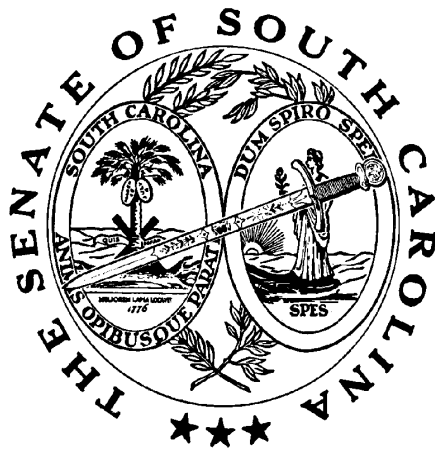


NO. 75

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 12, 2021

WEDNESDAY, SEPTEMBER 7, 2022

Wednesday, September 7, 2022
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 10:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Psalm 121:1

We are reminded by the Psalmist: "I lift up my eyes to the hills -- from where will my help come? My help comes from the Lord who made heaven and earth."

Friends, let us pray: Since the Senate of South Carolina has returned to face additional work, O God, we turn to You today asking for You to bless this Body, as well as praying that Your strength and Your guidance will enfold all of us. But mostly, dear Lord, we ask You to lead these leaders and their aides as together they take on matters which directly impact every single one of us. Further, may each of these servants be acutely conscious of Your holy presence, and may they securely feel themselves lovingly directed by Your power and grace as they strive to accomplish what is right and just and needful. We all indeed fully know that our ultimate help always comes from you, dear God. May that knowledge be uppermost in the mind of every individual serving You in this place. So we pray in Your wondrous name, O Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

MESSAGE FROM THE GOVERNOR

The following appointments were transmitted by the Honorable Henry Dargan McMaster:

Local Appointments

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Charles R. Keep III, 9 Willow Oak Road West, Hilton Head Island, SC 29928-4408

WEDNESDAY, SEPTEMBER 7, 2022

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Bernard McIntyre, 416 BB Sams Drive, Saint Helena Island, SC 29920-3007

Initial Appointment, Dorchester County Magistrate, with the term to commence April 30, 2019, and to expire April 30, 2023

Russell A. Demott, 1001 Mount Whitney Drive, Summerville, SC 29483-3323 *VICE* Michael H. Murphy

Initial Appointment, Florence County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Mona Lisa M. Andrews, 1754 South Pamplico Highway, Pamplico, SC 29583-4007 *VICE* Holly Wall

Initial Appointment, Sumter County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Kimberly Land, 617 Henderson Street, Sumter, SC 29150-3148 *VICE* Lee Anna Tindal

Initial Appointment, Edgefield County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Gary Hitt, 70 Windy Drive, Trenton, SC 29847-2316 *VICE* James McLaurin

Leave of Absence

On motion of Senator FANNING, at 11:37 A.M., Senator McLEOD was granted a leave of absence for today.

Leave of Absence

On motion of Senator CORBIN, at 11:37 A.M., Senator GAMBRELL was granted a leave of absence until 1:00 P.M.

Leave of Absence

On motion of Senator SETZLER, at 11:42 A.M., Senator JACKSON was granted a leave of absence until 1:15 P.M.

Expression of Personal Interest

Senator K. JOHNSON rose for an Expression of Personal Interest.

WEDNESDAY, SEPTEMBER 7, 2022

Expression of Personal Interest

Senator HARPOOTLIAN rose for an Expression of Personal Interest.

Expression of Personal Interest

Senator CASH rose for an Expression of Personal Interest.

Remarks to be Printed

On motion of Senator FANNING, with unanimous consent, the remarks of Senator CASH, when reduced to writing and made available to the Desk, would be printed in the Journal.

Expression of Personal Interest

Senator SHEALY rose for an Expression of Personal Interest.

Remarks to be Printed

On motion of Senator DAVIS, with unanimous consent, the remarks of Senator SHEALY, when reduced to writing and made available to the Desk, would be printed in the Journal.

Expression of Personal Interest

Senator MATTHEWS rose for an Expression of Personal Interest.

Remarks to be Printed

On motion of Senator FANNING, with unanimous consent, the remarks of Senator MATTHEWS, when reduced to writing and made available to the Desk, would be printed in the Journal.

Expression of Personal Interest

Senator GUSTAFSON rose for an Expression of Personal Interest.

Remarks to be Printed

On motion of Senator DAVIS, with unanimous consent, the remarks of Senator GUSTAFSON, when reduced to writing and made available to the Desk, would be printed in the Journal.

Expression of Personal Interest

Senator SENN rose for an Expression of Personal Interest.

WEDNESDAY, SEPTEMBER 7, 2022

Remarks to be Printed

On motion of Senator FANNING, with unanimous consent, the remarks of Senator SENN, when reduced to writing and made available to the Desk, would be printed in the Journal.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 1375 -- Senator Stephens: A SENATE RESOLUTION TO RECOGNIZE AND HONOR SAINT PETER AFRICAN METHODIST EPISCOPAL CHURCH.

l:\s-res\vs\014grea.kmm.vs.docx

The Senate Resolution was adopted.

S. 1376 -- Senators Stephens and Hutto: A SENATE RESOLUTION TO EXPRESS PROFOUND SORROW UPON THE PASSING OF WILLIE B. OWENS, SR. AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

l:\s-res\vs\013will.kmm.vs.docx

The Senate Resolution was adopted.

S. 1377 -- Senator Setzler: A SENATE RESOLUTION TO CONGRATULATE LORICK OFFICE PRODUCTS UPON THE OCCASION OF ITS EIGHTY-FIFTH ANNIVERSARY AND TO COMMEND JEANNE LORICK BRUTSCHY AND KAREN LORICK BROACH FOR THEIR ENTREPRENEURSHIP AND THEIR MANY YEARS OF DEDICATED SERVICE TO THE COLUMBIA COMMUNITY AND TO THE PEOPLE AND THE STATE OF SOUTH CAROLINA.

l:\s-res\ngs\023lori.kmm.ngs.docx

The Senate Resolution was adopted.

S. 1378 -- Senators Corbin, Loftis and Kimbrell: A SENATE RESOLUTION TO CONGRATULATE DR. GENE C. FANT, JR. UPON THE OCCASION OF HIS FIFTH ANNIVERSARY AS PRESIDENT OF NORTH GREENVILLE UNIVERSITY AND TO RECOGNIZE AND HONOR HIS MANY CONTRIBUTIONS TO THE ACADEMIC COMMUNITY.

l:\s-res\tdc\015dr..kmm.tdc.docx

The Senate Resolution was adopted.

