

**RS 40:1061**

## CHAPTER 5. HEALTH PROVISIONS: ABORTION

## §1061. Abortion; prohibition

A. The provisions of this Act shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

(1) Any decision of the United States Supreme Court which reverses, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby, restoring to the state of Louisiana the authority to prohibit abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit abortion.

B. The provisions of this Act shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. 1396 et. seq.

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

D. Any person in violation of this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87, and shall be subject to the penalties provided in R.S. 40:1061.29.

E. Nothing in this Section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

F. It shall not be a violation of Subsection C of this Section for a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

G. Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of Subsection C of this Section.

H. Nothing in this Section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

I. The following terms as used in this Section shall have the following meanings:

(1) "Fertilization" means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

(2) "Pregnant" means the human female reproductive condition, of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

(3) "Unborn human being" means an individual living member of the species, *homo sapiens*, throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

J. This Section shall be known, and may be cited, as the Human Life Protection Act.

Acts 2006, No. 467, §1; Redesignated from R.S. 40:1299.30 by HCR 84 of 2015 R.S.; Acts 2018, No. 468, §2, eff. May 23, 2018.

NOTE: Former R.S. 40:1061 redesignated to R.S. 40:1121.1 by HCR 84 of 2015 R.S.