

**South Carolina General Assembly**  
126th Session, 2025-2026

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Indicates New Matter

**S. 323**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Cash

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Introduced in the Senate on February 6, 2025

Currently residing in the Senate

Summary: Unborn Child Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

| <b>Date</b> | <b>Body</b> | <b>Action Description with journal page number</b>  |
|-------------|-------------|---|
| 2/6/2025    | Senate      | Introduced and read first time ( <a href="#">Senate Journal-page 3</a> )                  |
| 2/6/2025    | Senate      | Referred to Committee on <b>Medical Affairs</b> ( <a href="#">Senate Journal-page 3</a> ) |
| 2/12/2025   |             | Scrivener's error corrected   |

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**VERSIONS OF THIS BILL**

[02/06/2025](#)

[02/12/2025](#)

**A BILL**

TO AMEND THE SOUTH CAROLINA CODE OF LAWS SO AS TO ENACT THE "UNBORN CHILD PROTECTION ACT"; BY AMENDING SECTION [44-41-610](#), RELATING TO

DEFINITIONS RELATED TO ABORTIONS, SO AS TO ADD A DEFINITION FOR ABORTIFACIENT, TO ADD A DEFINITION FOR CONTRACEPTION, TO AMEND THE DEFINITION OF CONTRACEPTIVE, TO DELETE THE DEFINITIONS OF FATAL FETAL ANOMALY AND FETAL HEARTBEAT, TO ADD A DEFINITION FOR FERTILIZATION, TO DELETE THE DEFINITION OF GESTATIONAL SAC, TO ADD A DEFINITION FOR HUMAN EMBRYO, TO AMEND THE DEFINITION OF PREGNANT, TO ADD A DEFINITION FOR PREGNANT MINOR, AND TO DELETE THE DEFINITION OF RAPE; BY AMENDING SECTION [44-41-620](#), RELATING TO VOLUNTARY AND INFORMED WRITTEN CONSENT REQUIRED FOR AN ABORTION, SO AS TO MAKE A TECHNICAL AMENDMENT; BY AMENDING SECTION [44-41-630](#), RELATING TO THE REQUIREMENT FOR AN OBSTETRIC ULTRASOUND PRIOR TO AN ABORTION, SO AS TO REMOVE THE REQUIREMENT THAT AN ABORTION CANNOT BE PERFORMED IF A FETAL HEARTBEAT IS DETECTED; BY AMENDING SECTION [44-41-640](#), RELATING TO THE EXCEPTION TO THE PROHIBITION ON ABORTIONS WHEN A MEDICAL EMERGENCY EXISTS, SO AS TO MAKE TECHNICAL AMENDMENTS AND TO PROVIDE FOR PROCEDURES RELATED TO NON-EMERGENCY PREMATURE DELIVERIES AFTER NINETEEN WEEKS OF PREGNANCY; BY AMENDING SECTION [44-41-650](#), RELATING TO EXCEPTIONS TO PROHIBITION ON ABORTIONS FOR RAPE AND INCEST, SO AS TO DELETE THE RAPE AND INCEST EXCEPTIONS AND AMEND THE STATUTE TO PROVIDE FOR DOCUMENTATION REQUIRED OF DOCTORS WHO PERFORM A LEGAL MEDICAL PROCEDURE OR TREATMENT THAT RESULTS IN THE ACCIDENTAL OR UNINTENTIONAL DEATH OF AN UNBORN CHILD, TO PROVIDE FOR THE TRANSMISSION OF THAT INFORMATION TO THE DEPARTMENT OF PUBLIC HEALTH, TO PROVIDE PENALTIES, AND TO PROVIDE FOR A REPORT BY THE DEPARTMENT OF PUBLIC HEALTH; BY AMENDING SECTION [44-41-660](#), RELATING TO THE EXCEPTION FROM ABORTION PROHIBITION FOR FATAL FETAL ANOMALY, SO AS TO DELETE THE EXCEPTION FOR FATAL FETAL ANOMALY, TO PROVIDE THAT THE ATTORNEY GENERAL AND SOLICITORS HAVE THE CONCURRENT AUTHORITY TO PROSECUTE CRIMINAL VIOLATIONS OF THIS ACT, TO PROVIDE FOR A PRIVATE RIGHT OF CIVIL ACTION, TO PROVIDE FOR RELIEF AVAILABLE IN A CIVIL ACTION, AND TO PROVIDE FOR LIMITATIONS ON WHO MAY BRING A CIVIL ACTION; BY AMENDING SECTION [44-41-670](#), RELATING TO THE PROHIBITION OF CRIMINAL PROSECUTION OF A PREGNANT WOMAN WHO GETS AN ABORTION, SO AS TO DELETE THE PROHIBITION ON PROSECUTION, AND TO AMEND THE STATUTE TO PROVIDE FOR LICENSE SUSPENSION AND REVOCATION FOR DOCTORS WHO VIOLATE THE PROHIBITION ON ABORTIONS; BY AMENDING SECTION [44-41-680](#), RELATING TO CIVIL ACTIONS ARISING FROM ILLEGAL ABORTIONS, SO AS TO DELETE THE CIVIL ACTION PROVISIONS, AND TO ESTABLISH A RICO STATUTE RELATED TO PROHIBITED ABORTION ACTIVITIES, AND TO DEFINE RELEVANT TERMS; BY AMENDING SECTION [44-41-690](#), RELATING TO A PHYSICIAN'S UNPROFESSIONAL CONDUCT AND REVOCATION OF PHYSICIAN'S LICENSE, SO AS TO DELETE THE PROVISIONS RELATED TO A PHYSICIAN'S UNPROFESSIONAL CONDUCT AND LICENSE REVOCATION, TO AMEND THE SECTION TO PROVIDE THAT THIS ARTICLE MAY NOT BE CONSTRUED TO IMPOSE LIABILITY OR CONDUCT PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION OR BY THE SOUTH CAROLINA CONSTITUTION; BY AMENDING RESERVED SECTIONS [44-41-700](#) AND [44-41-710](#), SO AS TO PROVIDE THAT THIS ARTICLE MAY NOT BE CONSTRUED TO IMPOSE LIABILITY OR CONDUCT PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION OR BY THE SOUTH CAROLINA CONSTITUTION AND TO PROVIDE THAT THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES HAVE AN UNCONDITIONAL RIGHT TO INTERVENE ON BEHALF OF THEIR RESPECTIVE BODIES IN A STATE COURT ACTION, AND BY AMENDING RESERVED SECTIONS [44-41-720](#), [44-41-730](#), AND [44-41-740](#), SO AS TO REPEAL THESE SECTIONS; BY ADDING SECTION [15-51-15](#) SO AS TO CREATE A

