

Regular Session, 2011

HOUSE BILL NO. 587

BY REPRESENTATIVE LABRUZZO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ABORTION: Revises the Human Life Protection Act

1 AN ACT

2 To amend and reenact R.S. 14:32.5(A) and R.S. 40:1299.35.0, to enact R.S.
3 40:1299.35.1(11) and to repeal R.S. 40:1299.30(A), (B), and (E), relative to abortion;
4 to revise the definition of feticide; to repeal certain conditions relative to prohibition
5 of abortion; to repeal federally funded Medicaid trigger to prohibition of abortion;
6 to repeal exception for certain contraceptive measures, drugs, or chemicals
7 administered prior to the time pregnancy could be determined; to provide for
8 legislative intent; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:32.5(A) is hereby amended and reenacted to read as follows:

11 §32.5. Feticide defined; exceptions

12 A. Feticide is the killing of an unborn child by the act, procurement, or
13 culpable omission of a person, other than including the mother of the unborn child.
14 ~~The offense of feticide shall not include acts which cause the death of an unborn~~
15 ~~child if those acts were committed during any abortion to which the pregnant woman~~
16 ~~or her legal guardian has consented or which was performed in an emergency as~~
17 ~~defined in R.S. 40:1299.35.12. Nor shall the offense of feticide include acts which~~
18 ~~are committed pursuant to usual and customary standards of medical practice during~~
19 ~~diagnostic testing or therapeutic treatment.~~

20 * * *

1 Section 2. R.S. 40:1299.35.0 is hereby amended and reenacted and R.S.
2 40:1299.35.1(11) is hereby enacted to read as follows:

3 §1299.35.0. Legislative intent

4 For all purposes within this Title, all human beings shall be considered legal
5 persons. ~~Therefore~~ ~~It~~ it is the intention of the Legislature of the State of Louisiana
6 to ~~regulate~~ prohibit abortion ~~to the extent permitted by the decisions of the United~~
7 ~~States Supreme Court.~~ The Legislature does solemnly declare and find in
8 reaffirmation of the longstanding policy of this State, that the unborn child is a
9 human being from the time of ~~conception~~ that human being's biological beginning
10 and is, therefore, a legal person for purposes of the unborn child's right to life and is
11 entitled to the right to life from ~~conception~~ his biological beginning until natural
12 death under the laws and Constitution of this State. Further, the Legislature finds
13 and declares that the longstanding policy of this State is to protect the right to life of
14 the unborn child from ~~conception~~ by defining the unborn child as a person and
15 further by prohibiting ~~abortion~~ all abortions at any and all stages of the unborn
16 child's development ~~impermissible only because of the decisions of the United States~~
17 ~~Supreme Court and that, therefore, if those decisions of the United States Supreme~~
18 ~~Court are ever reversed or modified or the United States Constitution is amended to~~
19 ~~allow protection of the unborn then the former policy of this State to prohibit~~
20 ~~abortions shall be enforced.~~

21 §1299.35.1. Definitions

22 As used in R.S. 40:1299.35.0 through 1299.35.18, the following words have
23 the following meanings:

24 * * *

25 (11) "Biological beginning" means when life begins, at the start.

26 Section 3. R.S. 40:1299.30(A), (B), and (E) are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

LaBruzzo

HB No. 587

Abstract: Amends the Human Life Protection Act.

Present law (R.S. 14:32.5(A)) defines "feticide" as the killing of an unborn child by the act, procurement, or culpable omission of a person other than the mother of the unborn child. Specifies that feticide does not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in present law. Also, specifies that the offense does not include acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

Proposed law modifies the definition of "feticide" by specifying that it is the killing of an unborn child by the act, procurement, or culpable omission of a person, including the mother of the unborn child. Also, removes the exception to the application of present law if the acts which cause the death of an unborn child were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency. Also, removes the exception for acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

Present law (R.S. 40:1299.35.0) establishes the legislative intent of the Legislature of the State of Louisiana is to regulate abortion to the extent permitted by the decisions of the United States Supreme Court. The Legislature does solemnly declare and find in reaffirmation of the longstanding policy of this State, that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and Constitution of this State. Further, the Legislature finds and declares that the longstanding policy of this State is to protect the right to life of the unborn child from conception by prohibiting abortion impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this State to prohibit abortions shall be enforced.

Proposed law modifies present law by specifying that for all purposes within the law, all human beings are considered legal persons. Provides that therefore the intent of the Legislature of the State of Louisiana is to prohibit abortion. It also specifies that an unborn child is a human being from the time of that human being's biological beginning and is a legal person for the purposes of the unborn child's right to life and is entitled to the right to life from the biological beginning until natural death. Finally, it removes the provision that indicates that the prohibition of abortion is impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this State to prohibit abortions shall be enforced.

Proposed law (R.S. 40:1299.35.1(11)) defines "biological beginning" as meaning when life begins, at the start.

Present law (R.S. 40:1299.30(A)) provides that the provisions of present law 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.

Proposed law repeals present law.

Present law (R.S. 40:1299.30(B)) provides that the provisions of present law are 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 federal law.

Proposed law repeals present law.

Present law (R.S. 40:1299.30(E)) provides that present law does not 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.

Proposed law repeals present law.

(Amends R.S. 14:32.5(A) and R.S. 40:1299.35.0; Adds R.S. 40:1299.35.1(11); Repeals R.S. 40:1299.30(A), (B), and (E))