

HOUSE BILL NO. 250

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 5/15/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act interpreting the right to privacy under art. I, sec. 22, Constitution of the State**
2 **of Alaska; relating to the description of a natural person; defining 'conception' and**
3 **'preborn child'; relating to civil actions and liability under the Act; repealing limitations**
4 **on the applicability of laws criminalizing the murder or assault of an unborn child;**
5 **repealing abortion procedures; relating to crimes involving multiple deaths; changing**
6 **provisions of certain crimes involving murder, manslaughter, homicide, and assault to**
7 **refer to preborn children and relating to the penalties and other provisions relating to**
8 **those crimes; relating to the powers of guardians; relating to powers of attorney for**
9 **health care decisions; relating to regulation of abortion; relating to medical treatment**
10 **for minors; relating to the office of public advocacy; repealing medical assistance**
11 **payment for abortions; relating to court jurisdiction; replacing the term 'unborn' with**
12 **'preborn' in certain instances; amending Rule 404(a), Alaska Rules of Appellate**

1 **Procedure; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. This Act may be known as the Life at Conception Act of 2017.

6 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 LEGISLATIVE FINDINGS. Notwithstanding any other provision of law, the
9 legislature finds that

10 (1) the preamble to the Constitution of the State of Alaska opens, "We the
11 people of Alaska, grateful to God and to those who founded our nation," and the Declaration
12 of Independence states, "We hold these truths to be self-evident, that all men are created
13 equal, that they are endowed by their Creator with certain unalienable Rights, that among
14 these are Life That to secure these rights, Governments are instituted among Men," and
15 the legislature recognizes that government has a duty to protect and defend the right to life
16 that God has granted to all human beings;

17 (2) the Constitution of the State of Alaska declares, in art. I, sec. 1, that "all
18 persons have a natural right to life," and the Constitution of the State of Alaska further
19 declares in art. I, sec. 7, "No person shall be deprived of life, liberty, or property, without due
20 process of law";

21 (3) in order to secure the natural right to life for all persons, government must
22 recognize all persons, without discrimination based on age, size, location, disability, stage of
23 development, or condition of dependency;

24 (4) art. I, sec. 1, Constitution of the State of Alaska, provides "that all persons
25 are equal and entitled to equal rights, opportunities, and protection under the law";

26 (5) art. II, sec. 1, Constitution of the State of Alaska, provides that "The
27 legislative power of the State is vested in a legislature"; the legislature lacks the authority to
28 delegate any portion of the legislative power to the courts, and further, the legislature has not
29 done so;

30 (6) protection of the right to life explicitly recognized by the Constitution of

1 the State of Alaska, through the adoption of state law, is the constitutional responsibility of
 2 the legislature, not the courts;

3 (7) art. I, sec. 22, Constitution of the State of Alaska, after recognizing the
 4 right of the people to privacy, expressly grants to the legislature the authority to "implement
 5 this section," authority which it does not grant to the courts;

6 (8) it was never the intent of art. I, sec. 22, Constitution of the State of Alaska,
 7 or any other section of the Constitution of the State of Alaska, to recognize a right to take the
 8 life of a preborn child;

9 (9) art. IV, sec. 1, Constitution of the State of Alaska, provides that "The
 10 jurisdiction of the courts shall be prescribed by law," reserving to lawmakers a final check on
 11 any court that should arrogate power to itself through judicial edict; and

12 (10) to implement equal protection under the law for the right to life of each
 13 born and preborn human being, and under the duty and authority of the legislature, in whom
 14 all legislative power is vested under art. I, sec. 8, Constitution of the State of Alaska, the
 15 legislature hereby declares that the right to life guaranteed to all persons by the Constitution
 16 of the State of Alaska is vested in each human being.

17 * **Sec. 3.** AS 01.10.055 is amended by adding a new subsection to read:

18 (d) A preborn child is a resident of the state if the mother of the preborn child
 19 is a resident of the state under this section.

20 * **Sec. 4.** AS 01.10.060(a) is amended by adding new paragraphs to read:

21 (15) "conception" means, notwithstanding any other provision of law,
 22 the beginning of biological development of a human organism when the sperm and the
 23 egg fuse, or, in the case of asexual reproduction, the equivalent stage of development
 24 where a complete new human organism is present;

25 (16) "natural person" means a human being, regardless of age,
 26 location, capacity to function, condition of physical or mental dependency, or
 27 disability, from the moment of conception;

28 (17) "preborn child" means a natural person from the moment of
 29 conception who has not been born.

30 * **Sec. 5.** AS 01 is amended by adding a new chapter to read:

31 **Chapter 15. Interpretation of Right to Privacy.**

Sec. 01.15.010. Acts not protected under right to privacy. Notwithstanding any other provision of law, abortion or any other taking of innocent human life is not protected by a right to privacy under art. I, sec. 22, Constitution of the State of Alaska.