WRONGFUL DEATH ACTION ON BEHALF OF AN ABORTED UNBORN CHILD, AND TO PLACE LIMITATIONS ON WHO MAY BRING THE ACTION; BY ADDING SECTION [59-32-30](#) SO AS TO PROVIDE FOR CERTAIN ADDITIONAL INSTRUCTION ON HUMAN GROWTH AND DEVELOPMENT TAUGHT IN THE STATE'S SCHOOLS; BY AMENDING SECTION [44-41-37](#), RELATING TO THE DISCLOSURE OF CONSENT REQUIREMENTS WHEN COUNSELING OR DISCUSSING ABORTION WITH MINOR, SO AS TO DELETE THE AUTHORITY OF A PHYSICIAN OR COUNSELOR TO DISCUSS THE COURT BYPASS FOR ABORTION APPROVALS DUE TO THE REPEAL OF THE COURT BYPASS STATUTES; BY AMENDING SECTION [44-41-90](#), RELATING TO STATE FUNDING FOR ABORTIONS, SO AS TO DELETE REFERENCES TO THE COURT BYPASS FOR MINORS TO OBTAIN AN ABORTION; BY AMENDING SECTION [44-41-60](#), RELATING TO ABORTIONS THAT MUST BE REPORTED, SO AS TO PROVIDE PENALTIES FOR PHYSICIANS WHO FAIL TO PROPERLY REPORT ABORTIONS, AND TO PROVIDE FOR A REPORT FROM THE DEPARTMENT OF PUBLIC HEALTH; AND TO PROVIDE THAT SECTIONS [44-41-32](#), [44-41-33](#), AND [44-41-34](#), RELATING TO THE JUDICIAL BYPASS FOR MINORS OBTAINING AN ABORTION, ARE REPEALED.

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

SECTION 1. This act may be cited as the "Unborn Child Protection Act".

SECTION 2. The provisions contained in this act supersede the provisions contained in Articles 1, 3, and 5 of Chapter 41, Title 44.

SECTION 3. Article 6, Chapter 41, Title 44 of the S.C. Code is amended to read:

#### Article 6

##### ~~Fetal Heartbeat and Protection from Abortion~~ Unborn Child Protection Act

Section [44-41-610](#). As used in this article:

(1) "Abortifacient" means mifepristone, misoprostol, or any other chemical or drug dispensed with the intent of causing an abortion.

~~(1)~~(2) "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 child. 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 child, or to remove a dead unborn child.

~~(2)~~(3) "Clinically diagnosable pregnancy" means the point in time when it is possible to determine that a woman is pregnant due to the detectible presence of human chorionic gonadotropin (hCG).

~~(3)~~(4) "Conception" means fertilization of an ovum by sperm.

(5) "Contraception" means the prevention of fertilization of an ovum by a sperm.

