

By: Representative Arnold

To: Judiciary B

HOUSE BILL NO. 819

1 AN ACT TO CREATE THE "PROTECTION OF THE HUMAN PERSON ACT"; TO
2 EXPRESS THE LEGISLATIVE FINDING AND DECLARATION FOR ITS ENACTMENT;
3 TO DEFINE TERMS USED IN THE ACT; TO PROHIBIT THE USE AND
4 ADMINISTRATION OF ABORTION INDUCING DRUGS OR INSTRUMENTS TO
5 EFFECTUATE AN ABORTION; TO PROHIBIT THE USE OF PUBLIC FUNDS,
6 WHETHER ALLOCATED BY THE FEDERAL OR STATE GOVERNMENT, FOR ABORTION
7 RELATED PROCEDURES; TO PROHIBIT THE USE OF IOLTA FUNDS AND CERTAIN
8 OTHER PUBLIC FUNDS FOR ADVOCACY FOR ABORTIONS OR TO PROVIDE LEGAL
9 ASSISTANCE; TO PROVIDE THAT THE TERM "PREBORN CHILD" SHALL BE
10 APPLICABLE TO THE DEFINITION OF CHILD OR CHILDREN FOR PURPOSE OF
11 CHILD ABUSE AND NEGLECT AND FOR PURPOSES OF PROVIDING SUPPORT FOR
12 SUPPORT AND MAINTENANCE FOR CHILDREN; TO PROVIDE THAT THE TERM
13 "PREBORN CHILD" SHALL BE APPLICABLE TO THE DEFINITION OF DEPENDENT
14 FOR INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE; TO
15 PROHIBIT ASSISTED SUICIDE, DESTRUCTION OF EMBRYO AND CLONING, AND
16 TO PRESCRIBE PENALTIES FOR SUCH VIOLATIONS; TO PROVIDE FOR THE
17 LEGAL ADOPTION OF HUMAN EMBRYOS AND PRESCRIBE THE RIGHTS AND
18 PRIVILEGES OF ENTITLEMENT TO THE RECIPIENT; TO PROVIDE FOR THE
19 RELINQUISHING OF RIGHTS TO SUCH EMBRYO BY THE CUSTODIAN THEREOF;
20 TO LIMIT THE NUMBER OF EMBRYO TO BE IMPLANTED AT THE TIME OF
21 TRANSFER; TO PROVIDE FOR THE ETHICAL TREATMENT OF HUMAN EMBRYOS;
22 TO PROHIBIT THE USE OF PUBLIC FUNDS FOR EMBRYO DESTRUCTIVE
23 RESEARCH AND CLONING; TO PROHIBIT THE ISSUANCE OF INSURANCE
24 CONTRACT FOR THE PURPOSE OF COVERING ABORTION PROCEDURES; TO
25 PROVIDE FREEDOM OF CONSCIENCE TO CERTAIN HEALTHCARE PROVIDERS,
26 INSTITUTIONS AND PAYERS; TO PROVIDE THAT THIS ACT SHALL BE
27 SEVERABLE; AND FOR RELATED PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

29 **SECTION 1.** This Act shall be known, and may be cited, as the
30 "Protection of the Human Person Act."



31 **SECTION 2.** The Legislature hereby finds and declares:

32 (a) That the following provisions are an expression of
33 the will of the people of the State of Mississippi and the members
34 of the Legislature to provide protection for the inalienable right
35 to life of every human being at every stage of development;

36 (b) That the laws of the State of Mississippi should be
37 based on accurate scientific data;

38 (c) That the people of the State of Mississippi,
39 through their elected members of the Legislature, expressly
40 deplore the destruction of human lives which has occurred in
41 Mississippi as a consequence of the lack of legal recognition of
42 certain classes of human beings;

43 (d) That it is in the interest of the people of the
44 State of Mississippi that every human being be considered a person
45 for purposes of the protection of his or her life, health, safety
46 and general welfare;

47 (e) That the State of Mississippi has the power and
48 duty to protect the inalienable right to life of all human beings
49 as full legal persons at every stage of development;

50 (f) That the State of Mississippi acknowledges and
51 respects the supremacy of the United States Constitution but
52 reserves the right to legally challenge unsound interpretations of
53 the United States Constitution which infringe on the human rights
54 and civil liberties of the people of the State of Mississippi and
55 the sovereignty of the State of Mississippi;



56 (g) That the protection of all human beings at every
57 stage of development as legal persons with the inalienable right
58 to life is not in conflict with the United States Constitution;

59 (h) That it is the duty and responsibility of the State
60 of Mississippi to implement the following provisions to safeguard
61 the lives of all human persons and provide them with equal
62 protection of the law at every stage of his or her development.

63 **SECTION 3.** The terms used in this act shall have the
64 meanings ascribed in this section, unless context clearly requires
65 otherwise:

66 (a) "Abortion" means the crime of knowingly using or
67 employing any instrument, device or procedure upon a pregnant
68 woman with the intent of causing the termination of the life of a
69 preborn child, causing the death of that preborn child.

70 (b) "Abortion-inducing drug" means a medicine, drug, or
71 any other substance prescribed or dispensed with the intent of
72 terminating the life of a preborn child, with knowledge that the
73 termination will occur.

74 (c) "Aid in dying" means the act or instance of a
75 person providing the means or manner for another to be able to
76 commit suicide.

77 (d) "Affiliate" means an organization that owns or
78 controls, or is owned or controlled, in whole or in part, by the
79 other; related by shareholdings or other means of control; or a
80 subsidiary, parent, or sibling corporation.



81 (e) "Associate" means:

82 (i) To enter into any written or oral contract or
83 agreement with another contractor, individual, organization or
84 entity that provides, induces, refers for or counsels on behalf of
85 abortions;

86 (ii) To exert any degree of ownership or control
87 over another contractor, individual, organization or entity that
88 provides, induces, refers for or counsels on behalf of abortions;
89 or

90 (iii) To own, direct or control shares in another
91 contractor, individual, organization or entity that provides,
92 induces, refers for or counsels on behalf of abortions.

93 (f) "Child" includes a human being before and during
94 birth.

