

RÉSUMÉ DIGEST

ACT 548 (SB 388)

2022 Regular Session

Hewitt

New law creates the crime of abortion by means of abortion-inducing drugs and provides that any person who knowingly violates new law is subject to the following penalties:

- (1) Imprisonment at hard labor for not less than one nor more than five years, a fine of not less than \$5,000 nor more than \$50,000, or both.
- (2) If the action results in the death or serious bodily injury of the pregnant woman, imprisonment at hard labor for not less than five nor more than 10 years, a fine of not less than \$10,000 nor more than \$75,000, or both.
- (3) If the action results in the death or serious bodily injury of a pregnant woman under the age of 18, imprisonment at hard labor for not less than 15 nor more than 50 years, a fine of not less than \$15,000 nor more than \$100,000, or both.

New law provides for an enumerated list of actions that shall not be construed to create the crime of criminal abortion by means of an abortion-inducing drug.

Existing law requires, when any drug or chemical is used for the purpose of inducing an abortion, the physician who prescribed the drug or chemical to be in the same room and in the physical presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

New law prohibits, except as provided in existing law, an abortion-inducing drug from being sold, prescribed, dispensed, distributed, or delivered in Louisiana in violation of new law. Further prohibits delivery to a person in Louisiana by mail-order, courier, or as a result of a sale made via the internet in violation of new law.

New law authorizes the La. Dept. of Health to promulgate rules to allow products that contain an abortion-inducing drug to be distributed for uses other than causing an abortion. Requires healthcare providers to write a diagnosis or a diagnosis code on the prescription that clearly indicates that the prescription is not intended to cause an abortion in violation of new law.

New law provides that whoever sells or distributes an abortion-inducing drug without a prescription is subject to criminal penalties of not more than \$1,000 or imprisoned for not more than six months, or both, and each instance of a sale or distribution of an abortion-inducing drug is considered a separate offense for purposes of the criminal penalties. Further provides that possessing an abortion-inducing drug for personal consumption shall not subject a pregnant women to criminal consequences.

New law provides that any act by a licensed pharmacist or pharmacy related to filling a prescription for a drug, medicine, or other substance prescribed for a bona fide medical reason does not subject the pharmacist or the pharmacy to the criminal consequences contained in new law. Requires that a diagnosis or a diagnosis code be written on the prescription by the prescriber indicating that the drug, medicine, or other substance is intended for a purpose other than to cause an abortion.

Existing law provides for potential effective dates of the Human Life Protection Act.

New law adds, as a potential effective date, a decision of the U.S. Supreme Court in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

Prior law defined "trade" or "commerce" for the purposes of the Unfair Trade Practices and Consumer Protection Law.

New law expands the definition to include the advertising, offering for sale, sale, or distribution of abortion-inducing drugs in violation of new law.

New law repeals the crime of distribution of abortifacients.

Invalidity of any provision of new law does not invalidate the remainder of new law.

Effective August 1, 2022.

(Amends R.S. 40:1061(A) and R.S. 51:1402(10); adds R.S. 14:87.9 and R.S. 40:962.2 and 2175.8(C); repeals R.S. 14:88)