

FOR OFFICE USE ONLY

HOUSE FLOOR AMENDMENTS

2022 Regular Session

Amendments proposed by Representative Schlegel to Reengrossed Senate Bill No. 388 by
Senator Hewitt

1 AMENDMENT NO. 1

2 On page 1, line 2, after "amend and reenact" delete the remainder of the line and insert in
3 lieu thereof "R.S. 51:1402(10) and R.S. 40:1061(A), to enact R.S. 14:87.9 and R.S. 40:962.2,
4 to repeal R.S. 14:88, and to amend and reenact certain provisions if and as enacted by the
5 Act which originated as Senate Bill No. 104 of this 2022 Regular Session of the
6 Legislature,"

7 AMENDMENT NO. 2

8 On page 1, line 3, delete "the crime of criminal"

9 AMENDMENT NO. 3

10 On page 1, line 10, after "practices;" and before "and" insert "to provide for the
11 interpretation of multiple abortion statutes;"

12 AMENDMENT NO. 4

13 On page 1, line 12, after "Section 1." delete the remainder of the line and insert in lieu
14 thereof "R.S. 14:87.9 is hereby enacted to read as follows:"

15 AMENDMENT NO. 5

16 On page 1, after line 12, delete the remainder of the page and delete pages 2 and 3 in their
17 entirety and on page 4 delete lines 1 through 11 in their entirety and insert in lieu thereof the
18 following:

19 **§87.9. Criminal abortion by means of abortion-inducing drugs**

20 **A. Criminal abortion by means of an abortion-inducing drug is**
21 **committed when a person knowingly causes an abortion to occur by means of**
22 **delivering, dispensing, distributing, or providing a pregnant woman with an**
23 **abortion-inducing drug.**

24 **B.(1) Except as provided in Paragraph (2) of this Subsection, the terms**
25 **used in this Section, unless a different meaning clearly appears in the context,**
26 **whether singular or plural, have the same meaning as the definitions provided**
27 **in R.S. 14:32.9.**

28 **(2) For purposes of this Section, the following definitions apply:**
29 **(a)(i) "Abortion-inducing drug" means any drug or chemical, or any**
30 **combination of drugs or chemicals, or any other substance when used with the**
31 **intent to cause an abortion, including but not limited to RU-486, the Mifeprex**
32 **regimen, misoprostol (Cytotec), or methotrexate.**

33 **(ii) Abortion-inducing drug shall not mean a contraceptive, an**
34 **emergency contraceptive, or the use of methotrexate to treat an ectopic**
35 **pregnancy.**

1 **(b) "Contraceptive" means any device, measure, drug, chemical, or**
 2 **product, including single-ingredient levonorgestrel, that has been approved by**
 3 **the United States Food and Drug Administration for the purpose of preventing**
 4 **pregnancy and is intended to be administered prior to the time when a clinically**
 5 **diagnosable pregnancy can be determined, provided that the contraceptive is**
 6 **sold, prescribed, or administered in accordance with manufacturer's**
 7 **instructions.**

8 **(c) "Emergency contraceptive" means a drug, chemical, or product,**
 9 **including single-ingredient levonorgestrel, that has been approved by the United**
 10 **States Food and Drug Administration designed or intended to be taken after**
 11 **sexual intercourse but prior to the time when a clinically diagnosable pregnancy**
 12 **can be determined, provided that the emergency contraceptive is sold,**
 13 **prescribed, or administered in accordance with manufacturer's instructions.**

14 **C.(1) Any person who knowingly performs an abortion by means of an**
 15 **abortion-inducing drug in violation of this Section shall be imprisoned at hard**
 16 **labor for not less than one nor more than five years, fined not less than five**
 17 **thousand nor more than fifty thousand dollars, or both.**

18 **(2) Any person who knowingly performs an abortion by means of**
 19 **abortion-inducing drug in violation of this Section that results in the death or**
 20 **serious bodily injury of the pregnant woman shall be imprisoned at hard labor**
 21 **for not less than five nor more than ten years, fined not less than ten thousand**
 22 **nor more than seventy-five thousand dollars, or both.**

23 **(3) Any person who knowingly performs or induces an abortion that**
 24 **results in the death or serious bodily injury of a pregnant woman under the age**
 25 **of eighteen in violation of this Section shall be imprisoned at hard labor for not**
 26 **less than fifteen nor more than fifty years, fined not less than fifteen thousand**
 27 **nor more than one hundred thousand dollars, or both.**

28 **D. Statutory Construction. None of the following shall be construed to**
 29 **create the crime of criminal abortion by means of an abortion-inducing drug:**

30 **(1) Any action taken when a physician or other licensed medical**
 31 **professional is acting in the course of administering lawful medical care.**

32 **(2) Any act taken or omission by a pregnant woman with regard to her**
 33 **own unborn child.**

34 **(3) Possessing for her own consumption or consuming an**
 35 **abortion-inducing drug by a pregnant woman in violation of this Section.**

36 **(4) Lawfully prescribing, dispensing, or distributing a drug, medicine,**
 37 **or other substance for a bona fide medical reason that is not intended to cause**
 38 **an abortion in violation of this Section.**

39 **(5) Any act by a licensed pharmacist or pharmacy related to filling a**
 40 **prescription for a drug, medicine, or other substance prescribed for a bona fide**
 41 **medical reason shall not subject the pharmacist or the pharmacy to the criminal**
 42 **consequences of this Section. A diagnosis or a diagnosis code shall be written**
 43 **on the prescription by the prescriber indicating that the drug, medicine, or**
 44 **other substance is intended for a purpose other than to cause an abortion in**
 45 **violation of this Section.**

