**A** **BILL**

TO AMEND CHAPTER 41, TITLE 44 OF THE 1976 CODE, RELATING TO ABORTIONS, BY ADDING SECTION 44‑41‑90, TO PROHIBIT DISMEMBERMENT ABORTIONS, TO DEFINE DISMEMBERMENT ABORTION, TO PROVIDE PENALTIES FOR THE PERFORMANCE OF A DISMEMBERMENT ABORTION, AND TO ALLOW A CIVIL CAUSE OF ACTION.

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

SECTION 1. Article 1, Chapter 41, Title 44 of the 1976 is amended by adding:

“Section 44‑41‑90(A) A physician who knowingly performs a dismemberment abortion and thereby kills a human fetus is guilty of a felony and, upon conviction, must be fined not less than five thousand dollars or imprisoned for not less than five years, or both. This section shall not apply to a dismemberment abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, a physical illness, or a physical injury if no other medical procedure would suffice for that purpose.

(B) As used in this section:

(1) ‘Dismemberment abortion’ means, with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors, or similar instruments that, through the convergence of two rigid levers, slice, crush, or grasp a portion of the unborn child’s body in order to cut or rip it apart.

(2) ‘Physician’ means a physician, surgeon, or osteopath authorized to practice medicine in this State and licensed pursuant to Chapter 47 of Title 40. However, an individual who is not a physician, but who directly and knowingly performs a dismemberment abortion is also subject to the provisions of this section.

(C)(1) The father, if married to the mother at the time she receives a dismemberment abortion, and if the mother has not attained the age of eighteen years at the time of the abortion, and the maternal grandparents of the fetus have a cause of action against the physician or other person unlawfully performing a dismemberment abortion and may obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct or the plaintiff consented to the abortion.

(2) Such relief includes, but is not limited to:

(a) actual damages which shall be trebled;

(b) punitive damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(c) reasonable costs and attorney’s fees.

(D) A woman upon whom a dismemberment abortion is performed may not be prosecuted for a violation of this section, for a conspiracy to violate this section, or for any other offense which is based on a violation of this section.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