* Sec. 6. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.095. Actions relating to preborn children and human life. A person may not bring an action against the state or an officer or employee of the state alleging that an action taken by a state officer or employee to implement the changes made by this Act exceeds the scope of authority conferred by this Act or has the effect of denying a person the rights guaranteed under the Constitution of the State of Alaska unless the action is commenced within 60 days of the action taken by the officer or employee.

* **Sec. 7.** AS 09.55.585(a) is amended to read:

(a) A parent or legal guardian of a preborn [AN UNBORN] child may maintain an action as plaintiff for the death of a preborn [AN UNBORN] child that was caused by the wrongful act or omission of another.

* **Sec. 8.** AS 09.55.585(b) is amended to read:

(b) This section does not apply to acts or omissions that **are committed**

[1] CAUSE THE DEATH OF AN UNBORN CHILD IF THOSE ACTS OR OMISSIONS ARE COMMITTED DURING A LEGAL ABORTION TO WHICH THE PREGNANT WOMAN OR A PERSON AUTHORIZED BY LAW TO ACT ON HER BEHALF CONSENTS OR FOR WHICH CONSENT IS IMPLIED BY LAW;

(2) ARE COMMITTED] under usual and customary standards of medical practice during diagnostic testing, during therapeutic treatment, or while assisting a pregnancy [; or

(3) ARE COMMITTED BY A PREGNANT WOMAN AGAINST
HERSELF AND HER UNBORN CHILD].

* **Sec. 9.** AS 09.55.585(c) is amended to read:

(c) This section does not limit any other cause of action that a parent **or legal guardian** may maintain for the death of a **preborn** [AN UNBORN] child.

* **Sec. 10.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.252. Immunity for actions relating to preborn children. A person, including a state officer or employee, may not be held liable for a good faith action taken to implement the changes made by this Act.

* **Sec. 11.** AS 11.41.135 is amended to read:

Sec. 11.41.135. Multiple deaths. If more than one person dies as a result of a person committing conduct constituting a crime specified in AS 11.41.100 - 11.41.170 [AS 11.41.100 - 11.41.130], each death constitutes a separately punishable offense.

* **Sec. 12.** AS 11.41.150 is amended to read:

Sec. 11.41.150. Murder of a preborn [AN UNBORN] child. (a) A person commits the crime of murder of a preborn [AN UNBORN] child if the person

(1) with intent to cause the death of **a preborn** [AN UNBORN] child or of another person, causes the death of **a preborn** [AN UNBORN] child;

(2) with intent to cause serious physical injury to a preborn [AN UNBORN] child or to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to a preborn [AN UNBORN] child or to another person, causes the death of a preborn [AN UNBORN] child;

(3) while acting alone or with one or more persons, commits or attempts to commit arson in the first degree, kidnapping, sexual assault in the first degree, sexual assault in the second degree, sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, burglary in the first degree, escape in the first or second degree, robbery in any degree, or misconduct involving a controlled substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8), or 11.71.040(a)(1) or (2), and, in the course of or in furtherance of that crime or in immediate flight from that crime, any person causes the death of a **preborn** [AN UNBORN] child;

(4) knowingly engages in conduct that results in the death of **a preborn** [AN UNBORN] child under circumstances manifesting an extreme indifference to the value of human life; for purposes of this paragraph, a pregnant woman's decision to remain in a relationship in which domestic violence, as defined in AS 18.66.990, has occurred does not constitute conduct manifesting an extreme indifference to the value of human life;

(5) knowingly removes, or causes or permits the removal of, a

1 **preborn child from the state for the purpose of killing the preborn child.**

2 (b) A person may not be convicted under (a)(3) of this section if the only
 3 underlying crime is burglary, the sole purpose of the burglary is a criminal homicide,
 4 and the **preborn** [UNBORN] child killed is the intended victim of the defendant.
 5 However, if the defendant causes the death of another **preborn** [UNBORN] child, the
 6 defendant may be convicted under (a)(3) of this section. Nothing in this subsection
 7 precludes a prosecution for or conviction of murder in the first degree or murder in the
 8 second degree, murder of **a preborn** [AN UNBORN] child under **(a)(1), (2), (4), or**
 9 **(5) of this section** [AS 11.41.150(a)(1), (2), OR (4)], or any other crime.

10 (c) Murder of **a preborn** [AN UNBORN] child is an unclassified felony.

11 * **Sec. 13.** AS 11.41.160 is amended to read:

12 **Sec. 11.41.160. Manslaughter of a preborn [AN UNBORN] child.** (a) A
 13 person commits the crime of manslaughter of **a preborn** [AN UNBORN] child if,
 14 under circumstances not amounting to murder of **a preborn** [AN UNBORN] child, the
 15 person intentionally, knowingly, or recklessly causes the death of **a preborn** [AN
 16 UNBORN] child.

