

SB 1718 – Abortion (Identical HB 865)

This bill amends multiple statutes, expanding the definition of what abortions are considered unlawful and adding penalties for these acts. It amends s. 390.0111, F.S., making an induced abortion unlawful, except for an abortion included under another amended statute, s. 390.01112, F.S., which allows for a “termination of pregnancy” when it is necessary to prevent the death of the patient, or “because to continue the pregnancy would unreasonably reduce the likelihood of successful treatment of an already life-threatening disease of the patient.” Furthermore, it adds that a minor patient requires the voluntary informed written consent of her parent or legal guardian.

The new penalties include an **unranked, 1st degree felony** for “any person who induces an abortion or performs, attempts to perform, or assists another in the performance of an induced abortion on another person,” an **unranked, 1st degree felony, punishable by life** if “any person who during the course of performing an induced abortion on another person inflicts serious bodily injury on the person,” and an **unranked, life felony** if “any person who during the course of performing an induced abortion on another person inflicts serious bodily injury on the person which results in the death of the person.”

Furthermore, “a person or persons who operate any facility, business, or service from any location within this state for the purpose of providing induced abortion services commits” an **unranked, 1st degree felony, punishable by life**. It also increases the current 2nd degree misdemeanor for a person failing to dispose of fetal remains in accordance with department rules to an **unranked, 3rd degree felony**. Per FDLE, in FY 14-15, one person was arrested and nobody was convicted for the improper disposal of fetal remains.

Finally, it adds an **unranked, 1st degree felony** to s. 390.01112, F.S. for “a physician who, once the matter of the viability or nonviability of the fetus is determined within a reasonable degree of medical probability, knowingly and willfully misrepresents the gestational age or stage of fetal development of a viable fetus in an entry into any medical record and who fails to use the standard of care required on any fetus determined to be viable.”

This bill deletes the unranked, 3rd degree felony for “any person who willfully performs, or actively participates in, a termination of pregnancy in violation of current law (s. 390.0111), and also deletes the unranked, 2nd degree felony if that violation results in the death of the woman. Finally, this bill repeals s. 782.34, F.S., deleting the unranked, 2nd degree felony for someone who “intentionally kills a living fetus while that fetus is partially born.” Per DOC, in FY 14-15, there were no offenders sentenced under current abortion law.

Per the Agency for Health Care Administration, in 2014, there were 72,107 abortions statewide. The year-to-date data through October of 2015 shows 60,877 abortions statewide.

In FY 14-15, the incarceration rate for an unranked, 3rd degree felony was 9.9%. The incarceration rate for an unranked, 1st degree felony was 73.5%. The incarceration rate for an unranked, 1st degree felony, punishable by life was 83.2%. The incarceration rate for a life felony was 93.7%.

CONFERENCE ADOPTED ESTIMATE: Positive Significant

Requested by: House