~~(4)(6)~~ "Contraceptive" means a drug, device, or chemical that prevents ovulation, conception, or the implantation of a fertilized ovum in a woman's uterine wall after conception.

~~(5)~~ "Fatal 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.

~~(6)~~ "Fetal heartbeat" means cardiac activity, or the steady and repetitive rhythmic contraction of the fetal heart, within the gestational sac.

~~(7)~~ "Fertilization" means the time when a male human sperm penetrates the zona pellucida.

~~(7)(8)~~ "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of a pregnant woman.

~~(8)~~ "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the unborn child and that is typically visible by ultrasound after the fourth week of pregnancy.

~~(9)~~ "Human embryo" means a human being that begins as a fertilized egg or zygote.

~~(9)(10)~~ "Medical emergency" means in reasonable medical judgment, a condition exists that has complicated the pregnant woman's medical condition and necessitates an abortion to prevent death or serious risk of a substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. A condition must not be considered a medical emergency 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 and irreversible physical impairment of a major bodily function.

~~(10)(11)~~ "Physician" means a person licensed to practice medicine in this State.

~~(11)(12)~~ "Pregnant" or "pregnancy" means the human biological female reproductive condition of having a living unborn child within her body, ~~whether or not she has reached the age of majority throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and child birth.~~

~~(13)~~ "Pregnant minor" means a pregnant female who has not yet attained the age of eighteen years.

~~(12)~~ "Rape" has the same meaning as criminal sexual conduct, regardless of the degree.

~~(13)(14)~~ "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

~~(14)(15)~~ "Unborn child" means an individual organism of the species homo sapiens human being from conception until live birth.

Section [44-41-615](#) of the S.C. Code is amended to read:

~~Section 44-41-615 (A) Except as provided in Section 44-41-640, no person shall knowingly:~~

~~(1) administer to, prescribe for, deliver to, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent to cause an abortion; or~~

(2) use or employ any instrument, device, means, or procedure upon a pregnant woman with the specific intent of causing an abortion.

(B)(1)(a) It is unlawful to knowingly and intentionally manufacture an abortifacient.

(b) It is unlawful to knowingly possess for sale or distribution, distribute, offer for sale, sell, or advertise the sale or distribution of an abortifacient when the person in possession, distributing, offering for sale, selling, or advertising the sale of the abortifacient knows, or has reason to know, that the person to which he is selling, distributing, or advertising the sale of the abortifacient intends to use the abortifacient to induce an abortion.

(2) The provisions in this subsection do not apply to a pharmacist or a manufacturer or distributor of drugs or medical supplies who manufactures, possesses, offers, sells, or distributes any drug, medicine, instrument, or thing intended for any lawful medical purpose in his normal course of business.

(C)(1) It is unlawful to knowingly or intentionally aid, abet, or conspire with another person to violate the provisions contained in this section.

(2) The prohibition against aiding and abetting a violation of this section includes, but is not limited to, knowingly and intentionally:

(a) providing information to a pregnant woman, or someone seeking information on behalf of a pregnant woman, by telephone, internet, or any other mode of communication regarding self-administered abortions or the means to obtain an abortion, knowing that the information will be used, or is reasonably likely to be used, for an abortion;

(b) hosting or maintaining an internet website, providing access to an internet website, or providing an internet service purposefully directed to a pregnant woman who is a resident of this State that provides information on how to obtain an abortion, knowing that the information will be used, or is reasonably likely to be used for an abortion;

(c) offering or providing abortion doula services, knowing that the services will be used, or are reasonably likely to be used for an abortion;

(d) providing a referral to an abortion provider, knowing that the referral will result, or is reasonably likely to result, in an abortion; and

(e) providing a referral to an abortion provider and receiving monetary remuneration, or other compensation, from an abortion provider for the referral.

(D) It is unlawful to knowingly or intentionally:

(1) use force, or the threat of force, to injure or intimidate a pregnant woman for the purpose of coercing an abortion; or

(2) recruit, harbor, or transport a pregnant minor who resides in this State to another state to procure an abortion or to obtain an abortifacient.

(E) Medical treatment provided to a pregnant woman by a physician that results in the accidental death of or unintentional injury to the unborn child does not constitute a violation of this section.

(F)(1) For a pregnant woman on whom an abortion is performed, it is a defense to prosecution under this article that the woman engaged in the proscribed conduct because she was compelled to do so by the threat of imminent death or great bodily injury.

(2) A person may be compelled to testify in any action or prosecution where the victim is an unborn child; provided, however, that such testimony shall not be admissible in any civil or criminal action against such witness and such witness shall forever be exempt from any prosecution for the act concerning which the witness testifies except a prosecution for perjury.