95 (g) "Conscience" means the religious, moral or ethical
96 principles held by a healthcare provider, the healthcare
97 institution, or healthcare payer. For purposes of this act, a
98 healthcare institution or healthcare payer's conscience shall be
99 determined by reference to its existing or proposed religious,
100 moral, or ethical guidelines, mission statement, constitution,
101 bylaws, articles of incorporation, regulations or other relevant
102 documents.

103 (h) "Contraception" means any medicine, device or other
104 substance prescribed or dispensed with the intent of stopping the
105 union of the male sperm and female ovum.



106 (i) "Deliberately" means to consider carefully; done on
107 purpose; intentional.

108 (j) "Department" means the Mississippi Department of
109 Health (or insert name of responsible department or agency).

110 (k) "Destructive research" means medical procedures,
111 scientific or laboratory research, or other kinds of investigation
112 that kill or injure the subject of such research. The term does
113 not include:

114 (i) Research in the use of nuclear transfer or
115 other cloning techniques to produce molecules, deoxyribonucleic
116 acid, cells other than human embryos, tissues, organs, plants or
117 animals other than humans; or

118 (ii) Any diagnostic procedure that benefits the
119 human embryo subject to such tests, while not imposing risks
120 greater than those considered acceptable for other human research
121 subjects.

122 (l) "Donor" means an individual from whose body gametes
123 were obtained, or an individual from whose body cells or tissues
124 were obtained for the purpose of creating gametes or human
125 embryos, whether for valuable consideration or not.

126 (m) "Embryo" or "Human embryo" means an organism with a
127 human or predominantly human genetic constitution from the
128 single-celled stage to approximately eight weeks development that
129 is derived by fertilization (in vitro or in utero),



130 parthenogenesis, cloning (somatic cell nuclear transfer), or any
131 other means from one or more human gametes or human diploid cells.

132 (n) "Embryonic stem cell" means a stem cell obtained
133 from an embryo of the same species.

134 (o) "Embryo relinquishment" or "legal transfer of
135 rights to an embryo" means the relinquishment of rights and
136 responsibilities by the person or persons who hold the legal
137 rights and responsibilities for an embryo and the acceptance of
138 such rights and responsibilities by a recipient intended parent.

139 (p) "Embryo transfer" means the medical procedure of
140 physically placing an embryo into the uterus of a female.

141 (q) "Employee" means:

142 (i) Any person in the service of any county,
143 municipality or political subdivision of the state, or any branch
144 thereof, of any executive department of the state, or of any
145 agency, board, institution or commission of the state under any
146 contract of hire, express or implied, oral or written, where the
147 state or its political subdivisions have the power or right to
148 control and direct the employee in the material details of how the
149 work is to be performed;

150 (ii) Elected public officials; or

151 (iii) Appointed members of public governing
152 bodies.

153 (r) "Employer" means any individual or entity that pays
154 for or provides health benefits or health insurance coverage as a



155 benefit to its employees, whether through a third party, a health
156 maintenance organization, a program of self insurance, or some
157 other means.

158 (s) "Facility" or "medical facility" means any public
159 or private hospital, clinic, center, medical school, medical
160 training institution, healthcare facility, physician's office,
161 infirmary, dispensary, ambulatory surgical treatment center or
162 other institution or location wherein medical care is provided to
163 any person.

164 (t) "Family planning contractor" and "contractor" means
165 an individual, organization, or entity that enters into a contract
166 or agreement with the (Department of Health or other responsible
167 department or agency) to receive funds for and to provide family
168 planning services.

169 (u) "Family planning services" means a range of
170 acceptable methods to prevent, delay, space, or otherwise time
171 pregnancy, including natural family planning methods and
172 infertility services. "Family planning services" do not include
173 abortion, abortion-inducing drugs, abortion referrals or
174 counseling in favor of abortion.

175 (v) "Federal family planning funds" means any federal
176 money appropriated or dispersed by any state official, branch,
177 department, or agency, in whole or in part, for family planning
178 services, including, but not limited to, funds under Title X and



179 Title XX or other federal money accepted by the state, in whole or
180 in part, for family planning services.

181 (w) "Gamete" means an egg (oocyte) or sperm.

182 (x) "Health care provider" means any individual who may
183 be asked to participate in any way in a health care service,
184 including, but not limited to, the following:

185 (i) A physician;

186 (ii) A physician's assistant;

187 (iii) A nurse;

188 (iv) A nurses' aide;

189 (v) A medical assistant;

190 (vi) A hospital employee;

191 (vii) A clinic employee;

192 (viii) A nursing home employee;

193 (ix) A pharmacist;

194 (x) A pharmacy employee;

195 (xi) A researcher;

196 (xii) A medical or nursing school faculty member,
197 student or employee;

198 (xiii) A counselor;

199 (xiv) A social worker; or

200 (xv) Any professional, paraprofessional, or any
201 other person who furnishes, or assists in the furnishing of,
202 health care services.



203 (y) "Healthcare institution" means any public or
204 private organization, corporation, partnership, sole
205 proprietorship, association, agency, network, joint venture or
206 other entity that is involved in providing healthcare services,
207 including, but not limited to:

- 208 (i) Hospitals;
- 209 (ii) Clinics;
- 210 (iii) Medical centers;
- 211 (iv) Ambulatory surgical centers;
- 212 (v) Private physician's offices;
- 213 (vi) Pharmacies;
- 214 (vii) Nursing homes;
- 215 (viii) University medical schools and nursing
216 schools;
- 217 (ix) Medical training facilities; or
- 218 (x) Other institutions or locations wherein
219 healthcare services are provided to any person.

220 (z) "Healthcare payer" means any entity or employer
221 that contracts for, pays for or arranges for the payment of, in
222 whole or in part, any healthcare service or product, including,
223 but not limited to:

- 224 (i) Health maintenance organizations;
- 225 (ii) Health plans;
- 226 (iii) Insurance companies; or
- 227 (iv) Management services organizations.



228 (aa) "Healthcare service" means any phase of patient
229 medical care, treatment or procedure, including, but not limited
230 to, the following:

- 231 (i) Patient referral;
- 232 (ii) Counseling;
- 233 (iii) Therapy;
- 234 (iv) Testing;
- 235 (v) Diagnosis or prognosis;
- 236 (vi) Research;
- 237 (vii) Instruction;
- 238 (viii) Prescribing, dispensing or administering
239 any device, drug or medication;
- 240 (ix) Surgery; or
- 241 (x) Any other care or treatment rendered by
242 healthcare providers or healthcare institutions.

