

SENATE BILL NO. 90

BY SENATORS MILLS, APPEL, BROOME, CORTEZ, CROWE, JOHNS, LONG, MARTINY, NEVERS, PEACOCK, PERRY, RISER, TARVER, THOMPSON AND WARD AND REPRESENTATIVES ADAMS, ANDERS, BARROW, BROADWATER, BURFORD, HENRY BURNS, TIM BURNS, CARTER, CHAMPAGNE, CHANEY, COX, DOVE, FRANKLIN, GAROFALO, GISCLAIR, GUILLORY, HARRISON, HAVARD, HAZEL, HENRY, HENSGENS, HILL, HODGES, HOFFMANN, HONORE, HOWARD, IVEY, KATRINA JACKSON, JOHNSON, LEBAS, LORUSSO, MILLER, MONTOUCET, JAY MORRIS, ORTEGO, POPE, PUGH, PYLANT, REYNOLDS, RICHARD, SEABAUGH, SIMON, ST. GERMAIN, STOKES, TALBOT, THIBAUT, THOMPSON, WHITNEY, PATRICK WILLIAMS AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 40:1299.35.1(7), 1299.35.2(A), 1299.35.19(introductory  
3 paragraph) and (1) and to enact R.S. 40:1299.35.2.1, relative to abortions; to amend  
4 the definition of "physician"; to provide for certain requirements which must be met  
5 by a physician who performs an abortion; to provide for drugs or chemicals used; to  
6 provide for penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1299.35.1(7), 1299.35.2(A), 1299.35.19(introductory paragraph)  
9 and (1) are hereby amended and reenacted and R.S. 40:1299.35.2.1 is hereby enacted to read  
10 as follows:

11 §1299.35.1. Definitions

12 As used in R.S. 40:1299.35.0 through 1299.35.19, the following words have  
13 the following meanings:

14 \* \* \*

15 (7) "Physician" means a person licensed to practice medicine in the state of  
16 Louisiana **who meets the requirements of R.S. 40:1299.35.2.**

17 \* \* \*

18 §1299.35.2. Abortion by physician; determination of viability; ultrasound test  
19 required; exceptions; penalties

1           A. Physician requirement. No person shall perform or induce an abortion  
 2 unless that person is a physician licensed to practice medicine in the state of  
 3 Louisiana **and is currently enrolled in or has completed a residency in obstetrics**  
 4 **and gynecology or family medicine.** Any outpatient abortion facility that  
 5 knowingly **or negligently** employs, contracts with, or provides any valuable  
 6 consideration for the performance of an abortion ~~to~~ **in an outpatient abortion**  
 7 **facility by** any person who is not a physician licensed to practice medicine in the  
 8 state of Louisiana, **does not meet the requirements of this Section** is subject to  
 9 having its license denied, non-renewed, or revoked by the Department of Health and  
 10 Hospitals in accord with R.S. 40:2175.6.

11   \*           \*           \*

12 **§1299.35.2.1. Drugs or chemicals used; penalties**

13           **A. When any drug or chemical is used for the purpose of inducing an**  
 14 **abortion as defined in R.S. 40:1299.35.1(1), the physician who prescribed the**  
 15 **drug or chemical shall be in the same room and in the physical presence of the**  
 16 **pregnant woman when the drug or chemical is initially administered, dispensed,**  
 17 **or otherwise provided to the pregnant woman.**

18           **B. Any person who knowingly performs or attempts to perform an**  
 19 **abortion without complying with the requirements of this Section shall be**  
 20 **subject to penalties pursuant to R.S. 40:1299.35.19. No penalty may be assessed**  
 21 **against the woman upon whom the abortion is performed or attempted to be**  
 22 **performed.**

23   \*           \*           \*

24 §1299.35.19. Penalties

25           Whoever violates the provisions of this Part shall be fined not more than one  
 26 thousand dollars **per incidence or occurrence**, or imprisoned for not more than two  
 27 years, or both. In addition to whatever remedies are otherwise available under the  
 28 law of this state, failure to comply with the provisions of this Part shall:

29           (1) Provide a basis for a civil malpractice action. **Such an action may be**  
 30 **brought by the woman upon whom the abortion was performed.** Any intentional

1 violation of this Part shall be admissible in a civil suit as prima facie evidence of a  
 2 failure to comply with the requirements of this Part. When requested, the court shall  
 3 allow a woman to proceed using solely her initials or a pseudonym and may close  
 4 any proceedings in the case and enter other protective orders to preserve the privacy  
 5 of the woman upon whom the abortion was performed.

\* \* \*

7 Section 2. If any provision or item of this Act, or the application thereof, is held  
 8 invalid, such invalidity shall not affect other provisions, items, or applications of the Act  
 9 which can be given effect without the invalid provision, item, or application and to this end  
 10 the provisions of this Act are hereby declared severable.

11 Section 3. This Act shall become effective upon signature by the governor or, if not  
 12 signed by the governor, upon expiration of the time for bills to become law without signature  
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 15 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_