**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA STANDS FOR LIFE ACT” BY ADDING ARTICLE 6 TO CHAPTER 41, TITLE 44 SO AS TO REQUIRE TESTING FOR A DETECTABLE FETAL HEARTBEAT BEFORE AN ABORTION IS PERFORMED ON A PREGNANT WOMEN AND TO PROHIBIT THE PERFORMANCE OF AN ABORTION WHEN A FETAL HEARTBEAT IS DETECTED, BOTH WITH MEDICAL EMERGENCY EXCEPTIONS, TO DEFINE CERTAIN TERMS, TO REQUIRE CERTAIN DOCUMENTATION AND RECORDKEEPING BY PHYSICIANS PERFORMING ABORTIONS, TO CREATE A CIVIL ACTION FOR A PREGNANT WOMAN UPON WHOM AN ABORTION IS PERFORMED, TO CREATE CRIMINAL PENALTIES, AND FOR OTHER PURPOSES; TO AMEND SECTION 44‑41‑460, RELATING TO REQUIRED REPORTING OF ABORTION DATA TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO ADD REPORTING OF FETAL HEARTBEAT TESTING AND PATIENT MEDICAL CONDITION DATA; TO AMEND SECTION 44‑41‑330, RELATING TO A PREGNANT WOMAN’S RIGHT TO KNOW CERTAIN PREGNANCY INFORMATION, SO AS TO REQUIRE NOTIFICATION OF THE DETECTION OF A FETAL HEARTBEAT; BY ADDING ARTICLE 8 TO CHAPTER 41, TITLE 44 SO AS TO PROHIBIT DISMEMBERMENT ABORTIONS, WITH EXCEPTIONS, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR INJUNCTIVE RELIEF AND CIVIL AND CRIMINAL PENALTIES, AND FOR OTHER PURPOSES; BY ADDING ARTICLE 10 TO CHAPTER 41, TITLE 44 SO AS TO ESTABLISH CERTAIN NOTICE REQUIREMENTS ADDRESSING THE POSSIBILITY OF REVERSING THE EFFECTS OF CERTAIN CHEMICAL ABORTIONS APPLICABLE TO PRIVATE OFFICES AND FACILITIES IN WHICH ABORTIONS ARE PERFORMED AND TO PHYSICIANS OF PATIENTS CONSIDERING A CHEMICAL ABORTION, TO DEFINE CERTAIN TERMS, TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PUBLISH PRINTED MATERIALS ABOUT THE POSSIBILITY OF REVERSING CERTAIN CHEMICAL ABORTIONS AND TO MAKE THE INFORMATION AVAILABLE ON THE DEPARTMENT’S WEBSITE, TO ESTABLISH CERTAIN REQUIREMENTS APPLICABLE TO PHYSICIANS WHO PRESCRIBE A CHEMICAL ABORTION PILL; TO CREATE CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF THE PROVISIONS OF THE ARTICLE, TO CREATE A PRIVATE RIGHT OF ACTION FOR A WOMAN UPON WHOM A CHEMICAL ABORTION IS PERFORMED IN VIOLATION OF THE PROVISIONS OF THE ARTICLE, WITH EXCEPTIONS, AND FOR OTHER PURPOSES; AND BY ADDING SECTION 44‑41‑95 SO AS TO PROVIDE THAT IF ROE V. WADE IS OVERTURNED, ABORTION SHALL BECOME ILLEGAL IN SOUTH CAROLINA, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and cited as the “South Carolina Stands for Life Act”.

SECTION 2. A. Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Article 6

South Carolina Fetal Heartbeat Protection From Abortion

Section 44‑41‑610. As used in this article:

(1) ‘Conception’ means fertilization.

(2) ‘Contraceptive’ means a drug, device, or chemical that prevents conception.

(3) ‘Fetal heartbeat’ means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

(4) ‘Gestational age’ means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman.

(5) ‘Gestational sac’ means the structure that comprises the extraembryonic membranes that envelop the human fetus and that is typically visible by ultrasound after the fourth week of pregnancy.

(6) ‘Human fetus’ or ‘unborn child’ each means an individual organism of the species homo sapiens from fertilization until live birth.

(7) ‘Intrauterine pregnancy’ means a pregnancy in which the human fetus is attached to the placenta within the uterus of the pregnant woman.

(8) ‘Medical emergency’ means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy to avert her death without first determining whether there is a detectable fetal heartbeat or for which the delay necessary to determine whether there is a detectable fetal heartbeat will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition must be considered a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(9) ‘Physician’ means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this State.

