AN ACT

RELATING TO HEALTH AND SAFETY -- THE RHODE ISLAND UNBORN CHILD PROTECTION FROM DISMEMBERMENT ABORTION ACT

Introduced By: Representatives Corvese, Azzinaro, Vella-Wilkinson, Fellela, and Costantino

Date Introduced: January 11, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

CHAPTER 13.8

THE RHODE ISLAND UNBORN CHILD PROTECTION FROM DISMEMBERMENT ABORTION ACT


For purposes of this chapter:

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

(2)(i) "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 (2) rigid levers, slice, crush or grasp a portion of the unborn child's body in order to cut or rip it off.
(ii) The term "dismemberment abortion" does not include an abortion which uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in subsection (2)(i) of this section, is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

(3) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the woman or for which a delay necessary to comply with the applicable statutory requirements will create serious risk of substantial and irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function.


(a) No person shall perform, or attempt to perform, a dismemberment abortion on a living unborn child unless:

(1) The dismemberment abortion is necessary to preserve the life of the pregnant woman; or

(2) A continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman; or

(3) No condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.

(b) Upon a first conviction of a violation of this section, and amendments thereto, a person shall be guilty of a misdemeanor. Upon a second or subsequent conviction of a violation of this section, and amendments thereto, a person shall be guilty of a felony.

(c) No woman upon whom an abortion is performed or attempted shall be liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist or other employee or agent who is not a physician, but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be liable for performing or attempting to perform a dismemberment abortion.


A cause of action for injunctive relief against any person who has knowingly violated the
provisions of this chapter may be maintained by the woman upon whom the dismemberment abortion was performed or attempted in violation of §23-13.8-2; any person who is the spouse, parent, guardian, conservator, or a current or former licensed health care provider of the woman upon whom a dismemberment abortion has been performed or attempted in violation of §23-13.8-2; or by the office of the attorney general. The injunction shall prevent the abortion provider from performing further dismemberment abortions in violation of §23-13.8-2.


(a) A cause of action for civil damages against a person who has performed a dismemberment abortion in violation of §23-13.8-2, and amendments thereto, may be maintained by the following persons, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct:

(1) A woman upon whom a dismemberment abortion has been performed in violation of §23-13.8-2, and amendments thereto;

(2) The father of the unborn child, if married to the woman at the time the dismemberment abortion was performed; or

(3) The parents or custodial guardians of the woman, if the woman has not attained the age of eighteen (18) years at the time of the abortion or has died as a result of the abortion.

(b) Damages awarded in such an action shall include:

(1) Money damages for all injuries, psychological and physical, occasioned by the dismemberment abortion;

(2) Statutory damages equal to three (3) times the cost of the dismemberment abortion;

(3) Injunctive relief; and

(4) Reasonable attorneys' fees.

(c) No person is estopped from recovery in such a suit on the ground that either the plaintiff or the person upon whom the dismemberment abortion was performed gave consent to the abortion. Any contract of indemnification for such damages is void.

(d) No attorneys' fees shall be assessed against the woman upon whom a dismemberment abortion was performed or attempted.


In every proceeding or action pursuant to this chapter, the court shall rule whether the anonymity of any female upon whom a dismemberment abortion is performed or attempted should be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses and counsel, and shall
direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms, to
the extent necessary to safeguard her identity from public disclosure. Each such order shall be
accompanied by specific written findings explaining why the anonymity of the female should be
preserved from public disclosure, why the order is essential to that end, how the order is narrowly
tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the
absence of written consent of the female upon whom a dismemberment abortion has been
performed or attempted, anyone, other than a public official, who brings an action under this
section shall do so under a pseudonym. This section may not be construed to conceal the identity
of the plaintiff or of witnesses from the defendant.


(a) Nothing in this chapter shall be construed as creating or recognizing a right to
abortion, nor a right to a particular method of abortion.

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

(c) The adoption of this chapter does not repeal or modify, by implication or otherwise,
any provision of state law not expressly amended by this chapter.


If any provision of this chapter or the application thereof to any person or circumstance is
held invalid, such invalidity shall not affect the provisions for applications of this chapter which
can be given effect without the invalid provision or application and to this end, the provisions of
this chapter are severable.

SECTION 2. This act shall take effect upon passage.
This act would define and prohibit dismemberment abortions with certain exceptions.

This act would take effect upon passage.