

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 1019

2016 Regular Session

Edmonds

ABORTION: Prohibits abortion based on genetic abnormality

### Synopsis of Senate Amendments

1. Adds "diagnosed" as a defined term in proposed law.
2. Limits applicability of the prohibition provided in proposed law on abortion sought only because the unborn child has been diagnosed with a genetic abnormality or a potential for a genetic abnormality by specifying that the prohibition does not apply in the following circumstances:
  - (a) When the unborn child upon whom the abortion is intentionally performed or attempted is less than 20 weeks post-fertilization age.
  - (b) When the abortion is necessary to save the life of the mother.
3. Prohibits any person from intentionally performing or attempting to perform an abortion of an unborn child of less than 20 weeks post-fertilization age unless the person first provides the pregnant woman with all of the following information relative to fetal genetic abnormality and children with disabilities, regardless of whether the woman is aware of any genetic abnormality of her unborn child:
  - (a) Information on resources, programs, and services for women who have a diagnosis of fetal genetic abnormality.
  - (b) Information on resources, programs, and services for infants and children born with disabilities.
4. Requires that the information relative to fetal genetic abnormality and children with disabilities required by proposed law to be given to any woman seeking an abortion be given to the woman at the same time as other information required to be delivered to the woman by present law, R.S. 40:1061.17(B).
5. Requires that the Department of Health and Hospitals develop an informational document to comply with the mandate established in proposed law to include resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. Requires further that the department make such information available to any requesting provider of women's healthcare services and maintain the information on a link on the department's website.

### Digest of Bill as Finally Passed by Senate

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 shall be a medical judgment certified in the pregnant woman's medical record 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 of an unborn child of 20 or more weeks post-fertilization age 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 it shall be unlawful for a person to intentionally perform or attempt to perform an abortion of an unborn child of less than 20 weeks post-fertilization age without first providing the pregnant woman with an informational document including resources, programs, and services for women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. Requires that the informational document provided for in proposed law be given to the pregnant woman at the same time as the requirements in present law, R.S. 40:1061.17(B).

Proposed law requires that the Department of Health and Hospitals develop an informational document to comply with the mandate established in proposed law to include resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. Requires further that the department make such information available to any requesting provider of women's healthcare services and maintain the information on a link on the department's website.

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)