

1 A bill to be entitled
 2 An act relating to termination of pregnancies;
 3 creating s. 390.035, F.S.; creating a cause of action
 4 for physical and emotional injury resulting from a
 5 termination of pregnancy; providing that this cause of
 6 action is not an exclusive remedy; providing that laws
 7 on medical malpractice actions do not apply to this
 8 cause of action; providing a statute of limitations
 9 and statute of repose; providing for tolling of the
 10 limitations periods; authorizing an award of
 11 attorney's fees and costs to a prevailing plaintiff;
 12 providing definitions; providing an effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Section 390.035, Florida Statutes, is created
 17 to read:

18 390.035 Liability for acts related to a termination of
 19 pregnancy; remedies; limitations.--

20 (1) A woman who suffers injury or death as a result of an
 21 abortion, or who suffers emotional distress as a result of a
 22 physician's failure to obtain the informed consent as required
 23 by s. 390.0111, has a cause of action for damages against the
 24 physician who performed the abortion or failed to provide the
 25 statutorily required informed consent.

26 (2) The signing of an informed consent form by the woman
 27 prior to the abortion shall not bar a cause of action brought
 28 under this section.

29 (3) An action brought pursuant to this section is not a
 30 claim for medical malpractice, and ch. 766 does not apply. This
 31 section shall not be construed as barring any other statutory or
 32 common law cause of action for medical malpractice otherwise
 33 available resulting from an abortion procedure or diminish the
 34 nature or the extent of those causes of action. The cause of
 35 action created in this section is in addition to any other
 36 statutory or common law cause of action available to an injured
 37 person.

38 (4) Notwithstanding s. 95.11 or any other provision of
 39 law, any action for damages brought under this section shall be
 40 commenced within the latter of 4 years from the time the
 41 incident giving rise to the action occurred or 4 years from the
 42 time the injury is discovered or should have been discovered
 43 with the exercise of due diligence; however, in no event shall
 44 the action be commenced later than 10 years from the time the
 45 incident giving rise to the action occurred. The limitations
 46 periods created by this subsection shall be tolled while the
 47 woman is a minor.

48 (5) A prevailing plaintiff in any action brought under
 49 this section is entitled to reasonable attorney's fees and
 50 costs.

51 (6) For the purposes of this section "damages" means all
52 special and general damages which are recoverable in an
53 intentional tort, negligence, survival or wrongful death action,
54 including but not limited to actual and punitive damages.

55 Section 2. This act shall take effect July 1, 2017.