(10) ‘Reasonable medical judgment’ means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(11) ‘Spontaneous miscarriage’ means the natural or accidental termination of a pregnancy and the expulsion of the human fetus, typically caused by genetic defects in the human fetus or physical abnormalities in the pregnant woman.

Section 44‑41‑620. (A) It is the intent of the legislature that a court judgment or order suspending enforcement of any provision of this article or of Sections 44‑41‑10 through 44‑41‑480 is not to be regarded as tantamount to repeal of that provision.

(B) After the issuance of a decision by the United States Supreme Court overruling Roe v. Wade, 410 U.S. 113 (1973), the issuance of any other court order or judgment restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, or the effective date of an amendment to the Constitution of the United States restoring, expanding, or clarifying the authority of states to prohibit or regulate abortion entirely or in part, the Attorney General may apply to the pertinent state or federal court for either or both of the following:

(1) a declaration that any one or more of the statutory provisions specified in subsection (A) are constitutional;

(2) a judgment or order lifting an injunction against the enforcement of any one or more of the statutory provisions specified in subsection (A).

(C) If the Attorney General fails to apply for the relief described in subsection (B) within the thirty‑day period after an event described in that subsection occurs, any county prosecutor may apply to the appropriate state or federal court for such relief.

Section 44‑41‑630. The General Assembly hereby finds, according to contemporary medical research, all of the following:

(1) As many as thirty per cent of natural pregnancies end in spontaneous miscarriage.

(2) Fewer than five per cent of all natural pregnancies end in spontaneous miscarriage after detection of fetal cardiac activity.

(3) Over ninety per cent of in vitro pregnancies survive the first trimester if cardiac activity is detected in the gestational sac.

(4) Nearly ninety per cent of in vitro pregnancies do not survive the first trimester where cardiac activity is not detected in the gestational sac.

(5) Fetal heartbeat is a key medical predictor that an unborn human individual will reach live birth.

(6) Cardiac activity begins at a biologically identifiable moment in time, normally when the fetal heart is formed in the gestational sac.

(7) The State of South Carolina has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of an unborn human individual who may be born.

(8) In order to make an informed choice about whether to continue a pregnancy, a pregnant woman has a legitimate interest in knowing the likelihood of the human fetus surviving to full‑term birth based upon the presence of cardiac activity.

Section 44‑41‑640. This article applies only to intrauterine pregnancies.

Section 44‑41‑650. The abortion provider who is to perform or induce the abortion, a certified technician, or other agent of the abortion provider who is competent in ultrasonography shall:

(1) perform an obstetric ultrasound on the pregnant woman, using whichever method the physician and patient agree is best under the circumstance;

(2) during the performance of the ultrasound, display the ultrasound images so that the pregnant woman may view the images; and

(3) record a written medical description of the ultrasound images of the unborn child’s cardiac activity, if present and viewable.

Section 44‑41‑660. If the pregnancy is at least eight weeks after fertilization, the abortion provider who is to perform or induce the abortion or an agent of the abortion provider, shall tell the woman that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear and ask the woman if she would like to hear the heartbeat. If the woman would like to hear the heartbeat, the abortion provider shall, using whichever method the physician and patient agree is best under the circumstance, make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear.

Section 44‑41‑670. (A) Except as provided in Section 44‑41‑680, no person shall perform or induce or attempt to perform or induce an abortion on a pregnant woman before a physician determines in accordance with Section 44‑41‑650 whether the human fetus the pregnant woman is carrying has a detectable heartbeat.

(B) Whoever violates subsection (A) is guilty of a felony and, upon conviction, must be fined ten thousand dollars or imprisoned not more than two years, or both.

Section 44‑41‑680. (A) Section 44‑41‑670 does not apply to a physician who performs or induces the abortion if the physician determines according to standard medical practice that a medical emergency exists that prevents compliance with that section.

(B) A physician who performs or induces an abortion on a pregnant woman based on the exception in subsection (A) shall make written notations in the pregnant woman’s medical records of both of the following:

(1) the physician’s belief that a medical emergency necessitating the abortion existed; and

(2) the medical condition of the pregnant woman that assertedly prevented compliance with Section 44‑41‑670.

(C) For at least seven years from the date the notations are made, the physician shall maintain in the physician’s own records a copy of the notations.