(3) In a prosecution for a violation of this section:

(a) enforcement is subject to the same presumptions, defenses, justifications, laws of parties, immunities, and clemencies as would apply to the homicide of a person who had been born alive;

(b) solicitors and the Attorney General shall have concurrent authority to prosecute violations of this section and to perform any duty that necessarily relates to such prosecution; and

(c) in the event of a conflict with any other provision of law, the provisions contained in this section shall prevail.

(G) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than thirty years if the unborn child dies as a result of the violation or for not more than twenty-five years if the unborn child is born alive despite the violation.

Section [44-41-620](#). An abortion may not be performed or induced without the voluntary and informed written consent of the pregnant woman or, in the case of incapacity to consent, the voluntary and informed written consent of her court-appointed guardian, and without compliance with the provisions of Section [44-41-330\(A\)](#).

Section [44-41-630](#). ~~(A)~~ An abortion provider who is to perform or induce an abortion, a certified technician, or another agent of the abortion provider who is competent in ultrasonography shall:

— (1) perform an obstetric ultrasound on the pregnant woman, using whichever method the physician and pregnant woman agree is best under the circumstances;

— (2) during the performance of the ultrasound, display the ultrasound images so that the pregnant woman may view the images; and

— (3) record a written medical description of the ultrasound images of the unborn child's fetal heartbeat, if present and viewable.

~~(B) Except as provided in Section [44-41-640](#), Section [44-41-650](#), and Section [44-41-660](#), no person shall perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting an abortion if the unborn child's fetal heartbeat has been detected in accordance with Section [44-41-330\(A\)](#). A person who violates this subsection is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned for not more than two years, or both.~~

Section [44-41-640](#). (A) It is not a violation of Section ~~44-41-630~~[44-41-615](#) if an abortion is performed or induced on a pregnant woman due to a medical emergency or is performed 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, not including psychological or emotional conditions, of the pregnant woman.

(B)(1) Section ~~44-41-630~~[44-41-615](#) does not apply to a physician who performs or induces an abortion if the physician determines according to standard medical practice that a medical

emergency exists or is performed to prevent the death of the pregnant woman or to prevent the serious risk of a substantial or irreversible impairment of a major bodily function, not including psychological or emotional conditions, that prevents compliance with the section.

(2) A physician who performs or induces an abortion on a pregnant woman based on the exception in item (1) shall make written notations in the pregnant woman's medical records of the following:

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

(b) the medical condition of the pregnant woman that assertedly prevented compliance with Section ~~44-41-630~~44-41-615; and

(c) the medical rationale to support the physician's or person's conclusion that the pregnant woman's medical condition necessitated the immediate abortion of her pregnancy to avert her death and a medical emergency necessitating the abortion existed.

(3) A physician performing a medical procedure pursuant to item (1) shall make reasonable medical efforts under the circumstances to preserve the life of the pregnant woman's unborn child, to the extent that it does not risk the death of the pregnant woman or the serious risk of a substantial and irreversible 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 practices. -A medical procedure shall not be considered necessary if it is performed based upon a claim or diagnosis that the woman will engage in conduct that she intends to result in her death or in a substantial physical impairment of a major bodily function.

(4)(a) For at least seven years from the date the notations are made in the pregnant woman's medical records, the physician owner of the pregnant woman's medical records shall maintain a record of the notations and in his own records a copy of the notations.

(b) A person, if he is the owner of the pregnant woman's medical records, who violates this subsection is guilty of a felony and must be fined up to ten thousand dollars, imprisoned for not more than two years, or both.

(c) An entity with ownership of the pregnant woman's medical records that violates item (3) must be fined up to fifty thousand dollars.

(C)(1) It is not a violation of Section ~~44-41-630~~44-41-615 for a physician to perform a medical procedure necessary in his reasonable medical judgment to prevent the death of a pregnant woman or the serious risk of a substantial and irreversible physical impairment of a major bodily function of the pregnant woman, not including psychological or emotional conditions.

(2) It is presumed that the following medical conditions constitute a risk of death or serious risk of a substantial and irreversible physical impairment of a major bodily function of a pregnant woman, not including psychological or emotional conditions: 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 child is alive in utero, the physician must make all reasonable efforts to deliver and save the life of an unborn child during the process of separating the unborn child from the pregnant woman, to the extent that it does not adversely affect the life or physical health of the pregnant woman, and in a manner that is consistent with reasonable medical

practice. The enumeration of the medical conditions in this item is not intended to exclude or abrogate other conditions that satisfy the exclusions contained in item (1) or prevent other procedures that are not included in the definition of abortion.

