
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Proposed law creates the crime of criminal abortion.

Proposed law defines "criminal abortion" as the performance of an abortion where the abortionist is not a La. licensed physician.

Proposed law provides that any person who is guilty of criminal abortion will be imprisoned at hard labor for not less than one nor more than five years, fined not less than \$5,000 nor more than \$50,000, or both.

Proposed law creates the crime of aggravated criminal abortion by dismemberment.

Proposed law defines "aggravated criminal abortion" by dismemberment as an abortion where the unborn child is dismembered, whether the act of dismemberment was in the course of or following the death of the unborn child.

Proposed law provides that any person who is guilty of aggravated criminal abortion will be imprisoned at hard labor for not less than one nor more than 10 years, fined not less than \$10,000 nor more than \$100,000, or both.

Proposed law provides for the following definitions:

1. "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:
 - (a) Save the life or preserve the health of an unborn child.
 - (b) 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.
 - (c) Remove an ectopic pregnancy.

2. "Dismemberment" or "dismembering" means the use of a clamp, forceps, curette, suction cannula, or any other surgical tool or instrument with the intent to disarticulate the head or limb(s) from the body of the unborn child during an abortion, including but not limited to the common abortion methods known as suction curettage and dilation and evacuation.
3. "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.
4. "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

Proposed law provides that none of the following will be construed to create the crime of criminal abortion:

1. Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.
2. Any act or omission taken by a pregnant woman with regard to her own unborn child.

Proposed law provides nothing in proposed law will be construed as creating or recognizing a right to abortion.

Proposed law provides nothing in proposed law is intended to make lawful an abortion that is currently unlawful.

Proposed law provides that prosecution for a criminal abortion or aggravated criminal abortion will not preclude prosecution for another violation of criminal law.

Effective August 1, 2012

(Adds R.S. 14:32.9 and 32.9.1)