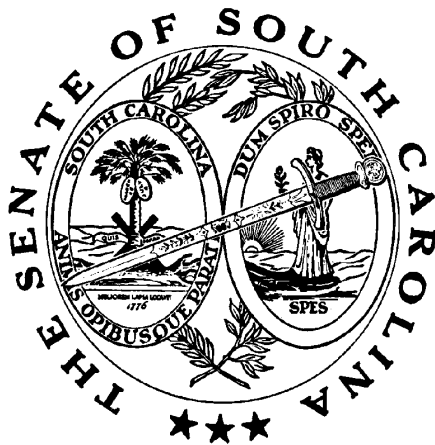


NO. 76

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 12, 2021

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THURSDAY, SEPTEMBER 8, 2022

**Thursday, September 8, 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:

Proverbs 16:16

As we are reminded in Proverbs: "How much better to get wisdom than gold, to choose understanding rather than silver."

Good friends, let us once again bow in prayer: O loving God, the very gifts of wisdom and understanding are each so incredibly precious and valuable -- and consequently so critically important. From the very beginning of time each of these qualities has possessed a power to make a difference around the globe. And they have indeed done so. Therefore, O Lord, today we call upon You to bestow new portions of these gifts of profound wisdom and compassionate understanding to each Senator and every staff member serving here in this place. For truly, especially in this day and time, the women, men and children of South Carolina deserve nothing less than the greatest and most loving guidance and care these leaders can grant them. May it be so, O God. May it be so. In Your name we humbly pray. Amen.

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

**Call of the Senate**

Senator PEELER moved that a Call of the Senate be made. The following Senators answered the Call:

Adams	Alexander	Bennett
Campsen	Cash	Corbin
Cromer	Davis	Gambrell
Garrett	Gustafson	Harpootlian
Hembree	Hutto	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimbrell	Kimpson
Malloy	Martin	Massey
Matthews	Peeler	Reichenbach
Rice	Sabb	Scott

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Shealy	Stephens	Turner
Verdin	Williams	Young

A quorum being present, the Senate resumed.

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Henry Dargan McMaster:

**Local Appointment**

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2020, and to expire April 30, 2024

Erin Moon McKinney, 15084 Beacon Ridge Drive, Seneca, SC 29678-1368 *VICE* Michael Todd Simmons

**Leave of Absence**

On motion of Senator YOUNG, at 10:44 A.M., Senator TALLEY was granted a leave of absence until 12:30 P.M.

**Leave of Absence**

On motion of Senator M. JOHNSON, at 11:12 A.M., Senator FANNING was granted a leave of until 12:25 P.M.

**Leave of Absence**

On motion of Senator FANNING, at 12:30 P.M., Senator McLEOD was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator Talley, at 4:54 P.M., Senator RANKIN was granted a leave of until 10:00 A.M. Friday, September 9, 2022.

**Leave of Absence**

On motion of Senator TURNER, at 7:52 P.M., Senator TALLEY was granted a leave of absence until 9:00 P.M.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator STEPHENS rose for an Expression of Personal Interest.

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**Remarks to be Printed**

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

**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 RICE, 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 GUSTAFSON rose for an Expression of Personal Interest.

**Expression of Personal Interest**

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

**Remarks to be Printed**

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following was introduced:

S. 1385 -- Senators Massey, Adams, Alexander, Allen, Bennett, Campsen, Cash, Climer, Corbin, Cromer, Davis, Fanning, Gambrell, Garrett, Goldfinch, Grooms, Gustafson, Harpootlian, Hembree, Hutto, Jackson, K. Johnson, M. Johnson, Kimbrell, Kimpson, Loftis, Malloy, Martin, Matthews, McElveen, McLeod, Peeler, Rankin, Reichenbach, Rice, Sabb, Scott, Senn, Setzler, Shealy, Stephens, Talley, Turner, Verdin, Williams and Young: A SENATE RESOLUTION TO COMMEND REAGAN CHASE KELLEY FOR HIS FIVE YEARS OF DEDICATED SERVICE TO THE SOUTH CAROLINA SENATE AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN THE YEARS AHEAD.