243 (bb) "Human animal hybrid" means any of the following:

- 244 (i) A human embryo into which a nonhuman cell or a
245 component of a nonhuman cell is introduced so that it is uncertain
246 whether the human embryo is a member of the species homo sapiens;
- 247 (ii) A hybrid human-animal embryo produced by
248 fertilizing a human egg with a nonhuman sperm;
- 249 (iii) A hybrid human-animal embryo produced by
250 fertilizing a nonhuman egg with a human sperm;
- 251 (iv) An embryo produced by introducing a nonhuman
252 nucleus into a human egg;



253 (v) An embryo produced by introducing a human
254 nucleus into a nonhuman egg;

255 (vi) An embryo containing at least haploid sets of
256 chromosomes from both a human and a nonhuman life form;

257 (vii) A nonhuman life form engineered with the
258 intention of generating functional human gametes within the body
259 of a nonhuman life form;

260 (viii) A nonhuman life form engineered such that
261 it contains a human brain or a brain derived wholly from human
262 neural tissues.

263 (cc) "Human cloning" means human asexual reproduction,
264 accomplished by:

265 (i) Introducing the genetic material from one or
266 more human somatic or embryonic cells into a fertilized or
267 unfertilized oocyte whose nuclear material has been removed or
268 inactivated before or after introduction, so as to produce an
269 organism at any stage of development with a human or predominantly
270 human genetic constitution;

271 (ii) Artificially subdividing a human embryo at
272 any time from the two-cell stage onward, such that more than one
273 human organism results; or

274 (iii) Introducing pluripotent cells from any
275 source into a human embryo, nonhuman embryo, or
276 artificially-manufactured human embryo or trophoblast, under



277 conditions where the introduced cells generate all or most of the
278 body tissues of the developing organism.

279 (dd) "In vitro" means outside the human body.

280 (ee) "In vitro fertilization" means the formation of a
281 human embryo outside the human body by union of human eggs with
282 human sperm.

283 (ff) "In vitro human embryo" means a human embryo
284 created outside the human body.

285 (gg) "Legal embryo custodian" means the person or
286 persons who hold the legal rights and responsibilities for a human
287 embryo and who relinquishes said embryo to another person or
288 persons.

289 (hh) "Participate" in a healthcare service means to
290 counsel, advise, provide, perform, assist in, refer for, admit for
291 purposes of providing or to participate in providing any
292 healthcare service or any form of such service.

293 (ii) "Pay" or "payment" means pay, contract for, or
294 otherwise arrange for the payment of, in whole or in part.

295 (jj) "Person" means any living human being at any stage
296 of development; and when appropriate, an "organization."

297 (kk) "Physician" means a person licensed to practice
298 medicine in the State of Mississippi by the State Board of Medical
299 Licensure. This term includes medical doctors and doctors of
300 osteopathy.



301 (ll) "Pluripotent cells" means stem cells possessing
302 the ability to give rise to most or all of the various cell types
303 that make up the body. One demonstration of pluripotency is the
304 ability, even after prolonged culture, to form derivatives of all
305 three embryonic germ layers from the progeny of a single cell.

306 (mm) "Preborn child" means any person at any stage of
307 development before and during birth.

308 (nn) "Prohibited human research" means:

309 (i) Any medical procedures, scientific or
310 laboratory research, or other kinds of investigation that kill or
311 injure the human subject, at any stage of development, of such
312 research; or

313 (ii) Any scientific or laboratory research, or
314 other kinds of investigation conducted on fetal tissue obtained
315 from an abortion,

316 (iii) The term does not include:

317 1. Research in the use of nuclear transfer or
318 other cloning techniques to produce molecules, deoxyribonucleic
319 acid or cells other than human embryos, tissues, organs, plants or
320 animals other than humans; or

321 2. Any diagnostic procedure that benefits the
322 human subject to such tests.

323 (oo) "Public funds" means, but is not limited to:



324 (i) Any monies received or controlled by the state
325 or any official, department, division, agency or educational or
326 political subdivision thereof, including, but not limited to:

327 1. Monies derived from federal, state or
328 local taxes, gifts or grants from any source;

329 2. Settlements of any claims or causes of
330 action, public or private;

331 3. Bond proceeds or investment income;

332 4. Federal grants or payments; or

333 5. Intergovernmental transfers; and

334 (ii) Any monies received or controlled by an
335 official, department, division, or agency of state government or
336 any educational or political subdivision thereof, or to any person
337 or entity pursuant to appropriation by the Legislature or the
338 governing body of any political subdivision of this state.

339 (pp) "Recipient intended parent" means a person or
340 persons who receive a relinquished embryo and who accepts full
341 legal rights and responsibilities for such embryo and any child
342 that may be born as a result of embryo transfer.

343 (qq) "State family planning funds" means funds
344 dispersed by the state for family planning under state family
345 planning policies or programs.

346 (rr) "Somatic cell" means a cell having a complete or
347 nearly complete set of chromosomes obtained from a living or
348 deceased human body at any stage of development.



349 (ss) "Spontaneous miscarriage" is the unintentional
350 termination of a pregnancy.

351 (tt) "Suicide" means the act or instance of taking
352 one's own life voluntarily and intentionally.

353 (uu) "Transfer" means the placement of a human embryo
354 into the body of a woman.

355 (vv) "Valuable consideration" means financial gain or
356 advantage, including cash, in-kind payments, reimbursement for any
357 costs incurred in connection with the removal, processing,
358 disposal, preservation, quality control, storage, transfer or
359 donation of human gametes, including lost wages of the donor, as
360 well as any other consideration.

361 **SECTION 4.** (1) Criminal penalties:

362 (a) Any person who knowingly uses or employs any
363 instrument, device or procedure upon a pregnant woman with the
364 intent of causing the termination of the life of a preborn child,
365 who causes the death of that preborn child is guilty of a felony,
366 and shall, upon conviction, be imprisoned by the Department of
367 Corrections for not less than one (1) year nor more than ten (10)
368 years.