WEDNESDAY, SEPTEMBER 7, 2022

S. 1379 -- Senator Sabb: A SENATE RESOLUTION TO EXPRESS PROFOUND SORROW UPON THE PASSING OF JANNIE LOU MCCULLOUGH MITCHELL AND TO EXTEND THE DEEPEST SYMPATHY TO HER FAMILY AND MANY FRIENDS.

l:\s-res\ras\013jann.kmm.ras.docx

The Senate Resolution was adopted.

S. 1380 -- Senator Malloy: A SENATE RESOLUTION TO RECOGNIZE AND HONOR SHEILA MARIE JONES UPON THE OCCASION OF HER BECOMING THE FIRST WOMAN AND FIRST PERSON OF COLOR TO HOLD THE POSITION OF BUILDING OFFICIAL FOR THE CITY OF DARLINGTON.

l:\s-res\gm\070shei.kmm.gm.docx

The Senate Resolution was adopted.

S. 1381 -- Senators Stephens, Scott and Williams: A SENATE RESOLUTION TO CONGRATULATE SOUTH CAROLINA STATE UNIVERSITY'S ROTC PROGRAM UPON THE OCCASION OF ITS SEVENTY-FIFTH ANNIVERSARY AND TO COMMEND THE PROGRAM FOR ITS MANY YEARS OF DEDICATED SERVICE TO SOUTH CAROLINA STATE UNIVERSITY AND THE PEOPLE AND THE STATE OF SOUTH CAROLINA.

l:\s-res\vs\015scsu.kmm.vs.docx

The Senate Resolution was adopted.

S. 1382 -- Senators Shealy and Gustafson: A SENATE RESOLUTION TO RECOGNIZE SEPTEMBER 2022 AS "KINSHIP CARE MONTH" IN SOUTH CAROLINA.

l:\s-res\ks\070kins.kmm.ks.docx

The Senate Resolution was adopted.

S. 1383 -- Senator Allen: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF SHEMYIA TONETTE "MYIAELLA" RILEY OF GREENVILLE COUNTY AND TO EXTEND THEIR DEEPEST SYMPATHY TO HER LARGE AND LOVING FAMILY AND HER MANY FRIENDS.

l:\council\bills\gm\24812cm22.docx

The Senate Resolution was adopted.

WEDNESDAY, SEPTEMBER 7, 2022

S. 1384 -- Senator Reichenbach: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF CORPORAL SARA KINSY WEAVER OF FLORENCE COUNTY AND TO EXTEND THEIR DEEPEST SYMPATHY TO HER LARGE AND LOVING FAMILY AND HER MANY FRIENDS AND COWORKERS.

I:\council\bill\gm\24829dg22.docx

The Senate Resolution was adopted.

H. 5481 -- Reps. May, McCabe, Caskey, Calhoon, Huggins, Forrest, Wooten, Ott and Ballentine: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE SOUTH CAROLINA GENERAL ASSEMBLY UPON THE PASSING OF DOROTHY JEAN JONES OF LEXINGTON AND TO EXTEND THE DEEPEST SYMPATHY TO HER FAMILY AND MANY FRIENDS.

The Concurrent Resolution was adopted, ordered returned to the House.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

**COMMITTEE AMENDMENT ADOPTED, AMENDED
READ THE SECOND TIME**

H. 5399 -- Reps. Lucas, G.M. Smith, McCravy, T. Moore, White, Ligon, Long, Gilliam, Chumley, Burns, Hardee, Bailey, J.E. Johnson, B. Newton, Hewitt, Bustos, Jordan, M.M. Smith, Davis, Hyde, Hixon, West, Hiott, Jones, Caskey, Fry, Thayer, Pope, Forrest, Oremus, Trantham, Bennett, McGarry, Felder, Allison, D.C. Moss, Brittain, Nutt, Haddon, Huggins, G.R. Smith, Magnuson, May, Wooten, B. Cox, Yow, Murphy, Crawford, Bryant and Robbins: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-41-05 SO AS TO PROHIBIT ABORTIONS IN THE STATE OF SOUTH CAROLINA.

The Senate proceeded to a consideration of the Bill.

Senator VERDIN explained the committee amendment.

WEDNESDAY, SEPTEMBER 7, 2022

Senator CASH proposed the following perfecting amendment (5399R022.KMM.RJC), which was ruled out of order:

Amend the committee amendment, as and if amended, by striking Section 44-41-810 and inserting:

/ Section 44-41-810. For purposes of this article:

(1) 'Abortion' means the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn human being.

(2) 'Conception' means the fecundation of the ovum by the spermatozoa.

(3) 'Contraceptive' means a drug, device, or chemical administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive drug, device, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(4) 'Physician' means a person licensed to practice medicine in this State.

(5) 'Pregnancy' means the condition of a woman carrying a fetus or embryo within her body as the result of conception.

(6) 'Probable gestational age' means the age of an unborn human being as calculated from the first day of the last menstrual cycle of a pregnant woman.

(7) 'Rape' has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.

(8) '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.

(9) 'Selective reduction' means a procedure associated with assistive reproductive technologies that stops the development of one or more unborn human beings in utero.

(10) 'Unborn human being' each mean an individual organism of the species homo sapiens from conception until live birth. /

Amend the committee amendment further, as and if amended, by striking Section 44-41-820(A) and (B) and inserting:

/ Section 44-41-820. (A) It is unlawful to knowingly administer to, prescribe for, procure for, or sell to any woman known to be pregnant any medicine, drug, or other substance with the specific intent of causing an abortion.

WEDNESDAY, SEPTEMBER 7, 2022

(B) It is unlawful to knowingly use or employ any instrument, device, means, or procedure upon a woman known to be pregnant with the specific intent of causing an abortion. /

Amend the committee amendment further, as and if amended, on page [5399-4] by striking line 1 and inserting:

/ that all reasonable efforts were made to save the unborn human being in the event it /

Amend the committee amendment further, as and if amended, on page [5399-5] by striking lines 1 and 2 and inserting:

/ death for another unborn human being, or the substantial and irreversible physical impairment of a major bodily function of another unborn human being. /

Amend the committee amendment further, as and if amended, by striking Section 44-41-840 and inserting:

/ Section 44-41-850. (A) In addition to whatever remedies are available under the common or statutory law of this State, failure to comply with the requirements of this article shall provide the basis for a civil action as described in this section.