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The Senate Resolution was adopted.

**Appointment Reported**

Senator RANKIN from the Committee on Judiciary submitted a favorable report on:

**Statewide Appointment**

Initial Appointment, Ethics Commission, with the term to commence March 31, 2022, and to expire April 1, 2027

Senate - Minority:

Bryant Caldwell, 1221 Main Street, Suite 1600, Columbia, SC 29201  
*VICE* Donald Gist

Received as information.

**Motion Adopted**

On motion of Senator MARTIN, the Senate agreed to go into Executive Session prior to adjournment.

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

**AMENDED, READ THE THIRD TIME**

**HOUSE BILL RETURNED**

H. 5399 -- Reprs. 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.

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:

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/( ) 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. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

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

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

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

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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.

On motion of Senator KIMBRELL, with unanimous consent, the amendment was withdrawn.

Senator MALLOY proposed the following amendment (5399R014.KMM.GM), which was withdrawn:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting:

**/A JOINT RESOLUTION**

**TO PROPOSE AN AMENDMENT TO ARTICLE I OF THE SC CONSTITUTION, RELATING TO THE DECLARATION OF RIGHTS, BY ADDING SECTION 26 TO PROVIDE THAT THERE IS NO STATE CONSTITUTIONAL RIGHT TO AN ABORTION IN SOUTH CAROLINA BUT THE GENERAL ASSEMBLY MAY ENACT LAWS ALLOWING FOR AN ABORTION UNDER CERTAIN ENUMERATED CIRCUMSTANCES.**

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

SECTION 1. It is proposed that Article I of the Constitution of this State is amended by adding a new section to read:

“Section 26. (A) The General Assembly shall enact no law permitting the termination of the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill the unborn child of a woman known to be pregnant; or to intentionally prematurely terminate the pregnancy of a woman known to be pregnant, with an intention other than to increase the probability of a live birth or of preserving the life or health of the child after live birth. In the context of this section, a pregnancy begins at conception which is that point in time when a fertilized ovum implants in the endometrium of a woman.

(B) Notwithstanding the forgoing provisions of this section, the General Assembly may enact a law that would otherwise violate this

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section if the pregnancy to be terminated was the result of rape or incest; the termination of the pregnancy is necessary to preserve the life of the mother; or there exists a medical condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining post-fertilization age to avert her death or for which the delay necessary to determine post-fertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(C) The General Assembly may enact laws necessary to enforce this section.”

SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article I of the Constitution of this State, relating to the Declaration of Rights, be amended by adding Section 26 to provide that there is no state constitutional right an abortion provided that the General Assembly may enact exceptions for rape, incest, and the life or health of the mother?

Yes

No

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

On motion of Senator MALLOY, with unanimous consent, the amendment was withdrawn.

Senators RANKIN, MALLOY, TALLEY, DAVIS, SENN, SHEALY, JACKSON, SETZLER, McELVEEN, GUSTAFSON and SETZLER proposed the following amendment (JUD5399.001), which was ruled out of order:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting therein the following:

/ A JOINT RESOLUTION



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PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO DECLARATION OF RIGHTS, BY ADDING SECTION 26, TO RECOGNIZE THAT SECTIONS 3 AND 10 OF ARTICLE I PROVIDE FOR A RIGHT OF BODILY INTEGRITY AND AUTONOMY THAT INCLUDES A LIMITED RIGHT TO ABORTION AND TO AUTHORIZE THE GENERAL ASSEMBLY TO PROVIDE BY LAW FOR THE REGULATION OF ABORTION, INCLUDING WHEN A CLINICALLY DIAGNOSABLE PREGNANCY MAY BE TERMINATED AND WHETHER STATE FUNDING MAY BE USED TO TERMINATE A CLINICALLY DIAGNOSABLE PREGNANCY.