369 (b) Any person who knowingly administers to, prescribes
370 for, or procures for, or sells to any pregnant woman any abortion
371 inducing drug with the general intent of causing or abetting the
372 termination of the life of a preborn child is guilty of a felony,
373 and shall, upon conviction, be imprisoned by the Mississippi



374 Department of Corrections for not less than one (1) year nor more
375 than ten (10) years.

376 (c) Medical treatment administered to the mother
377 intended to treat a physical medical condition and not intended to
378 terminate the life of a preborn child, shall not be considered
379 abortion.

380 (2) Civil penalties and fines:

381 (a) Any person, physician, or health care provider who
382 intentionally or knowingly violates this section shall be liable
383 for damages.

384 (b) If any person commits an abortion resulting in
385 death, any surviving family member, other beneficiary, executor,
386 or administrator of the decedent's estate may bring an appropriate
387 action under Chapter 7, Title 11, Mississippi Code of 1972.

388 (c) Any physician or other health care provider who
389 refers or assists in a violation of this section shall be
390 considered to have engaged in unprofessional conduct for which his
391 or her license to provide health care services in the state of
392 Mississippi shall be suspended or revoked by the State Board of
393 Medical Licensure.

394 (3) (a) (i) Only birth control that can be clinically
395 proven to kill a person shall be affected by this section.

396 (ii) In the interest of protecting the health and
397 safety of the people of the State of Mississippi, the Mississippi
398 Department of Health, or other state agency primarily responsible



399 for protecting the health of the people of the State of
400 Mississippi, shall provide a list of birth control products along
401 with their clinically proven effects upon women and preborn human
402 beings at every stage of his or her development.

403 (b) Spontaneous miscarriages shall not be affected by
404 this section.

405 (c) The State of Mississippi shall not punish the crime
406 of sexual assault with the death penalty, and neither shall
407 persons conceived through a sexual assault be punished with the
408 loss of his or her life.

409 **SECTION 5.** (1) No public funds made available to any
410 institution, board, commission, department, agency, official, or
411 employee of the State of Mississippi, or of any political
412 subdivision thereof, whether such funds are made available by the
413 government of the United States, the state, or a political
414 subdivision, or from any other public source, nor monies paid by
415 students as part of tuition or fees to a state university or a
416 community college shall be used in any way for, to assist in, or
417 to provide facilities for an abortion, or for training to perform
418 an abortion.

419 (2) It shall be unlawful for any person employed by this
420 state or any agency or political subdivision thereof, within the
421 scope of the person's employment, to perform or assist an
422 abortion.



423 (3) No fund or committee authorized by the Legislature for
424 the special protection of women or children shall be authorized to
425 use or distribute public funds for the payment of abortions,
426 abortion referrals, abortion counseling, or abortion-related
427 services.

428 (4) No organization that receives funds authorized or
429 appropriated by the state may use those funds to perform or
430 promote abortions, provide counseling in favor of abortion, or to
431 make referrals for abortions, or may associate with entities that
432 perform, promote, and/or provide counseling or referrals for
433 abortion.

434 (5) It shall be unlawful for any public institution, public
435 facility, public equipment, or other physical asset owned, leased,
436 or controlled by this state or any agency or political subdivision
437 thereof to be used for the purpose of performing or assisting an
438 abortion.

439 (6) It shall be unlawful for any public institution or
440 facility to lease or sell or permit the subleasing of its
441 facilities or property to any physician or health facility for use
442 in the provision, inducement or performance of abortion.

443 (7) No applicant, student, teacher or employee of any public
444 school or university shall be required to pay any fees that would,
445 in whole or in part, fund an abortion for any other applicant,
446 student, teacher or employee of that school.



447 (8) No hospital, clinic or other health facility owned or
448 operated by the state, a county, a city or other governmental
449 entity shall enter into any contract with any physician or health
450 facility under the terms of which such physician or health
451 facility agrees to provide, induce or perform abortions.

452 (9) Public funds shall not be expended, paid or granted to
453 or on behalf of an existing or proposed research project that
454 involves abortion, human cloning, or prohibited human research.

455 (10) No moneys derived from an award of public funds shall
456 be passed through to any other research project, person or entity
457 that involves abortion, human cloning or prohibited human
458 research.

459 (11) A research project that receives an award of public
460 funds shall maintain financial records that demonstrate strict
461 compliance with this subsection.

462 (12) Any audit conducted pursuant to any grant or contract
463 awarding public funds shall also certify whether there is
464 compliance with this subsection and shall note any noncompliance
465 as a material audit finding.

466 (13) No facility operated on public school property or
467 operated by a public school district and no employee of any such
468 facility acting within the scope of such employee's employment
469 shall provide any of the following services to public school
470 students:

471 (a) Performance of abortions;



472 (b) Counseling in favor of abortion;

473 (c) Referrals for abortion; or

474 (d) Dispensing abortion-inducing drugs.

475 (14) The (Insert name of State) Department of Education (or
476 other appropriate state department or agency) and local units of
477 administration are prohibited from utilizing state funds for the
478 procurement of abortions or abortion-inducing drugs.

479 (15) No federal or state funds which are appropriated by the
480 state for the provision of legal services by private agencies, as
481 authorized by statute previously or subsequently enacted, may be
482 used, directly or indirectly, to:

483 (a) Advocate for a "right" to abortion;

484 (b) Provide legal assistance with respect to any
485 proceeding or litigation which seeks to procure any abortion, or
486 to procure public funding for any abortion; or

487 (c) Provide legal assistance with respect to any
488 proceeding or litigation which seeks to compel the performance or
489 assistance in the performance of any abortion, or the provision of
490 facilities for the performance of any abortion;

491 Nothing in this subsection shall be construed to require or
492 prevent the expenditure of funds issued under a court order
493 awarding fees for attorney's services under the "Civil Rights
494 Attorney's Fees Awards Act of 1976" (Public law 94-559, 90 Stat.
495 2641).



496 (16) No Interest on Lawyer Trust Accounts (IOLTA) funds may
497 be used, directly or indirectly, to do any of the following:

498 (a) Advocate for a "right" to abortion;

499 (b) Provide legal assistance with respect to any
500 proceeding or litigation which seeks to procure, or procure public
501 funding for, any abortion; or

502 (c) Provide legal assistance with respect to any
503 proceeding or litigation which seeks to compel the performance or
504 assistance in the performance of any abortion, or the provision of
505 facilities for the performance of any abortion.