17 (b) Manslaughter of **a preborn** [AN UNBORN] child is a class A felony.

18 * **Sec. 14.** AS 11.41.170 is amended to read:

19 **Sec. 11.41.170. Criminally negligent homicide of a preborn [AN
 20 UNBORN] child.** (a) A person commits the crime of criminally negligent homicide of
 21 **a preborn** [AN UNBORN] child if, with criminal negligence, the person causes the
 22 death of **a preborn** [AN UNBORN] child.

23 (b) Criminally negligent homicide of **a preborn** [AN UNBORN] child is a
 24 class B felony.

25 * **Sec. 15.** AS 11.41.280 is amended to read:

26 **Sec. 11.41.280. Assault of a preborn [AN UNBORN] child in the first
 27 degree.** (a) A person commits the crime of assault of **a preborn** [AN UNBORN] child
 28 in the first degree if

29 (1) that person recklessly causes serious physical injury to **a preborn**
 30 [AN UNBORN] child by means of a dangerous instrument;

31 (2) with intent to cause serious physical injury to **a preborn** [AN

1 UNBORN] child or to another person, that person causes serious physical injury to a
 2 preborn [AN UNBORN] child;

3 (3) that person knowingly engages in conduct that results in serious
 4 physical injury to a preborn [AN UNBORN] child under circumstances manifesting
 5 extreme indifference to the value of human life; for purposes of this paragraph, a
 6 pregnant woman's decision to remain in a relationship in which domestic violence, as
 7 defined in AS 18.66.990, has occurred does not constitute conduct manifesting an
 8 extreme indifference to the value of human life; or

9 (4) that person recklessly causes serious physical injury to a preborn
 10 [AN UNBORN] child by repeated assaults using a dangerous instrument, even if each
 11 assault individually does not cause serious physical injury.

12 (b) Assault of a preborn [AN UNBORN] child in the first degree is a class A
 13 felony.

14 * **Sec. 16.** AS 11.41.282 is amended to read:

15 **Sec. 11.41.282. Assault of a preborn [AN UNBORN] child in the second**
 16 **degree.** (a) A person commits the crime of assault of a preborn [AN UNBORN] child
 17 in the second degree if

18 (1) with intent to cause physical injury to a preborn [AN UNBORN]
 19 child or to another person, that person causes serious physical injury to a preborn
 20 [AN UNBORN] child;

21 (2) that person recklessly causes serious physical injury to a preborn
 22 [AN UNBORN] child; or

23 (3) that person recklessly causes serious physical injury to a preborn
 24 [AN UNBORN] child by repeated assaults, even if each assault individually does not
 25 cause serious physical injury.

26 (b) Assault of a preborn [AN UNBORN] child in the second degree is a class
 27 B felony.

28 * **Sec. 17.** AS 11.81.250(a) is amended to read:

29 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
 30 title, except murder in the first and second degree, attempted murder in the first
 31 degree, solicitation to commit murder in the first degree, conspiracy to commit murder

1 in the first degree, murder of **a preborn** [AN UNBORN] child, sexual assault in the
2 first degree, sexual abuse of a minor in the first degree, misconduct involving a
3 controlled substance in the first degree, sex trafficking in the first degree under
4 AS 11.66.110(a)(2), and kidnapping, are classified on the basis of their seriousness,
5 according to the type of injury characteristically caused or risked by commission of
6 the offense and the culpability of the offender. Except for murder in the first and
7 second degree, attempted murder in the first degree, solicitation to commit murder in
8 the first degree, conspiracy to commit murder in the first degree, murder of **a preborn**
9 [AN UNBORN] child, sexual assault in the first degree, sexual abuse of a minor in the
10 first degree, misconduct involving a controlled substance in the first degree, sex
11 trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, the offenses
12 in this title are classified into the following categories:

13 (1) class A felonies, which characteristically involve conduct resulting
14 in serious physical injury or a substantial risk of serious physical injury to a person;

15 (2) class B felonies, which characteristically involve conduct resulting
16 in less severe violence against a person than class A felonies, aggravated offenses
17 against property interests, or aggravated offenses against public administration or
18 order;

19 (3) class C felonies, which characteristically involve conduct serious
20 enough to deserve felony classification but not serious enough to be classified as A or
21 B felonies;

22 (4) class A misdemeanors, which characteristically involve less severe
23 violence against a person, less serious offenses against property interests, less serious
24 offenses against public administration or order, or less serious offenses against public
25 health and decency than felonies;

26 (5) class B misdemeanors, which characteristically involve a minor
27 risk of physical injury to a person, minor offenses against property interests, minor
28 offenses against public administration or order, or minor offenses against public health
29 and decency;

30 (6) violations, which characteristically involve conduct inappropriate
31 to an orderly society but **that** [WHICH] do not denote criminality in their commission.

