

SENATE BILL NO. 330

BY SENATOR WARD AND REPRESENTATIVES ADAMS, ARMES, BADON, BARRAS, BARROW, STUART BISHOP, BROADWATER, HENRY BURNS, TIM BURNS, BURRELL, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, DANAHAY, GAROFALO, GUILLORY, GUINN, HARRIS, HARRISON, HAZEL, HENRY, HENSGENS, HILL, HOFFMANN, HOLLIS, HOWARD, HUNTER, KATRINA JACKSON, NANCY LANDRY, LIGI, LOPINTO, LORUSSO, MACK, JAY MORRIS, NORTON, POPE, PYLANT, REYNOLDS, SCHRODER, SEABAUGH, SIMON, ST. GERMAIN, TALBOT, THIBAUT, THOMPSON AND WHITNEY

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AN ACT

To enact R.S. 14:32.9 and 32.9.1, relative to abortion; to create the crime of criminal abortion; to create the crime of aggravated criminal abortion; to prohibit any individual who is not a licensed physician from performing an abortion; to prohibit the dismemberment of an unborn child by an abortionist who is not a licensed physician; to provide for definitions; to provide for exceptions; to provide for construction; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:32.9 and 32.9.1 are hereby enacted to read as follows:

§32.9. Criminal abortion

A. Criminal abortion is an abortion performed, with or without the consent of the pregnant woman or her legal guardian, that results in the death of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana.

B. As used in this Section:

(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:

1 (a) Save the life or preserve the health of an unborn child.

2 (b) Remove a dead unborn child or induce delivery of the uterine
3 contents in case of a positive diagnosis, certified in writing in the woman's
4 medical record along with the results of an obstetric ultrasound test, that the
5 pregnancy has ended or is in the unavoidable and untreatable process of ending
6 due to spontaneous miscarriage, also known in medical terminology as
7 spontaneous abortion, missed abortion, inevitable abortion, incomplete
8 abortion, or septic abortion.

9 (c) Remove an ectopic pregnancy.

10 (2) "Physician" means a natural person who is the holder of an
11 allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college
12 in good standing with the Louisiana State Board of Medical Examiners who
13 holds a license, permit, certification, or registration issued by the Louisiana
14 State Board of Medical Examiners to engage in the practice of medicine in this
15 state.

16 (3) "Unborn child" means the unborn offspring of human beings from
17 the moment of conception through pregnancy and until live birth.

18 C. Any person who knowingly performs an abortion in violation of this
19 Section shall be imprisoned at hard labor for not less than one nor more than
20 five years, fined not less than five thousand nor more than fifty thousand
21 dollars, or both.

22 D. Statutory Construction. None of the following shall be construed to
23 create the crime of criminal abortion:

24 (1) Any action taken when a physician or other licensed medical
25 professional is acting in the course of administering lawful medical care and an
26 unborn child dies.

27 (2) Any act taken or omission by a pregnant woman with regard to her
28 own unborn child.

29 §32.9.1. Aggravated criminal abortion by dismemberment

30 A. Aggravated criminal abortion by dismemberment is the commission

1 of a criminal abortion, as defined in R.S. 14:32.9(A), when the unborn child is
2 intentionally dismembered, whether the act of dismemberment was in the
3 course of or following the death of the unborn child.

4 B. As used in this Section:

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

11 (a) Save the life or preserve the health of an unborn child.

12 (b) Remove a dead unborn child or induce delivery of the uterine
13 contents in case of a positive diagnosis, certified in writing in the woman's
14 medical record along with the results of an obstetric ultrasound test, that the
15 pregnancy has ended or is in the unavoidable and untreatable process of ending
16 due to spontaneous miscarriage, also known in medical terminology as
17 spontaneous abortion, missed abortion, inevitable abortion, incomplete
18 abortion, or septic abortion.

19 (c) Remove an ectopic pregnancy.

20 (2) "Dismembered" or "dismemberment" means the use of a clamp,
21 forceps, curette, suction cannula, or any other surgical tool or instrument with
22 the intent to disarticulate the head or limbs from the body of the unborn child
23 during an abortion, including but not limited to the common abortion methods
24 known as suction curettage and dilation and evacuation.

25 (3) "Physician" means a natural person who is the holder of an
26 allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college
27 in good standing with the Louisiana State Board of Medical Examiners who
28 holds a license, permit, certification, or registration issued by the Louisiana
29 State Board of Medical Examiners to engage in the practice of medicine in this
30 state.

1 (4) "Unborn child" means the unborn offspring of human beings from
2 the moment of conception through pregnancy and until live birth.

3 C. Any person who knowingly performs an abortion in violation of this
4 Section shall be imprisoned at hard labor for not less than one nor more than
5 ten years, fined not less than ten thousand nor more than one hundred thousand
6 dollars, or both.

7 D. Exceptions. None of the following shall be construed to create the
8 crime of criminal abortion:

9 (1) Any action taken when a physician or other licensed medical
10 professional is acting in the course of administering lawful medical care and an
11 unborn child dies.

12 (2) Any act taken or omission by a pregnant woman with regard to her
13 own unborn child.

14 Section 2. Nothing in this Act shall be construed as creating or recognizing a right
15 to abortion. It is not the intention of this Act to make lawful an abortion that is currently
16 unlawful. Nothing in this Act shall be construed to preclude a prosecution under any other
17 section or provision of the law.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____