506 **SECTION 6.** If the commission of any crime codified in the
507 criminal code of the State of Mississippi is the proximate cause
508 of death of a preborn child, the respective homicide and assault
509 charges for that death or injury may be brought contemporaneously
510 with the underlying charges.

511 **SECTION 7.** (1) For purposes of protecting children against
512 child abuse and child neglect under Titles 13 and 43, Mississippi
513 Code of 1972, the term child or children shall include a preborn
514 child or preborn children.

515 (2) As used in this act "dependent" means a person for whom
516 the taxpayer may claim a dependency exemption on the taxpayer's
517 federal income tax return under Section 153 Internal Revenue Code.
518 Dependent includes any preborn child that is, as determined by a
519 physician, developing inside of the taxpayer as of the last day of
520 the tax year.



521 (3) For purposes of providing support or maintenance for
522 children, the term child or children shall include a preborn child
523 or preborn children.

524 **SECTION 8.** Women who are certified by a physician to be in
525 their third trimester of pregnancy, and mothers with children
526 under the age of eighteen (18) months shall be eligible to receive
527 a temporary parking permit recognized statewide authorizing them
528 to park in disabled parking spaces.

529 **SECTION 9.** Nothing in this act may be construed to prohibit
530 the sale, use, prescription or administration of a contraceptive
531 measure, drug or chemical.

532 **SECTION 10.** (1) Criminal penalties:

533 (a) Any person who deliberately advises, assists, or
534 encourages another to commit suicide or provides aid in dying, is
535 guilty of a felony, and upon conviction, shall be punished by
536 imprisonment under the custody of the Department of Corrections
537 for a period not to exceed ten (10) years, or by a fine not to
538 exceed One Thousand Dollars (\$1,000.00) and imprisonment in the
539 county jail not to exceed one (1) year.

540 (b) Any physician or health care provider who
541 prescribes any drug, compound, or substance to a patient with the
542 intended purpose to assist in ending the patient's life, or
543 assists or performs any medical procedure for the intended purpose
544 to assist in ending the patient's life is guilty of a felony, and
545 upon conviction, shall be punished by imprisonment under the



546 custody of the Department of Corrections for a period not to
547 exceed ten (10) years, or by a fine not to exceed One Thousand
548 Dollars (\$1,000.00) and imprisonment in the county jail not to
549 exceed one (1) year.

550 (2) Civil penalties and fines:

551 (a) Any person, physician, or health care provider who
552 intentionally or knowingly violates this section shall be liable
553 for damages.

554 (b) If any person assists a suicide resulting in death,
555 any surviving family member, other beneficiary, executor, or
556 administrator of the decedent's estate may bring an appropriate
557 action under Chapter 7, Title 11, Mississippi Code of 1972.

558 (c) Any physician or other health care provider who
559 assists a suicide in violation of this section shall be considered
560 to have engaged in unprofessional conduct for which his or her
561 license to provide health care services in the state shall be
562 suspended or revoked by State Board of Medical Licensure or other
563 appropriate entity.

564 (3) Nothing in this section shall be construed to prohibit a
565 physician or healthcare provider from:

566 (a) Participating in the execution of a person
567 sentenced by a court to death by lethal injection;

568 (b) Following a patient's clear, expressed, and
569 documented wishes to withhold or withdraw life-sustaining
570 treatment; or



571 (c) Prescribing and administering palliative care or
572 pain medication treatment options intended to relieve pain while
573 the patient's illness or condition follows its natural course.

574 **SECTION 11.** (1) It shall be unlawful for any person to:

575 (a) Intentionally or knowingly conduct destructive
576 research on a human embryo;

577 (b) Buy, sell, receive or otherwise transfer a human
578 embryo with the knowledge that such embryo will be subjected to
579 destructive research; or

580 (c) Buy, sell, receive or otherwise transfer gametes
581 with the knowledge that a human embryo will be produced from such
582 gametes to be used in destructive research.

583 (2) (a) Whoever violates subsection (1)(a) of this section
584 shall be guilty of a felony punishable by imprisonment for not
585 more than twenty (20) years or a fine of not more than Five
586 Thousand Dollars (\$5,000.00), or both such fine and imprisonment
587 for each violation.

588 (b) Whoever violates subsection (1)(b) of this section
589 shall be guilty of a misdemeanor punishable by imprisonment for
590 not more than six (6) months or a fine of not more than One
591 Thousand Dollars (\$1,000.00), or both such fine and imprisonment
592 for each violation.

593 (c) Whoever violates subsection (1)(c) of this section
594 shall be guilty of a misdemeanor punishable by imprisonment for
595 not more than six (6) months or a fine of not more than One



596 Thousand Dollars (\$1,000.00), or both such fine and imprisonment
597 for each violation.

598 **SECTION 12.** (1) It shall be unlawful for any person or
599 entity, public or private, to intentionally or knowingly:

600 (a) Perform or attempt to perform human cloning;

601 (b) Participate in an attempt to perform human cloning;

602 (c) Transfer or receive the product of human cloning
603 for any purpose; or

604 (d) Transfer or receive, in whole or in part, any oocyte,
605 embryo, fetus, or human somatic cell for the purpose of human
606 cloning.

607 (2) (a) Any person or entity that violates subsection (1)
608 of this subsection shall be guilty of a felony punishable by
609 imprisonment for not more than twenty (20) years or a fine of not
610 more than Five Thousand Dollars (\$5,000.00), or both such fine and
611 imprisonment for each violation.

612 (b) Any person or entity that violates any provision of
613 this section and derives a pecuniary gain from such violation
614 shall be fined Five Thousand Dollars (\$5,000.00) or twice the
615 amount of gross gain, or any amount intermediate between the
616 foregoing, at the discretion of the court.

617 (3) Any violation of this section shall constitute
618 unprofessional conduct and shall result in permanent revocation of
619 the violator's license to practice medicine.



620 (4) Any violation of this section may be the basis for
621 denying an application for, denying an application for the renewal
622 of, or revoking any license, permit, certificate or any other
623 authority to practice or engage in a trade, occupation or
624 profession.