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

SECTION 1. It is proposed that Article I of the Constitution of this State be amended by adding:

“Section 26. The provisions of Section 3 and Section 10 of this article provide for a right of bodily integrity and autonomy that includes a limited right to abortion. The General Assembly shall provide by law for regulation of abortion in this state, including when a clinically diagnosable pregnancy may be terminated and whether state funding may be used to terminate a clinically diagnosable pregnancy.”

SECTION 2. Notwithstanding any statutory provision of law to the contrary, the proposed amendment must be submitted to the qualified electors at the next general election for representatives in 2022. Ballots must be provided at the various voting precincts with the following words printed on the ballot:

“Must Article I of the Constitution of this State be amended by adding Section 26 so as to provide for a right of bodily integrity and autonomy that includes a limited right to abortion and to authorize the General Assembly to provide by law for regulation of abortion in this state, including when a clinically diagnosable pregnancy may be terminated and whether state funding may be used to terminate a clinically diagnosable pregnancy.

Yes

No

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No.’” /

Renumber sections to conform.

Amend title to conform.

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Senator RANKIN explained the amendment.

**Point of Order**

Senator MARTIN 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 RANKIN spoke against the Point of Order.  
Senator MALLOY spoke against the Point of Order.  
Senator MASSEY spoke in favor of the Point of Order.  
Senator MALLOY spoke on the Point of Order.  
Senator RANKIN spoke on the Point of Order.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

**Motion Under Rule 15A Failed**

At 12:25 P.M., pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, that the Clerk be prohibited from receiving further amendments after one hour from the adoption of this motion, and debate on the pending amendments be limited to 10 minutes for proponents and 10 minutes for opponents, then debate on the main question be limited to 20 minutes for proponents and 20 minutes for opponents.

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

**Ayes 13; Nays 30**

**AYES**

Adams	Alexander	Cash
Climer	Corbin	Gambrell
Garrett	Hembree	Kimbrell
Loftis	Martin	Reichenbach
Rice		

**Total--13**

**NAYS**

Allen	Bennett	Campsen
Cromer	Davis	Fanning
Goldfinch	Gustafson	Harpootlian

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Hutto	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimpson	Malloy
Massey	Matthews	McElveen
Peeler	Rankin	Sabb
Scott	Senn	Setzler
Shealy	Stephens	Turner
Verdin	Williams	Young

**Total--30**

Having failed to receive the necessary vote, the motion under Rule 15A 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 "aye."

**Motion Under Rule 15A Failed**

At 12:33 P.M., Pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, and debate on the pending amendments be limited to 10 minutes for proponents and 10 minutes for opponents.

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

**Ayes 12; Nays 31**

**AYES**

Adams	Alexander	Cash
Climer	Corbin	Gambrell
Garrett	Loftis	Martin
Reichenbach	Rice	Verdin

**Total--12**

**NAYS**

Allen	Bennett	Campsen
Cromer	Davis	Fanning
Goldfinch	Gustafson	Harpootlian
Hembree	Hutto	Jackson
<i>Johnson, Kevin</i>	<i>Johnson, Michael</i>	Kimbrell

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Kimpson	Malloy	Massey
Matthews	McElveen	Peeler
Rankin	Sabb	Scott
Senn	Setzler	Shealy
Stephens	Turner	Williams
Young		

**Total--31**

Having failed to receive the necessary vote, the motion under Rule 15A 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 "aye."

**RECESS**

At 12:39 P.M., on motion of Senator MASSEY, the Senate recessed from business until 1:10 P.M.

At 2:25 P.M., the Senate resumed.

