ABORTION: Prohibits abortion based on genetic abnormality

AN ACT
To enact R.S. 40:1061.1.1, relative to regulation of abortion; to provide a definition of
genetic abnormality; to prohibit the performance of an abortion and any attempt to
perform an abortion when a pregnant woman seeks the abortion because of a genetic
abnormality of the unborn child; to provide penalties for violations of the
prohibition; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1.  R.S. 40:1061.1.1 is hereby enacted to read as follows:

§1061.1.1.  Abortion based on genetic abnormality; prohibition

A.  As used in this Section, the following terms have the meaning ascribed

in this Subsection:

1. (a) "Abortion" shall have the meaning provided in R.S. 40:1061.9.

2. (b)(i) For purposes of this Section, "abortion" shall not include an abortion

performed when the pregnancy is diagnosed as medically futile.

3. (ii) For purposes of this Subparagraph, "medically futile" means that, in

reasonable medical judgement, the unborn child has a profound and irremediable

congenital or chromosomal anomaly that is incompatible with sustaining life after

birth.  This diagnosis shall be a medical judgment certified in the pregnant woman's

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are additions.
medical record by a reasonably prudent physician who is knowledgeable about the
case and the treatment possibilities with respect to the medical conditions involved.

(2) "Genetic abnormality" means any defect, disease, or disorder that is
inherited genetically. 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.

B. Notwithstanding any other provision of law, it shall be unlawful for any
person to intentionally perform or attempt to perform an abortion 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.

C. Whoever violates the provisions of this Section shall be subject to the
penalties provided in R.S. 40:1061.29.

Section 2. This Act shall become effective upon signature by the governor or, if not
signed by the governor, upon expiration of the time for bills to become law without signature
by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
vetoed by the governor and subsequently approved by the legislature, this Act shall become
effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part
of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1019 Reengrossed 2016 Regular Session Edmonds

Abstract: Prohibits the performance of an abortion and any attempt to perform an abortion
when a pregnant woman seeks the abortion because of a genetic abnormality of the
unborn child.

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:

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(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 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 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)

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Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Stipulate that for purposes of proposed law, the term "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

2. Provide 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 must be a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

The House Floor Amendments to the engrossed bill:

1. Provide that for purposes of proposed law, a diagnosis of a pregnancy as medically futile shall be a medical judgment certified in the pregnant woman's medical record.