(3) A physician who performs a medical procedure pursuant to item (1) shall declare, in a written document maintained with the woman's medical records, that the medical procedure was necessary, the woman's medical condition necessitating the procedure, the physician's rationale for his conclusion that the procedure was necessary, and that all reasonable efforts were made to save the unborn child in the event it was living prior to the procedure. The declaration required by this item must be placed in the woman's medical records not later than thirty days after the procedure was completed. A physician's exercise of reasonable medical judgment in relation to a medical procedure undertaken pursuant to this subsection is presumed to be within the applicable standard of care.

(D) Medical treatment provided to a pregnant woman by a physician which results in the accidental or unintentional injury or death of her unborn child is not a violation of Section ~~44-41-630~~44-41-615.

(E) It is not a violation of Section ~~44-41-630~~44-41-615 to use, sell, or administer 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's instructions and is not used, sold, prescribed or administered to cause or induce an abortion.

~~(F)(1) In the case of a non-emergency premature delivery after nineteen weeks of pregnancy:~~

~~(a) the delivery must be performed in a hospital or other health care facility that has appropriate neonatal services for premature infants; and~~

~~(b) the physician performing the delivery must arrange for the attendance, in the same room in which the delivery is performed, another physician who is to take control of, provide immediate medical care for, and take all steps reasonably necessary to preserve the life and health of the unborn child immediately upon the child's delivery.~~

~~(2) Prior to performing a medical procedure or medical treatment pursuant to this subsection, the physician must obtain in-person, non-coerced, informed consent from the pregnant woman or, in the case of incapacity to consent, the voluntary and informed written consent of her court-appointed guardian. If the pregnant woman is a minor, the in-person, non-coerced informed consent of the pregnant woman's parent or legal guardian. Whether the pregnant woman is a minor or not, the physician must also comply with the provisions of Section [44-41-330](#).~~

~~(3) A physician who performs a medical procedure or provides medical treatment pursuant to this subsection that results in the accidental or unintentional death of the unborn child shall certify in writing in the pregnant woman's medical record the basis upon which the physician made the required determinations. A physician who fails to make the certifications required pursuant to this item is guilty of a misdemeanor and, upon conviction, shall be imprisoned for up to thirty days or fined not more than one thousand dollars, or both.~~

~~(4) A physician who performs a medical procedure or provides medical treatment permitted by this subsection on a pregnant minor that results in the accidental or unintentional death of the unborn child shall notify at least one of the minor's parents or the minor's legal guardian within~~

twenty-four hours of the procedure or treatment and shall certify in writing that notice has been given in the minor's medical record. A physician who fails to provide notice or to include the proper certification as provided in this item is guilty of a misdemeanor and, upon conviction, shall be imprisoned for up to thirty days or fined not more than one thousand dollars, or both. Failure to provide notice and failure to include the proper certification are separate offenses for which the penalty in this subsection shall apply.

(G) Compliance with the provisions of this section is an affirmative defense to allegations of a violation of Section [44-41-615](#).

~~— Section [44-41-650](#). (A) A physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after the fetal heartbeat has been detected in accordance with Section [44-41-630](#) if:~~

~~— (1) the pregnancy is the result of rape, and the probable gestational age of the unborn child is not more than twelve weeks; or~~

~~— (2) the pregnancy is the result of incest, and the probable gestational age of the unborn child is not more than twelve weeks.~~

~~— (B) A physician who performs or induces an abortion on a pregnant woman based on an exception contained in this section 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, the physician who performs or induces an abortion based on 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 notified the sheriff of the allegation of rape or incest in a timely manner, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest.~~

~~— (C) A person who violates this section is guilty of a felony and, upon conviction, must be fined ten thousand dollars, imprisoned for not more than two years, or both.~~

~~Section [44-41-660](#). (A) It is not a violation of Section [44-41-630](#) if an abortion is performed or induced on a pregnant woman due to the existence of a fatal fetal anomaly. Section [44-41-630](#) does not apply to a physician who performs or induces an abortion if the physician or person determines according to standard medical practice that there exists a fatal fetal anomaly. The Attorney General has the concurrent authority to prosecute a person for a criminal violation of this article with the several solicitors of the State, within their respective circuits.~~

~~(B)(1) A person who performs or induces an abortion based upon the existence of a fatal fetal anomaly shall make written notations in the pregnant woman's medical records of: The Attorney General, a solicitor acting within his respective circuit, the father of the unborn child, a maternal or paternal grandparent of the unborn child, and a parent or legal guardian of a pregnant minor may~~

bring a civil action against a person who violates, attempts to violate, or threatens to violate a provision of this article.

