

2022 Regular Session

HOUSE BILL NO. 813

BY REPRESENTATIVE MCCORMICK

ABORTION: Enacts the Abolition of Abortion in Louisiana Act of 2022

1 AN ACT

2 To amend and reenact R.S. 14:2(A)(7) and (11) and 18(6) and to enact R.S. 14:29.1 and
3 33.1, relative to abortion; to provide relative to definitions; to amend the definition
4 of "person" and "unborn child"; to provide relative to defenses to prosecution; to
5 provide relative to the enforcement of abortion; to provide for an effective date; to
6 provide for legislative intent; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. This Act is known and may be cited as the "Abolition of Abortion in
9 Louisiana Act of 2022".

10 Section 2. Acknowledging the sanctity of innocent human life, created in the image
11 of God, which should be equally protected from fertilization to natural death, the legislature
12 hereby declares that the purpose of this Act is to:

13 (1) Fully recognize the human personhood of an unborn child at all stages of
14 development prior to birth from the moment of fertilization.

15 (2) Ensure the right to life and equal protection of the laws to all unborn children
16 from the moment of fertilization by protecting them by the same laws protecting other
17 human beings.

18 (3) Recognize that the United States Constitution and the laws of the United States
19 are the supreme law of the land.

1 (4) Treat as void and of no effect any and all federal statutes, regulations, treaties,
2 orders, and court rulings which would deprive an unborn child of the right to life or prohibit
3 the equal protection of such right.

4 Section 3. R.S. 14:2(A)(7) and (11) and 18(6) are hereby amended and reenacted and
5 R.S. 14:29.1 and 33.1 are hereby enacted to read as follows:

6 §2. Definitions

7 A. In this Code the terms enumerated shall have the designated meanings:

8 * * *

9 (7) "Person" includes a human being from the moment of fertilization ~~and~~
10 ~~implantation~~ and also includes a body of persons, whether incorporated or not.

11 * * *

12 (11) "Unborn child" means ~~any~~ an individual ~~of the~~ human species being
13 from fertilization ~~and implantation~~ until birth.

14 * * *

15 §18. Justification; general provisions

16 The fact that an offender's conduct is justifiable, although otherwise criminal,
17 shall constitute a defense to prosecution for any crime based on that conduct. This
18 defense of justification can be claimed under the following circumstances:

19 * * *

20 (6) When any crime, except murder where the victim is not an unborn child,
21 is committed through the compulsion of threats by another of death or great bodily
22 harm, and the offender reasonably believes the person making the threats is present
23 and would immediately carry out the threats if the crime were not committed; or

24 * * *

25 §14.29.1. Enforcement regarding abortion

26 A. Without limiting prosecutorial discretion, this state and all political
27 subdivisions of this state shall enforce the provisions of this Subpart without regard
28 to the opinions and judgments of the Supreme Court of the United States in Roe v.
29 Wade, 410 U.S. 113(1973), and its judicial progeny, past and future, including but

1 not limited to Planned Parenthood v. Casey, 505 U.S. 833 (1992), and June Med.
2 Servs. L.L.C. v. Russo, 140 S. Ct. 2103 (2020).

3 B. Existing provisions relating to prenatal homicide or regulating abortion
4 or abortion facilities are not repealed but are superseded to the extent that the
5 provisions conflict with or are inconsistent with this Section.

6 C. Notwithstanding any other provision of law, and pursuant to R.S. 14:4,
7 this Subpart relates to the homicide of any person, including an unborn child.

8 D. Nothing in this Section shall alter any existing presumption, defense,
9 justification, immunity, or clemency.

10 E.(1) Any federal statute, regulation, treaty, executive order, or court ruling
11 that purports to supersede, stay, or overrule this Section shall be in violation of the
12 United States Constitution and the Constitution of Louisiana and is therefore void.

13 (2) This state and its political subdivisions, and agents thereof, may disregard
14 any part or whole of any federal court decision which purports to enjoin or void any
15 provision of this Section.