(B) Any pregnant woman upon whom an abortion has been performed, induced, or coerced in violation of this article may maintain an action against the person or persons who violated this article for actual and punitive damages. In addition to all other damages, and separate and distinct from all other damages, each plaintiff is entitled to statutory damages of ten thousand dollars for each violation of this article to be imposed on each defendant of each such violation.

(C) A separate and distinct cause of action for injunctive relief against any person or persons who have violated this article may be maintained by:

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

(2) the parent or guardian of the pregnant woman if the woman had not attained the age of eighteen years at the time of the abortion or has died as a result of the abortion;

(3) a solicitor or prosecuting attorney with proper jurisdiction; or

(4) the Attorney General.

The injunction prevents the person or persons who violated the article from further violation of this article in this State.

(D) If judgment is rendered in favor of the plaintiff in an action described in this section, the court also shall render judgment for reasonable costs and attorney's fees in favor of the plaintiff against the defendant.

WEDNESDAY, SEPTEMBER 7, 2022

(E) No damages, costs, or attorney's fee may be assessed against the woman upon whom an abortion was performed or induced.

(F) In no case may civil damages be awarded to any plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(G) A civil cause of action under this section must be brought within three years from the date of the abortion and is not subject to the limitations and requirements of Chapter 79, Title 15. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

Point of Order

Senator MALLOY raised a Point of Order that the perfecting amendment was out of order inasmuch as it was not germane to the Bill.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

The Committee on Medical Affairs proposed the following amendment (5399R009.SP.DBV), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. This act may be cited and shall be known as the "South Carolina Human Life Protection Act".

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

"Article 7

South Carolina Human Life Protection Act

Section 44-41-810. For purposes of this article:

(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 human being. Such use, prescription, or means is not an abortion if done with the intent to save the life or preserve the health of the unborn human being, or to remove a dead unborn human being.

(2) 'Contraceptive' means a drug, device, or chemical administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive drug, device, or

WEDNESDAY, SEPTEMBER 7, 2022

chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(3) 'Female' means a biological female as assigned at the time of birth or an intersexed person capable of producing an ovum at birth.

(4) 'Physician' means any person licensed to practice medicine and surgery, or osteopathic medicine and surgery, in this State.

(5) 'Pregnant woman' means the human biological female reproductive condition of having a living unborn human being within her uterus, whether or not she has reached the age of majority.

(6) 'Probable gestational age' means the age of an unborn human being as calculated from the first day of the last menstrual cycle of a pregnant woman.

(7) 'Rape' has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.

(8) '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.

(9) 'Selective reduction' means a procedure associated with assistive reproductive technologies that stops the development of one or more fetuses in utero.

(10) 'Unborn human being' each mean an individual organism of the species homo sapiens from conception until live birth.

Section 44-41-820. (A) It is unlawful to knowingly administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing an abortion.

(B) It is unlawful to knowingly use or employ any instrument, device, means, or procedure upon a pregnant woman with the specific intent of causing an abortion.

(C)(1) A person who violates subsection (A) or (B) is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

(2) Any person who uses force or the threat of force to intentionally injure or intimidate any person, for the purpose of coercing an abortion in violation of subsection (A) or (B) is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

(3) Notwithstanding the provisions of Section 44-41-830, any person who is not a physician licensed in this State, who prescribes any means of abortion as defined in this article, for the purpose of facilitating an abortion inside the borders of this State, violates Section 44-41-820,

WEDNESDAY, SEPTEMBER 7, 2022

is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned not more than two years, or both.

Section 44-41-830. (A) It is not a violation of Section 44-41-820 for a physician to perform a medical procedure necessary in reasonable medical judgment to prevent:

- (1) the death of the pregnant woman;
- (2) a substantial risk of death for the pregnant woman because of a physical condition; or
- (3) the substantial physical impairment of a major bodily function of the pregnant woman, not including psychological or emotional conditions.

However, the physician shall make reasonable medical efforts under the circumstances to preserve the life of the pregnant woman's unborn human being, to the extent it does not substantially risk the death or physical impairment of a major bodily function of the pregnant woman, not including psychological or emotional conditions and in a manner consistent with reasonable medical practice. A medical procedure shall not be considered necessary if based on a claim or diagnosis that a woman will engage in conduct that she intends to result in her death or in a substantial physical impairment of a major bodily function.

(B) A physician who performs a medical procedure as described in subsection (A) shall certify, in a written document, that the medical procedure was necessary, by reasonable medical judgment, to prevent the death of the pregnant woman, to prevent a substantial risk of death for the pregnant woman because of a physical condition, or to prevent the substantial risk of a substantial physical impairment of a major bodily function of the pregnant woman, not including psychological or emotional conditions. In the document the physician shall specify the pregnant woman's medical condition that the medical procedure was asserted to address; the medical rationale for the physician's conclusion that the medical procedure was necessary to prevent the death of the pregnant woman, to prevent a substantial risk of death for the pregnant woman because of a physical condition, or to prevent the serious risk of a substantial impairment of a major bodily function of the pregnant woman; and that all reasonable efforts were made to save the fetus in the event it was living and in utero. This documentation must be included in the woman's medical records within thirty days from the date of the procedure. The physician's exercise of reasonable medical judgement for a permitted medical procedure is presumed within the applicable standard of care.

WEDNESDAY, SEPTEMBER 7, 2022

(C) It is presumed that the following medical conditions constitute a substantial risk of death or substantial risk of a substantial physical impairment of a major bodily function of a pregnant woman: molar pregnancy, partial molar pregnancy, blighted ovum, ectopic pregnancy, severe preeclampsia, HELLP syndrome, abruptio placentae, severe physical maternal trauma, uterine rupture, intrauterine fetal demise, and miscarriage. However, when an unborn human being is alive *in utero*, the physician must make all reasonable efforts to deliver and save the life of the unborn human being during the process of separating the unborn human being from the pregnant woman to the extent it does not adversely affect the life or physical health of the pregnant woman, and in a manner consistent with reasonable medical practice. The enumeration of the medical conditions in this subsection is not intended to exclude or abrogate other conditions that satisfy the exclusions of subsection (A) or prevent other procedures that are not included in the definition of abortion in Section 44-41-810.

