

Regular Session, 2006

HOUSE BILL NO. 132

BY REPRESENTATIVE BURNS

ABORTION: Criminalizes the act of performing an abortion

1 AN ACT

2 To enact R.S. 14:87, relative to abortion; to define and prohibit abortions; to provide for
3 exceptions; to provide for definitions; to provide for penalties; to provide for
4 applicability; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:87 is hereby enacted to read as follows:

7 §87. Abortion

8 A.(1) Abortion is the performance of any of the following acts, with the
9 specific intent of terminating a pregnancy:

10 (a) Administering or prescribing any drug, potion, medicine, or any other
11 substance to a female; or

12 (b) Using any instrument or external force whatsoever on a female.

13 (2) This Section shall not apply to the female who has an abortion.

14 B. It shall not be unlawful for a physician to perform any of the acts
15 described in Subsection A of this Section if performed under the following
16 circumstances:

17 (1) The physician terminates the pregnancy in order to preserve the life or
18 health of the unborn child or to remove a dead unborn child.

19 (2) The physician terminates a pregnancy for the express purpose of saving
20 the life of the mother.

1 (3) The physician terminates a pregnancy which is the result of rape as
2 defined in either R.S. 14:42, 42.1, or 43 and in which all of the following
3 requirements are met prior to the pregnancy termination:

4 (a) The rape victim obtains a physical examination and/or treatment from a
5 physician other than the physician who is to terminate the pregnancy within five days
6 of the rape to determine whether she was pregnant prior to the rape and to prevent
7 pregnancy and venereal disease, unless the rape victim is incapacitated to such a
8 degree that she is unable to obtain this examination. If the victim is unable to obtain
9 the examination due to such incapacity, then an examination shall be performed
10 within five days after the incapacity is removed; and

11 (b) The rape victim reports the rape to law enforcement officials within
12 seven days of the rape unless the victim is incapacitated to such a degree that she is
13 unable to report the rape. If the victim is unable to report the rape due to such
14 incapacity, then a report shall be made within seven days after the incapacity is
15 removed; and

16 (c) The abortion is performed within thirteen weeks of conception.

17 (4) The physician terminates a pregnancy which is the result of incest as
18 defined in R.S. 14:78, provided the crime is reported to law enforcement officials
19 and the abortion is performed within thirteen weeks of conception.

20 C.(1) Prior to the performance of any abortion under Subsection (B)(3) or
21 (B)(4) of this Section, the physician who is to perform the abortion shall obtain from
22 the victim a statement in writing verifying that she has obtained the physical
23 examination and shall obtain written verification by a law enforcement official that
24 the victim reported the rape to law enforcement officials as required under this
25 Section.

26 (2) Every physician who conducts a physical examination of a rape victim
27 within five days of the rape shall immediately, upon written request of either the
28 victim or the physician who is to perform the abortion on the victim, provide to the
29 victim or the requesting physician written verification of his examination.

1 (3) Every law enforcement official who receives a report of a rape victim
2 within seven days of the rape or receives a report of incest shall immediately, upon
3 written request of either the victim or the physician who is to perform the abortion,
4 provide to the victim or requesting physician written verification of the report which
5 was made to the official.

6 D. As used in this Section, the following words and phrases are defined as
7 follows:

8 (1) "Conception" means the contact of spermatozoan with the ovum.

9 (2) "Law enforcement official or officer" means any peace officer or agency
10 empowered to enforce the law in criminal matters within his or its respective
11 jurisdiction, including but not limited to a state police officer, sheriff, constable,
12 local police officer, and district attorney.

13 (3) "Physician" means any person licensed to practice medicine in this state.

14 (4) "Unborn child" means the unborn offspring of human beings from the
15 moment of conception until birth.

16 E.(1) Whoever commits the crime of abortion shall be imprisoned at hard
17 labor for not less than one nor more than ten years and shall be fined not less than ten
18 thousand dollars nor more than one hundred thousand dollars.

19 (2) This penalty shall not apply to the female who has an abortion. Effective
20 if and when House Bill No. of this 2006 Regular Session is enacted and becomes
21 effective.

22 Section 2. If any provision of this Act or the application thereof is held invalid, such
23 invalidity shall not affect other provisions or applications of this Act which can be given
24 effect without the invalid provisions or applications, and to this end the provisions of this
25 Act are hereby declared severable.

26 Section 3. Effective if and when House Bill No. of this 2006 Regular Session is
27 enacted and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Burns

HB No. 132

Abstract: Defines and prohibits abortions and provides for exceptions.

Proposed law provides that abortion is the performance of any of the following acts, with the specific intent of terminating a pregnancy:

- (1) Administering or prescribing any drug, potion, medicine, or any other substance to a female; or
- (2) Using any instrument or external force whatsoever on a female.

Proposed law provides penalties for the crime of abortion of imprisonment at hard labor for not less than one nor more than 10 years and a fine of not less than \$10,000 nor more than \$100,000.

Proposed law provides that these penalties do not apply to a woman seeking an abortion.

Proposed law defines "law enforcement official or officer", "physician", "unborn child", and "conception".

Proposed law creates exceptions for a physician performing an abortion if performed under the following circumstances:

- (1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a dead unborn child.
- (2) The physician terminates a pregnancy for the express purpose of saving the life of the mother.
- (3) The physician terminates a pregnancy which is the result of rape and the physician complies with certain requirements prior to the pregnancy termination.
- (4) The physician terminates a pregnancy which is the result of incest as defined in R.S. 14:78, provided the crime is reported to law enforcement officials and the abortion is performed within 13 weeks of conception.

Proposed law provides additional provisions with regard to a physician performing an abortion on a rape victim.

Proposed law contains severability clause and contingent effective date.

(Adds R.S. 14:87)