1 * **Sec. 18.** AS 11.81.250(b) is amended to read:

2 (b) The classification of each felony defined in this title, except murder in the
 3 first and second degree, attempted murder in the first degree, solicitation to commit
 4 murder in the first degree, conspiracy to commit murder in the first degree, murder of
 5 a preborn [AN UNBORN] child, sexual assault in the first degree, sexual abuse of a
 6 minor in the first degree, misconduct involving a controlled substance in the first
 7 degree, sex trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, is
 8 designated in the section defining it. A felony under the law of this state defined
 9 outside this title for which no penalty is specifically provided is a class C felony.

10 * **Sec. 19.** AS 12.55.035(b) is amended to read:

11 (b) Upon conviction of an offense, a defendant who is not an organization may
 12 be sentenced to pay, unless otherwise specified in the provision of law defining the
 13 offense, a fine of not more than

14 (1) \$500,000 for murder in the first or second degree, attempted
 15 murder in the first degree, murder of a preborn [AN UNBORN] child, sexual assault
 16 in the first degree, sexual abuse of a minor in the first degree, kidnapping, sex
 17 trafficking in the first degree under AS 11.66.110(a)(2), or misconduct involving a
 18 controlled substance in the first degree;

19 (2) \$250,000 for a class A felony;

20 (3) \$100,000 for a class B felony;

21 (4) \$50,000 for a class C felony;

22 (5) \$25,000 for a class A misdemeanor;

23 (6) \$2,000 for a class B misdemeanor;

24 (7) \$500 for a violation.

25 * **Sec. 20.** AS 12.55.125(a) is amended to read:

26 (a) A defendant convicted of murder in the first degree or murder of a
 27 preborn [AN UNBORN] child under AS 11.41.150(a)(1) shall be sentenced to a
 28 definite term of imprisonment of at least 30 years but not more than 99 years. A
 29 defendant convicted of murder in the first degree shall be sentenced to a mandatory
 30 term of imprisonment of 99 years when

31 (1) the defendant is convicted of the murder of a uniformed or

otherwise clearly identified peace officer, firefighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

* **Sec. 21.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of a preborn [AN UNBORN] child under AS 11.41.150(a)(2) - (5) [AS 11.41.150(a)(2) - (4)] shall be sentenced to a definite term of imprisonment of at least 15 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the

1 child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this
2 subsection, "legal guardian" and "position of authority" have the meanings given in
3 AS 11.41.470.

4 * **Sec. 22.** AS 13.06.120(a) is amended to read:

5 (a) In any proceedings involving trusts, nonprobate assets, or estates of
6 decedents, minors, protected persons, or incapacitated persons brought under
7 AS 13.06 - AS 13.36 or AS 13.38, the following apply:

8 (1) interests to be affected shall be described in pleadings that give
9 reasonable information to owners by name or class, by reference to the instrument
10 creating the interests, or in other appropriate manner;

11 (2) persons are bound by orders binding others in the following cases:

12 (A) orders binding the sole holder or all co-holders of a power
13 of revocation or a general or nongeneral power of appointment, including one
14 in the form of a power of amendment, bind other persons to the extent their
15 interests, as objects, takers in default, or otherwise, are subject to the power;

16 (B) to the extent there is no conflict of interest between them or
17 among persons represented, orders binding a conservator bind the person
18 whose estate the conservator controls; orders binding a guardian bind the ward
19 if no conservator of the estate has been appointed; orders binding a trustee bind
20 beneficiaries of the trust in proceedings to probate a will establishing or adding
21 to a trust, to review the acts or accounts of a prior fiduciary, and in proceedings
22 involving creditors or other third parties; orders binding a personal
23 representative bind persons interested in the undistributed assets of a
24 decedent's estate in actions or proceedings by or against the estate; and orders
25 binding an agent having authority to act with respect to the particular questions
26 or dispute bind the principal; if there is no conflict of interest and no
27 conservator or guardian has been appointed, a parent may represent the minor
28 child;

29 (C) **a preborn** [AN UNBORN] person, a minor, an
30 incapacitated person, or a person whose identity or location is unknown or not
31 reasonably ascertainable who is not otherwise represented is bound by an order

1 to the extent the interest is adequately represented by another party having a
 2 substantially identical interest in the proceeding;

3 (D) with regard to interests given upon the happening of a certain event to persons who comprise a certain class, orders binding the living persons who would constitute the class, if the event had happened immediately before the commencement of the proceeding, bind all members of the class;

7 (E) with regard to an interest given to a living person when the same interest or a share of the interest is to pass to the surviving spouse or to persons who are or might be the distributees, devisees, heirs, or issue of the living person upon the happening of a future event, orders binding the living person bind the surviving spouse, distributees, devisees, heirs, or issue of the living person;