(D) Medical treatment provided to the pregnant woman by a physician which results in the accidental or unintentional injury to or the death of her unborn human being is not a violation of Section 44-41-820.

(E) It is not a violation of Section 44-41-820, and nothing in this article may be construed to prohibit the use, sale, prescription, or administration of a contraceptive measure, drug, chemical, or device if the contraceptive measure, drug, chemical, or device is used, sold, prescribed, or administered in accordance with manufacturer instructions and is not used, sold, prescribed, or administered to cause or induce an abortion of a clinically diagnosable pregnancy.

(F) Nothing in this article shall be construed to prohibit assisted reproductive technology procedures, including, but not limited to *in vitro* fertilization, accepted as standard of care by the reproductive medical community. No part of the assisted reproductive procedures considered the normal standard constitute an abortion procedure. However, the practice of selective reduction, shall constitute an abortion in violation of Section 44-41-820 except, when necessary, in reasonable medical judgment, to prevent a substantial risk of death for another fetus, or the substantial and irreversible physical impairment of a major bodily function of another fetus.

(G)(1) It is not a violation of Section 44-41-820, and nothing in this article may be construed to prohibit the use, sale, prescription, or insertion of an intrauterine device if the intrauterine device is used, sold, inserted, or prescribed within the reasonable standard of care by a

WEDNESDAY, SEPTEMBER 7, 2022

physician and is not used, sold, prescribed, or administered to cause or induce an abortion of a clinically diagnosable pregnancy.

(2) It is not a violation of Section 44-41-820, and nothing in this article may be construed to prohibit the use, sale, prescription, or administration of an emergency contraceptive drug designed to be taken within five days of unprotected sex and used according to the manufacturer's instructions. For purposes of this item, an emergency contraceptive drug does not include mifepristone or misoprostol.

Section 44-41-840. A woman upon whom an abortion has been performed or induced in violation of this article may bring a wrongful death civil action on behalf her unborn child pursuant to Article 1, Chapter 51, Title 15.

Section 44-41-850. 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 this article or for attempting to commit, conspiring to commit, or acting complicitly 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 this article.

Section 44-41-860. In addition to any other penalties imposed by law, a physician or any other professionally licensed person who intentionally, knowingly, or recklessly violates the prohibition in Section 44-41-820 commits an act of unprofessional conduct and the person's license to practice in the State of South Carolina immediately shall be revoked by the State Board of Medical Examiners for South Carolina, after due process according to the rules and procedures of the State Board of Medical Examiners. A complaint may be originated by any person or sua sponte. In addition, the State Board of Medical Examiners may assess costs of the investigation, fines, and other disciplinary actions it may deem appropriate.

Section 44-41-870. 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 induced shall be preserved from public disclosure if the woman 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 shall be accompanied by specific written findings explaining why the anonymity

WEDNESDAY, SEPTEMBER 7, 2022

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 induced, anyone, other than a public official, who brings an action pursuant to Section 44-41-820 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 or from attorneys for the defendant.

Section 44-41-880. 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 or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.”

SECTION 3. Article 3, Chapter 17, Title 63 of the 1976 Code is amended by adding:

“Section 63-17-325. A biological father of a child has a duty to pay the mother of the child the following financial obligations beginning with the date of conception:

(1) child support payment obligations in an amount determined pursuant to Section 63-17-470;

(2) fifty percent of the mother’s pregnancy expenses.

(a) Any portion of a mother’s pregnancy expenses paid by the mother or the biological father reduces that parent’s fifty percent obligation regardless of when the mother or biological father pays the pregnancy expenses.

(b) Pregnancy expenses must include fifty percent of the mother’s insurance premiums that are not paid by her employer or governmental program beginning from the date of conception and before the pregnancy ends, unless otherwise ordered by the court.

(c) item (2) does not apply if a court apportions pregnancy expenses as part of an award of child support in item (1).

(B) In the case of a mother who becomes pregnant as a result of rape or incest, the biological father, in addition to the duties imposed by subsection (A), also is responsible for the full cost of any expenses incurred by the mother for mental health counseling arising out of the rape or incest.

WEDNESDAY, SEPTEMBER 7, 2022

(C) The duties imposed by this section accrue at the time of conception and must be applied retroactively when paternity is contested and medical evidence establishes the paternity of the child. Interest accrues on any retroactive obligations beginning with conception until either the obligations are brought current or paid in full whichever happens first. The rate of interest must be calculated based on the applicable interest rate for money decrees and judgments in this state established annually by the South Carolina Supreme Court.

SECTION 4. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12-6-3810. There is allowed as a deduction in computing South Carolina taxable income of an individual, a South Carolina unborn human being dependent exemption equal to three thousand dollars for each eligible unborn dependent of the taxpayer, who is unborn at some point during the income tax year and has reached a probable gestational age of at least six weeks.

SECTION 5. The President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives have an unconditional right to intervene on behalf of their respective bodies in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges the constitutionality of this act. In a federal court action that challenges the constitutionality of this act the Legislature may seek to intervene, to file an amicus brief, or to present arguments in accordance with federal rules of procedure. Intervention by the Legislature pursuant to this provision does not limit the duty of the Attorney General to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided. In any action in which the Legislature intervenes or participates, the Senate and the House of Representatives shall function independently from each other in the representation of their respective clients.

SECTION 6. 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 act, 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.

WEDNESDAY, SEPTEMBER 7, 2022

SECTION 7. This act takes effect upon approval by the Governor. /
Re-number sections to conform.
Amend title to conform.

Senator VERDIN explained the amendment.

The “ayes” and “nays” were demanded and taken, resulting as follows:
Ayes 16; Nays 11; Present 1

AYES

Adams	Alexander	Campsen
Cash	Climer	Corbin
Garrett	Goldfinch	<i>Johnson, Michael</i>
Kimbrell	Loftis	Martin
Peeler	Reichenbach	Rice
Verdin		

Total—16

NAYS

Bennett	Cromer	Davis
Gustafson	Hembree	Massey
Rankin	Shealy	Talley
Turner	Young	

Total—11

PRESENT

Matthews

Total—1

The amendment was adopted.

Statement by Senator GROOMS

Due to an immediate family member’s urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted aye.

