

## Model Legislation

### Protecting Women from Abusers Act

*A Bill to Prohibit Coercive Acts Against Women with Chemical Abortion Pills & to Add Such Drugs to Schedule II Authorization & Monitoring*

HOUSE/SENATE BILL NO. \_\_\_\_\_

*An act to amend Sections \_\_\_\_\_, relative to abortion; to provide for circumstances that constitute coerced abortion; to provide for penalties; to provide for conduct that constitutes extortion; to add certain substances to Schedule II of the Uniform Controlled Dangerous Substances Law; and to provide for related matters.*

SECTION \_\_\_\_\_ [on extortion] is amended to add an additional section to read as follows:

**A. Definitions.** The definitions set forth in this section are controlling for purposes of this section and of this code/statute, irrespective of terms used in medical coding, notations, or billing documents. As used in this section:

“Abortifacient” means any medicine, drug or any other substance, or any combination of drugs, medicines, or substances; including but not limited to RU-486, mifepristone, Mifeprex, Mifegyne; or any substantially similar generic or non-generic drug or chemical dispensed for purposes of causing an abortion, or any future drug developed, marketed, sold, or distributed for the purpose of causing an abortion.

“Abortion” means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the preborn child.

A physician’s performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child is not an abortion under this section.

An act under this section is not an abortion if the act is performed with the purpose to:

- i. produce a live birth and save the life or preserve the health of the preborn child;
- ii. remove a dead preborn child and remaining tissue; or
- iii. remove a verified ectopic pregnancy.

"Ectopic pregnancy" means a pregnancy in which the fertilized human ovum, or blastocyst, implants and grows outside of the uterus.

"Extortion" means the communication of threats to another with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity of any description. Any of the following threats shall be sufficient to constitute extortion:

- iv. A threat intended to compel a pregnant woman to have an abortion.
- v. A threat intended to compel a pregnant woman to take an abortifacient.
- vi. A threat to do any other harm.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

"Pregnancy" means the period of time from fertilization until birth and is calculated from the first day of the pregnant woman's last menstrual period.

"Preborn child" means an individual organism of the species Homo sapiens from fertilization until live birth.

SECTION \_\_\_\_\_ [on racketeering] is amended to add:

**A. Definitions.** The definitions set forth in this section are controlling for purposes of this section and of this code/statute, irrespective of terms used in medical coding, notations, or billing documents. As used in this section:

"Abortifacient" means any medicine, drug, or any other substance, or any combination of drugs, medicines, or substances; including but not limited to RU-486, mifepristone, Mifeprex, Mifegyne; or any substantially similar generic or non-generic drug or chemical dispensed for purposes of causing an abortion, or any future drug developed, marketed, sold, or distributed for the purpose of causing an abortion.

"Abortion" means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the preborn child.

A physician's performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child is not an abortion under this section.

An act under this section is not an abortion if the act is performed with the purpose to:

- i. produce a live birth and save the life or preserve the health of the preborn child;
- ii. remove a dead preborn child and remaining tissue; or
- iii. remove a verified ectopic pregnancy.

"Ectopic pregnancy" means a pregnancy in which the fertilized human ovum, or blastocyst, implants and grows outside of the uterus.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

"Pregnancy" means the period of time from fertilization until birth and is calculated from the first day of the pregnant woman's last menstrual period.

"Preborn child" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

"Racketeering activity" means criminal abortion by means of an abortifacient.

SECTION \_\_\_\_\_ is amended to add an additional section to read as follows:

A. **Definitions.** The definitions set forth in this section are controlling for purposes of this section and of this code/statute, irrespective of terms used in medical coding, notations, or billing documents. As used in this section:

"Abortifacient" means any medicine, drug or any other substance, or any combination of drugs, medicines, or substances; including but not limited to RU-486, mifepristone, Mifeprex, Mifegyne; or any substantially similar generic or non-generic drug or chemical dispensed for purposes of causing an abortion, or any future drug developed, marketed, sold, or distributed for the purpose of causing an abortion.

"Abortion" means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the

purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the preborn child.

A physician's performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child is not an abortion under this section.

An act under this section is not an abortion if the act is performed with the purpose to:

- i. produce a live birth and save the life or preserve the health of the preborn child;
- ii. remove a dead preborn child and remaining tissue; or
- iii. remove a verified ectopic pregnancy.

"Ectopic pregnancy" means a pregnancy in which the fertilized human ovum, or blastocyst, implants and grows outside of the uterus.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

"Pregnancy" means the period of time from fertilization until birth and is calculated from the first day of the pregnant woman's last menstrual period.

"Preborn child" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

- B. Whoever commits the crime of coerced abortion shall be fined not more than fifty thousand dollars, imprisoned for not more than five years, or both.
- C. Coerced abortion is committed when any person knowingly engages in the use or threatened use of force, control, or intimidation against a pregnant woman with the intent to compel a pregnant woman to undergo an abortion, or to take an abortifacient, against her will, whether or not the abortion has been attempted or completed. Such means of force, control, or intimidation shall include but not be limited to any of the following:
  - i. Physical force or actual or implied threats of physical force.
  - ii. Exploitation of needs for food, shelter, safety, affection, or intimate or marital relationships.
  - iii. Restraint of movement.
  - iv. Destruction of property.
  - v. Kidnapping.

