

2018 Regular Session

SENATE BILL NO. 181

BY SENATORS MILKOVICH AND THOMPSON

ABORTION. Prohibits abortions later than fifteen weeks after conception. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:87(D) and to enact R.S. 14:87(E), (F), and (G), relative to the  
3 crime of abortion; to provide that an abortion cannot be performed after fifteen  
4 weeks following the date of conception; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:87(D) is hereby amended and reenacted and R.S. 14:87(E), (F),  
7 and (G) are hereby enacted to read as follows:

8 §87. Abortion

9 \* \* \*

10 **D.(1) As used in this Subsection:**

11 **(a) "Abortion" means the specific intent to kill an unborn child**  
12 **consistent with the provisions and exceptions of R.S. 40:1061.**

13 **(b) "Gestational age" means the age of an unborn child as calculated**  
14 **from the first day of the last menstrual period of the pregnant woman, as**  
15 **determined by the use of standard medical practices and techniques.**

16 **(2) It shall be unlawful for a physician to perform any of the acts**  
17 **described in Subsection A of this Section after fifteen weeks following the date**

1           **of conception.**

2                     ~~D.E.~~(1) Whoever commits the crime of abortion shall be imprisoned at hard  
3 labor for not less than one nor more than ten years and shall be fined not less than ten  
4 thousand dollars nor more than one hundred thousand dollars.

5                     (2) This penalty shall not apply to the female who has an abortion.

6                     **F. The provisions of Subsection D of this Section shall become effective**  
7 **upon any final decision of the United States Court of Appeals for the Fifth**  
8 **Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular**  
9 **Session of the Mississippi Legislature, which decision would thereby provide the**  
10 **authority for a state within the jurisdiction of that court of appeals to restrict**  
11 **abortion past fifteen weeks of gestational age.**

12                    **G. The provisions of Subsection D of this Section are hereby repealed,**  
13 **in favor of the provisions of R.S. 40:1061, immediately upon and to the extent**  
14 **that the United States Supreme Court upholds the authority of the states to**  
15 **prohibit elective abortions on demand or by the adoption of an amendment to**  
16 **the Constitution of the United States of America that would restore to the state**  
17 **of Louisiana the authority to prohibit elective abortions.**

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

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

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SB 181 Reengrossed

DIGEST  
2018 Regular Session

Milkovich

Present law defines "abortion" as the performance of any of the following acts, 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.

Present law provides that present law relative to abortion does not apply to the female who has an abortion.

Present law provides that it is not unlawful for a physician to perform any of the acts defined by present law as abortion 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.

Present law defines "physician" as any person licensed to practice medicine in this state.

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

Present law provides that whoever commits the crime of abortion is to be imprisoned at hard labor for between one year and 10 years and fined between \$10,000 and \$100,000. Present law further provides that this penalty does not apply to the female who has an abortion.

Proposed law retains present law but adds that, relative to the crime of abortion, it is unlawful for a physician to perform an abortion after 15 weeks following the date of conception.

Proposed law adds definitions of "abortion" and "gestational age".

Proposed law also provides that, relative to the crime of abortion, proposed law will become effective upon any final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for a state within the jurisdiction of that court of appeals to restrict abortion past 15 weeks of gestational age.

Proposed law provides that certain provisions are repealed in favor of the provisions of R.S. 40:1061 (health provisions: abortion), immediately upon and to the extent that the U.S. Supreme Court upholds the authority of states to prohibit elective abortions on demand or by the adoption of an amendment to the U.S. Constitution that would restore the state's authority to prohibit elective abortions.

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

(Amends R.S. 14:87(D); adds R.S. 14:87(E), (F), and (G))

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Adds definitions of "abortion" and "gestational age".

2. Adds provision that proposed law will become effective upon any final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, thereby authorizing a state within the jurisdiction of that court of appeals to restrict abortion past 15 weeks of gestational age.
3. Adds language specifying that certain provisions are repealed in favor of the provisions of present law, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the U.S. Constitution that would restore the state's authority to prohibit elective abortions.