WEDNESDAY, SEPTEMBER 7, 2022

Point of Order

Senator MARTIN raised a point of order under Rule 16 regarding the requirement that Senators present must record their vote.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R015.SP.TD), which was tabled:

Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/()Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if the pregnancy is the result of rape or incest, and the probable post-fertilization age of the fetus is fewer than twenty weeks. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

RECESS

At 12:19 P.M., on motion of Senator MASSEY, with Senator DAVIS retaining the floor, the Senate recessed from business until 12:55 P.M.

At 1:05 P.M., the Senate resumed.

Senator DAVIS continued explaining the amendment.

Senator CASH spoke on the amendment.

Senator CASH moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 23; Nays 6; Present 1

AYES

Adams	Alexander	Campsen
Cash	Climer	Corbin
Cromer	Gambrell	Garrett
Goldfinch	<i>Johnson, Michael</i>	Kimbrell
Loftis	Martin	Massey
Peeler	Rankin	Reichenbach
Rice	Talley	Turner
Verdin	Young	

Total--23

WEDNESDAY, SEPTEMBER 7, 2022

NAYS

Bennett	Davis	Gustafson
Hembree	Senn	Shealy

Total--6

PRESENT

Malloy

Total--1

The amendment was laid on the table.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted aye.

Senator CASH proposed the following amendment (5399R023.KMM.RJC), which was not adopted:

Amend the bill, as and if amended, by striking Section 44-41-810 and inserting:

/ Section 44-41-810. For purposes of this article:

(1) 'Abortion' means the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn human being.

(2) 'Conception' means the fecundation of the ovum by the spermatozoa.

(3) 'Contraceptive' means a drug, device, or chemical administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive drug, device, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(4) 'Physician' means a person licensed to practice medicine in this State.

(5) 'Pregnancy' means the condition of a woman carrying a fetus or embryo within her body as the result of conception.

(6) 'Probable gestational age' means the age of an unborn human being as calculated from the first day of the last menstrual cycle of a pregnant woman.

WEDNESDAY, SEPTEMBER 7, 2022

(7) 'Rape' has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.

(8) '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.

(9) 'Selective reduction' means a procedure associated with assistive reproductive technologies that stops the development of one or more unborn human beings in utero.

(10) 'Unborn human being' each mean an individual organism of the species homo sapiens from conception until live birth. /

Amend the committee amendment further, as and if amended, by striking Section 44-41-820(A) and (B) and inserting:

/ Section 44-41-820. (A) It is unlawful to knowingly administer to, prescribe for, procure for, or sell to any woman known to be pregnant any medicine, drug, or other substance with the specific intent of causing an abortion.

(B) It is unlawful to knowingly use or employ any instrument, device, means, or procedure upon a woman known to be pregnant with the specific intent of causing an abortion. /

Amend the committee amendment further, as and if amended, on page [5399-4] by striking line 1 and inserting:

/ that all reasonable efforts were made to save the unborn human being in the event it /

Amend the committee amendment further, as and if amended, on page [5399-5] by striking lines 1 and 2 and inserting:

/ death for another unborn human being, or the substantial and irreversible physical impairment of a major bodily function of another unborn human being. /

Amend the committee amendment further, as and if amended, by striking Section 44-41-840 and inserting:

/ Section 44-41-850. (A) In addition to whatever remedies are available under the common or statutory law of this State, failure to comply with the requirements of this article shall provide the basis for a civil action as described in this section.

(B) Any pregnant woman upon whom an abortion has been performed, induced, or coerced in violation of this article may maintain an action against the person or persons who violated this article for actual and punitive damages. In addition to all other damages, and separate and distinct from all other damages, each plaintiff is entitled to statutory

WEDNESDAY, SEPTEMBER 7, 2022

damages of ten thousand dollars for each violation of this article to be imposed on each defendant of each such violation.

(C) A separate and distinct cause of action for injunctive relief against any person or persons who have violated this article may be maintained by:

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

(2) the parent or guardian of the pregnant woman if the woman had not attained the age of eighteen years at the time of the abortion or has died as a result of the abortion;

(3) a solicitor or prosecuting attorney with proper jurisdiction; or

(4) the Attorney General.

The injunction prevents the person or persons who violated the article from further violation of this article in this State.

(D) If judgment is rendered in favor of the plaintiff in an action described in this section, the court also shall render judgment for reasonable costs and attorney's fees in favor of the plaintiff against the defendant.

(E) No damages, costs, or attorney's fee may be assessed against the woman upon whom an abortion was performed or induced.

(F) In no case may civil damages be awarded to any plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(G) A civil cause of action under this section must be brought within three years from the date of the abortion and is not subject to the limitations and requirements of Chapter 79, Title 15. /

Renumber sections to conform.

Amend title to conform.

Senator CASH explained the amendment.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 8; Nays 20; Present 1

AYES

Cash	Corbin	Gambrell
Garrett	Loftis	Martin
Rice	Verdin	

Total—8

NAYS

WEDNESDAY, SEPTEMBER 7, 2022

Adams	Alexander	Bennett
Campsen	Climer	Cromer
Davis	Goldfinch	Gustafson
Hembree	<i>Johnson, Michael</i>	Kimbrell
Massey	Peeler	Rankin
Reichenbach	Shealy	Talley
Turner	Young	

Total--20

PRESENT

Malloy

Total--1

The amendment failed.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted nay.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R026.KM.TD), which was carried over:

Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/ () It is not a violation of Section 44-41-820 if an abortion is performed or induced on a pregnant woman

if in reasonable medical judgment, the unborn human being has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth. /

Re-number sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

On motion of Senator DAVIS, the amendment was carried over.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R010.SP.TD), which was adopted:

WEDNESDAY, SEPTEMBER 7, 2022

Amend the bill, as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION __. A. The Public Employee Benefit Authority and the State Health Plan shall cover prescribed contraceptives for dependents under the same terms and conditions that the Plan provides contraceptive coverage for employees and spouses. The State Health Plan shall not apply patient cost sharing provisions to covered contraceptives.

B. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38-71-146. All individual and group health insurance and health maintenance organization policies in this State shall include coverage for contraceptives. For purposes of this Section, ‘contraceptive’ means any drug, device, or medication to prevent pregnancy. A contraceptive may prevent ovulation, fertilization, or implantation in the uterus. A contraceptive does not include any drug, device, or medication used with the intent of terminating a pregnancy of a woman known to be pregnant.” /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 21; Nays 9; Present 1

AYES

Adams	Alexander	Bennett
Campsen	Climer	Cromer
Davis	Goldfinch	Gustafson
Hembree	<i>Johnson, Michael</i>	Kimbrell
Massey	Peeler	Rankin
Reichenbach	Senn	Shealy
Turner	Williams	Young

Total--21

NAYS

Cash	Corbin	Gambrell
Garrett	Loftis	Martin
Rice	Talley	Verdin

WEDNESDAY, SEPTEMBER 7, 2022

Total—9

PRESENT

Malloy

Total--1

The amendment was adopted.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted aye.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R012.SP.TD), which was tabled:

Amend the bill, as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION __. The Departments of Health and Environmental Control, Health and Human Services, Disabilities and Special Needs, Education, Social Services, Mental Health, Alcohol and Other Drug Abuse Services, Corrections, and Juvenile Justice must, through their offices, provide increased access to contraceptives for persons over the age of thirteen, particularly in rural, low-income, and historically marginalized communities within the state. Increased access must include providing contraceptives at low or no cost, providing a list of easily accessible resources to procure contraceptives, and including educational materials with any distributed contraceptives. /

Re-number sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

Senator MASSEY spoke on the amendment.

Senator CAMPSEN spoke on the amendment.

Senator MASSEY moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 25; Nays 2; Present 1

WEDNESDAY, SEPTEMBER 7, 2022

AYES

Adams	Alexander	Bennett
Campsen	Cash	Climer
Corbin	Cromer	Gambrell
Garrett	Goldfinch	Hembree
<i>Johnson, Michael</i>	Kimbrell	Loftis
Martin	Massey	Peeler
Rankin	Reichenbach	Rice
Talley	Turner	Verdin
Young		

Total--25

NAYS

Davis	Gustafson
-------	-----------

Total--2

PRESENT

Malloy

Total--1

The amendment was laid on the table.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted aye.

Senator DAVIS proposed the following amendment (5399R025.SP.TD), which was withdrawn:

Amend the bill, as and if amended, by adding an appropriately numbered new SECTION to read:

/SECTION __. There is created the Comprehensive Sexual Health Education and Reproductive Health Care Task Force to research and report on best practices in comprehensive sexual health education and reproductive health care for residents of South Carolina age thirteen and older that shall be taken under consideration to be passed into law. The task force shall be comprised of:

(1) a representative from the Senate Medical Affairs Committee;

WEDNESDAY, SEPTEMBER 7, 2022

(2) a representative from the House of Representative's Medical, Military, Public and Municipal Affairs Committee; and

(3) representatives from government and non-government organizations at the state and local levels, including but not limited to the Departments of Health and Environmental Control, Health and Human Services, Education, Disabilities and Special Needs, Social Services, Mental Health, Corrections, and Juvenile Justice; Alcohol and Other Drug Abuse Services, Fact Forward, New Morning, and the medical community, specifically those in the field of adolescent obstetrics and gynecology, University of South Carolina Arnold School of Public Health, Medical University of South Carolina.

The task force shall study and make recommendations to improve areas affecting comprehensive sexual health education and reproductive health care for residents of South Carolina age thirteen and older on the following topics:

(1) age-appropriate, medically accurate sexual and reproductive health education;

(2) access to affordable, comprehensive health services;

(3) access to affordable contraception methods;

(4) family based educational resources to empower caregivers to educate minors in their life;

The task force will make recommendations through a written report to the Senate Medical Affairs Committee and the House of Representative's Medical, Military, Public and Municipal Affairs Committee no later than December 31, 2023. After issuing the report, the task force shall dissolve. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

Point of Order

Senator MASSEY raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill.

Senator DAVIS spoke against the Point of Order.

Senator CASH spoke in favor of the Point of Order.

Senator MASSEY spoke on the Point of Order.

WEDNESDAY, SEPTEMBER 7, 2022

RECESS

At 3:05 P.M., on motion of Senator HUTTO, with unanimous consent and Senator DAVIS retaining the floor, the Senate recessed from business not to exceed 15 minutes.

At 3:40 P.M., the Senate resumed.

On motion of Senator DAVIS, the amendment was withdrawn.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R026.KM.TD), which was adopted:

Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/ () It is not a violation of Section 44-41-820 if an abortion is performed or induced on a pregnant woman

if in reasonable medical judgment, the unborn human being has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth. /

Re-number sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

Senator CASH spoke on the amendment.

Senator CASH moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 10; Nays 20; Present 1

AYES

Alexander	Cash	Climer
Corbin	Garrett	Loftis
Martin	Reichenbach	Rice
Verdin		

Total--10

NAYS

Adams	Bennett	Campsen
Cromer	Davis	Gambrell
Goldfinch	Gustafson	Hembree
<i>Johnson, Michael</i>	Kimbrell	Massey

WEDNESDAY, SEPTEMBER 7, 2022

Peeler	Rankin	Senn
Shealy	Talley	Turner
Williams	Young	

Total--20

PRESENT

Malloy

Total--1

The Senate refused to table the amendment.

The question then was the adoption of the amendment.

The amendment was adopted.

Recorded Vote

Senators CORBIN and MARTIN desired to be recorded as voting against the adoption of the amendment.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted nay.

Senators DAVIS and GUSTAFSON proposed the following amendment (5399R034.SP.TD), which was carried over:

Amend the bill, as and if amended, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/() A physician who performs or induces an abortion in a hospital pursuant to the circumstances relevant to preserving the life of the mother as prescribed in this section shall be immune from civil action or criminal prosecution regarding medical procedures and treatments administered to the pregnant woman if those medical procedures or treatments are provided for under this section and are consistent with current standard of care for the physician's specialty under the circumstances provided for in this section. Immunity from civil or criminal liability provided in this subsection also extends to any nurse, technician or other person who participates in such medical procedure or treatment with the physician. /

WEDNESDAY, SEPTEMBER 7, 2022

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

Senator CASH spoke on the amendment.

Senator CLIMER spoke on the amendment.

On motion of Senator CLIMER, the amendment was carried over.

Senator KIMBRELL proposed the following amendment (5399R024.SP.JK), which was carried over:

Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/() (1) Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if the pregnancy is the result of rape or incest, and the probable post-fertilization age of the fetus is fewer than six weeks.