~~\_\_\_\_\_ (a) the presence of a fatal fetal anomaly;~~

~~\_\_\_\_\_ (b) the nature of the fatal fetal anomaly;~~

~~\_\_\_\_\_ (c) the medical rationale for making the determination that with or without the provision of life-preserving treatment life after birth would be unsustainable;~~

~~\_\_\_\_\_ (2) For at least seven years from the date the notations are made in the woman's medical records, the owner of the pregnant woman's medical records shall maintain a record of the notations.~~

~~(C) A person who violates this section is guilty of a felony and, upon conviction, must be fined up to ten thousand dollars, imprisoned for not more than two years, or both. If the plaintiff in a civil action brought pursuant to this section prevails by proving, by a preponderance of the evidence, that the defendant violated, attempted to violate, or threatened to violate a provision of this article, then the court shall award statutory damages of ten thousand dollars for each violation in addition to:~~

~~\_\_\_\_\_ (1) injunctive relief;~~

~~\_\_\_\_\_ (2) compensatory damages if the plaintiff suffered injury or harm, including, but not limited to loss of parental care, custody, and companionship of the unborn child, and emotional distress;~~

~~\_\_\_\_\_ (3) punitive damages, payable to a non-profit chosen by the plaintiff, that provides services to pregnant women; and~~

~~\_\_\_\_\_ (4) reasonable attorney's fees and court costs subject to the provisions contained in Subsection (E).~~

~~(D) An entity with ownership of the pregnant woman's medical records that violates item (2) must be fined up to fifty thousand dollars. Under no circumstances may civil damages be awarded to a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.~~

~~\_\_\_\_\_ (E) No one who aids and abets an abortion may bring a civil action under this section.~~

~~\_\_\_\_\_ (F) A person must bring an action pursuant to this article not later than six years after the date that the alleged violation occurred.~~

Section [44-41-670](#). ~~(A)(1) 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, or conspiring to commit 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. In a civil action brought pursuant to this article, or an action brought pursuant to Section [15-51-15](#), a court may not award compensatory damages or punitive damages if the losing party demonstrates that he paid, or has been ordered to pay, compensatory damages or punitive damages in a previous civil action for the same violation.~~

~~\_\_\_\_\_ (2) A damage award in a civil action brought pursuant to this article or an action brought pursuant to Section [15-51-15](#) may not be:~~

~~\_\_\_\_\_ (a) paid for or reimbursed by an insurance policy, except to the extent that the person against whom the damage award is assessed has insufficient personal assets to pay the total damage award;~~

and

(b) subject to any medical malpractice limits on recovery of damages as otherwise provided by law.

(B) The following do not constitute defenses to a civil action brought pursuant to this article or an action brought pursuant to Section [15-51-15](#):

(1) the fact that the pregnant woman or, if the pregnant woman is a minor, a parent or legal guardian consented to the abortion;

(2) ignorance or mistake of law;

(3) reliance on a state or federal court decision that is not binding on the court in which the action has been brought;

(4) a person's belief that any provision of this article is unconstitutional;

(5) non-mutual issue preclusion or non-mutual claim preclusion;

(6) contributory or comparative negligence;

(7) assumption of the risk; or

(8) a claim that an action brought pursuant to this article violates a constitutional right of a third party.

(C) A court may:

(1) not award attorney fees or court costs to a person subject to a civil action pursuant to this article for a violation of this article, or an action brought pursuant to Section [15-51-15](#), unless the action is frivolous, without foundation, or brought in bad faith, or for the reason of delay;

(2) not award attorney fees or costs to a person who prevails in challenging the constitutionality of this article under state law, unless the defense of this article is frivolous, without foundation, made in bad faith, or for the sole reason of delay; or

(3) award attorney fees or court costs to a person who prevails in defending the constitutionality of this article under state law, even though the challenge to the constitutionality of this article was not frivolous, without foundation, brought in bad faith, or for the sole reason of delay.

Section [44-41-680](#). ~~(A) In addition to all other remedies available under common or statutory law, failure to comply with the requirements of this article shall provide the basis for a civil action further described in this section. For the purposes of this section:~~

(1) "Prohibited abortion activity" means an activity wherein a person knowingly or intentionally violates any of the provisions contained in Section [44-41-615](#).

(2) "Pattern of prohibited abortion activity" means that an individual, entity, or an entity acting through its agents or others that the entity acted in concert with engaged in at least two incidents of abortion activity.

(3) "Whistleblower" means an employee who brings wrongdoing by an employer or other employees to the attention of a person who may bring an action for a violation of this article.

