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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: SENAT/C
03/08/2016 12:22 PM	.	03/09/2016 12:20 PM
	.	

Senator Stargel moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (6) through (12) of section
390.011, Florida Statutes, are redesignated as subsections (7)
through (13), respectively, a new subsection (6) is added to
that section, and present subsection (11) of that section is
amended, to read:

390.011 Definitions.—As used in this chapter, the term:

(6) "Gestation" means the development of a human embryo or



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12 fetus between fertilization and birth.

13 (12) ~~(11)~~ "Third Trimester" means one of the following three
14 distinct periods of time in the duration of a pregnancy:

15 (a) "First trimester," which is the period of time from
16 fertilization through the end of the 11th week of gestation.

17 (b) "Second trimester," which is the period of time from
18 the beginning of the 12th week of gestation through the end of
19 the 23rd week of gestation.

20 (c) "Third trimester," which is the period of time from the
21 beginning of the 24th week of gestation through birth ~~the weeks~~
22 ~~of pregnancy after the 24th week of pregnancy.~~

23 Section 2. Subsection (7) of section 390.0111, Florida
24 Statutes, is amended, and subsection (15) is added to that
25 section, to read:

26 390.0111 Termination of pregnancies.—

27 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
28 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and
29 rules adopted thereunder ~~and in accordance with standard health~~
30 ~~practices, as provided by rule of the Department of Health.~~
31 Failure to dispose of fetal remains in accordance with this
32 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~
33 degree, punishable as provided in s. 775.082 or s. 775.083.

34 (15) USE OF PUBLIC FUNDS RESTRICTED.—A state agency, a
35 local governmental entity, or a managed care plan providing
36 services under part IV of chapter 409 may not expend funds for
37 the benefit of, pay funds to, or initiate or renew a contract
38 with an organization that owns, operates, or is affiliated with
39 one or more clinics that are licensed under this chapter and
40 perform abortions unless one or more of the following applies:



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41 (a) All abortions performed by such clinics are:
42 1. On fetuses that are conceived through rape or incest; or
43 2. Are medically necessary to preserve the life of the
44 pregnant woman or to avert a serious risk of substantial and
45 irreversible physical impairment of a major bodily function of
46 the pregnant woman, other than a psychological condition.

47 (b) The funds must be expended to fulfill the terms of a
48 contract entered into before July 1, 2016.

49 (c) The funds must be expended as reimbursement for
50 Medicaid services provided on a fee-for-service basis.

51 Section 3. Subsection (1) of section 390.0112, Florida
52 Statutes, is amended, present subsections (2), (3), and (4) of
53 that section are redesignated as subsections (3), (4), and (5),
54 respectively, and a new subsection (2) is added to that section,
55 to read:

56 390.0112 Termination of pregnancies; reporting.—

57 (1) The director of any medical facility in which abortions
58 are performed, including a physician's office, ~~any pregnancy is~~
59 ~~terminated~~ shall submit a ~~monthly~~ report each month to the
60 agency. The report may be submitted electronically, may not
61 include personal identifying information, and must include:

62 (a) Until the agency begins collecting data under paragraph
63 (e), the number of abortions performed.

64 (b) The reasons such abortions were performed.

65 (c) For each abortion, the period of gestation at the time
66 the abortion was performed.

67 ~~(d) which contains the number of procedures performed, the~~
68 ~~reason for same, the period of gestation at the time such~~
69 ~~procedures were performed, and~~ The number of infants born alive



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70 or alive ~~during or~~ immediately after an attempted abortion.

71 (e) Beginning no later than January 1, 2017, information
72 consistent with the United States Standard Report of Induced
73 Termination of Pregnancy adopted by the Centers for Disease
74 Control and Prevention.