(2) Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if there exists a fetal anomaly. 'Fetal anomaly' means that, in reasonable medical judgment, the unborn human being has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth.

(3) A physician who performs or induces an abortion on a pregnant woman based on the exceptions in subsection (1) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty-four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman's medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest. The name of the minor victim shall remain sealed unless otherwise ordered by a court. /

WEDNESDAY, SEPTEMBER 7, 2022

Renumber sections to conform.

Amend title to conform.

Senator KIMBRELL explained the amendment.

On motion of Senator KIMBRELL, the amendment was carried over.

Senator CASH proposed the following amendment (5399R032.KMM.RJC), which was adopted:

Amend the bill, as and if amended, by striking Section 44-41-810 and inserting:

/ Section 44-41-810. For purposes of this article:

(1) 'Abortion' means the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn human being.

(2) 'Conception' means the fecundation of the ovum by the spermatozoa.

(3) 'Contraceptive' means a drug, device, or chemical administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive drug, device, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions.

(4) 'Physician' means a person licensed to practice medicine in this State.

(5) 'Pregnancy' means the condition of a woman carrying a fetus or embryo within her body as the result of conception.

(6) 'Probable gestational age' means the age of an unborn human being as calculated from the first day of the last menstrual cycle of a pregnant woman.

(7) 'Rape' has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.

(8) '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.

(9) 'Selective reduction' means a procedure associated with assistive reproductive technologies that stops the development of one or more unborn human beings in utero.

(10) 'Unborn human being' each mean an individual organism of the species homo sapiens from conception until live birth. /

WEDNESDAY, SEPTEMBER 7, 2022

Amend the committee amendment further, as and if amended, by striking Section 44-41-820(A) and (B) and inserting:

/ Section 44-41-820. (A) It is unlawful to knowingly administer to, prescribe for, or distribute to any woman known to be pregnant any medicine, drug, or other substance with the specific intent of causing an abortion.

(B) It is unlawful to knowingly use or employ any instrument, device, means, or procedure upon a woman known to be pregnant with the specific intent of causing an abortion. /

Amend the committee amendment further, as and if amended, on page [5399-4] by striking line 1 and inserting:

/ that all reasonable efforts were made to save the unborn human being in the event it /

Amend the committee amendment further, as and if amended, on page [5399-5] by striking lines 1 and 2 and inserting:

/ death for another unborn human being, or the substantial and irreversible physical impairment of a major bodily function of another unborn human being. /

Amend the committee amendment further, as and if amended, by striking Section 44-41-840 and inserting:

/ Section 44-41-850. (A) In addition to whatever remedies are available under the common or statutory law of this State, failure to comply with the requirements of this article shall provide the basis for a civil action as described in this section.

(B) Any pregnant woman upon whom an abortion has been performed, induced, or coerced in violation of this article may maintain an action against the person or persons who violated this article for actual and punitive damages. In addition to all other damages, and separate and distinct from all other damages, each plaintiff is entitled to statutory damages of ten thousand dollars for each violation of this article to be imposed on each defendant of each such violation.

(C) A separate and distinct cause of action for injunctive relief against any person or persons who have violated this article may be maintained by:

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

(2) the parent or guardian of the pregnant woman if the woman had not attained the age of eighteen years at the time of the abortion or has died as a result of the abortion;

(3) a solicitor or prosecuting attorney with proper jurisdiction; or

(4) the Attorney General.

WEDNESDAY, SEPTEMBER 7, 2022

The injunction prevents the person or persons who violated the article from further violation of this article in this State.

(D) If judgment is rendered in favor of the plaintiff in an action described in this section, the court also shall render judgment for reasonable costs and attorney's fees in favor of the plaintiff against the defendant.

(E) No damages, costs, or attorney's fee may be assessed against the woman upon whom an abortion was performed or induced.

(F) In no case may civil damages be awarded to any plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(G) A civil cause of action under this section must be brought within three years from the date of the abortion and is not subject to the limitations and requirements of Chapter 79, Title 15. /

Renumber sections to conform.

Amend title to conform.

Senator CASH explained the amendment.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 18; Nays 12; Present 1

AYES

Adams	Alexander	Campsen
Cash	Climer	Corbin
Gambrell	Garrett	Goldfinch
Gustafson	Kimbrell	Loftis
Martin	Massey	Peeler
Reichenbach	Rice	Verdin

Total--18

NAYS

Bennett	Cromer	Davis
Hembree	<i>Johnson, Michael</i>	Rankin
Senn	Shealy	Talley
Turner	Williams	Young

Total--12

PRESENT

Malloy

WEDNESDAY, SEPTEMBER 7, 2022

Total--1

The amendment was adopted.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted aye.

Senators CAMPSSEN and CLIMER proposed the following amendment(AHB\5399C001.NBD.AHB22), which was ruled out of order:

Amend the bill, as and if amended, SECTION 2, Page [5399-5], after Line 27, by adding:

/ Section 44-41-855. A person who violates the provisions of Article 7, Chapter 3, Title 16, relating to any degree of criminal sexual conduct, or Section 16-15-20, relating to the offense of incest, and pregnancy results from the unlawful conduct as described in this section is subject to an additional penalty enhancement of not more than ten years in addition to the penalty provided for the underlying offense. /

Re-number sections to conform.

Amend title to conform.

Senator CAMPSSEN explained the amendment.

Point of Order

Senator MATTHEWS raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill.

Senator GARRETT spoke against the Point of Order.

Senator MATTHEWS spoke in favor of the Point of Order.

Senator CAMPSSEN spoke on the Point of Order.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

WEDNESDAY, SEPTEMBER 7, 2022

Objection

Senator MASSEY asked unanimous consent to make a motion to give the Bill a second reading, carry over all amendments and waive the provisions of Rule 26B in order to allow amendments to be considered on third reading.

Senator MATTHEWS objected.

Senator KIMBRELL proposed the following amendment (5399R035.SP.JK), which was tabled:

Amend the bill, as and if amended, in SECTION 2, by adding an appropriately lettered new subsection to Section 44-41-830 to read:

/() (1) Notwithstanding another provision of law, a physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if the pregnancy is the result of rape or incest, and the probable post-fertilization age of the fetus is fewer than six weeks.

