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## DIGEST

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HB 575 Engrossed

2025 Regular Session

Ventrella

**Abstract:** Provides relative to causes of action for an unlawful termination of a pregnancy.

Present law (R.S. 9:2800.12(A)) provides that any person who performs an abortion is liable to the mother of the unborn child for any damages. The action survives a period of three years from the date of discovery of the damage with a preemptive period of 10 years from the date of the abortion.

Proposed law changes present law by increasing the prescriptive period from three years from the date of discovery of the damage to five years.

Proposed law also expands present law by including any person or entity who causes or substantially facilitates an abortion. Those persons could be held liable for damages to the following people:

- (1) The natural or biological father of the unborn child except when the father impregnated the mother of the unborn child through act of rape, sexual assault, or incest.
- (2) The maternal and paternal grandparents of the unborn child.
- (3) The legal custodian of the mother of the unborn child if the mother was a minor at the time the abortion was caused, performed, or attempted.

Present law (R.S. 9:2800.12(B)) defines "abortion", "damage", and "unborn child".

Proposed law retains the definition of "unborn child", removes the definition of "damage", and adds the definition of "substantially facilitates". It changes the definition of "abortion" to have the same meaning as provided by R.S. 14:87.1.

Present law (R.S. 9:2800.12(C)(1)) provides that the signing of a consent form by the mother prior to the abortion does not negate a cause of action but reduces the recovery of damages to the extent that the content of the consent form informed the mother of the risk of the type of injuries or loss for which she is seeking to recover. It also provides that medical malpractice or limitations of liability provided in present law do not apply to present law.

Proposed law removes the provision that provides that the signing of a consent form by the mother prior to the abortion does not negate a cause of action but reduces the recovery of damages to the extent that the content of the consent form informed the mother of the risk of the type of injuries or loss for which she is seeking to recover.

Proposed law provides that a person bringing an action under proposed law may recover statutory damages, special damages, general damages, exemplary damages, court costs, and attorney fees.

Proposed law provides that courts shall have personal jurisdiction over any defendant sued under proposed law.

Proposed law provides the following list of persons who are exempt from liability for the provisions of proposed law:

- (1) The woman upon whom an abortion was performed, caused, or attempted.
- (2) A healthcare provider licensed to practice medicine in this state for the provision of healthcare that is not defined as abortion under R.S. 14:87.1.
- (3) A pharmacist or pharmacy licensed in this state for actions related to filling a prescription for a drug, medicine, or other substance prescribed for a bona fide medical reason.
- (4) A mental health professional or advocate for sexual assault survivors who provides counseling or support services in a manner that does not include the promotion of or referral to abortion resources.

Proposed law requires the court, if requested, to allow an individual bringing an action under proposed law to use initials or a pseudonym of the mother of the unborn child. The court may also close any proceedings in the case or enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed, attempted, or caused.

Proposed law provides that it may be known and cited as the "Justice for Victims of Abortion Drug Dealers Act".

(Amends R.S. 9:2800.12)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.
2. Define "substantially facilitates".
3. Add an exemption to liability for any mental health professional or advocate in certain circumstances.