

House Bill 1155

By: Representatives Loudermilk of the 14<sup>th</sup>, Setzler of the 35<sup>th</sup>, Everson of the 106<sup>th</sup>, Collins of the 95<sup>th</sup>, and Talton of the 145<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and  
2 offenses, so as to establish the offense of criminal solicitation of abortion; to provide a short  
3 title; to specify that the performance of an abortion based on the race, color, or sex of the  
4 unborn child or on the race or color of a parent of that child constitutes criminal abortion  
5 under certain circumstances; to provide for penalties; to provide for certain exceptions to  
6 criminal and civil liability for certain violations; to provide for notification of certain  
7 investigations and the provision of information obtained during such investigations; to  
8 provide for recovery for certain acts through a civil action; to revise the definition of  
9 racketeering activity to include certain conduct relating to unlawful abortions; to amend Title  
10 51 of the Official Code of Georgia Annotated, relating to torts, so as to specify the recovery  
11 available in the event of an abortion performed in violation of Georgia law; to provide for  
12 the right to recover for the homicide of an unborn child; to define a certain term; to specify  
13 recovery available for the homicide of an unborn child; to provide for related matters; to  
14 provide for an effective date and applicability; to repeal conflicting laws; and for other  
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Prenatal Nondiscrimination Act."

19 **SECTION 2.**

20 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
21 amended by adding a new Code section to read as follows:

22 "16-4-11.

23 (a) A person commits the offense of criminal solicitation of abortion when that person  
24 solicits or coerces another person with the intent that an abortion be performed based in any

25 way on account of the race, color, or sex of the unborn child or the race or color of either  
 26 parent of that child.

27 (b) A person convicted of the offense of criminal solicitation of abortion shall be guilty of  
 28 a felony and punished by imprisonment for not less than one nor more than five years and  
 29 may be sentenced to pay a fine that shall not exceed the greater of \$25,000.00 or three  
 30 times the amount of any pecuniary value gained by such person from such violation.

31 (c) A pregnant woman who is the target of criminal solicitation of abortion shall not be  
 32 held criminally or civilly liable for any violation of this Code section or for conspiracy to  
 33 violate this Code section.

34 (d) Immediate notification of any criminal investigation initiated pursuant to this Code  
 35 section shall be made to the Georgia Composite Medical Board, and at the conclusion of  
 36 the investigation, any information obtained in such investigation shall be made available  
 37 by the prosecution to the board to support an action pursuant to Code Section 43-34-8."

### 38 **SECTION 3.**

39 Said title is further amended by revising subsection (b) of Code Section 16-12-140, relating  
 40 to criminal abortion, and adding two new subsections to read as follows:

41 "(b) A person commits the offense of criminal abortion when that person performs an  
 42 abortion:

43 (1) With the intent to prevent an unborn child from being born based in any way on  
 44 account of the race, color, or sex of the unborn child or the race or color of either parent  
 45 of that child; or

46 (2) With the knowledge that the pregnant woman is seeking the abortion based in any  
 47 way on account of the race, color, or sex of the unborn child or the race or color of either  
 48 parent of that child.

49 (c) A person convicted of the offense of criminal abortion shall be punished by  
 50 imprisonment for not less than one nor more than ten years.

51 (d) Any woman upon whom a criminal abortion is performed shall not be held criminally  
 52 or civilly liable for any violation of this Code section or for conspiracy to violate this Code  
 53 section."

### 54 **SECTION 4.**

55 Said title is further amended by revising subsection (a) of Code Section 16-12-141, relating  
 56 to when abortion is legal and the filing of certificate of abortion by performing physician, as  
 57 follows:

58 "(a) Nothing in this article shall be construed to prohibit an abortion performed by a  
 59 physician duly licensed to practice medicine and surgery pursuant to Chapter 34 of Title

60 43, based upon his or her best clinical judgment that an abortion is necessary, except that  
 61 subsection (b) of Code Section 16-12-140 is a prohibition on the circumstances under  
 62 which an abortion may be performed which shall apply to both duly licensed physicians  
 63 and laypersons, and Code Section 16-12-144 is a prohibition of a particular abortion  
 64 method which shall apply to both duly licensed physicians and laypersons."

65 **SECTION 5.**

66 Said title is further amended by adding a new Code section to read as follows:

67 "16-12-145.

68 (a) Any woman upon whom an abortion is performed in violation of this article may  
 69 recover in a civil action from the person who engaged in such violation all damages  
 70 available to her under Georgia law for any torts.

71 (b) Immediate notification of any criminal investigation initiated pursuant to this article  
 72 shall be made to the Georgia Composite Medical Board, and at the conclusion of the  
 73 investigation, any information obtained in such investigation shall be made available by  
 74 the prosecution to the board to support an action pursuant to Code Section 43-34-8."

75 **SECTION 6.**

76 Said title is further amended by revising subparagraph (A) of paragraph (9) of Code Section  
 77 16-14-3, relating to definitions related to racketeer influenced and corrupt organizations, by  
 78 striking the "or" at the end of division (xxxix), by striking the period and inserting a  
 79 semicolon at the end of division (xxxx), and by adding two new divisions to read as follows:

80 "(xxxxi) Code Section 16-4-11, relating to criminal solicitation of abortion; or

81 (xxxxii) Code Section 16-12-140, relating to criminal abortion."

82 **SECTION 7.**

83 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising  
 84 Code Section 51-1-52, which was previously redesignated, as follows:

85 "51-1-52.

86 Any woman upon whom an abortion is performed in violation of Georgia law may recover  
 87 in a civil action from the person or entity which engaged in such violation all damages  
 88 available to her under Georgia law for any torts."

89 **SECTION 8.**

90 Said title is further amended by revising Code Section 51-4-3, which is reserved, as follows:

91 "51-4-3.

92 Reserved.

93 (a) For purposes of this Code section, the term 'unborn child' shall have the same meaning  
94 as set forth in Code Section 16-5-28.  
95 (b) The right to recover for the homicide of an unborn child shall be as provided in Code  
96 Section 51-4-4 and shall also include all cases in which the death of an unborn child results  
97 from any violation of Code Section 31-9A-3 or 31-9A-5.  
98 (c) Recovery for the homicide of an unborn child shall be provided for all damages  
99 available under Georgia law for any torts committed during any such cases and for all  
100 damages as set forth in Code Section 51-4-4 with all references to 'child' therein deemed  
101 to include 'unborn child' for all civil actions brought thereunder."

102 **SECTION 9.**

103 This Act shall become effective upon its approval by the Governor or upon its becoming law  
104 without such approval and shall apply to conduct on and after that date.

105 **SECTION 10.**

106 All laws and parts of laws in conflict with this Act are repealed.