13 (F) with regard to interests given to a person or a class of persons, or to both, upon the happening of a future event, if the same interest or a share of the interest is to pass to another person or class of persons, or to both, upon the happening of an additional future event, orders binding the living person or class of persons who would take the interest upon the happening of the first event bind the persons and classes of persons who might take on the happening of the additional future event;

20 (G) if a person is designated by a trust instrument to represent and bind a born or **preborn** [UNBORN] beneficiary of the trust and receive a notice, information, accounting, or report for the beneficiary, then the beneficiary is bound by an order binding the designated person; in this subparagraph,

25 (i) the settlor may make the designation in the trust instrument, in a separate document, or by a trust protector authorized in the trust instrument to make the designation;

28 (ii) except as otherwise provided in this subparagraph, a person designated under (i) of this subparagraph may not represent and bind a beneficiary while the designated person is serving as trustee;

31 (iii) except as otherwise provided in this subparagraph,

1 a person designated under (i) of this subparagraph may not represent
 2 and bind another beneficiary if the designated person also is a
 3 beneficiary, unless the designated person was named by the settlor, is
 4 the beneficiary's spouse, or is a grandparent or descendant of a
 5 grandparent of the beneficiary or the beneficiary's spouse; in this sub-
 6 subparagraph, "spouse" means the individual to whom the beneficiary
 7 is married and with whom the beneficiary is living, and a physical
 8 separation primarily for education, business, health, and similar reasons
 9 does not prevent the individual from being considered to be living with
 10 the beneficiary;

11 (3) a person representing another person under (2)(A) - (F) of this
 12 section and a person designated under (2)(G)(i) of this section are not liable to the
 13 beneficiary whose interests are represented, or to a person claiming through that
 14 beneficiary, for an action or omission to act made in good faith;

15 (4) notice is required as follows:

16 (A) notice as prescribed by AS 13.06.110 shall be given to
 17 every interested person or to one person who can bind an interested person as
 18 described in (2)(A), (B), or (D) - (G) of this section; notice may be given both
 19 to a person and to another person who may bind the person;

20 (B) notice is given to **preborn** [UNBORN] persons, a minor,
 21 an incapacitated person, or a person whose identity or location is unknown or
 22 not reasonably ascertainable, and persons who are not represented under
 23 (2)(A), (B), or (D) - (G) of this section, by giving notice to all known persons
 24 whose interests in the proceedings are substantially identical to those of the
 25 **preborn** [UNBORN] persons, the minor, the incapacitated person, or the
 26 person whose identity or location is unknown or not reasonably ascertainable;

27 (5) at any point in a proceeding, a court may appoint a guardian ad
 28 litem to represent the interest of **a preborn** [AN UNBORN] person, a minor, an
 29 incapacitated person, or a person whose identity or address is unknown or not
 30 reasonably ascertainable, if the court determines that representation of the interest
 31 otherwise would be inadequate; if not precluded by conflict of interests, a guardian ad

item may be appointed to represent several persons or interests; the court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

* Sec. 23. AS 13.16.665 is amended to read:

Sec. 13.16.665. Effect of approval of agreements. A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any governing instrument, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties to the compromise including those preborn [UNBORN], unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it.

* **Sec. 24.** AS 13.26.066(f) is amended to read:

(f) To designate an attorney-in-fact, a parent or guardian shall execute a power of attorney that is in substantially the following form:

STATUTORY FORM FOR POWER OF ATTORNEY

TO DELEGATE THE POWERS OF A PARENT OR GUARDIAN

Section 1. I certify that I am the parent or guardian of

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

who is/are minor children.

Section 2. I designate _____ (Full name of attorney-in-fact), _____

(Street address, city, state, and zip code of attorney-in-fact)

(Home telephone of attorney-in-fact)

(Work telephone of attorney-in-fact)

1 as the attorney-in-fact of each minor child named above.

2 Section 3. I delegate to the attorney-in-fact all of my power and authority
3 regarding the care and custody of each minor child named above, including the
4 right to enroll the child in school, the right to inspect and obtain copies of
5 education records and other records concerning the child, the right to attend
6 school activities and other functions concerning the child, and the right to give
7 or withhold any consent or waiver with respect to school activities, medical
8 treatment, dental treatment, and other activity, function, or treatment that may
9 concern the minor child. This delegation does not include the power or
10 authority to consent to the marriage or adoption of the minor child [, THE
11 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR
12 THE MINOR CHILD,] or the termination of parental rights to the minor child.

13 OR

14 Section 4. I delegate to my attorney-in-fact the following specific powers and
15 responsibilities (write in):

16 _____
17 _____

18 Delegation under this section does not include the power or authority to
19 consent to the marriage or adoption of the minor child [, THE
20 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR
21 THE MINOR CHILD,] or the termination of parental rights to the minor child.