46 **(6)(a) The act of administering an abortion-inducing drug when the**
 47 **drug is administered by a physician licensed by the state of Louisiana who**
 48 **administers the abortion-inducing drug in person to the pregnant woman.**

49 **(b) The provisions of Subparagraph (a) of this Paragraph shall not be**
 50 **a defense against prosecution under any other provision of law that makes the**
 51 **abortion unlawful, whether the other provision of law is in effect on the effective**
 52 **date of this Act or becomes unlawful at a later date.**

53 **(7) Any act by a licensed pharmacist or pharmacy related to filling a**
 54 **prescription for a drug, medicine, or other substance prescribed for a bona fide**
 55 **medical reason shall not subject the pharmacist or the pharmacy to the criminal**
 56 **consequences of this Section. A diagnosis or a diagnosis code shall be written**
 57 **on the prescription by the prescriber indicating that the drug, medicine, or**

1 other substance is intended for a purpose other than to cause an abortion in
2 violation of this Section.

3 Section 2. R.S. 40:1061(A) is hereby amended and reenacted and R.S. 40:962.2 is
4 hereby enacted to read as follows:"

5 AMENDMENT NO. 6

6 Delete House Committee Amendments Nos. 1, 2, and 3 by the House Committee on Health
7 and Welfare (#4611)

8 AMENDMENT NO. 7

9 On page 4, line 12, change "Chemical abortion and abortion-inducing drugs;" to
10 "Abortion-inducing drugs;"

11 AMENDMENT NO. 8

12 In House Committee Amendment No. 4 by the House Committee on Health and Welfare
13 (#4611), on page 1, line 22, change "R.S. 14:32.9." to "R.S. 14:87.9."

14 AMENDMENT NO. 9

15 Delete House Committee Amendment No. 7 by the House Committee on Health and Welfare
16 (#4611)

17 AMENDMENT NO. 10

18 On page 5, between lines 9 and 10, insert the following:

19 "G. Any act by a licensed pharmacist or pharmacy related to filling a
20 prescription for a drug, medicine, or other substance prescribed for a bona fide
21 medical reason shall not subject the pharmacist or the pharmacy to the criminal
22 consequences of this Section. A diagnosis or a diagnosis code shall be written
23 on the prescription by the prescriber indicating that the drug, medicine, or
24 other substance is intended for a purpose other than to cause an abortion in
25 violation of this Section.

26 * * *

27 §1061. Abortion; prohibition

28 A. The provisions of this Act shall become effective immediately upon, and
29 to the extent permitted, by the occurrence of any of the following circumstances:

30 (1) Any decision of the ~~United States~~ Supreme Court of the United States
31 which reverses overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct.
32 705, 35 L.Ed. 2d 147 (1973), thereby; restoring to the state of Louisiana the authority
33 to prohibit or limit abortion.

34 (2) Adoption of an amendment to the United States Constitution which, in
35 whole or in part, restores to the state of Louisiana the authority to prohibit or limit
36 abortion.

37 (3) A decision of the Supreme Court of the United States in the case of
38 Dobbs v. Jackson Women's Health Organization, Docket No. 19-1392, which
39 overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.
40 2d 147 (1973), thereby restoring to the state of Louisiana the authority to
41 prohibit or limit abortion.

42 * * *"

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 AMENDMENT NO. 11

2 On page 5, between lines 22 and 23, insert the following:

3 "Section 4. R.S. 14:88 is hereby repealed."

4 AMENDMENT NO. 12

5 On page 5, line 23, change "Section 4." to "Section 5."

6 AMENDMENT NO. 13

7 On page 5, after line 26, add the following:

8 "Section 6. If the bill that originated as Senate Bill No. 342 of this 2022 Regular
9 Session of the legislature is enacted and becomes law, the provisions containing definitions
10 in R.S. 14:87.9(B) in Section 1 of this Act and R.S. 40:962.2(B) in Section 2 of this Act shall
11 be null and void.

12 Section 7. If Senate Bill No.104 of this 2022 Regular Session of the legislature is
13 enacted, R.S. 40:2175.8 as enacted in Section 1 of Senate Bill No.104 is hereby amended
14 and reenacted to read as follows:

15 §2175.8. Patient's right to unimpeded, private, and uncensored telephone
16 communications; condition of facility licensing; penalties

17 * * *

18 **C.(1) The provisions of this Section shall not be construed to provide a**
19 **right to an abortion and are superseded by other provisions of law that restrict**
20 **or prohibit abortion.**

21 **(2) The provisions of this Section are intended to regulate the practice**
22 **of abortion to provide for the health, safety, and welfare of women in outpatient**
23 **abortion facilities until such time and to the extent that the state of Louisiana**
24 **no longer regulates outpatient abortion facilities.**

25 Section 8. It is the intention of the legislature that all of the following apply to this
26 Act:

27 (A) This Act shall not be construed to repeal any other provision of law that restricts
28 or prohibits abortion.

29 (B) The legislature reaffirms its long-standing public policy that every unborn child
30 is a human being and has the inalienable right to life.

31 (C) The provisions of this Act are enacted to provide for the health, safety, and
32 welfare of women until such time and to the extent that the state of Louisiana no longer
33 regulates the practice of abortion or because Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35
34 L.Ed. 2d 147 (1973) and its progeny have been overturned or because an amendment to the
35 Constitution of the United States of America has been enacted which restores to the state of
36 Louisiana the authority to restrict abortion and prohibit abortions.

37 (D) A decision of the Supreme Court in the case of Dobbs v. Jackson Women's
38 Health Organization, Docket No. 19-1392, which overrules, in whole or in part, Roe v.
39 Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of
40 Louisiana the authority to prohibit or limit abortion shall apply to the provisions of R.S.
41 40:1061 or Act No. 468 of the 2018 Regular Session or both, or whichever one is
42 applicable."