Section 44‑41‑690. A physician is not in violation of Section 44‑41‑670 if the physician acts in accordance with Section 44‑41‑650 and the method used to test for the presence of a fetal heartbeat does not reveal a fetal heartbeat.

Section 44‑41‑700. (A) Except as provided in Section 44‑41‑710, no person shall perform or induce or attempt to perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the human fetus the pregnant woman is carrying and whose fetal heartbeat has been detected in accordance with Section 44‑41‑650.

(B) Whoever violates subsection (A) is guilty of a felony, and upon conviction, must be fined ten thousand dollars, or imprisoned not more than two years, or both.

Section 44‑41‑710. (A) Section 44‑41‑700 does not apply to a physician who performs a medical procedure that, in reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(B) A physician who performs a medical procedure as described in subsection (A) shall declare, in a written document, that the medical procedure is necessary, in reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible physical impairment of a major bodily function of the pregnant woman. In the document, the physician shall specify the pregnant woman’s medical condition that the medical procedure is asserted to address and the medical rationale for the physician’s conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(C) A physician who performs a medical procedure as described in subsection (A) shall place the written document required by subsection (B) in the pregnant woman’s medical records. For at least seven years from the date the document is created, the physician shall maintain a copy of the document in the physician’s own records.

Section 44‑41‑720. A physician is not in violation of Section 44‑41‑700 if the physician acts in accordance with Section 44‑41‑650 and the method used to test for the presence of a fetal heartbeat does not reveal a fetal heartbeat.

Section 44‑41‑730. This article must not be construed to repeal, by implication or otherwise, Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion. An abortion that complies with this article but violates the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law must be considered unlawful as provided in such provision. An abortion that complies with the provisions of Section 44‑41‑20 or any otherwise applicable provision of South Carolina law regulating or restricting abortion but violates this article must be considered unlawful as provided in this article. If some or all of the provisions of this article are ever temporarily or permanently restrained or enjoined by judicial order, all other provisions of South Carolina law regulating or restricting abortion must be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order of injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

Section 44‑41‑740. Nothing in this article prohibits the sale, use, prescription, or administration of a drug, device, or chemical that is designed for contraceptive purposes.

Section 44‑41‑750. A pregnant woman on whom an abortion is performed or induced in violation of this article may not be criminally prosecuted for violating any of the provisions of the article or for attempting to commit, conspiring to commit, or complicity in committing a violation of any of the provisions of the article; and is not subject to a civil or criminal penalty based on the abortion being performed or induced in violation of any of the provisions of the article.

Section 44‑41‑760. (A) A woman who meets any one or more of the following criteria may file a civil action in a court of competent jurisdiction:

(1) a woman on whom an abortion was performed or induced in violation of this article;

(2) a woman on whom an abortion was performed or induced who was not given the information as provided in Section 44‑41‑330.

(B) A woman who prevails in an action filed pursuant to subsection (A) shall receive both of the following from the person who committed the one or more acts described in subsection (A):

(1) damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence; and

(2) court costs and reasonable attorney’s fees.

(C) If the defendant in an action filed pursuant to subsection (A) prevails and the court finds that the commencement of the action constitutes frivolous conduct and that the defendant was adversely affected by the frivolous conduct, the court shall award reasonable attorney’s fees to the defendant. Provided, however, a conclusion of frivolousness cannot rest upon the unconstitutionality of the provision that was allegedly violated.”

B. Section 44‑41‑460(A) of the 1976 Code is amended by adding appropriately numbered items at the end to read:

“( ) The information related to fetal heartbeat testing required pursuant to Sections 44‑41‑650, 44‑41‑680, and 44‑41‑710, as applicable.

( ) Whether the reason for the abortion was to preserve the health of the pregnant woman, and if so, the medical condition that the abortion was asserted to address and the medical rationale for the conclusion that the abortion was necessary to address that condition. If the reason for the abortion was other than to preserve the health of the pregnant woman, the report must specify that maternal health was not the purpose of the abortion. This information also must be placed in the pregnant woman’s medical records and maintained for at least seven years thereafter.”

C. Section 44‑41‑330(A)(1) of the 1976 Code is amended to read:

“(1)(a) The woman must be informed by the physician who is to perform the abortion or by an allied health professional working in conjunction with the physician of the procedure to be involved and by the physician who is to perform the abortion of the probable gestational age of the embryo or fetus at the time the abortion is to be performed. If an ultrasound is performed, an abortion may not be performed sooner than sixty minutes following completion of the ultrasound. The physician who is to perform the abortion or an allied health professional working in conjunction with the physician must inform the woman before the ultrasound procedure of her right to view the ultrasound image at her request during or after the ultrasound procedure.

