

258 2. Use force or the threat of force to intentionally  
 259 injure or intimidate any person for the purpose of coercing a  
 260 sex-selection or race-selection termination of pregnancy.

261 3. Solicit or accept moneys to finance a sex-selection or  
 262 race-selection termination of pregnancy.

263 (b) The Attorney General or the state attorney may bring  
 264 an action in circuit court to enjoin an activity described in  
 265 paragraph (a).

266 (c) The father of the unborn child who is married to the  
 267 mother at the time she receives a sex-selection or race-  
 268 selection termination of pregnancy, or, if the mother has not  
 269 attained 18 years of age at the time of the termination of  
 270 pregnancy, the maternal grandparents of the unborn child, may  
 271 bring a civil action on behalf of the unborn child to obtain  
 272 appropriate relief with respect to a violation of paragraph (a).  
 273 The court may award reasonable attorney fees as part of the  
 274 costs in an action brought pursuant to this subsection. For the  
 275 purposes of this subsection, "appropriate relief" includes  
 276 monetary damages for all injuries, whether psychological,  
 277 physical, or financial, including loss of companionship and  
 278 support, resulting from the violation.

279        (d) A physician, physician's assistant, nurse, counselor,  
 280 or other medical or mental health professional who knowingly  
 281 does not report known violations of this subsection to  
 282 appropriate law enforcement authorities shall be subject to a  
 283 civil fine of not more than \$10,000.

284        (e) A woman on whom a sex-selection or race-selection  
 285 termination of pregnancy is performed is not subject to criminal  
 286 prosecution or civil liability for any violation of this  
 287 subsection or for a conspiracy to violate this subsection.

288        (11)~~(10)~~ PENALTIES FOR VIOLATION.—Except as provided in  
 289 subsections (3) and (8) ~~(7)~~:

290        (a) Any person who willfully performs, or actively  
 291 participates in, a termination of pregnancy procedure in  
 292 violation of the requirements of this section commits a felony  
 293 of the third degree, punishable as provided in s. 775.082, s.  
 294 775.083, or s. 775.084.

295        (b) Any person who performs, or actively participates in,  
 296 a termination of pregnancy procedure in violation of the  
 297 provisions of this section which results in the death of the  
 298 woman commits a felony of the second degree, punishable as  
 299 provided in s. 775.082, s. 775.083, or s. 775.084.

300        Section 4. This act shall take effect October 1, 2012.