Senators MALLOY and JACKSON proposed the following amendment (5399R013.KMM.GM), which was tabled:

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

/ SECTION \_\_. A. Article 1, Chapter 6, Title 44 of the 1976 Code is amended by adding:

"Section 44-6-120. A pregnant woman whose income is at or below one hundred thirty-eight percent the federal poverty level is eligible for Medicaid as provided for in the 'Patient Protection and Affordable Care Act' (P.L. No. 111-148), and amendments to that act. A pregnant woman who is eligible for Medicaid pursuant to this act shall remain eligible for Medicaid after the birth of her child until that child reaches the age of majority as long as the woman's income level does not exceed one hundred thirty-eight percent of the federal poverty level during that time."

B. This SECTION is effective January 1, 2023. /

Re-number sections to conform.

Amend title to conform.

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Senator MALLOY explained the amendment.

The question being the adoption of the amendment.

Senator MASSEY moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

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

**Total--29**

**NAYS**

Allen	Fanning	Harpootlian
Hutto	Jackson	<i>Johnson, Kevin</i>
Kimpson	Malloy	Matthews
McElveen	Sabb	Scott
Setzler	Stephens	Williams

**Total--15**

The amendment was laid on the table.

Senator KIMPSON proposed the following amendment (5399R037.SP.MEK), which was tabled:

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

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

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“Section 44-41-415. It is unlawful to impose any undue burden on a woman’s right to obtain a lawful abortion.”

SECTION 2. Section 44-41-20 and Article 5, Chapter 41, Title 44 of the 1976 Code are repealed.

SECTION 3. This act takes effect upon approval by the Governor. /  
Re-number sections to conform.

Amend title to conform.

Senator KIMPSON explained the amendment.

Senator CASH spoke on the amendment.

Senator CASH moved to lay the amendment on the table.

The amendment was laid on the table.

Senator MASSEY proposed the following amendment (5399R030.SP.ASM), which was withdrawn:

Amend the bill, as and if amended, 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 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) ‘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

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life-preserving treatment, would be incompatible with sustaining life after birth.

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

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

(7) '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.

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

(9) '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.

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

(11) 'Unborn human being' means 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, 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.

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

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Section 44-41-830. (A) Section 44-41-820 does not apply to a physician who performs or induces an abortion if the physician determines according to reasonable medical judgment that a medical emergency exists that prevents compliance with the 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 the following:

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

(2) the medical rationale to support the physician's conclusion that the pregnant woman's medical condition necessitated the immediate abortion of her pregnancy to avert her death.

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

Section 44-41-840. (A) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman if:

(1) the pregnancy is the result of rape, and the probable post-fertilization age of the fetus is fewer than twelve weeks;

(2) the pregnancy is the result of incest, and the probable post-fertilization age of the fetus is fewer than twelve weeks;

(3) the physician is acting in accordance with Section 44-41-850;

or

(4) there exists a fetal anomaly, as defined in Section 44-41-810(4).

(B) A physician who performs or induces an abortion on a pregnant woman based on the exception in either subsection (A)(1) or (2) 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.



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Section 44-41-850. (A) Section 44-41-820 does not apply to a physician who performs a medical procedure that, by reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent the serious risk of a 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 was necessary, by reasonable medical judgment, to prevent the death of the pregnant woman or to prevent the serious risk of a 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 was asserted to address and the medical rationale for the physician's conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent the serious risk of a 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 his own records.

Section 44-41-860. (A) 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.

(B) 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 an unborn human being.

(C) It is not a violation of Section 44-41-820, and nothing in this article shall be construed to provide 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

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substantial risk of death for another fetus, or the substantial and irreversible physical impairment of a major bodily function of another fetus.

(D)(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 medical judgment of a physician and is not used, sold, prescribed, or administered to cause or induce an abortion of an unborn human being.

(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 44-41-870. (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

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reasonable costs and attorney's fees in favor of the plaintiff against the defendant.

(E) No damages, costs, or attorney's fees 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.

Section 44-41-880. 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 44-41-890. 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 44-41-900. 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 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

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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 44-41-910. 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 44-41-920. 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 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.

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(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.

