

SENATE BILL NO. 184

BY SENATORS MILKOVICH, CHABERT, ERDEY, FANNIN, GATTI, HENSGENS, HEWITT, JOHNS, LONG, MARTINY, MIZELL, RISER, JOHN SMITH, THOMPSON, WALSWORTH AND WHITE AND REPRESENTATIVES ABRAHAM, AMEDEE, ANDERS, ARMES, BACALA, BAGLEY, BARRAS, BERTHELOT, BILLIOT, CARMODY, CHANEY, CONNICK, CREWS, DEVILLIER, EDMONDS, EMERSON, GAROFALO, GISCLAIR, GUINN, LANCE HARRIS, HILL, HOFFMANN, HOLLIS, HORTON, HOWARD, HUVAL, IVEY, MIKE JOHNSON, NANCY LANDRY, LEBAS, MCFARLAND, MCMAHEN, MIGUEZ, MOORE, JAY MORRIS, JIM MORRIS, POPE, PUGH, PYLANT, RICHARD, SEABAUGH, STEFANSKI, TALBOT, WRIGHT AND ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 40:1061.1.3, relative to abortion; to prohibit the abortion of an unborn human
3 being with a detectable heartbeat; to provide definitions; to provide penalties; to
4 provide for effectiveness; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 40:1061.1.3 is hereby enacted to read as follows:

7 **§1061.1.3. Abortion prohibited; detectable fetal heartbeat; ultrasound required**
8 **A.(1)(a) Prior to any abortion being performed, there shall first be**
9 **performed an ultrasound, in accordance with the standards set forth in R.S.**
10 **40:1061.10(D), in order to determine whether or not a fetal heartbeat is present,**
11 **and the results of the ultrasound shall be included in the pregnant woman's**
12 **medical records.**

13 **(b) Except as provided in Paragraph (2), (3), or (4) of this Subsection, it**
14 **shall be unlawful for any person to knowingly perform an abortion with the**
15 **specific intent of causing or abetting the termination of the life of an unborn**
16 **human being when a fetal heartbeat has been detected. Any person who acts**
17 **based on the exceptions provided in Paragraph (2), (3), or (4) of this Subsection**
18 **shall so note in the pregnant woman's medical records and shall specify in the**

1 pregnant woman's medical records which of the exceptions the person
2 performing the abortion has invoked.

3 (2)(a) A person shall not be in violation of Paragraph (1) of this
4 Subsection if the person performs a medical procedure designed to or intended,
5 in that person's reasonable medical judgment, to prevent the death of a
6 pregnant woman or to prevent a serious risk of the substantial and irreversible
7 impairment of a major bodily function of the pregnant woman.

8 (b)(i) A person who performs a medical procedure as described in
9 Subparagraph (a) of this Paragraph shall declare in writing, under penalty of
10 perjury, that the medical procedure was necessary, to the best of that person's
11 reasonable medical judgment, to prevent the death of the pregnant woman or
12 to prevent a serious risk of the substantial and irreversible impairment of a
13 major bodily function of the pregnant woman. The person shall also provide in
14 that written statement the specific medical condition of the pregnant woman
15 that the medical procedure was performed to address, and the medical rationale
16 for the conclusion that the medical procedure was necessary to prevent the
17 death of the pregnant woman or to prevent a serious risk of the substantial and
18 irreversible impairment of a major bodily function of the pregnant woman.

19 (ii) The person who performs a medical procedure as described in
20 Subparagraph (a) of this Paragraph shall place the written documentation
21 required by this Subparagraph in the pregnant woman's medical records, and
22 shall maintain a copy of the written documentation for not less than seven years.

23 (3) A person shall not be in violation of Paragraph (1) of this Subsection
24 if the person has performed an examination for the presence of a fetal heartbeat
25 in the unborn human individual using standard medical practice and that
26 examination does not reveal a fetal heartbeat, or the person has been informed
27 by a physician who has performed the examination for a fetal heartbeat that the
28 examination did not reveal a fetal heartbeat.

29 (4) For purposes of this Section, "abortion" shall not include an abortion
30 performed when the pregnancy is diagnosed as medically futile.

1 **B. For purposes of this Section:**

2 **(1) "Fetal heartbeat" means cardiac activity or the steady and repetitive**
3 **rhythmic contraction of the fetal heart within the gestational sac.**

4 **(2) "Physician" means an individual licensed by the Louisiana State**
5 **Board of Medical Examiners.**

6 **(3) "Unborn human being" means an individual living member of the**
7 **species Homo sapiens throughout the entire embryonic and fetal stages, from**
8 **fertilization through full gestation and birth.**

9 **(4) "Medically futile" means that, in reasonable medical judgment, the**
10 **unborn child has a profound and irremediable congenital or chromosomal**
11 **anomaly that is incompatible with sustaining life after birth. This diagnosis shall**
12 **be a medical judgment certified in the pregnant woman's medical record by a**
13 **reasonably prudent physician who is knowledgeable about the case and the**
14 **treatment possibilities with respect to the medical conditions involved.**

15 **C. Whoever violates this Section shall be prosecuted pursuant to the**
16 **effective provisions of R.S. 14:87 and shall be subject to the penalties provided**
17 **in R.S. 40:1061.29.**

18 **D. In addition to any other grounds provided by law, it shall be grounds**
19 **for the nonissuance, suspension, revocation, or restriction of a license, or the**
20 **denial of reinstatement or renewal of a license, issued by the Louisiana State**
21 **Board of Medical Examiners, that the applicant or licensee has performed an**
22 **abortion in violation of this Section.**

23 **E. This Section shall not be construed to repeal any other provision of**
24 **law that restricts or regulates the performance of an abortion by a particular**
25 **method or during a particular stage of a pregnancy.**

26 **F. The provisions of this Section are hereby repealed in favor of the**
27 **provisions of R.S. 40:1061 immediately upon and to the extent that either:**

28 **(1) A decision of the United States Supreme Court upholds the authority**
29 **of each of the several states of the United States or of the state of Louisiana to**
30 **prohibit elective abortions.**

1 **(2) An amendment to the Constitution of the United States of America**
 2 **is adopted that restores to each of the several states of the United States or to**
 3 **the state of Louisiana the authority to prohibit elective abortions.**

4 Section 2. This Act shall become effective upon a final decision of the United States
 5 Court of Appeals for the Fifth Circuit upholding the Act that originated as Senate Bill 2116
 6 of the 2019 Regular Session of the Mississippi Legislature, which decision would thereby
 7 provide the authority for a state within the jurisdiction of that court of appeals to restrict
 8 abortion as provided in this Act.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____