75 (2) The agency shall ~~keep~~ ~~be responsible for keeping~~ such
76 reports in a central ~~location~~ for the purpose of compiling and
77 analyzing ~~place from which~~ statistical data and shall submit
78 data reported pursuant to paragraph (1)(e) to the Division of
79 Reproductive Health within the Centers for Disease Control and
80 Prevention, as requested by the Centers for Disease Control and
81 Prevention ~~analysis can be made.~~

82 Section 4. Paragraph (c) of subsection (1), subsection (2),
83 paragraphs (c) and (f) of subsection (3), and subsection (7) of
84 section 390.012, Florida Statutes, are amended, and subsection
85 (8) is added to that section, to read:

86 390.012 Powers of agency; rules; disposal of fetal
87 remains.—

88 (1) The agency may develop and enforce rules pursuant to
89 ss. 390.011-390.018 and part II of chapter 408 for the health,
90 care, and treatment of persons in abortion clinics and for the
91 safe operation of such clinics.

92 (c) The rules shall provide for:

93 1. The performance of pregnancy termination procedures only
94 by a licensed physician.

95 2. The making, protection, and preservation of patient
96 records, which shall be treated as medical records under chapter
97 458. When performing a license inspection of a clinic, the
98 agency shall inspect at least 50 percent of patient records



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99 generated since the clinic's last license inspection.

100 3. Annual inspections by the agency of all clinics licensed
101 under this chapter to ensure that such clinics are in compliance
102 with this chapter and agency rules.

103 4. The prompt investigation of credible allegations of
104 abortions being performed at a clinic that is not licensed to
105 perform such procedures.

106 (2) For clinics that perform abortions in the first
107 trimester of pregnancy only, these rules must ~~shall~~ be
108 comparable to rules that apply to all surgical procedures
109 requiring approximately the same degree of skill and care as the
110 performance of first trimester abortions and must require:

111 (a) Clinics to have a written patient transfer agreement
112 with a hospital within reasonable proximity to the clinic which
113 includes the transfer of the patient's medical records held by
114 the clinic and the treating physician to the licensed hospital;
115 or

116 (b) Physicians who perform abortions at the clinic to have
117 admitting privileges at a hospital within reasonable proximity
118 to the clinic.

119 (3) For clinics that perform or claim to perform abortions
120 after the first trimester of pregnancy, the agency shall adopt
121 rules pursuant to ss. 120.536(1) and 120.54 to implement the
122 provisions of this chapter, including the following:

123 (c) Rules relating to abortion clinic personnel. At a
124 minimum, these rules shall require that:

125 1. The abortion clinic designate a medical director who is
126 licensed to practice medicine in this state, and all physicians
127 who perform abortions in the clinic have ~~who has~~ admitting



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128 privileges at a ~~licensed~~ hospital within reasonable proximity to
129 the clinic, unless the clinic ~~in this state or~~ has a written
130 patient transfer agreement with a ~~licensed~~ hospital within
131 reasonable proximity ~~to~~ of the clinic which includes the
132 transfer of the patient's medical records held by both the
133 clinic and the treating physician.

134 2. If a physician is not present after an abortion is
135 performed, a registered nurse, licensed practical nurse,
136 advanced registered nurse practitioner, or physician assistant
137 ~~shall~~ be present and remain at the clinic to provide
138 postoperative monitoring and care until the patient is
139 discharged.

140 3. Surgical assistants receive training in counseling,
141 patient advocacy, and the specific responsibilities associated
142 with the services the surgical assistants provide.

143 4. Volunteers receive training in the specific
144 responsibilities associated with the services the volunteers
145 provide, including counseling and patient advocacy as provided
146 in the rules adopted by the director for different types of
147 volunteers based on their responsibilities.

148 (f) Rules that prescribe minimum recovery room standards.
149 At a minimum, these rules must ~~shall~~ require that:

150 1. Postprocedure recovery rooms be ~~are~~ supervised and
151 staffed to meet the patients' needs.

152 2. Immediate postprocedure care consist ~~consists~~ of
153 observation in a supervised recovery room for as long as the
154 patient's condition warrants.

155 ~~3. The clinic arranges hospitalization if any complication~~
156 ~~beyond the medical capability of the staff occurs or is~~



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157 ~~suspected.~~

158 3.4. A registered nurse, licensed practical nurse, advanced
159 registered nurse practitioner, or physician assistant who is
160 trained in the management of the recovery area and is capable of
161 providing basic cardiopulmonary resuscitation and related
162 emergency procedures remain ~~remains~~ on the premises of the
163 abortion clinic until all patients are discharged.