(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. 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

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pregnant. This section does not apply if an individual or entity asserts a sincerely held religious belief regarding the use of contraception.”

SECTION 6. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Section 44-41-90. (A) No funds appropriated by the State for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except as provided in Sections 44-41-830, 44-41-840, and 44-41-850.

(B) No funds appropriated or authorized by the State may be used by any political subdivision of the State to purchase fetal tissue obtained from an abortion or fetal remains, nor may any political subdivision of the State accept donated fetal remains.

(C) No state funds may, directly or indirectly, be utilized by Planned Parenthood for abortions, abortion services or procedures, or administrative functions related to abortions.”

SECTION 7.A. Section 44-41-710 of the 1976 Code is amended to read:

~~Section 44-41-710. 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 or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

B. Section 44-41-480 of the 1976 Code is amended to read:

~~Section 44-41-480. 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.~~

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~~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.

C. Section 44-41-20 of the 1976 Code is repealed.

SECTION 8. This act takes effect upon approval by the Governor. /  
Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

The question being the adoption of the amendment.

Senator MATTHEWS moved to lay the amendment on the table.

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

**Ayes 20; Nays 24**

**AYES**

Allen	Davis	Fanning
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
Kimpson	Malloy	Matthews
McElveen	Sabb	Scott
Senn	Setzler	Shealy
Stephens	Williams	

**Total—20**

**NAYS**

Adams	Alexander	Bennett
Campsen	Cash	Climer
Corbin	Cromer	Gambrell
Garrett	Goldfinch	Grooms

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<i>Johnson, Michael</i>	Kimbrell	Loftis
Martin	Massey	Peeler
Reichenbach	Rice	Talley
Turner	Verdin	Young

**Total--24**

The Senate refused to table the amendment.

Senator DAVIS spoke on the amendment.

**Motion Under Rule 15A Failed**

At 5:18 P.M., Pursuant to Rule 15A, Senator MASSEY moved that the debate on the entire matter of H. 5399 be brought to a close, that the Clerk be prohibited from receiving any further amendments 10 minutes after the adoption of this motion, and debate on the pending amendments be limited to 5 minutes for proponents and 5 minutes for opponents and then debate on the main question be limited to 10 minutes for proponents and 10 minutes for opponents.

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

**Ayes 24; Nays 20**

**AYES**

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

**Total--24**

**NAYS**

Allen	Davis	Fanning
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
Kimpson	Malloy	Matthews
McElveen	Sabb	Scott



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Senn  
Stephens

Setzler  
Williams

Shealy

**Total--20**

Having failed to receive the necessary vote, the motion under Rule 15A failed.

**RECESS**

At 5:20 P.M., on motion of Senator MASSEY, with Senator DAVIS retaining the floor, the Senate recessed from business not to exceed 10 minutes.

At 6:11 P.M., the Senate resumed.

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

Senators MALLOY and JACKSON proposed the following amendment (5399R013.KMM.GM), which was tabled:

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

/ SECTION \_\_. A. Article 1, Chapter 6, Title 44 of the 1976 Code is amended by adding:

“Section 44-6-120. A pregnant woman whose income is at or below one hundred thirty-eight percent the federal poverty level is eligible for Medicaid as provided for in the ‘Patient Protection and Affordable Care Act’ (P.L. No. 111-148), and amendments to that act. A pregnant woman who is eligible for Medicaid pursuant to this act shall remain eligible for Medicaid after the birth of her child until that child reaches the age of majority as long as the woman’s income level does not exceed one hundred thirty-eight percent of the federal poverty level during that time.”

B. This SECTION is effective January 1, 2023. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The question being the adoption of the amendment.

Senator MASSEY moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

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

**Total--29**

**NAYS**

Allen	Fanning	Harpootlian
Hutto	Jackson	<i>Johnson, Kevin</i>
Kimpson	Malloy	Matthews
McElveen	Sabb	Scott
Setzler	Stephens	Williams

**Total--15**

The amendment was laid on the table.