(b) If the physician who intends to perform or induce an abortion on a pregnant woman has determined pursuant to Section 44‑41‑650 that the human fetus the pregnant woman is carrying has a detectable heartbeat, that physician shall inform the pregnant woman in writing that the human fetus the pregnant woman is carrying has a fetal heartbeat. The physician intending to perform or induce the abortion shall further inform the pregnant woman, to the best of the physician’s knowledge, of the statistical probability, absent an induced abortion, of bringing the human fetus possessing a detectable fetal heartbeat to term based on the gestational age of the human fetus or, if the director of department has specified statistical probability information, shall provide to the pregnant woman that information. The department may promulgate regulations that specify information regarding the statistical probability of bringing an unborn human individual possessing a detectable heartbeat to term based on the gestational age of the unborn human individual. Any regulations must be based on available medical evidence.”

SECTION 3. Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Article 8

South Carolina Unborn Child Protection from Dismemberment Abortion

Section 44‑41‑810. (A) Notwithstanding any other provision of law, a physician who knowingly performs or attempts to perform a dismemberment abortion and thereby kills an unborn child unless necessary to prevent serious health risk to the unborn child’s mother is guilty of a felony and, upon conviction, must be fined ten thousand dollars or imprisoned for two years or both.

(B) As used in this article:

(1) ‘Dismemberment abortion’ means, with the intention of causing the death of an unborn child, knowingly to dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush, and/or grasp a portion of the unborn child’s body to cut or rip it off. ‘Dismemberment abortion’ does not include an abortion which uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in this item, is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

(2) ‘Physician’ means a physician, surgeon, or osteopath authorized to practice medicine in this State and licensed pursuant to Chapter 47, Title 40. However, an individual who is not a physician, but who directly and knowingly performs a dismemberment abortion also is subject to the provisions of this section.

(3) ‘Serious health risk to the unborn child’s mother’ means that in reasonable medical judgment she has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

Section 44‑41‑820. (A) The father, if married to the mother at the time she receives a dismemberment abortion, and the maternal grandparents of the fetus, if the mother has not attained the age of eighteen years at the time of the abortion, have a cause of action against the physician or other person unlawfully performing a dismemberment abortion and may obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct or the plaintiff consented to the abortion.

(B) Such relief includes, but is not limited to:

(1) actual damages which shall be trebled;

(2) punitive damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(3) reasonable costs and attorney’s fees.

(C) A woman upon whom a dismemberment abortion is performed may not be prosecuted for a violation of this article, for a conspiracy to violate this article, or for any other offense which is based on a violation of this article.

Section 44‑41‑830. (A) A cause of action for injunctive relief against a person who has performed or attempted to perform a dismemberment abortion in violation of Section 44‑41‑810 may be maintained by:

(1) a woman upon whom such a dismemberment abortion was performed;

(2) if the woman is a minor, a person who is the parent or guardian of a woman upon whom such a dismemberment abortion was performed; or

(3) a prosecuting attorney with appropriate jurisdiction.

(B) The injunction shall prevent the defendant from performing further dismemberment abortions in violation of Section 44‑41‑810 in this State.

(C) A cause of action may not be maintained by a plaintiff if the pregnancy resulted from the plaintiff’s criminal conduct.

Section 44‑41‑840. Nothing in this article shall be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion.”

SECTION 4. Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Article 10

Chemical Abortions: Informed Consent Requirements and Limitations

Section 44‑41‑1010. For purposes of this article:

(1) ‘Chemical abortion’ means the use or prescription of an abortion‑inducing drug dispensed with the intent to cause the death of the unborn child.

(2) ‘Stable Internet website’ means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the South Carolina Department of Health and Environmental Control.

Section 44‑41‑1020. The General Assembly finds that the State of South Carolina has a legitimate interest in ensuring that women making decisions about chemical abortion should be provided with all relevant information so they can make a fully informed decision.