164 4.5. A physician ~~shall~~ sign the discharge order and be
165 readily accessible and available until the last patient is
166 discharged to facilitate the transfer of emergency cases if
167 hospitalization of the patient or viable fetus is necessary.

168 5.6. A physician discuss ~~discusses~~ Rho(D) immune globulin
169 with each patient for whom it is indicated and ensure ~~ensures~~
170 that it is offered to the patient in the immediate postoperative
171 period or ~~that it~~ will be available to her within 72 hours after
172 completion of the abortion procedure. If the patient refuses the
173 Rho(D) immune globulin, she and a witness must sign a refusal
174 form approved by the agency which must be ~~shall be signed by the~~
175 ~~patient and a witness and~~ included in the medical record.

176 6.7. Written instructions with regard to postabortion
177 coitus, signs of possible problems, and general aftercare which
178 are specific to the patient be ~~are~~ given to each patient. The
179 instructions must include information ~~Each patient shall have~~
180 ~~specific written instructions~~ regarding access to medical care
181 for complications, including a telephone number for use in the
182 event of a ~~to call for~~ medical emergency ~~emergencies~~.

183 7.8. ~~There is~~ A specified minimum length of time be
184 specified, by type of abortion procedure and duration of
185 gestation, during which ~~that~~ a patient must remain ~~remains~~ in



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186 the recovery room ~~by type of abortion procedure and duration of~~
187 ~~gestation.~~

188 ~~8.9.~~ The physician ensure ~~ensures~~ that, with the patient's
189 consent, a registered nurse, licensed practical nurse, advanced
190 registered nurse practitioner, or physician assistant from the
191 abortion clinic makes a good faith effort to contact the patient
192 by telephone, ~~with the patient's consent~~, within 24 hours after
193 surgery to assess the patient's recovery.

194 ~~9.10.~~ Equipment and services be ~~are~~ readily accessible to
195 provide appropriate emergency resuscitative and life support
196 procedures pending the transfer of the patient or viable fetus
197 to the hospital.

198 (7) If an ~~any~~ owner, operator, or employee of an abortion
199 clinic fails to dispose of fetal remains and tissue in a
200 sanitary manner pursuant to s. 381.0098, rules adopted
201 thereunder, and rules adopted by the agency pursuant to this
202 section consistent with the disposal of other human tissue in a
203 ~~competent professional manner~~, the license of such clinic may be
204 suspended or revoked, and such person commits ~~is guilty of~~ a
205 misdemeanor of the first degree, punishable as provided in s.
206 775.082 or s. 775.083.

207 (8) Beginning February 1, 2017, and annually thereafter,
208 the agency shall submit a report to the President of the Senate
209 and the Speaker of the House of Representatives which summarizes
210 all regulatory actions taken during the prior year by the agency
211 under this chapter.

212 Section 5. Subsection (3) of section 390.014, Florida
213 Statutes, is amended to read:

214 390.014 Licenses; fees.-



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215 (3) In accordance with s. 408.805, an applicant or licensee
216 shall pay a fee for each license application submitted under
217 this chapter and part II of chapter 408. The amount of the fee
218 shall be established by rule and may not be more than required
219 to pay for the costs incurred by the agency in administering
220 this chapter less than \$70 or more than \$500.

221 Section 6. Effective January 1, 2017, present subsection
222 (3) of section 390.025, Florida Statutes, is amended, and new
223 subsections (3), (4), and (5) are added to that section, to
224 read:

225 390.025 Abortion referral or counseling agencies;
226 penalties.—

227 (3) An abortion referral or counseling agency, as defined
228 in subsection (1), shall register with the Agency for Health
229 Care Administration. To register or renew a registration an
230 applicant must pay an initial or renewal registration fee
231 established by rule, which must not exceed the costs incurred by
232 the agency in administering this section. Registrants must
233 include in any advertising materials the registration number
234 issued by the agency and must renew their registration
235 biennially.

