

2017 -- H 5158

LC000660

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY

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

Date Introduced: January 19, 2017

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.**

6 For purposes of this chapter the following definitions apply:

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

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

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

1 pregnancy.

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

6 **23-4.13-2. Abortion as a means of sex selection.**

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

11 **23-4.13-3. License suspension or revocation.**

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

16 **23-4.13-4. Civil damages for abortions as a method of sex selection.**

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

25 **23-4.13-5. Injunctive relief.**

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

33 **23-4.13-6. Attorney's fees.**

34 If a judgment is rendered in favor of the plaintiff in an action pursuant to this chapter, the

1 court shall also render judgment for reasonable attorney's fees in favor of the plaintiff against the
2 defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's
3 suit was frivolous and brought in bad faith, the court shall render judgment for reasonable
4 attorney's fees in favor of the defendant against the plaintiff.

5 **23-4.13-7. Exclusion of liability for woman who undergoes abortion.**

6 No action under this chapter may be brought against any woman upon whom an abortion
7 was performed or attempted in violation of this chapter.

8 **23-4.13-8. Privacy of woman upon whom an abortion is performed or attempted.**

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

17 **23-4.13-9. Construction.**

18 (a) Nothing in this chapter shall be construed as creating or recognizing a right to
19 abortion.

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

22 **23-4.13-10. Severability.**

23 If any provision, word, phrase, or clause of this chapter or the application thereof to any
24 person or circumstance is held invalid, such invalidity shall not affect the provisions, words,
25 phrases, clauses or applications of this chapter which can be given effect without the invalid
26 provision, word, phrase, clause, or application and to this end, the provisions, words, phrases, and
27 clauses of this chapter are declared to be severable. If the application of this law to the period of
28 pregnancy prior to viability is held invalid, then such invalidity shall not affect its application to
29 the period of pregnancy subsequent to viability.

30 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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