Senator KIMPSON proposed the following amendment (5399R037.SP.MEK), which was tabled:

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

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

“Section 44-41-415. It is unlawful to impose any undue burden on a woman’s right to obtain a lawful abortion.”

SECTION 2. Section 44-41-20 and Article 5, Chapter 41, Title 44 of the 1976 Code are repealed.

SECTION 3. This act takes effect upon approval by the Governor. /

Re-number sections to conform.

Amend title to conform.

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Senator KIMPSON explained the amendment.

Senator CASH spoke on the amendment.

Senator CASH moved to lay the amendment on the table.

The amendment was laid on the table.

Senators MASSEY and HEMBREE proposed the following amendment (5399R038.SP.ASM), which was adopted:

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

/SECTION 1. Section 44-41-710 of the 1976 Code is amended to read:

~~“Section 44-41-710. 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 or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.”~~

B. Section 44-41-480 of the 1976 Code is amended to read:

~~“Section 44-41-480. 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~~

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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.”

C. Section 44-41-20 of the 1976 Code is repealed.

D. Section 44-41-70(b) of the 1976 Code is amended to read:

“(b) The department shall promulgate and enforce regulations for the licensing and certification of facilities other than hospitals as defined in Section 44-41-10(d) wherein abortions are to be performed ~~as provided for in Section 44-41-20(a) and (b).~~”

SECTION 2. Section 44-41-680 of the 1976 Code is amended to read:

“Section 44-41-680. (A) Except as provided in subsection (B), no person shall perform, 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 44-41-630.

(B) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after a fetal heartbeat has been detected in accordance with Section 44-41-630 only if:

(1) the pregnancy is the result of rape defined in Section 44-41-610, and is in the first trimester of pregnancy ~~the probable post fertilization age of the fetus is fewer than twenty weeks;~~

(2) the pregnancy is the result of incest, and is in the first trimester of pregnancy ~~the probable post fertilization age of the fetus is fewer than twenty weeks;~~

(3) the physician is acting in accordance with Section 44-41-690;

or

(4) there exists a fetal anomaly, as defined in Section ~~44-41-610~~ 44-41-430, provided that the fetal anomaly has been confirmed by two physicians specializing in obstetrics or the area of medicine in which the anomaly is diagnosed.

(C)(1) A physician who performs or induces an abortion on a pregnant woman based on the exception in either subsection (B)(1) or (2) 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

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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.

(2) The physician shall preserve a DNA sample from the fetal remains and notify the sheriff in the county in which the abortion was performed. The sheriff shall transmit the sample into evidence within ninety days of the notification. The sample shall be held as evidence as provided by the Preservation of Evidence Act beginning with Section 17-28-300.

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

SECTION 3. Section 44-41-610 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) ‘Fetal anomaly’ means that, in reasonable medical judgment, the unborn child 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.

( ) ‘Rape’ has the same meaning as criminal sexual conduct, regardless of the degree of criminal sexual conduct.”

SECTION 4. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Section 44-41-90. (A) No funds appropriated by the State for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except as provided in Sections 44-41-830, 44-41-840, and 44-41-850.

(B) No funds appropriated or authorized by the State may be used by any political subdivision of the State to purchase fetal tissue obtained from an abortion or fetal remains, nor may any political subdivision of the State accept donated fetal remains.

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(C) No state funds may, directly or indirectly, be utilized by Planned Parenthood for abortions, abortion services or procedures, or administrative functions related to abortions.”

SECTION 5. This act takes effect upon approval by the Governor. /  
Re-number sections to conform.  
Amend title to conform.

Senator MASSEY 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 MASSEY spoke against the Point of Order.  
Senator SENN spoke in favor of the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator MASSEY continued speaking on the amendment.

The amendment was adopted.