22 (If you complete Section 4, Section 3 does not apply).

23 Section 5. This power of attorney is effective for a period not to exceed one
24 year, beginning _____, 20 ____, and ending _____, 20 _____. I
25 reserve the right to revoke this authority at any time.

26 OR

27 Section 6. I am a military parent or guardian under AS 13.26.023(d). My active
28 duty is scheduled to begin on _____, 20 ____, and is estimated to
29 end on _____, 20 ____. I acknowledge that this power of attorney
30 will not last more than one year, or the term of my active duty service plus 30
31 days, whichever period is longer.

1 By: _____

2 (Parent/guardian signature)

3 Section 7. I hereby accept my designation as attorney-in-fact for the minor
4 child/children identified in this power of attorney.

5 _____

6 (Attorney-in-fact signature)

7 State of _____
8 _____ Judicial District

9 ACKNOWLEDGMENT

10 Before me, the undersigned, a Notary Public, in and for the Judicial District
11 and State identified above, on this _____ day of _____, 20 ___,
12 personally appeared _____ (name of parent/guardian)
13 and _____ (name of attorney-in-fact), to me known to
14 be the persons who executed this power of attorney, and each acknowledged to
15 me that each executed the same as the person's free and voluntary act and deed
16 for the uses and purposes set out in this power of attorney.

17 Witness my hand and official seal the day and year written above.

18 _____
19 (Signature of notary public)

20 (Seal, if any)

21 _____
22 (Title and rank)

23 My commission expires: _____

24 * **Sec. 25.** AS 13.26.316(e) is amended to read:

25 (e) A guardian may not

26 (1) place the ward in a facility or institution for the mentally ill other
27 than through a formal commitment proceeding under AS 47.30 in which the ward has
28 a separate guardian ad litem;

29 (2) consent on behalf of the ward to a [AN ABORTION,] sterilization,
30 psychosurgery, or removal of bodily organs except when necessary to preserve the life
31 or prevent serious impairment of the physical health of the ward;

(3) consent on behalf of the ward to the withholding of lifesaving medical procedures; however, a guardian is not required to oppose the cessation or withholding of lifesaving medical procedures when those procedures will serve only to prolong the dying process and offer no reasonable expectation of effecting a temporary or permanent cure of or relief from the illness or condition being treated unless the ward has clearly stated that lifesaving medical procedures not be withheld; a guardian is not civilly liable for acts or omissions under this paragraph unless the act or omission constitutes gross negligence or reckless or intentional misconduct;

(4) consent on behalf of the ward to the performance of an experimental medical procedure or to participation in a medical experiment not intended to preserve the life or prevent serious impairment of the physical health of the ward;

(5) consent on behalf of the ward to termination of the ward's parental rights;

(6) prohibit the ward from registering to vote or from casting a ballot at public election;

(7) prohibit the ward from applying for and obtaining a driver's license;

(8) prohibit the marriage or divorce of the ward.

* **Sec. 26.** AS 13.52.050 is amended to read:

Sec. 13.52.050. Decisions for exceptional procedures. Unless there is a durable power of attorney for health care or another writing clearly expressing an individual's intent to the contrary, an agent or surrogate may not consent on behalf of a patient to [AN ABORTION,] sterilization, psychosurgery, or removal of bodily organs except when the [ABORTION,] sterilization, psychosurgery, or removal of bodily organs is necessary to preserve the life of the patient or to prevent serious impairment of the health of the patient.

* **Sec. 27.** AS 18.05.032(a) is amended to read:

(a) The department shall maintain on the Internet, in printable form, standard information that

(1) contains geographically indexed material designed to inform a

1 person of public and private agencies, services, clinics, and facilities that are available
2 to assist a woman with the woman's reproductive choices; the department shall include
3 information about at least the following types of agencies, services, clinics, and
4 facilities:

5 (A) agencies, services, clinics, and facilities designed to assist a
6 woman through pregnancy, including adoption agencies, and counseling
7 services;

8 (B) agencies, services, clinics, and facilities that provide
9 [ABORTION OPTIONS AND COUNSELING AND] post-abortion
10 counseling and services; and

11 (C) agencies, services, clinics, and facilities designed to assist
12 with or provide contraceptive options and counseling for appropriate family
13 planning;

14 (2) includes a comprehensive regional directory of the agencies,
15 services, clinics, and facilities that request to be identified by the department under (1)
16 of this subsection, a description of the services they offer, and the manner in which the
17 agencies, services, clinics, and facilities may be contacted, including telephone
18 numbers;

19 (3) provides information concerning the eligibility for medical
20 assistance benefits for prenatal care, childbirth, neonatal care, [ABORTION
21 SERVICES,] women's health care, and contraception;

22 (4) [STATES THAT INFORMED AND VOLUNTARY CONSENT
23 IS REQUIRED UNDER AS 18.16.060 FOR AN ABORTION;