Section 44‑41‑1030. (A) Any private office, freestanding surgical outpatient clinic, or other facility or clinic in which abortions, other than abortions necessary to prevent the death of the pregnant woman, are performed shall post a conspicuous sign clearly visible to patients in a location that meets the requirements of subsection (C) which reads:

‘NOTICE CONCERNING CHEMICAL ABORTION

IF A WOMAN HAS TAKEN THE FIRST DRUG, MIFEPRISTONE, BUT HAS NOT YET TAKEN THE SECOND DRUG, MISOPROSTOL, AND HAS QUESTIONS REGARDING THE HEALTH OF HER CHILD OR IS QUESTIONING HER DECISION TO TERMINATE HER PREGNANCY, SHE SHOULD CONSULT A PHYSICIAN IMMEDIATELY FOR INFORMATION ABOUT THE POTENTIAL OF REVERSING THE EFFECTS OF THE ABORTION PILL, OR SHE SHOULD CALL THE ABORTION PILL REVERSAL HOTLINE: 877‑558‑0333.’

(B) The sign required pursuant to subsection (A) must be printed with lettering that is legible and must be at least three quarters of one inch boldfaced type.

(C) A facility in which abortions are performed that is a private office or a freestanding surgical outpatient clinic shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed. A hospital or any other facility in which abortions are performed that is not a private office or freestanding surgical outpatient clinic shall post the required sign in each patient admission area used by patients on whom abortions are performed.

Section 44‑41‑1040. (A) Except in the case of a medical emergency, a chemical abortion involving the two‑drug process of dispensing mifepristone first and then misoprostol may not be performed or induced, or attempted to be performed or induced, without the physician who is to perform the abortion, a referring physician, or an agent of either physician first informing the woman, by telephone or in person, at least twenty‑four hours before the abortion, of the following:

(1) It may be possible to reverse the intended effects of a chemical abortion utilizing mifepristone if the woman changes her mind, but that time is of the essence.

(2) Information on and assistance with reversing the effects of a chemical abortion utilizing mifepristone are available on the website of the Department of Health and Environmental Control.

(3) There are serious risks involved with the chemical abortion procedure, including hemorrhage and infection.

(4) Patient counseling is available to deal with any complications in the safest way possible.

(B) After the first drug involved in the two‑drug process is dispensed in a chemical abortion utilizing mifepristone, the physician or an agent of the physician shall provide written medical discharge instructions to the pregnant woman which must include the following statement:

‘IF A WOMAN HAS TAKEN THE FIRST DRUG, MIFEPRISTONE, BUT HAS NOT YET TAKEN THE SECOND DRUG, MISOPROSTOL, AND HAS QUESTIONS REGARDING THE HEALTH OF HER CHILD OR IS QUESTIONING HER DECISION TO TERMINATE HER PREGNANCY, SHE SHOULD CONSULT A PHYSICIAN IMMEDIATELY FOR INFORMATION ABOUT THE POTENTIAL OF REVERSING THE EFFECTS OF THE ABORTION PILL, OR SHE SHOULD CALL THE ABORTION PILL REVERSAL HOTLINE: 877‑558‑0333.’

Section 44‑41‑1050. When a medical emergency compels the performance of an abortion, the physician must inform the woman, prior to the abortion, if possible, of the medical indications supporting the physician’s judgment that an abortion is necessary to avert her death or that a twenty‑four hour delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

Section 44‑41‑1060. (A) Within ninety days of enactment of this article, the department shall publish, in English and in each language which is the primary language of two percent or more of the state’s population, and shall make available on the department’s website easily comprehensible printed materials designed to inform the woman of the possibility of reversing the effects of a chemical abortion utilizing mifepristone if she changes her mind and information on and assistance with the resources that may be available to help reverse the effects of a chemical abortion.

(B) The department shall develop and maintain a stable Internet website to provide the information described under subsection (A). No information regarding website user identity may be collected or maintained. The department shall monitor the website on a daily basis to prevent and correct tampering. The website must be maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on this website shall be a minimum of 200x300 pixels. All letters on the website must be a minimum of 12‑point font. All information and pictures must be accessible with an industry standard browser, requiring no additional plug‑ins.

Section 44‑41‑1070. (A) Chemical abortion pills only may be prescribed in the State of South Carolina by a licensed physician after a physical exam and ultrasound has been conducted to confirm the pregnancy is not ectopic.

(B) A patient is required to follow up with the prescribing physician to prevent the development of complications.