**Statement by Senator MALLOY**

One of the most egregious flaws of H. 5399 is its treatment of those who have endured sexual violence. Today, the Body has approved of a requirement that law enforcement must be notified about a survivor’s private healthcare decision made in the aftermath of a life-shattering violation of her person. Further, the Senate added a requirement that a DNA sample be taken after the fact and maintained under the guise of potential prosecution. I write to express my specific disagreement and disgust at those mandates.

Taking away a survivor’s decision whether or not to report criminal sexual conduct takes away agency and presumes that law enforcement contact will be a positive step toward healing. Recounting a violent assault results in further traumatization and without support can lead to diminishing prospects for a full emotional, mental, and physical recovery. This Bill contains no such dedicated supports for survivors -- only a passing reference to requiring the perpetrator to pay for counseling, a toothless threat to be sure. Survivors who choose not to report have significant reasons for doing so, including fear of retaliation and prosecutors in numerous states have used laws designed to reach

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attackers of pregnant women as a basis for proceeding against the woman herself. All of these complex considerations must now be compressed into just a few short weeks because the Senate reduced the timely opportunity for survivors to heal and reflect, to talk with their doctors, families, and faith leaders, and to access healthcare. Today we have demonstrated disregard and disrespect for the gravity of these tragic events and related decision-making.

Further, the requirement in the legislation for the collection of DNA samples is nonsensical at best and blatantly illegal at worst. Our code and federal law contain directive protocols for the maintenance of victims' privacy, for the handling of evidence, for the appropriate medical response to criminal sexual conduct and sexual abuse of a child, and for keeping health information private. Clearly, none of those statutory schemes were consulted in advance of inserting this ill-considered amendment.

In summary today, the Senate subordinated survivors of sexual assault to the coercive powers of the State. I most vehemently disagree and commit to continuing to work to restore full bodily autonomy to all women of South Carolina.

\*\*\*

Senator DAVIS proposed the following amendment (5399R034.SP.TD), which was tabled:

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. /

Re-number sections to conform.

Amend title to conform.

Senator DAVIS spoke on the amendment.

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On motion of Senator DAVIS, the amendment was laid on the table.

Senator GUSTAFSON proposed the following amendment (5399R041.SP.PG), which was tabled:

Amend the bill, as and if amended, by striking Section 44-41-680(B) and inserting:

/(B) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after a fetal heartbeat has been detected in accordance with Section 44-41-630 only if:

(1) the pregnancy is the result of rape defined in Section 44-41-610, and is in the first trimester of pregnancy ~~the probable post fertilization age of the fetus is fewer than twenty weeks;~~

(2) the pregnancy is the result of incest, and is in the first trimester of pregnancy ~~the probable post fertilization age of the fetus is fewer than twenty weeks;~~

(3) the physician is acting in accordance with Section 44-41-690; or

(4) there exists a fetal anomaly, as defined in Section 44-41-610 ~~44-41-430~~. /

Renumber sections to conform.

Amend title to conform.

Senator GUSTAFSON explained the amendment.

The question being the adoption of the amendment.

Senator CASH moved to lay the amendment on the table.

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

**Ayes 26; Nays 17**

**AYES**

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



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**Total--26**

**NAYS**

Allen	Fanning	Gustafson
Harpootlian	Hutto	Jackson
<i>Johnson, Kevin</i>	Kimpson	Malloy
Matthews	McElveen	Sabb
Scott	Senn	Setzler
Shealy	Stephens	

**Total--17**

The amendment was laid on the table.

The question then being the third reading of the Bill.

Senator HUTTO spoke on the Bill.

Senator SENN spoke on the Bill.

Senator KIMPSON spoke on the Bill.

Senator K. JOHNSON spoke on the Bill.

Senator JACKSON spoke on the Bill.

Senator MATTHEWS spoke on the Bill.

