

2016 -- H 7764

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LC005174
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Representatives Fellela, Azzinaro, Corvese, Serpa, and Edwards

Date Introduced: February 26, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 4.13

4 ABORTIONS SOLELY AS A MEANS OF SEX SELECTION

5 **23-4.13-1. Definitions.** -- For purposes of this chapter the following definitions apply:

6 (1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any
7 other substance or device to terminate the pregnancy of a woman known to be pregnant with an
8 intention other than to increase the probability of a live birth, to preserve the life or health of the
9 child after live birth, or to remove a dead unborn child who died as the result of natural causes in
10 utero, accidental trauma or a criminal assault on the pregnant woman or her unborn child which
11 causes the premature termination of the pregnancy.

12 (2) "Attempt to perform an abortion" means to do or omit to do anything that, under the
13 circumstances as the actor believes them to be, is an act or omission constituting a substantial step
14 in a course of conduct planned to culminate in an abortion. Such substantial steps include, but are
15 not limited to:

16 (i) Agreeing with an individual to perform an abortion on that individual or on some
17 other person, whether or not the term "abortion" is used in the agreement, and whether or not the
18 agreement is contingent on another factor such as receipt of payment or a determination of
19 pregnancy.

1 (ii) Scheduling or planning a time to perform an abortion on an individual, whether or not
2 the term "abortion" is used, and whether or not the performance is contingent on another factor
3 such as receipt of payment or a determination of pregnancy. This definition shall not be construed
4 to require that an abortion procedure actually be initiated for an attempt to occur.

5 **23-4.13-2. Abortion as a means of sex selection.** -- No person shall intentionally
6 perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking
7 the abortion solely on account of the sex of the unborn child. Nothing in this chapter shall be
8 construed to proscribe the performance of an abortion because the unborn child has a genetic
9 disorder which is sex-linked.

10 **23-4.13-3. License suspension or revocation.** -- A physician who intentionally performs
11 or attempts to perform an abortion unlawful under §23-4.13-2 shall be considered to have
12 engaged in unprofessional conduct, and their license shall be subject to suspension or revocation
13 by the state board of medical licensure and discipline in accordance with procedures provided
14 under chapter 37 of title 5.

15 **23-4.13-4. Civil damages for abortions as a method of sex selection.** -- Any woman
16 upon whom an abortion unlawful under §23-4.13-2 was performed, the father of the unborn child
17 who was the subject of the abortion, unless the pregnancy resulted from the father's criminal
18 conduct, or the grandparent of such an unborn child, may maintain an action against the person
19 who performed the abortion for ten thousand dollars (\$10,000) in punitive damages and treble
20 whatever actual damages the plaintiff may have sustained. No person shall be estopped from
21 recovery in such a suit on the ground that either the plaintiff or the person upon whom the
22 abortion was performed gave consent to the abortion. Any contract of indemnification for such
23 damages is void.

24 **23-4.13-5. Injunctive relief.** -- A cause of action for injunctive relief against any person
25 who has knowingly violated the provisions of this chapter may be maintained by the woman upon
26 whom the abortion was performed or attempted in violation of §23-4.13-2, any person who is the
27 spouse, parent, guardian, conservator, or a current or former licensed healthcare provider of the
28 woman upon whom an abortion has been performed or attempted in violation of §23-4.13-2; or
29 by the department of the attorney general. The injunction shall prohibit the abortion provider
30 from performing further abortions in violation of §23-4.13-2.

31 **23-4.13-6. Attorney's fees.** -- If a judgment is rendered in favor of the plaintiff in an
32 action pursuant to this chapter, the court shall also render judgment for reasonable attorney's fees
33 in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant
34 and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall

1 render judgment for reasonable attorney's fees in favor of the defendant against the plaintiff.

2 **23-4.13-7. Exclusion of liability for woman who undergoes abortion. --** No action
3 under this chapter may be brought against any woman upon whom an abortion was performed or
4 attempted in violation of this chapter.

5 **23-4.13-8. Privacy of woman upon whom an abortion is performed or attempted. --**
6 In every proceeding or action brought under this chapter, the anonymity of any woman upon
7 whom an abortion was performed or attempted in violation of this chapter shall be preserved from
8 public disclosure unless she gives her consent to such disclosure. The court, upon motion or sua
9 sponte, shall issue orders to the parties, witnesses, and counsel, and shall direct the sealing of the
10 record and exclusion of individuals from courtrooms or hearing rooms, to the extent necessary to
11 safeguard her identity from public disclosure. In the absence of written consent of the woman
12 upon whom an abortion was performed or attempted in violation of this chapter, anyone who
13 brings an action under this chapter shall do so under a pseudonym.

14 **23-4.13-9. Construction. --** (a) Nothing in this chapter shall be construed as creating or
15 recognizing a right to abortion.

16 (b) It is not the intention of this chapter to make lawful an abortion that is currently
17 unlawful.

18 **23-4.13-10. Severability. --** If any provision, word, phrase, or clause of this chapter or
19 the application thereof to any person or circumstance is held invalid, such invalidity shall not
20 affect the provisions, words, phrases, clauses or applications of this chapter which can be given
21 effect without the invalid provision, word, phrase, clause, or application and to this end, the
22 provisions, words, phrases, and clauses of this chapter are declared to be severable. If the
23 application of this law to the period of pregnancy prior to viability is held invalid, then such
24 invalidity shall not affect its application to the period of pregnancy subsequent to viability.

25 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY

- 1 This act would prohibit abortions solely as a means of sex selection.
- 2 This act would take effect upon passage.

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