625 **SECTION 13.** (1) A legal embryo custodian may relinquish all
626 rights and responsibilities for an embryo to a recipient intended
627 parent before embryo transfer. A written contract shall be
628 entered into between each legal embryo custodian and each
629 recipient intended parent before embryo transfer for the legal
630 transfer of rights to an embryo. The contract shall be signed by
631 each legal embryo custodian for such embryo and by each recipient
632 intended parent in the presence of a notary public and a witness.
633 Initials or other designations may be used if the parties desire
634 anonymity. The contract may include a written waiver by the legal
635 embryo custodian of notice and service in any legal adoption or
636 other parentage proceeding which may follow.

637 (2) If the embryo was created using donor gametes, the sperm
638 or oocyte donors who irrevocably relinquished their rights in
639 connection with in vitro fertilization shall not be entitled to
640 any notice of the embryo relinquishment, nor shall their consent
641 to the embryo relinquishment be required.

642 (3) Upon embryo relinquishment by each legal embryo
643 custodian pursuant to subsection (1) of this section, the legal



644 transfer of rights to an embryo shall be considered complete, and
645 the embryo transfer shall be authorized.

646 (4) An preborn child, and a child born to a recipient
647 intended parent as the result of embryo relinquishment pursuant to
648 subsection (1) of this section shall be presumed to be the legal
649 child of the recipient intended parent, provided that each legal
650 embryo custodian and each recipient intended parent has entered
651 into a written contract.

652 (5) Before the birth of a child or following the birth of a
653 child, a recipient intended parent may petition the superior court
654 for an expedited order of adoption or parentage. In such cases,
655 the written contract between each legal embryo custodian and each
656 recipient intended parent shall be acceptable in lieu of a
657 surrender of rights.

658 (6) All petitions under this article shall be filed in the
659 county in which any petitioner or any respondent resides.

660 (7) The court shall give effect to any written waiver of
661 notice and service in the legal proceeding for adoption or
662 parentage.

663 (8) In the interest of justice, to promote the stability of
664 embryo transfers, and to promote the interests of preborn children
665 and children who may be born following such embryo transfers, the
666 court in its discretion may waive such technical requirements as
667 the court deems just and proper.



668 (9) Upon a filing of a petition for adoption or parentage
669 and the court finding that such petition meets the criteria
670 required by this section, an expedited order of adoption or
671 parentage shall be issued and shall be a final order. Such order
672 shall terminate any future parental rights and responsibilities of
673 any past or present legal embryo custodian or gamete donor in a
674 child which results from the embryo transfer and shall vest such
675 rights and responsibilities in the recipient intended parent.

676 **SECTION 14.** (1) It shall be unlawful for any person or
677 entity to intentionally or knowingly create or attempt to create
678 an in vitro human embryo by any means other than fertilization of
679 a human egg by a human sperm.

680 (2) The creation of an in vitro human embryo shall be solely
681 for the purpose of initiating a human pregnancy by means of
682 transfer to the uterus of a human female for the treatment of
683 human infertility. A pregnancy shall not be initiated with the
684 intention of deliberately destroying the embryo for scientific
685 research. Neither shall the embryo be gestated to the fetal stage
686 for purposes of destroying the fetus in order to harvest tissue
687 stem cells for research. No person or entity shall intentionally
688 or knowingly transfer or attempt to transfer an embryo into a
689 human uterus that is not the product of fertilization of a human
690 egg by a human sperm.

691 (3) It shall be unlawful for any person or entity to
692 intentionally or knowingly:



693 (a) Create or attempt to create a human-animal hybrid;
694 (b) Transfer or attempt to transfer a human embryo into
695 a nonhuman womb;
696 (c) Transfer or attempt to transfer a nonhuman embryo
697 into a human womb;
698 (d) Transport or receive for any purpose a human-animal
699 hybrid or any product derived from such hybrid.

700 (4) Nothing in this section prohibits any of the following:
701 (a) Research involving the use of transgenic animal
702 models containing human genes;
703 (b) Xenotransplantation of human organs, tissues or
704 cells into recipient animals, including animals at any stage of
705 development before birth, so long as the xenotransplantation does
706 not violate a prohibition in subsection (3) of this section;
707 (c) An individual from receiving organs, tissues or
708 cells delivered from outside of this state.

709 (5) No person or entity shall give or receive valuable
710 consideration, offer to give or receive valuable consideration, or
711 advertise for the giving or receiving of valuable consideration
712 for the provision of gametes or in vitro human embryos. This
713 section shall not apply to regulate or prohibit the procurement of
714 gametes for the treatment of infertility being experienced by the
715 patient from whom the gametes are being derived.

716 (6) The in vitro human embryo shall be given an
717 identification by the facility for use within the medical



718 facility. Records shall be maintained that identify the donors
719 associated with the in vitro human embryo, and the confidentiality
720 of such records shall be maintained as required by law.

721 (7) A living in vitro human embryo is a biological human
722 being who is not the property of any person or entity. The
723 fertility physician and the medical facility that employs the
724 physician owe a high duty of care to the living in vitro human
725 embryo. Any contractual provision identifying the living in vitro
726 embryo as the property of any party shall be null and void. The
727 in vitro human embryo shall not be intentionally destroyed for any
728 purpose by any person or entity or through the actions of such
729 person or entity.

730 (8) An in vitro human embryo that fails to show any sign of
731 life over a thirty-six-hour period outside a state of
732 cryopreservation shall be considered no longer living.

733 (9) Only medical facilities meeting the standards of the
734 American Society for Reproductive Medicine and the American
735 College of Obstetricians and Gynecologists shall cause the
736 fertilization of an in vitro human embryo. A person who engages
737 in the creation of in vitro human embryos shall be qualified as a
738 medical doctor licensed to practice medicine in this state and
739 shall possess specialized training and skill in artificial
740 reproductive technology in conformity with the standards
741 established by the American Society for Reproductive Medicine or
742 the American College of Obstetricians and Gynecologists.



743 (10) In the interest of reducing the risk of complications
744 for both the mother and the transferred in vitro human embryos,
745 including the risk of preterm birth associated with higher-order
746 multiple gestations, a person or entity performing in vitro
747 fertilization shall limit the number of in vitro human embryos
748 created in a single cycle to the number to be transferred in that
749 cycle in accord with Section (9) of this section.