~~(B)(1) A pregnant woman upon whom an abortion has been performed, induced, or coerced in violation of this article may maintain an action against the person who violated this article for actual and punitive damages. In addition to all other damages, and separate and distinct from all~~

~~other damages, a plaintiff is entitled to statutory damages of ten thousand dollars for each violation of this article to be imposed on each defendant found to have violated this article. It is unlawful to:~~

~~\_\_\_\_\_ (a) knowingly or intentionally receive any proceeds directly or indirectly derived from a pattern of prohibited abortion activity;~~

~~\_\_\_\_\_ (b) knowingly or intentionally use or invest any proceeds directly or indirectly derived from a pattern of prohibited abortion activity to acquire an interest in property of, or to establish or operate, an entity engaged in prohibited abortion activity;~~

~~\_\_\_\_\_ (c) through a pattern of prohibited abortion activity, knowingly or intentionally acquire or maintain, either directly or indirectly, an interest in or control of an entity, or the property of an entity, engaged in a pattern of prohibited abortion activity;~~

~~\_\_\_\_\_ (d) be employed by or associated with an entity known by the person to engage in a pattern of prohibited abortion activity; or~~

~~\_\_\_\_\_ (e) knowingly or intentionally conduct or otherwise participate in the activities of an entity engaged in a pattern of prohibited abortion activity.~~

~~\_\_\_\_\_ (2) A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned up to ten years.~~

~~(C) A separate and distinct cause of action for injunctive relief against any person who has violated this article may be maintained by: The Attorney General, or a solicitor acting within his circuit, may bring an action to prevent, restrain, or punish a violation of subsection (B) by seeking appropriate orders, including, but not limited to:~~

~~(1) the woman upon whom the abortion was performed or induced in violation of this article; ordering a person to be divested of any proceeds directly or indirectly derived from a pattern of prohibited abortion business activities and of an interest, direct or indirect, in any entity engaged in a pattern of abortion business activity;~~

~~(2) the parent or guardian of the pregnant woman if she had not attained the age of eighteen years at the time of the abortion or died as a result of the abortion; imposing reasonable restriction on the future activities or investments of a person, including, but not limited to, prohibiting a person from engaging in prohibited abortion business activities; and~~

~~(3) a solicitor or prosecuting attorney with proper jurisdiction; or ordering the dissolution or reorganization of an entity engaged in a pattern of prohibited abortion business activities, making provision for the rights of innocent people.~~

~~— (4) the Attorney General.~~

~~(D)(1) If a plaintiff prevails in an action initiated pursuant to this section the court shall award the plaintiff reasonable costs and attorney's fees. A person may not take any action to impede a whistleblower from communicating about a violation of this article with the Attorney General, a solicitor, or any other person authorized to bring an action for a violation of this article. Actions to impede a whistleblower may include, but are not limited to:~~

~~\_\_\_\_\_ (a) enforcing, or threatening to enforce, a confidentiality agreement or a predispute arbitration agreement with respect to the communications; or~~

~~\_\_\_\_\_ (b) discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against a whistleblower in the terms and conditions of employment.~~

~~\_\_\_\_\_ (2) A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for up to ten years.~~

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

~~— (F) Under no circumstances may civil damages be awarded to a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.~~

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

Section [44-41-690](#). ~~(A)~~ In addition to any other penalties imposed by law, a physician or any other professionally licensed person who is indicted for an intentional, knowing, or reckless violation of the prohibition on abortion contained in this article, shall have his license suspended by the State Board of Medical Examiners or other, appropriate licensing authority, after due process according to the board's rules and procedures. The suspension shall remain in place until the charges against the physician are dismissed, or the physician is acquitted, convicted, pleads guilty, or pleads nolo contendere. In the event that the charges are dismissed, or the physician is acquitted, then the physician's license may be reinstated by the board upon application by the physician.

~~\_\_\_\_\_ (B) A physician or any other professionally licensed person~~ who intentionally, knowingly, or recklessly violates the prohibition on abortion contained in this article commits an act of unprofessional conduct. A physician's license to practice in this State immediately shall be revoked by the State Board of Medical Examiners, after due process according to the board's rules and procedures. Any other licensed person's professional license shall be immediately revoked by the appropriate licensing board, after due process according to that board's rules and procedures. A complaint may be originated by any person or by the board sua sponte. A licensing board acting pursuant to this section may assess costs of the investigation, fines, and other disciplinary actions as it may deem appropriate.

Section [44-41-700](#). ~~Reserved.~~ This article may not be construed to impose liability or conduct protected by the First Amendment to the United States Constitution or by the South Carolina Constitution.

Section [44-41-710](#). ~~Reserved.~~ 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 article, or any portion of this article. In a federal court action that challenges the constitutionality of this article or any portion of this article, 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, may seek to intervene, to file an amicus brief, or to present arguments in

accordance with the federal rules of procedure. Intervention by the President of the Senate or the Speaker of the House of Representatives, or both, 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 both houses of the General Assembly intervene or participate, the Senate and the House of Representatives shall function independently from each other in the representation of their respective clients.