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

**Ayes 27; Nays 16**

**AYES**

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

**Total--27**

**NAYS**

Allen	Fanning	Harpootlian
Hutto	Jackson	<i>Johnson, Kevin</i>

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Kimpson	Malloy	Matthews
McElveen	Sabb	Scott
Senn	Setzler	Shealy
Stephens		

**Total--16**

There being no further amendments, the Bill, as amended, was read the third time and ordered returned to the House.

**Statement by Senator MALLOY**

Today's continued debate on H. 5399 again 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 a second time to commit my position to the record.

During the debate, there were additional 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 those certain amendments during this second and final day of debate.

\*\*\*

**Statement by Senator KIMPSON**

You can't put lipstick on a pig. It's still a pig. Exceptions do not make abortion restrictions less harmful. We, as lawmakers, should not be in a position to decide who gets and abortion and who does not get an abortion.

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**Remarks to be Printed**

On motion of Senator FANNING, with unanimous consent, the remarks of Senators HUTTO, SENN, KIMPSON, K. JOHNSON,

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JACKSON and MATTHEWS when reduced to writing and made available to the Desk, would be printed in the Journal.

**STATEWIDE APPOINTMENT  
Confirmation**

Having received a favorable report from the Judiciary Committee, the following appointment was confirmed in open session:

Initial Appointment, Ethics Commission, with the term to commence March 31, 2022, and to expire April 1, 2027

Senate - Minority:

Bryant Caldwell, 1221 Main Street, Suite 1600, Columbia, SC 29201  
*VICE* Donald Gist

On motion of Senator RANKIN, the question was confirmation of Bryant Caldwell.

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

**Ayes 36; Nays 0; Abstain 2**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash
Climer	Corbin	Cromer
Davis	Gambrell	Garrett
Goldfinch	Gustafson	Harpootlian
Hembree	<i>Johnson, Kevin</i>	<i>Johnson, Michael</i>
Kimbrell	Kimpson	Martin
Massey	Matthews	McElveen
Peeler	Reichenbach	Rice
Sabb	Scott	Senn
Setzler	Shealy	Stephens
Turner	Verdin	Williams

**Total--36**

**NAYS**

**Total—0**

**ABSTAIN**

Rankin                      Young

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**Total--2**

The appointment of Bryant Caldwell was confirmed.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2020, and to expire April 30, 2024

Erin Moon McKinney, 15084 Beacon Ridge Drive, Seneca, SC 29678-1368 *VICE* Michael Todd Simmons

**Motion Adopted**

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

**MOTION ADOPTED**

On motion of Senator ALEXANDER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Lowell William Ross of Seneca, S.C. Lowell was an active member of the Episcopal Church of the Ascension and served as a lay reader and a member of the vestry. He was a graduate of Walhalla High School and the University of South Carolina. Lowell then served in the U.S. Air Force before graduating from the University of South Carolina Law School. He retired after practicing law for 56 years. Lowell served in the South Carolina Legislature as a member of the House Judiciary Committee. He also served as chairman of the South Carolina Board of Commissioners on Grievances and Discipline, was a member of the S.C. Bar Board Foundation and the Seneca Sertoma Club. Lowell was passionate about helping others and loved his community and State. He was an avid reader and photographer who enjoyed hiking, traveling, cooking and spending time with his family. Lowell was a loving husband, devoted father and doting grandfather who will be dearly missed.

and

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**MOTION ADOPTED**

On motion of Senator STEPHENS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Willie B. Owens, Sr. of Orangeburg, S.C. Willie graduated from South Carolina State College and The Citadel. He had an extensive background in education including work at Voorhees College, Claflin University and was principal of Bamberg-Ehrhardt High School. He was a devoted public servant who served on County Council for Orangeburg County District 7. Willie was a member of McBranch Baptist Church where he faithfully served. Willie was a loving husband, devoted father and doting grandfather who will be dearly missed.

**ADJOURNMENT**

At 8:24 P.M., on motion of Senator MASSEY, the Senate adjourned under the provisions of S. 1325, the *Sine Die* Resolution.

\* \* \*

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