A bill to be entitled
An act relating to termination of pregnancies;
creating s. 390.035, F.S.; creating a cause of action
for physical and emotional injury resulting from a
termination of pregnancy; providing that this cause of
action is not an exclusive remedy; providing that laws
on medical malpractice actions do not apply to this
cause of action; providing a statute of limitations
and statute of repose; providing for tolling of the
limitations periods; authorizing an award of
attorney's fees and costs to a prevailing plaintiff;
providing definitions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 390.035, Florida Statutes, is created
to read:

390.035 Liability for acts related to a termination of
pregnancy; remedies; limitations.--

(1) A woman who suffers injury or death as a result of an
abortion, or who suffers emotional distress as a result of a
physician's failure to obtain the informed consent as required
by s. 390.0111, has a cause of action for damages against the
physician who performed the abortion or failed to provide the
statutorily required informed consent.
(2) The signing of an informed consent form by the woman prior to the abortion shall not bar a cause of action brought under this section.

(3) An action brought pursuant to this section is not a claim for medical malpractice, and ch. 766 does not apply. This section shall not be construed as barring any other statutory or common law cause of action for medical malpractice otherwise available resulting from an abortion procedure or diminish the nature or the extent of those causes of action. The cause of action created in this section is in addition to any other statutory or common law cause of action available to an injured person.

(4) Notwithstanding s. 95.11 or any other provision of law, any action for damages brought under this section shall be commenced within the latter of 4 years from the time the incident giving rise to the action occurred or 4 years from the time the injury is discovered or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 10 years from the time the incident giving rise to the action occurred. The limitations periods created by this subsection shall be tolled while the woman is a minor.

(5) A prevailing plaintiff in any action brought under this section is entitled to reasonable attorney's fees and costs.
(6) For the purposes of this section "damages" means all special and general damages which are recoverable in an intentional tort, negligence, survival or wrongful death action, including but not limited to actual and punitive damages.

Section 2. This act shall take effect July 1, 2017.