

HOUSE AMENDMENT NO. ____
TO
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Offered By

1 AMEND House Amendment No. ____ to Senate Bill No. 194, Page 10, Line 39, by inserting after
2 all of said section and line the following:

3
4 "188.375. 1. The provisions of this section shall be known and may be cited as the "Pain
5 Capable Unborn Child Protection Act".

6 2. For purposes of this section, the following terms shall mean:

7 (1) "Fetus", the unborn offspring of a human being in the postembryonic period from nine
8 weeks after fertilization until birth;

9 (2) "Pain capable gestational age", twenty-two weeks since the first day of the woman's last
10 menstrual period, generally consistent with the time that is twenty weeks after fertilization.

11 3. Except in the case of a medical emergency, no abortion shall be performed or induced, or
12 be attempted to be performed or induced, unless the physician performing or inducing the abortion
13 has first made a determination of the probable gestational age of the fetus or relied upon such a
14 determination made by another physician. In making this determination, the physician shall make
15 inquiries of the patient and perform or cause to be performed medical examinations and tests as a
16 reasonably prudent physician knowledgeable about the case and the medical conditions involved
17 would consider necessary to perform in making an accurate diagnosis with respect to gestational
18 age.

19 4. (1) No person shall perform or induce, or attempt to perform or induce, an abortion if it
20 has been determined by the physician performing or inducing, or attempting to perform or induce,
21 the abortion, or by another physician upon whose determination that physician relies, that the
22 probable gestational age of the fetus has reached the pain capable gestational age, unless in the
23 reasonable medical judgment of a reasonably prudent physician the patient has a condition that, on
24 the basis of a reasonably prudent physician's reasonable medical judgment, so complicates her
25 medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert
26 serious risk of substantial and irreversible physical impairment of a major bodily function, not
27 including psychological or emotional conditions. No condition shall be deemed a medical
28 emergency if based on a claim or diagnosis that the woman will engage in conduct that she intends
29 to result in her death or in substantial and irreversible physical impairment of a major bodily
30 function.

31 (2) If an abortion upon a patient whose fetus has been determined to have a probable
32 gestational age that has reached the pain capable gestational age is not prohibited by subdivision (1)
33 of this subsection, the physician shall terminate the pregnancy in the manner which, in reasonable

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1 medical judgment, provides the best opportunity for the fetus to survive unless, in reasonable
2 medical judgment, termination of the pregnancy in that manner would pose a greater risk either of
3 the death of the patient or of the substantial and irreversible physical impairment of a major bodily
4 function of the patient than would other available methods.

5 5. (1) Any physician who performs or induces an abortion shall report to the department of
6 health and senior services. The reporting shall be on a schedule and on forms set forth by the
7 director of the department annually no later than December thirty-first. The reports shall include the
8 following information:

9 (a) Probable gestational age:

10 a. If a determination of probable gestational age was made, whether ultrasound was
11 employed in making the determination, and the week of probable gestational age determined;

12 b. If a determination of probable gestational age was not made, the basis of the
13 determination that a medical emergency existed;

14 (b) Method of abortion;

15 (c) If the probable gestational age was determined to have reached the pain capable
16 gestational age, the basis of the determination that the patient had a condition which so complicated
17 the medical condition of the patient that it necessitated the abortion of her pregnancy in order to
18 avert her death or avert a serious risk of substantial and irreversible physical impairment of a major
19 bodily function; and

20 (d) If the probable gestational age was determined to have reached the pain capable
21 gestational age, whether the method of abortion used was one that, in reasonable medical judgment,
22 provided the best opportunity for the fetus to survive and, if such a method was not used, the basis
23 of the determination that termination of the pregnancy in that manner would pose a greater risk
24 either of the death of the patient or of the substantial and irreversible physical impairment of a
25 major bodily function of the patient than would other available methods.

26 (2) Reports required under subdivision (1) of this subsection shall not contain the name or
27 the address of the patient whose pregnancy was terminated, nor shall the report contain any
28 information identifying the patient. Such reports shall be kept confidential by the department, shall
29 not be available for public inspection, and shall not be made available except pursuant to court
30 order.

31 (3) Beginning June 30, 2018, and annually thereafter, the department of health and senior
32 services shall issue a public report providing statistics for the previous calendar year compiled from
33 all of the reports covering that year submitted in accordance with this section for each of the items
34 listed in subdivision (1) of this subsection. Each report shall provide the statistics for all previous
35 calendar years from the effective date of this section, adjusted to reflect any additional information
36 from late or corrected reports. The department shall ensure that none of the information included in
37 the public reports could reasonably lead to the identification of any patient upon whom an abortion
38 was performed or induced.

39 6. (1) Any physician or other licensed medical practitioner who intentionally or recklessly
40 performs or induces an abortion in violation of this section is considered to have acted outside the
41 scope of practice permitted by law or otherwise in breach of the standard of care owed to patients
42 and is subject to discipline from the applicable licensure board for such conduct including, but not
43 limited to, loss of professional license to practice.

44 (2) Any person not subject to subdivision (1) of this subsection who intentionally or
45 recklessly performs or induces an abortion in violation of this section is considered to have engaged
46 in the unauthorized practice of medicine.

47 (3) In addition to the provisions set forth in subdivisions (1) and (2) of this subsection, a
48 patient may seek any remedy otherwise available to such patient by applicable law.

1 (4) No penalty shall be assessed against any patient upon whom an abortion is performed or
2 induced or attempted to be performed or induced.

3 7. If any subsection, sentence, clause, or phrase of this section is temporarily or
4 permanently restrained or enjoined by judicial order, the remaining provision of this section shall be
5 enforced as though such restrained or enjoined provision had not been adopted; however, whenever
6 such temporary or permanent restraining order or injunction is stayed or dissolved or otherwise
7 ceases to have effect, such provisions shall have full force and effect."; and

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9 Further amend said amendment, Page 11, Line 31, by inserting after all of said line the following:

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11 "Further amend said bill, Page 4, Section 354.603, Line 102, by inserting after all of said section
12 and line the following:

13 "Section 1. No abortion shall be performed or induced in this state without first providing
14 the unborn child with due process of law.

15 Section B. Because immediate action is necessary, the repeal and reenactment of sections
16 188.207, 188.375, and 1 of section A of this act is deemed necessary for the immediate preservation
17 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
18 within the meaning of the constitution, and the repeal and reenactment of sections 188.207,
19 188.375, and 1 of section A of this act shall be in full force and effect upon passage and approval.";

20 and"; and

21
22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.

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25 THIS AMENDS 0792S01.40H