

RÉSUMÉ DIGEST

ACT 468 (SB 181)

2018 Regular Session

Milkovich

Prior law defined "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.

Prior law provided that prior law relative to abortion does not apply to the female who has an abortion.

Prior law provided that it is not unlawful for a physician to perform any of the acts defined by prior 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.

Prior law defined "physician" as any person licensed to practice medicine in this state.

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

New law retains prior law but adds that, relative to the crime of abortion, it is unlawful for a physician to perform an abortion after 15 weeks gestational age.

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

New law also provides that, relative to the crime of abortion, new law will become effective upon 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.

New law provides that certain provisions are repealed in favor of the provisions of R.S. 40:1061 (health provisions: abortion), immediately upon and to the extent that the U.S. Supreme Court upholds the authority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.

New law provides that persons violating prohibitions against abortion be prosecuted pursuant to the effective provisions of R.S. 14:87 and be subject to the penalties provided in R.S. 40:1061.29 (health violations regarding abortion)

Effective upon signature of governor (May 23, 2018).

(Amends R.S. 14:87(D) and R.S. 40:1061(D); Adds R.S. 14:87(E), (F), and (G))