16 F. Pursuant to the powers granted to the Legislature by Article X, Part III,
17 of the Constitution of Louisiana, any judge of this state who purports to enjoin, stay,
18 overrule, or void any provision of this Section shall be subject to impeachment or
19 removal.

20 * * *

21 §14.33.1. Enforcement regarding abortion

22 A. Without limiting prosecutorial discretion, this state and all political
23 subdivisions of this state shall enforce the provisions of this Subpart without regard
24 to the opinions and judgments of the Supreme Court of the United States in Roe v.
25 Wade, 410 U.S. 113(1973), and its judicial progeny, past and future, including but
26 not limited to Planned Parenthood v. Casey, 505 U.S. 833 (1992), and June Med.
27 Servs. L.L.C. v. Russo, 140 S. Ct. 2103 (2020).

1 B. Existing provisions relating to prenatal assault or battery or regulating
2 abortion or abortion facilities are not repealed but are superseded to the extent that
3 the provisions conflict with or are inconsistent with this Section.

4 C. Notwithstanding any other provision of law, and pursuant to R.S. 14:4,
5 this Subpart relates to the assault or battery of any person, including an unborn child.

6 D. Nothing in this Section shall alter any existing presumption, defense,
7 justification, immunity, or clemency.

8 E.(1) Any federal statute, regulation, treaty, executive order, or court ruling
9 that purports to supersede, stay, or overrule this Section shall be in violation of the
10 United States Constitution and the Constitution of Louisiana and is therefore void.

11 (2) This state and its political subdivisions, and agents thereof, may disregard
12 any part or whole of any federal court decision which purports to enjoin or void any
13 provision of this Section.

14 F. Pursuant to the powers granted to the Legislature by Article X, Part III,
15 of the Constitution of Louisiana, any judge of this state who purports to enjoin, stay,
16 overrule, or void any provision of this Section shall be subject to impeachment or
17 removal.

18 Section 4. Notwithstanding the provisions of R.S. 24:175, the provisions of this Act
19 are nonseverable.

20 Section 5. This Act applies to crimes committed on or after the effective date of this
21 Act. For purposes of this Act, a crime is committed before the effective date of this Act if
22 any element of the crime occurs before the effective date.

23 Section 6. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 813 Engrossed

2022 Regular Session

McCormick

Abstract: Enacts the Abolition of Abortion in La. Act of 2022.

Present law defines "person" as including a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not.

Proposed law amends the present law definition to define "person" as including a human being from the moment of fertilization.

Present law defines "unborn child" as any individual of the human species from fertilization and implantation until birth.

Proposed law amends present law to define "unborn child" as an individual human being from fertilization until birth.

Present law authorizes the defense of justification in certain circumstances, including when any crime, except murder, is committed through the compulsion of threats by another of death or great bodily harm, and the offender reasonably believes the person making the threats is present and would immediately carry out the threats if the crime were not committed.

Proposed law amends the above present law defense of justification to exclude murder where the victim is not an unborn child.

Proposed law provides that without limiting prosecutorial discretion, La. and all political subdivisions of the state shall enforce the provisions of present law without regard to the opinions and judgments of the Supreme Ct. of the U.S. in *Roe v. Wade*, 410 U.S. 113(1973), and its judicial progeny, past and future, including but not limited to *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103 (2020).

Proposed law provides that present law provisions relating to prenatal homicide, assault, or battery, or regulating abortion or abortion facilities are not repealed but are superseded to the extent that the provisions conflict with or are inconsistent with proposed law.

Proposed law provides that pursuant to the powers granted to the Legislature by present constitution (Art. X, Part III), any judge of this state who purports to enjoin, stay, overrule, or void any provision of proposed law shall be subject to impeachment or removal.

Provides that the provisions of proposed law are nonseverable.

Provides that proposed law applies to crimes committed on or after the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 14:2(A)(7) and (11) and 18(6); Adds R.S. 14:29.1 and 33.1)