750 (11) Where a woman under age forty (40) years is to receive
751 treatment using her own eggs or embryos created using her own
752 eggs, whether fresh or previously cryopreserved, at the time of
753 transfer no person or entity shall transfer more than two (2)
754 embryos in any treatment cycle, regardless of the procedure used.

755 (12) Where a woman age forty (40) years or over is to
756 receive treatment using her own eggs or embryos created using her
757 own eggs, whether fresh or previously cryopreserved, at the time
758 of transfer no person or entity shall transfer more than three (3)
759 embryos in any treatment cycle, regardless of the procedure used.

760 (13) Where a woman is to receive treatment using donated
761 eggs or adopted embryos, no person or entity shall transfer more
762 than two (2) donated eggs or two (2) adopted embryos in any
763 treatment cycle, regardless of the woman's age at the time of
764 transfer and regardless of the procedure used.

765 (14) In disputes arising between any parties regarding the
766 in vitro human embryo, the judicial standard for resolving such
767 disputes shall be the best interest of the in vitro human embryo.



768 (15) All facilities providing assisted reproductive
769 technologies shall, at least twenty-four (24) hours before
770 obtaining a signed contract for services, provide patients with
771 informed consent as required by law and obtain a signed disclosure
772 form before services commence. In addition to medical risks and
773 information on outcome and success rates, the informed consent
774 materials shall state in plain language the parental rights and
775 duties of the donors, as well as their legal rights and duties
776 regarding the disposition of in vitro human embryos that were not
777 transferred due to either of the fertility patient's death,
778 divorce, abandonment or dispute over the custody of the in vitro
779 human embryo.

780 (16) Notwithstanding any other provision of this article to
781 the contrary, nothing in this article shall be construed to create
782 or recognize any independent right to engage in the practice of in
783 vitro fertilization or to create in vitro human embryos by any
784 means.

785 (17) Any person or entity that violates any provision of
786 this section and derives a pecuniary gain from such violation
787 shall be fined not less than Five Hundred Dollars (\$500.00) nor
788 more than One Thousand Dollars (\$1,000.00).

789 (18) Any violation of this section shall constitute
790 unprofessional conduct and shall result in sanctions increasing in
791 severity from censure to temporary suspension of license to
792 permanent revocation of license.



793 (19) Any violation of this article may be the basis for
794 denying an application for, denying an application for the renewal
795 of, or revoking any license, permit, certificate, or any other
796 authority required to practice or engage in a trade, occupation or
797 profession.

798 (20) Any violation of this article by an individual in the
799 employ and under the auspices of a licensed health care facility
800 to which the management of the facility consents, knows or should
801 know may be the basis for denying an application for, denying an
802 application for the renewal of, temporarily suspending or
803 permanently revoking any operational license, permit, certificate
804 or any other form of permission required to operate a medical or
805 health care facility.

806 **SECTION 15.** (1) No public funds shall be used to finance
807 human cloning or destructive embryonic stem-cell research. The
808 state, any state educational institution or any political
809 subdivision of the state may not use public funds, facilities or
810 employees to knowingly destroy human embryos for the purpose of
811 research or knowingly participate in human cloning or attempted
812 human cloning.

813 (2) No public funds shall be used to buy, receive or
814 otherwise transfer a human embryo with the knowledge that such
815 embryo will be subjected to destructive research.

816 (3) No public funds shall be used to buy, receive or
817 otherwise transfer gametes with the knowledge that a human embryo



818 will be produced from such gametes to be used in destructive
819 research.

820 **SECTION 16.** (1) No health insurance contract, plan or
821 policy delivered or issued for delivery in the State of
822 Mississippi shall provide coverage for abortions.

823 (2) Notwithstanding any other provision of law to the
824 contrary, the State of Mississippi or any county, municipality or
825 political subdivision thereof shall not include in any insurance
826 contract, plan or policy covering employees and their dependents
827 any provision which shall provide coverage for obtaining or
828 performing an abortion, nor shall any public funds be used for the
829 purpose of obtaining or performing an abortion on behalf of public
830 employees or their dependents.

831 (3) No abortion coverage may be provided by a qualified
832 health plan offered through an exchange created pursuant to the
833 Patient Protection and Affordable Care Act within the State of
834 Mississippi.

835 (4) Subsection (1) of this section shall be applicable to
836 all contracts, plans or policies of:

837 (a) All health insurers subject to regulation under
838 Title 83, Mississippi Code of 1972;

839 (b) All nonprofit hospital, medical, surgical, dental,
840 and health service corporations;

841 (c) All group and blanket health insurers subject to
842 regulation under Title 83, Mississippi Code of 1972;



843 (d) All health maintenance organizations subject to
844 regulation under Title 83, Mississippi Code of 1972;

845 (e) Any provision of medical, hospital, surgical, and
846 funeral benefits and of coverage against accidental death or
847 injury, when such benefits or coverage are incidental to or part
848 of other insurance subject to regulation under Title 83,
849 Mississippi Code of 1972; and

850 (f) All employers who provide health insurance for
851 employees on a self-insured basis.

852 (5) Subsection (2) of this section shall be applicable to
853 all contracts, plans or policies of:

854 (a) All health insurers are subject to regulation under
855 Title 83, Mississippi Code of 1972;

856 (b) All nonprofit hospital, medical, surgical, dental,
857 and health service corporations;

858 (c) All group and blanket health insurers subject to
859 regulation under Title 83, Mississippi Code of 1972;

860 (d) All health maintenance organizations subject to
861 regulation under Title 83, Mississippi Code of 1972; and

862 (e) Any provision of medical, hospital, surgical, and
863 funeral benefits and of coverage against accidental death or
864 injury, when such benefits or coverage are incidental to or part
865 of other insurance subject to regulation under Title 83,
866 Mississippi Code of 1972.



867 SECTION 17. (1) (a) A healthcare provider has the right
868 not to participate, and no healthcare provider shall be required
869 to participate in a healthcare service that violates his or her
870 conscience.

871 (b) No healthcare provider shall be civilly,
872 criminally, or administratively liable for declining to
873 participate in a healthcare service that violates his or her
874 conscience.