24 (5)] provides information concerning the process by which a mother of
25 a child may establish a child support order to assist in the support of a child;

26 (5) [(6)] describes the fetal development of a typical preborn
27 [UNBORN] child at two-week gestational increments from fertilization to full-term,
28 including links to photographs of a typical preborn [UNBORN] child at four-week
29 gestational increments, and relevant information about the possibility of a preborn
30 [AN UNBORN] child's survival at the various gestational ages; the information must
31 be objective, nonjudgmental information that is reviewed and approved for medical

1 accuracy by recognized obstetrical and gynecological specialists designated by the
2 State Medical Board and designed to convey only accurate scientific information
3 about preborn [UNBORN] children at various gestational ages;

4 (6) [(7)] contains objective, unbiased information that is reviewed and
5 approved for medical accuracy by recognized obstetrical and gynecological specialists
6 designated by the state medical board;

7 (7) [AND THAT DESCRIBES THE METHODS OF ABORTION
8 PROCEDURES AND TREATMENTS COMMONLY EMPLOYED AND THE
9 MEDICAL RISKS AND POSSIBLE COMPLICATIONS COMMONLY
10 ASSOCIATED WITH EACH PROCEDURE AND TREATMENT, AS WELL AS
11 THE POSSIBLE PHYSICAL AND PSYCHOLOGICAL EFFECTS THAT HAVE
12 BEEN ASSOCIATED WITH HAVING AN ABORTION;

13 (8)] contains objective, unbiased information that is reviewed and
14 approved for medical accuracy by recognized obstetrical and gynecological specialists
15 designated by the State Medical Board and that describes the possible medical risks
16 and complications commonly associated with pregnancy and childbirth, as well as the
17 possible physical and psychological effects that have been associated with carrying a
18 child to term;

19 (8) [(9)] contains objective, unbiased information that is reviewed and
20 approved for medical accuracy by recognized obstetrical and gynecological specialists
21 designated by the State Medical Board and that concerns the harmful effects on a
22 preborn [AN UNBORN] child when a woman consumes alcohol, tobacco, or illegal
23 drugs during pregnancy;

24 (9) [(10)] contains objective, unbiased, and comprehensive information
25 that is reviewed and approved for medical accuracy by recognized obstetrical and
26 gynecological specialists designated by the State Medical Board and that describes the
27 different types of available contraceptive choices, including abstinence and natural
28 family planning, that describes the methods of contraception that are intended to
29 prevent fertilization [AND THE METHODS THAT ARE INTENDED TO PREVENT
30 IMPLANTATION OF A FERTILIZED EGG], and that describes the reliability,
31 psychological effects, medical risks, and complications commonly associated with

each method;

(10) [(11)] contains a disclaimer on the website home page concerning the graphic or sensitive nature of the information contained on the website;

(11) [(12)] contains a signature form by which a person may indicate the person has reviewed the information.

* **Sec. 28.** AS 18.05.032(c)(3) is amended to read:

(3) "gestational age" means the age of the preborn [UNBORN] child as calculated from the first day of the last menstrual period of a pregnant woman;

* **Sec. 29.** AS 21.07.250(3) is amended to read:

(3) "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent person who possesses an average knowledge of health and medicine could reasonably expect that the absence of immediate medical attention would result in serious impairment of bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health or, with respect to a pregnant woman, the health of the woman or her **preborn** [UNBORN] child, in serious jeopardy.

* Sec. 30. AS 22.05.010 is amended by adding a new subsection to read:

(g) The supreme court is vested with exclusive original jurisdiction in any case

(1) involving whether the taking of the life of a preborn child is protected under the Constitution of the State of Alaska;

(2) questioning the constitutionality of AS 01.10.060(a)(15), (16), and (17), related to the meanings of conception, natural person, and preborn child, as used in the Alaska Statutes; and

(3) involving the liability of the state or an officer or employee of the state for taking an action to enforce a statute that penalizes the taking of the life of a preborn child.

* Sec. 31. AS 22.10.020(a) is amended to read:

(a) Except as provided in AS 22.05.010(g), the [THE] superior court is the trial court of general jurisdiction, with original jurisdiction in all civil and criminal matters, including probate and guardianship of minors and incompetents. Except for a petition for a protective order under AS 18.66.100 - 18.66.180, an action that falls

1 within the concurrent jurisdiction of the superior court and the district court may not
 2 be filed in the superior court, except as provided by rules of the supreme court.