Section 44‑41‑1080. Any person who knowingly or recklessly performs or induces, or attempts to perform or induce, an abortion in violation of this article is guilty of a felony and, upon conviction, must be must be fined ten thousand dollars, or imprisoned not more than two years, or both. No penalty may be assessed against the woman upon whom the abortion is performed or induced, or attempted to be performed or induced. No penalty or civil liability may be assessed for failure to comply with Section 44‑41‑1040(A)(2), unless the department has made the information available on the website at the time the physician or the physician’s agent is required to inform the woman pursuant to that subsection.

Section 44‑41‑1090. Any private office, freestanding surgical outpatient clinic, or other facility or clinic that wilfully, recklessly, or negligently fails to post the sign required pursuant to Section 44‑41‑1030 in violation of this article must be assessed a fine of ten thousand dollars by the Department of Health and Environmental Control or the South Carolina Board of Medical Examiners, as applicable. Each day an abortion, other than an abortion necessary to prevent the death of the pregnant woman, is performed in any such private office, clinic, or facility during which the required sign is not posted for a portion of the business hours when patients or prospective patients are present is a separate violation.

Section 44‑41‑1100. (A)(1) Any pregnant woman upon whom an abortion has been performed in violation of the provisions of this article, the father of the unborn child who was the subject of such an abortion, or the grandparent of such an unborn child, if the pregnant woman is a minor under the age of eighteen years at the time of the chemical abortion or has died as a result of the chemical abortion, may maintain an action for actual and punitive damages against:

(a) the person who performed the abortion in knowing or reckless violation of the provisions of this article; and

(b) the office, facility, or clinic from which the pregnant woman obtained the chemical abortion pills, if the office, facility, or clinic failed to post the sign required pursuant to Section 44‑41‑1030 in knowing or reckless violation of the provisions of this article.

(2) Any pregnant woman upon whom an abortion has been attempted in violation of the provisions of this article may maintain an action for actual and punitive damages against:

(a) the person who attempted to perform the abortion in knowing or reckless violation of the provisions of this article; and

(b) the office, facility, or clinic from which the pregnant woman obtained the chemical abortion pills, if the office, facility, or clinic failed to post the sign required pursuant to Section 44‑41‑1030 in knowing or reckless violation of the provisions of this article.

(3) No damages may be awarded a plaintiff in an action filed pursuant to this section if the pregnancy resulted from the plaintiff’s criminal conduct.

(B) If judgment is rendered in favor of the plaintiff in any action described in this section, the court also shall render judgment for a reasonable attorney’s fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff’s suit was frivolous and brought in bad faith, the court also shall render judgment for a reasonable attorney’s fee in favor of the defendant against the plaintiff.

Section 44‑41‑1110. In every civil or criminal proceeding or action brought under this article, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted must be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the woman’s anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order must be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action pursuant to Section 44‑41‑1100 shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.”

SECTION 5. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Section 44‑41‑95. (A) The provisions of subsection (B) shall become effective immediately upon, and to the extent permitted by, the occurrence of any of the following circumstances:

(1) any decision of the United States Supreme Court which reverses, in whole or in part, Roe v. Wade, 410 U.S. 113 (1973), thereby restoring to the State of South Carolina the rightful authority to prohibit abortion; or

(2) the adoption of an amendment to the United States Constitution which, in whole or in part, restores to the State of South Carolina the rightful authority to prohibit abortion.

(B) No person may knowingly administer to, prescribe for, procure for, pay for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

(C) If subsection (B) becomes effective due to a circumstance set forth in subsection (A)(1) or (2), this section must be read and interpreted with all other abortion laws enacted in the State of South Carolina and, if any such laws are inconsistent with this section, this section shall control and supersede the inconsistent laws in favor of life by prohibiting any act that would terminate the life of an unborn human being.

(D) For the purposes of this section, ‘unborn human being’ means an individual organism of the species homo sapiens from fertilization until live birth.”

SECTION 6. The Attorney General has the authority to bring an action in law or equity to enforce the provisions of this article on behalf of the Department of Health and Environmental Control or the South Carolina Board of Medical Examiners, as applicable. The department and board also have such authority to bring an action on their own behalf.

SECTION 7. Nothing in this act may be construed as creating or recognizing a right to abortion or as altering generally accepted medical standards. Further, it is not the intention of this act to make lawful an abortion that is currently unlawful.

SECTION 8. The General Assembly may appoint one or more of its members to intervene as a matter of right in any case in which the constitutionality or enforceability of any SECTION of this act is challenged.

SECTION 9. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this , and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 11. This act takes effect upon approval by the Governor.

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