MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Boyd, Williamson

To: Judiciary B

HOUSE BILL NO. 790

AN ACT TO CREATE THE "MISSISSIPPI HUMAN LIFE PROTECTION ACT"; TO PROVIDE DEFINITIONS FOR SUCH ACT; TO PROVIDE THAT PERFORMANCE OF AN ABORTION SHALL BE UNLAWFUL, UNLESS NECESSARY TO PREVENT SERIOUS HEALTH RISKS TO THE UNBORN CHILD'S MOTHER; TO REQUIRE TWO MISSISSIPPI PHYSICIANS TO CONFIRM SUCH HEALTH RISKS IN WRITING; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as "The Mississippi Human Life Protection Act."

SECTION 2. The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. This term does not include the following activities if done with the intent to save the life or preserve the health of an unborn child: remove a dead unborn child, deliver the unborn child

prematurely to avoid a serious health risk to the unborn child's mother, or to preserve the health of her unborn child. The term also does not include a procedure or act to terminate the pregnancy of a woman with an ectopic pregnancy, nor does it include the procedure or act to terminate the pregnancy of a woman when the unborn child has a lethal anomaly.

(b) "Ectopic Pregnancy" means any pregnancy resulting from either a fertilized egg that has implanted or attached outside the uterus or a fertilized egg implanted inside the cornu of the uterus.

(c) "Lethal Anomaly" means a condition from which an unborn child would die after birth or shortly thereafter or be stillborn.

(d) "Medical Emergency" a condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that her pregnancy must be terminated to avoid a serious health risk as defined in this act.

(e) "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in Mississippi.

(f) "Serious health risk to the unborn child's mother" means that in one's reasonable medical judgment, the child's mother has a condition that so complicates her medical condition that it necessitates the termination of her pregnancy to avert her

death or to avert serious risk of substantial physical impairment of a major bodily function. This term does not include a condition based on a claim that the woman is suffering from an emotional condition or a mental illness which will cause her to engage in conduct that intends to result in her death or the death of her unborn child. However, the condition may exist if a second physician who is licensed in Mississippi as a psychiatrist, with a minimum of three (3) years of clinical experience, examines the woman and documents that the woman has a diagnosed serious mental illness and because of it, there is reasonable medical judgment that she will engage in conduct that could result in her death or the death of her unborn child. If the mental health diagnosis and likelihood of conduct is confirmed as provided in this act, and it is determined that a termination of her pregnancy is medically necessary to avoid the conduct, the termination may be performed and shall be only performed by a physician licensed in Mississippi, in a hospital to which such physician has admitting privileges.

(g) "Unborn child, child or person" means a human being, specifically including an unborn child in utero at any stage of development, regardless of viability.

(h) "Woman" means a female human being, whether or not she has reached the age of majority.

SECTION 3. (1) Notwithstanding any other provision of law to the contrary, it shall be unlawful for any person to

intentionally perform or attempt to perform an abortion except as provided for by subsection (2) of this section.

(2) An abortion shall be permitted if an attending physician licensed in Mississippi, determines that an abortion is necessary in order to prevent a serious health risk to the unborn child's mother. Except in the case of a medical emergency as defined herein, the physician's determination shall be confirmed in writing by a second physician licensed in Mississippi. The confirmation shall occur within one hundred eighty (180) days after the abortion is completed and shall be prima facie evidence for a permitted abortion.

(3) No woman upon whom an abortion is performed or attempted to be performed shall be criminally or civilly liable.

(4) No physician confirming the serious health risk to the child's mother shall be criminally or civilly liable for those actions.

(5) No physician performing a termination of a pregnancy or assisting in performing a termination of a pregnancy due to a medical emergency as defined by this act shall be criminally or civilly liable for those actions.

(6) (a) Any person convicted of violating the provisions of this act shall be guilty of a felony, and upon conviction, shall be punished by a fine of not more than Ten Thousand Dollars ($10,000.00), or committed to the Department of Corrections for not more than two (2) years or both.

(b) Any person convicted of attempting an abortion in violation of this act shall be guilty of a felony, and upon conviction, shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or committed to the Department of Corrections for not more than one (1) year, or both.

SECTION 4. The construction of existing statutes and regulations that recognize or regulate abortion in Mississippi that are in conflict with this act shall be repealed as null and void and shall recognize the prohibition of abortion as provided in this act. This act shall be construed separate from any other provisions of law that regulate abortion. If this act is challenged and enjoined pending a final judicial decision, the existing statutes and regulations that regulate or recognize abortion shall remain in effect during that time.

SECTION 5. This act shall take effect and be in force from and after its passage.