**A** **BILL**

TO AMEND SECTIONS 44‑41‑10 AND 44‑41‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO ABORTIONS, SO AS TO MAKE AN ABORTION A CRIMINAL ACT DURING ANY TRIMESTER IF THE SOLE REASON IS THAT THE UNBORN CHILD HAS A FETAL ANOMALY; AND TO AMEND SECTIONS 44‑41‑430, 44‑41‑440, 44‑41‑450, AND 44‑41‑460, ALL RELATING TO THE “SOUTH CAROLINA PAIN‑CAPABLE UNBORN CHILD PROTECTION ACT”, SO AS TO ELIMINATE THE FETAL ANOMALY EXCEPTION TO THE PROHIBITION OF ABORTIONS WHEN THE PROBABLE POST‑FERTILIZATION AGE OF AN UNBORN CHILD IS TWENTY WEEKS OR MORE.

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

SECTION 1. Section 44‑41‑10 of the 1976 Code is amended by adding an item at the end to read:

“( ) ‘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.”

SECTION 2. Section 44‑41‑20 of the 1976 Code is amended to read:

“Section 44‑41‑20. (A) Abortion shall be a criminal act except when performed under the following circumstances:

~~(a)~~(1) During the first trimester of pregnancy the abortion is performed with the pregnant woman’s consent by her attending physician pursuant to his professional medical judgment.

~~(b)~~(2) During the second trimester of pregnancy the abortion is performed with the pregnant woman’s consent by her attending physician in a hospital or clinic certified by the Department.

~~(c)~~(3) During the third trimester of pregnancy, the abortion is performed with the pregnant woman’s consent, and if married and living with her husband the consent of her husband, in a certified hospital, and only if the attending physician and one additional consulting physician, who shall not be related to or engaged in private practice with the attending physician, certify in writing to the hospital in which the abortion is to be performed that the abortion is necessary based upon their best medical judgment to preserve the life or health of the woman. In the event that the preservation of the woman’s mental health is certified as the reason for the abortion, an additional certification shall be required from a consulting psychiatrist who shall not be related to or engaged in private practice with the attending physician. All facts and reasons supporting such certification shall be set forth by the attending physician in writing and attached to such certificate.

(B) Notwithstanding the provisions of subsection (A), an abortion is a criminal act during any trimester if the sole reason for consenting to the abortion is because the unborn child has a fetal anomaly.”

SECTION 3. Section 44‑41‑430(5) of the 1976 Code is amended to read:

“(5) ~~“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~~ Reserved.”

SECTION 4. Section 44‑41‑440 of the 1976 Code is amended to read:

“Section 44‑41‑440. Except in the case of a medical emergency ~~or fetal anomaly~~, no abortion must be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable post‑fertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to post‑fertilization age.”

SECTION 5. Section 44‑41‑450(A) of the 1976 Code is amended to read:

“(A) No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable post‑fertilization age of the woman’s unborn child is twenty or more weeks, except ~~in the case of fetal anomaly, or in~~ if, based on reasonable medical judgment, she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such greater risk must be considered to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.”

SECTION 6. Section 44‑41‑460(A)(5) of the 1976 Code is amended to read:

“(5) If the probable post‑fertilization age was determined to be twenty or more weeks, ~~whether the reason for the abortion was a medical emergency or fetal anomaly, and if the reason was a medical emergency,~~ the basis of the determination that the pregnant woman had a condition which so complicated her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.”

SECTION 7. This act takes effect upon approval by the Governor.

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