

2016 Regular Session

HOUSE BILL NO. 1019

BY REPRESENTATIVES EDMONDS, BAGLEY, COX, HENSGENS, HOFFMANN,  
HORTON, AND LEBAS

ABORTION: Prohibits abortion based on genetic abnormality

1 AN ACT

2 To enact R.S. 40:1061.1.1, relative to regulation of abortion; to provide a definition of  
3 genetic abnormality; to prohibit the performance of an abortion and any attempt to  
4 perform an abortion when a pregnant woman seeks the abortion because of a genetic  
5 abnormality of the unborn child; to provide penalties for violations of the  
6 prohibition; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1061.1.1 is hereby enacted to read as follows:

9 §1061.1.1. Abortion based on genetic abnormality; prohibition

10 A. As used in this Section, the following terms have the meaning ascribed  
11 in this Subsection:

12 (1)(a) "Abortion" shall have the meaning provided in R.S. 40:1061.9.

13 (b)(i) For purposes of this Section, "abortion" shall not include an abortion  
14 performed when the pregnancy is diagnosed as medically futile.

15 (ii) For purposes of this Subparagraph, "medically futile" means that, in  
16 reasonable medical judgement, the unborn child has a profound and irremediable  
17 congenital or chromosomal anomaly that is incompatible with sustaining life after  
18 birth. This diagnosis must be a medical judgment that would be made by a  
19 reasonably prudent physician who is knowledgeable about the case and the treatment  
20 possibilities with respect to the medical conditions involved.

1           (2) "Genetic abnormality" means any defect, disease, or disorder that is  
2           inherited genetically. The term includes, without limitation, any physical  
3           disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other  
4           type of physical, mental, or intellectual disability, abnormality, or disease.

5           B. Notwithstanding any other provision of law, it shall be unlawful for any  
6           person to intentionally perform or attempt to perform an abortion with knowledge  
7           that the pregnant woman is seeking the abortion solely because the unborn child has  
8           been diagnosed with either a genetic abnormality or a potential for a genetic  
9           abnormality.

10           C. Whoever violates the provisions of this Section shall be subject to the  
11           penalties provided in R.S. 40:1061.29.

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

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 1019 Engrossed

2016 Regular Session

Edmonds

**Abstract:** Prohibits the performance of an abortion and any attempt to perform an abortion when a pregnant woman seeks the abortion because of a genetic abnormality of the unborn child.

Proposed law provides that the term "abortion" has the following meaning as ascribed in present law, R.S. 40:1061.9:

"Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (1) Save the life or preserve the health of an unborn child.
- (2) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the

results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

- (3) Remove an ectopic pregnancy.

Proposed law stipulates that for purposes of proposed law, the term "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile. Provides that for purposes of proposed law, "medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth; and that this diagnosis must be a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

Proposed law provides that for purposes of proposed law, "genetic abnormality" means any defect, disease, or disorder that is inherited genetically. Provides that the term includes, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.

Proposed law provides that notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking the abortion solely because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.

Proposed law provides that whoever violates the provisions of proposed law shall be subject to any of the following penalties and actions provided in present law, R.S. 40:1061.29, for violation of prohibitions against abortion generally:

- (1) A fine of not more than \$1,000 per incidence or occurrence, or imprisonment for not more than two years, or both.
- (2) A civil malpractice action brought by the woman upon whom the abortion was performed.
- (3) Professional disciplinary action under present law, R.S. 37:1261 et seq., relative to powers and duties of the La. State Board of Medical Examiners.
- (4) Recovery by the woman for the death of her unborn child under present law, C.C. Art. 2315.2, relative to wrongful death actions, whether or not the unborn child was viable at the time the abortion was performed or was born alive.

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

(Adds R.S. 40:1061.1.1)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Stipulate that for purposes of proposed law, the term "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.
2. Provide that for purposes of proposed law, "medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable

congenital or chromosomal anomaly that is incompatible with sustaining life after birth; and that this diagnosis must be a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.