3 * **Sec. 32.** AS 25.20.025(a) is amended to read:

4 (a) **A minor** [EXCEPT AS PROHIBITED UNDER AS 18.16.010(a)(3),]

5 (1) [A MINOR] who is living apart from the minor's parents or legal
 6 guardian and who is managing the minor's own financial affairs, regardless of the
 7 source or extent of income, may give consent for medical and dental services for the
 8 minor;

9 (2) [A MINOR] may give consent for medical and dental services if
 10 the parent or legal guardian of the minor cannot be contacted or, if contacted, is
 11 unwilling either to grant or withhold consent; however, where the parent or legal
 12 guardian cannot be contacted or, if contacted, is unwilling either to grant or to
 13 withhold consent, the provider of medical or dental services shall counsel the minor
 14 keeping in mind not only the valid interests of the minor but also the valid interests of
 15 the parent or guardian and the family unit as best the provider presumes them;

16 (3) [A MINOR] who is the parent of a child may give consent to
 17 medical and dental services for the minor or the child;

18 (4) [A MINOR] may give consent for diagnosis, prevention or
 19 treatment of pregnancy, and for diagnosis and treatment of venereal disease [;

20 (5) THE PARENT OR GUARDIAN OF THE MINOR IS RELIEVED
 21 OF ALL FINANCIAL OBLIGATION TO THE PROVIDER OF THE SERVICE
 22 UNDER THIS SECTION].

23 * **Sec. 33.** AS 25.20.025 is amended by adding a new subsection to read:

24 (d) The parent or guardian of a minor is relieved of all financial obligation to a
 25 provider of a service under this section.

26 * **Sec. 34.** AS 44.21.410(a) is amended to read:

27 (a) The office of public advocacy shall

28 (1) perform the duties of the public guardian under AS 13.26.700 -
 29 13.26.750;

30 (2) provide visitors and experts in guardianship proceedings under
 31 AS 13.26.291;

(3) provide guardian ad litem services to children in child protection actions under AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer financial hardship or become dependent on [UPON] a government agency or a private person or agency if the services are not provided at state expense under AS 13.26.041;

(4) provide legal representation [IN CASES INVOLVING JUDICIAL BYPASS PROCEDURES FOR MINORS SEEKING ABORTIONS UNDER AS 18.16.030,] in guardianship proceedings to respondents who are financially unable to employ attorneys under AS 13.26.226(b), to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency, and to indigent parents or guardians of a minor respondent in a commitment proceeding concerning the minor under AS 47.30.775;

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Interstate Compact for Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor; and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

(6) develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communities to aid in delivering services in cases in which the office of public advocacy is appointed as guardian ad litem;

(7) provide guardian ad litem services in proceedings under AS 12.45.046 or AS 18.15.355 - 18.15.395;

(8) establish a fee schedule and collect fees for services provided by the office, except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the public interest as defined under regulations adopted by the

commissioner of administration;

(9) provide visitors and guardians ad litem in proceedings under AS 47.30.839;

(10) provide legal representation to an indigent parent of a child with a disability; in this paragraph, "child with a disability" has the meaning given in AS 14.30.350;

(11) investigate complaints and bring civil actions under AS 44.21.415(a) involving fraud committed against residents of the state who are 60 years of age or older; in this paragraph, "fraud" has the meaning given in AS 44.21.415.

* **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 404(a), Alaska Rules of Appellate Procedure, is amended to read:

(a) When Filed.

(1) An original application for relief may be filed with the appellate court or a judge or justice thereof in any matter within its jurisdiction, whenever relief is not available from any other court and cannot be obtained through the process of appeal, petition for review, or petition for hearing. **Except for an action described in AS 22.05.010(g), grant** [GRANT] of the application is not a matter of right but of sound discretion sparingly exercised.

(2) An original application for relief, if seeking relief in connection with an action or proceeding in a trial court, shall be directed to the appellate court which would have jurisdiction over an appeal from the final judgment of the trial court in that action or proceeding.

(3) An original application for relief, if not ancillary to an action or proceeding in a trial court, may be directed to any appellate court having jurisdiction under the applicable statutes.

* **Sec. 36.** AS 08.64.105, 08.64.326(a)(10), 08.64.364(d)(1); AS 09.55.585(d); AS 11.41.180, 11.41.289; AS 11.81.900(b)(64); AS 13.26.066(a)(2); AS 18.05.032(c)(1), 18.05.032(c)(4), 18.05.035; AS 18.16.010, 18.16.020, 18.16.030, 18.16.040, 18.16.050,

1 18.16.060, 18.16.090; and AS 47.07.068 are repealed.

2 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 APPLICABILITY. (a) The repeals of AS 11.41.180 and 11.41.289 by sec. 36 of this
5 Act apply to offenses committed on or after the effective date of sec. 36 of this Act.

6 (b) AS 11.41.150(a), as amended by sec. 12 of this Act, applies to offenses committed
7 on or after the effective date of sec. 12 of this Act.

8 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 NONSEVERABILITY. Notwithstanding AS 01.10.030, the provisions of this Act are
11 not severable.

12 * **Sec. 39.** This Act takes effect immediately under AS 01.10.070(c).