

House Bill 546

By: Representatives Lott of the 122nd, LaRiccia of the 169th, Ballinger of the 23rd, Holmes of the 129th, Jasperse of the 11th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
2 offenses against health and morals, so as to provide for the offense of criminal abortion; to
3 provide for definitions; to provide for exceptions; to provide for penalties; to provide for
4 statutory construction; to provide for affirmative defenses to prosecution; to provide for
5 related matters; to provide for contingent effectiveness; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
10 health and morals, is amended by adding a new article to read as follows:

11 "ARTICLE 5A

12 16-12-150.

13 As used in this article, the term:

14 (1) 'Abortion' means the act of using, prescribing, administering, procuring, or selling
15 any instrument, medicine, drug, substance, device, or other means with the purpose to
16 terminate a pregnancy which could be detected or determined through conventional
17 medical testing and with knowledge that termination by any of those means will with
18 reasonable likelihood cause the death of the unborn child; provided, however, that any
19 such act shall not be considered an abortion if the act is performed with the purpose of:

20 (A) Saving the life or preserving the health of the unborn child;

21 (B) Removing a dead unborn child caused by spontaneous abortion;

22 (C) Removing an ectopic pregnancy; or

23 (D) Selling, using, prescribing, or administering a contraceptive measure, drug, or
 24 chemical if the contraceptive measure, drug, or chemical is sold, used, prescribed, or
 25 administered in accordance with manufacturer instructions.

26 (2) 'Medical emergency' means a condition in which an abortion is necessary to preserve
 27 the life of a pregnant individual whose life is endangered by a disorder, illness, or
 28 physical injury, including a life-endangering condition caused by or arising from the
 29 pregnancy itself.

30 (3) 'Medically futile' means that, in reasonable medical judgment, the unborn child has
 31 a profound and irremediable congenital or chromosomal anomaly that is incompatible
 32 with sustaining life after birth.

33 (4) 'Reasonable medical judgment' means a medical judgment that would be made by a
 34 reasonably prudent physician, knowledgeable about the case and the treatment
 35 possibilities with respect to the medical conditions involved.

36 (5) 'Unborn child' means an individual organism of the species Homo sapiens from the
 37 fusion of a human spermatozoon with a human ovum until live birth.

38 16-12-151.

39 (a) A person commits the offense of criminal abortion when he or she purposely performs
 40 or purposely attempts to perform an abortion.

41 (b) A person shall not have committed the offense of criminal abortion if he or she
 42 purposely performs or purposely attempts to perform an abortion if the act is purposely
 43 performed or purposely attempted:

44 (1) To save the life of a pregnant woman in a medical emergency;

45 (2) When a pregnancy is diagnosed as medically futile;

46 (3) In the case of a pregnancy resulting from rape; or

47 (4) In the case of a pregnancy resulting from incest.

48 (b) A person who commits the offense of criminal abortion in violation of this Code
 49 section shall, upon conviction thereof, be guilty of a felony and punished by a fine not to
 50 exceed \$100,000.00, imprisonment not to exceed ten years, or both.

51 16-12-152.

52 This article shall not be construed to prohibit the sale, use, prescription, or administration
 53 of a contraceptive measure, drug, or chemical if the contraceptive measure, drug, or
 54 chemical is administered before the time when a pregnancy could be detected or
 55 determined through conventional medical testing and if the contraceptive measure, drug,
 56 or chemical is sold, used, prescribed, or administered in accordance with manufacturer
 57 instructions.

58 16-12-153.

59 It shall be an affirmative defense to prosecution under this article if:

60 (1) A licensed physician provides medical treatment to a pregnant woman which results
 61 in the accidental or unintentional injury to or death of the unborn child;

62 (2) An advanced practice registered nurse or registered professional nurse, as such terms
 63 are defined in Code Section 43-26-3, or a licensed practical nurse, as such term is defined
 64 in Code Section 43-26-32, engages in the practice of nursing to provide care for a
 65 pregnant woman which results in the accidental or unintentional injury to or death of the
 66 unborn child;

67 (3) A licensed pharmacist engages in the practice of pharmacy, as such term is defined
 68 in Code Section 26-4-4, to provide care for a pregnant woman which results in the
 69 accidental or unintentional injury to or death of the unborn child; or

70 (4) A licensed physician assistant provides care to a pregnant woman which results in
 71 the accidental or unintentional injury to or death of the unborn child."

72 **SECTION 2.**

73 This Act shall become effective upon passage of a joint resolution that is signed by the
 74 Governor ratifying such Act by both houses of the Georgia General Assembly upon the
 75 occurrence of either of the following events:

76 (1) The United States Supreme Court overrules, in whole or in part, the central holding
 77 of *Roe v. Wade*, 410 U.S. 113 (1973), reaffirmed by *Planned Parenthood of Southeastern*
 78 *Pennsylvania v. Casey*, 505 U.S. 833 (1992); or

79 (2) An amendment to the United States Constitution is adopted that, in whole or in part,
 80 restores to the State of Georgia the authority to prohibit abortion.

81 **SECTION 3.**

82 All laws and parts of laws in conflict with this Act are repealed.