- vi. Defining the terms of an individual's employment or working conditions in a manner that may foreseeably lead to the individual seeking or obtaining an abortion.
  - vii. Blackmail.
  - viii. Extortion or claims of indebtedness.
  - ix. Threat of legal complaint or report of delinquency.
  - x. Threat of interference with parental rights or responsibilities, whether by judicial or administrative action or otherwise.
  - xi. Promise of legal benefit, such as posting of bail, procurement of an attorney, or protection from arrest.
  - xii. Promise of financial reward.
  - xiii. Restraint of speech or communicating with others, such as exploitation of a language difference, or interference with the use of mail, telephone, or money.
  - xiv. Isolation of individual from others.
  - xv. Exploitation of a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency.
  - xvi. Exploitation of previous victimization caused by sexual abuse or battery.
  - xvii. Exploitation of pornographic performance.
  - xviii. Interference with opportunities for education or skills training.
- D. The prosecution of a person pursuant to this Section shall not be a defense against the prosecution under any other provision of law, should the person commit the crime of coerced abortion and the abortion results in the death or serious bodily injury of the pregnant woman.
- E. This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is conducted or attempted.
- F. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.

SECTION \_\_\_\_\_ is amended to add an additional section to read as follows:

**Coerced criminal abortion by means of fraud.**

- A. **Definitions.** The definitions set forth in this section are controlling for purposes of this section and of this code/statute, irrespective of terms used in medical coding, notations, or billing documents. As used in this section:

“Abortifacient” means any medicine, drug or any other substance, or any combination of drugs, medicines, or substances; including but not limited to RU-486, mifepristone, Mifeprex, Mifegyne; or any substantially similar generic or non-generic drug or chemical dispensed for purposes of causing an abortion, or any future drug developed, marketed, sold, or distributed for the purpose of causing an abortion.

“Abortion” means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the preborn child.

A physician’s performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child is not an abortion under this section.

An act under this section is not an abortion if the act is performed with the purpose to:

- i. produce a live birth and save the life or preserve the health of the preborn child;
- ii. remove a dead preborn child and remaining tissue; or
- iii. remove a verified ectopic pregnancy.

"Ectopic pregnancy" means a pregnancy in which the fertilized human ovum, or blastocyst, implants and grows outside of the uterus.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

"Pregnancy" means the period of time from fertilization until birth and is calculated from the first day of the pregnant woman's last menstrual period.

“Preborn child” means an individual organism of the species Homo sapiens from fertilization until live birth.

- B. Coerced criminal abortion by means of fraud is committed when a person knowingly and intentionally engages in the use of an abortifacient of any kind on a pregnant woman, without her knowledge or consent, with the intent to cause an abortion.
- C. (1) Except as provided in Paragraph (\_\_\_) [which immediately follows] of this Subsection, whoever commits the crime of coerced criminal abortion by means of

fraud shall be imprisoned for not less than five nor more than ten years, fined not less than ten thousand nor more than seventy-five thousand dollars, or both.

(2) Whoever commits the crime of coerced criminal abortion by means of fraud when the preborn child is more than three months of gestational age shall be imprisoned for not less than ten nor more than twenty years, fined not less than fifty thousand nor more than one hundred thousand dollars, or both.

- D. The prosecution of a person pursuant to this Section shall not be a defense against the prosecution under any other provision of law, including murder or attempted murder, should the person commit the crime of coerced criminal abortion by means of fraud and the use of an abortifacient results in the death or serious bodily injury of the pregnant woman.
- E. This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is conducted or attempted in which an abortifacient is used.
- F. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.

SECTION \_\_\_\_\_ [regarding the composition of Schedules I, II, III, IV, and V drugs] is amended to add:

- A. Composition of Schedule II shall consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

... The controlled substances listed in this Section \_\_\_\_\_ SCHEDULE II

- i. Mifepristone, Misoprostol. Unless listed in another schedule, any material, compound, mixture, or preparation containing any detectable quantity of mifepristone or misoprostol shall be listed as a Schedule II drug.
- B. Possession... [Amend to add the following language.]
  - i. It shall not be a violation of this Subsection for a pregnant woman to possess mifepristone or misoprostol for her own consumption.
- C. The Board of Pharmacy is directed to notify all pharmacists in \_\_\_\_\_ [state] about the provisions of this law and that lawful prescriptions for mifepristone and

misoprostol may be filled in accordance with Section \_\_\_\_\_ [reference section number above].

- D. The Department... \_\_\_\_\_ [enter official title of the state's health department] is directed to notify all healthcare practitioners and providers in \_\_\_\_\_ [state] about the provisions of this law and that mifepristone and misoprostol may be prescribed and administered in accordance with Section \_\_\_\_\_ [reference section number above].
- E. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.