~~—Section [44-41-720](#). Reserved.~~

~~—Section [44-41-730](#). Reserved.~~

~~—Section [44-41-740](#). Reserved.~~

SECTION 4. Chapter 51, Title 15 of the S.C. Code is amended by adding:

Section [15-51-15](#). (A) A woman upon whom an abortion was performed or induced may bring a wrongful death action on behalf of her dead unborn child against the person who performed or induced the abortion, if the abortion was the proximate cause of the death of the unborn child.

(B) If the woman upon whom an abortion was performed or induced does not bring a wrongful death action pursuant to this section, then a wrongful death action may be brought against the person who performed or induced the abortion, if the abortion was the proximate cause of the death of the unborn child, by the father of the unborn child, a parent or legal guardian of a pregnant minor upon whom an abortion was performed or induced, or the estate of a pregnant woman who died as a result of an abortion.

(C) Except for the requirement for a live birth, an action for wrongful death pursuant to this section is subject to the same defenses and requirements of proof as would apply to an action for wrongful death of a child who has been born alive.

(D) If the plaintiff in a wrongful death action brought pursuant to this section prevails, the court shall award:

(1) compensatory damages if the plaintiff suffered injury or harm from the defendant's conduct, including, but not limited to, loss of parental care, custody, and companionship, or emotional distress;

(2) punitive damages, payable to a non-profit chosen by the plaintiff, that provides services to pregnant women; and

(3) reasonable attorney's fees and court costs.

(E) An action may not be brought pursuant to this section by the woman who consents to the abortion, the father of the unborn child, a parent or legal guardian of a pregnant minor upon whom an abortion was performed or induced, or the estate of a pregnant woman who died as a result of an abortion, if the father, parent or legal guardian, or the mother who died as a result of the abortion consented to or aided or abetted the abortion.

SECTION 5. Section [59-32-30](#) of the S.C. Code is amended by adding:

(H)(1) The instruction on human growth and development required in this section must include a presentation of a high-quality, computer generated rendering or animation of at least three minutes in duration comparable in quality with the "Meet Baby Olivia" video developed by Live Action, a 501(c)(3) non profit, demonstrating the process of fertilization and stages of human development inside the uterus, noting significant markers in cell growth and organ development from fertilization until birth.

(2) The Attorney General may bring a civil action for a writ of mandamus to compel a public school district to comply with item (1).

SECTION 6. Section [44-41-37](#) of the S.C. Code is amended to read:

~~Section [44-41-37](#). A physician or other professional person or agency counseling or discussing with a minor the question of her obtaining an abortion shall fully inform her of the procedures she must follow under law to obtain an abortion without the consent required in Section [44-41-31\(1\)](#).~~

The Adoption and Birth Parent Services Division of the Department of Social Services shall develop and distribute brochures to health and education professionals for use in counseling pregnant minors. This brochure shall include the following:

- (1) how to access her local health department for prenatal care;
- (2) how to access her local Adoption and Birth Parent Services Division of the Department of Social Services or any private not for profit adoption service;
- (3) the parental consent requirement as outlined in this bill; and
- ~~(4) the judicial by-pass procedure as referred in Sections [44-41-32](#), [44-41-33](#), and [44-41-34](#); and~~
- ~~(5)~~(4) how to access her local mental health center for counseling services.

SECTION 7. Section [44-41-90\(A\)](#) of the S.C. Code is amended to read:

(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 [44-41-640](#); ~~[44-41-650](#)~~, and [44-41-660](#).

SECTION 8. Section [44-41-60](#) of the S.C. Code is amended to read:

Section [44-41-60](#). ~~(A)~~Any abortion performed in this State pursuant to Section [44-41-640](#) must be reported by the performing physician on the standard form for reporting abortions to the State Registrar, Department of ~~Public Health and Environmental Control~~, within seven days after the abortion is performed. The names of the patient and physician may not be reported on the form or otherwise disclosed to the State Registrar. A physician who fails to timely complete or transmit a completed report as required in this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than thirty days or fined one thousand dollars, or both. Each instance

~~where a doctor fails to complete or transmit a completed report in a timely manner as required by this section constitutes a separate offense. The form must indicate from whom consent was obtained, circumstances waiving consent, and, if an exception was exercised pursuant to Section [44-41-640](#), [44-41-650](#), or [44-41-660](#), which exception the physician relied upon in performing or inducing the abortion.~~

~~(B) Annually, on or before January thirty-first, the Department of Public Health shall compile a public report providing statistics for the previous calendar year from the information submitted by physicians pursuant to this section and statistics for prior calendar years with any updated information for calendar years that was submitted after the compilation of statistics for that year.~~

SECTION 9. Sections [44-41-32](#), [44-41-33](#), and [44-41-34](#) of the S.C. Code are repealed.

SECTION 10. 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.

SECTION 11. This act takes effect upon approval by the Governor. The provisions contained in SECTION 5 of this act, relating to instruction on human growth and development, are applicable beginning with the 2026-2027 school year.

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