(2) A physician who performs or induces an abortion on a pregnant woman based on the exceptions in subsection (1) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty-four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman's medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest. The name of the minor victim shall remain sealed unless otherwise ordered by a court. /

Renumber sections to conform. Amend title to conform.

Senator KIMBRELL explained the amendment.

Senator CASH moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 23; Nays 18

WEDNESDAY, SEPTEMBER 7, 2022

AYES

Allen	Cash	Davis
Gambrell	Garrett	Gustafson
Harpoottlian	Hutto	<i>Johnson, Kevin</i>
Malloy	Martin	Matthews
McElveen	Reichenbach	Rice
Sabb	Scott	Senn
Setzler	Shealy	Stephens
Verdin	Williams	

Total--23

NAYS

Adams	Alexander	Bennett
Campsen	Climer	Corbin
Cromer	Goldfinch	Hembree
<i>Johnson, Michael</i>	Kimbrell	Loftis
Massey	Peeler	Rankin
Talley	Turner	Young

Total--18

The amendment was laid on the table.

Statement by Senator GROOMS

Due to an immediate family member's urgent medical issue, I was out of the Chamber when this vote was taken. Had I been in the Chamber, I would have voted nay.

RECESS

At 6:36 P.M., on motion of Senator MATTHEWS, the Senate recessed from business not to exceed 5 minutes.

At 6:47 P.M., the Senate resumed.

Motion Adopted

Senator MASSEY asked unanimous consent to make a motion to give the Bill a second reading, carry over all amendments and waive the provisions of Rule 26B in order to allow amendments to be considered on third reading.

There was no objection.

WEDNESDAY, SEPTEMBER 7, 2022

Recorded Vote

Senators GUSTAFSON, MATTHEWS, DAVIS, SHEALY, ALLEN, SENN, KIMPSON and HUTTO desired to be recorded as voting against the second reading of the Bill.

Recorded Vote

Senator MARTIN desired to be recorded as voting in favor of the second reading of the Bill.

Statement by Senator MALLOY

Today's protracted debate on H. 5399 engendered discussions of the most private and at times tragic circumstances in the lives of South Carolinians. When discussing situations of rape, incest, and fatal conditions arising during pregnancy, we must be judicious and respectful. I write separately to commit my position to the record.

During the debate, there were amendments offered that were meant to mitigate the wrongs in the Bill that would threaten the lives of girls, women, and anyone able to be pregnant. I voted 'present' or abstained from the votes on these amendments as is permitted under the Rules of the Senate. While some of these amendments were worthy of consideration and potential improvements to the public policy of our State, at the core of this debate was a Bill flawed in its premise. H. 5399 does nothing to enrich the lives of living, breathing South Carolinians -- citizens who need healthcare, housing, education, infrastructure, and jobs. The Bill presumes to insert state government into intimate and personal conversations between women and their families and doctors.

To reflect the respect I have for those placed directly in harm's way as a result of the Bill, I did not vote on the amendments.

LOCAL APPOINTMENTS
Confirmations

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Initial Appointment, Edgefield County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Gary Hitt, 70 Windy Drive, Trenton, SC 29847-2316 *VICE* James McLaurin

WEDNESDAY, SEPTEMBER 7, 2022

Initial Appointment, Sumter County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Kimberly Land, 617 Henderson Street, Sumter, SC 29150-3148 *VICE*
Lee Anna Tindal

Initial Appointment, Dorchester County Magistrate, with the term to commence April 30, 2019, and to expire April 30, 2023

Russell A. Demott, 1001 Mount Whitney Drive, Summerville, SC 29483-3323 *VICE* Michael H. Murphy

Initial Appointment, Florence County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Mona Lisa M. Andrews, 1754 South Pamplico Highway, Pamplico, SC 29583-4007 *VICE* Holly Wall

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Charles R. Keep III, 9 Willow Oak Road West, Hilton Head Island, SC 29928-4408

Reappointment, Beaufort County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Bernard McIntyre, 416 BB Sams Drive, Saint Helena Island, SC 29920-3007

Motion Adopted

On motion of Senator MASSEY, the Senate agreed that if and when the Senate stands adjourned today, that it will adjourn to meet tomorrow morning at 10:00 A.M.

Motion Adopted

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

WEDNESDAY, SEPTEMBER 7, 2022

MOTION ADOPTED

On motion of Senator PEELER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Jane Stinson Thompson of Gaffney, S.C. Jane was the grandmother of our beloved Senate page, Katelin Mathis. Jane was a graduate of Woodruff High School and the University of South Carolina. She was a retired RN who worked for Cherokee Memorial Hospital, the Department of Disabilities and Special Needs and the Department of Health and Environmental Control. Jane was an elder and choir member at Limestone Presbyterian Church. Jane was a loving wife, devoted mother and doting grandmother who will be dearly missed.

and

MOTION ADOPTED

On motion of Senator K. JOHNSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Dr. Rose Wilder of Kingstree, S.C. Dr. Wilder was known as a mentor and legend in the field of education in South Carolina. In 1994, she became the first African American female superintendent in the State since Reconstruction for Clarendon School District Two. Dr. Wilder received numerous awards including Outstanding Superintendent by the South Carolina School Boards Association in 1999 and Superintendent of the Year during the 2013-2014 school year. Dr. Wilder was a pioneer for educators who will be dearly missed.

and

WEDNESDAY, SEPTEMBER 7, 2022

MOTION ADOPTED

On motion of Senators PEELER and ALEXANDER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Fred Hoover of Clemson, S.C. Fred was a longtime Clemson athletic trainer for over 40 years. He began his career in 1959 under Frank Howard. Upon retirement, he worked part time for the athletic department for 16 additional years on football weekends. Frank was a leader in his field and served as chairman of the National Athletic Trainers Association. He received the Distinguished Service to Sports Medicine Award and the Distinguished Service Sports Award and was inducted into the South Carolina Athletic Hall of Fame in 2022. Fred was a devoted father and doting grandfather who will be dearly missed.

ADJOURNMENT

At 6:54 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 10:00 A.M.

* * *

WEDNESDAY, SEPTEMBER 7, 2022

SENATE JOURNAL INDEX

S. 1375.....	4	S. 1382.....	5
S. 1376.....	4	S. 1383.....	5
S. 1377.....	4	S. 1384.....	6
S. 1378.....	4		
S. 1379.....	5	H. 5399.....	6
S. 1380.....	5	H. 5481.....	6
S. 1381.....	5		