875 (c) It shall be unlawful for any person, healthcare
876 provider, healthcare institution, public or private institution,
877 public official, or any board which certifies competency in
878 medical specialties to discriminate against any healthcare
879 provider in any manner based on his or her declining to
880 participate in a healthcare service that violates his or her
881 conscience. For purposes of this section, discrimination
882 includes, but is not limited to, the following: termination,
883 transfer, refusal of staff privileges, refusal of board
884 certification, adverse administrative action, demotion, loss of
885 career specialty, reassignment to a different shift, reduction of
886 wages or benefits, refusal to award any grant, contract, or other
887 program, refusal to provide residency training opportunities, or
888 any other penalty, disciplinary, or retaliatory action.

889 (2) (a) A healthcare institution has the right not to
890 participate, and no healthcare institution shall be required to
891 participate in a healthcare service that violates its conscience.



892 (b) A healthcare institution that declines to provide
893 or participate in a healthcare service that violates its
894 conscience shall not be civilly, criminally, or administratively
895 liable if the institution provides a consent form to be signed by
896 a patient before admission to the institution stating that it
897 reserves the right to decline to provide or participate in
898 healthcare services that violate its conscience.

899 (c) It shall be unlawful for any person, public or
900 private institution, or public official to discriminate against
901 any healthcare institution, or any person, association,
902 corporation, or other entity attempting to establish a new
903 healthcare institution or operating an existing healthcare
904 institution, in any manner, including, but not limited to, the
905 following: any denial, deprivation or disqualification with
906 respect to licensure; any aid assistance, benefit, or privilege,
907 including staff privileges; or any authorization, including
908 authorization to create, expand, improve, acquire, or affiliate or
909 merge with any healthcare institution, because such healthcare
910 institution, or person, association, or corporation planning,
911 proposing, or operating a healthcare institution declines to
912 participate in a healthcare service which violates the healthcare
913 institution's conscience.

914 (d) It shall be unlawful for any public official,
915 agency, institution, or entity to deny any form of aid,
916 assistance, grants, or benefits, or in any other manner to coerce,



917 disqualify, or discriminate against any person, association,
918 corporation, or other entity attempting to establish a new
919 healthcare institution or operating an existing healthcare
920 institution because the existing or proposed healthcare
921 institution declines to participate in a healthcare service
922 contrary to the healthcare institution's conscience.

923 (3) (a) A healthcare payer has the right to decline to pay,
924 and no healthcare payer shall be required to pay for or arrange
925 for the payment of any healthcare service or product that violates
926 its conscience.

927 (b) No healthcare payer and no person, association,
928 corporation, or other entity that owns, operates, supervises, or
929 manages a healthcare payer shall be civilly or criminally liable
930 by reason of the healthcare payer's declining to pay for or
931 arrange for the payment of any healthcare service that violates
932 its conscience.

933 (c) It shall be unlawful for any person, public or
934 private institution or public official to discriminate against any
935 healthcare payer, or any person, association, corporation or other
936 entity (i) attempting to establish a new healthcare payer or (ii)
937 operating an existing healthcare payer, in any manner, including,
938 but not limited to, the following: any denial, deprivation, or
939 disqualification with respect to licensure, aid, assistance,
940 benefit, privilege or authorization, including, but not limited
941 to, any authorization to create, expand, improve, acquire or



942 affiliate or merge with any healthcare payer, because a healthcare
943 payer, or a person, association, corporation or other entity
944 planning, proposing or operating a healthcare payer declines to
945 pay for or arrange for the payment of any healthcare service that
946 violates its conscience.

947 (d) It shall be unlawful for any public official,
948 agency, institution, or entity to deny any form of aid,
949 assistance, grants, or benefits, or in any other manner to coerce,
950 disqualify, or discriminate against any healthcare payer, or any
951 person, association, corporation, or other entity attempting to
952 establish a new healthcare payer or operating an existing
953 healthcare payer because the existing or proposed healthcare payer
954 declines to pay for or arrange for the payment of any healthcare
955 service that is contrary to its conscience.

956 (4) (a) A civil action for damages or injunctive relief, or
957 both, may be brought for the violation of any provision of this
958 section. It shall not be a defense to any claim arising out of
959 the violation of this section that such violation was necessary to
960 prevent additional burden or expense on any other healthcare
961 provider, healthcare institution, individual or patient.

962 (b) Any individual, association, corporation, entity or
963 healthcare institution injured by any public or private
964 individual, association, agency, entity or corporation by reason
965 of any conduct prohibited by this section may commence a civil
966 action. Upon finding a violation of this section, the aggrieved



967 party shall be entitled to recover three-fold the actual damages,
968 including pain and suffering, sustained by such individual,
969 association, corporation, entity or healthcare institution, the
970 costs of the action, and reasonable attorney's fees; but in no
971 case shall recovery be less than Five Thousand Dollars (\$5,000.00)
972 for each violation in addition to costs of the action and
973 reasonable attorney's fees. These damage remedies shall be
974 cumulative, and not exclusive of other remedies afforded under any
975 other state or federal law.

976 (c) The court in civil action initiated under the
977 provisions of this section may award injunctive relief, including,
978 but not limited to, ordering reinstatement of a healthcare
979 provider to his or her prior job position.

980 **SECTION 18.** Nothing in this act shall be construed as
981 creating or recognizing a right to abortion. It is not the
982 intention of this act to make lawful an abortion that is currently
983 unlawful.

984 **SECTION 19.** The Legislature, by joint resolution, may
985 appoint one (1) or more members to intervene as a matter of right
986 in any case in which the constitutionality of this act or any
987 portion thereof is challenged.

988 **SECTION 20.** If any provision, word, phrase or clause of this
989 act or the application thereof to any person or circumstance is
990 held invalid, such invalidity shall not affect the provisions,
991 words, phrases, clauses, or applications of this act which can be



992 given effect without the invalid provision, word, phrase, clause,
993 or application and to this end, the provisions, words, phrases,
994 and clauses of this act are declared severable.

995 **SECTION 21.** This act shall take effect and be in force from
996 and after the date that the people of the State of Mississippi
997 define the word "person" or "human person" to include every human
998 being at every stage of development in the Mississippi
999 Constitution.