236 (4) The following are exempt from the requirement to
237 register pursuant to subsection (3):

238 (a) Facilities licensed pursuant to this chapter, chapter
239 395, chapter 400, or chapter 408;

240 (b) Facilities that are exempt from licensure as a clinic
241 under s. 400.9905(4) and that refer five or fewer patients for
242 abortions per month; and

243 (c) Health care practitioners, as defined in s. 456.001,



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244 who, in the course of their practice outside of a facility
245 licensed pursuant to this chapter, chapter 395, chapter 400, or
246 chapter 408, refer five or fewer patients for abortions each
247 month.

248 (5) The agency shall adopt rules to administer this section
249 and part II of chapter 408.

250 (6) ~~(3)~~ Any person who violates the provisions of subsection
251 (2) commits this section is guilty of a misdemeanor of the first
252 degree, punishable as provided in s. 775.082 or s. 775.083. In
253 addition to any other penalties imposed pursuant to this
254 chapter, the Agency for Health Care Administration may assess
255 costs related to an investigation of violations of this section
256 which results in a successful prosecution. Such costs may not
257 include attorney fees.

258 Section 7. Section 873.05, Florida Statutes, is amended to
259 read:

260 873.05 Advertising, purchase, ~~or~~ sale, or transfer of human
261 embryos or fetal remains prohibited.-

262 (1) A ~~Ne~~ person may not ~~shall~~ knowingly advertise or offer
263 to purchase or sell, or purchase, sell, or otherwise transfer, a
264 any human embryo for valuable consideration.

265 ~~(2)~~ As used in this subsection ~~section~~, the term "valuable
266 consideration" does not include the reasonable costs associated
267 with the removal, storage, and transportation of a human embryo.

268 (2) A person may not advertise or offer to purchase, sell,
269 donate, or transfer, or purchase, sell, donate, or transfer,
270 fetal remains obtained from an abortion, as defined in s.
271 390.011. This subsection does not prohibit the transportation or
272 transfer of fetal remains for disposal pursuant to s. 381.0098



273 or rules adopted thereunder.

274 (3) A person who violates ~~the provisions of~~ this section
275 commits is guilty of a felony of the second degree, punishable
276 as provided in s. 775.082, s. 775.083, or s. 775.084.

277 Section 8. For the 2016-2017 fiscal year, 0.5 full-time
278 equivalent positions, with associated salary rate of 39,230, are
279 authorized and the sums of \$59,951 in recurring funds and
280 \$185,213 in nonrecurring funds from the Health Care Trust Fund
281 are appropriated to the Agency for Health Care Administration
282 for the purpose of implementing this act.

283 Section 9. Except as otherwise expressly provided in this
284 act, this act shall take effect July 1, 2016.

285
286 ===== T I T L E A M E N D M E N T =====

287 And the title is amended as follows:

288 Delete everything before the enacting clause
289 and insert:

290 A bill to be entitled
291 An act relating to termination of pregnancies;
292 amending s. 390.011, F.S.; defining the term
293 "gestation" and revising the term "third trimester";
294 amending s. 390.0111, F.S.; revising the requirements
295 for disposal of fetal remains; revising the criminal
296 punishment for failure to properly dispose of fetal
297 remains; prohibiting state agencies, local
298 governmental entities, and Medicaid managed care plans
299 from expending or paying funds to or initiating or
300 renewing contracts under certain circumstances with
301 certain organizations that perform abortions;



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302 providing exceptions; amending s. 390.0112, F.S.;

303 requiring directors of certain hospitals and

304 physicians' offices and licensed abortion clinics to

305 submit monthly reports to the Agency for Health Care

306 Administration on a specified form; prohibiting the

307 report from including personal identifying

308 information; requiring the agency to submit certain

309 data to the Centers for Disease Control and Prevention

310 on a quarterly basis; amending s. 390.012, F.S.;

311 requiring the agency to develop and enforce rules

312 relating to license inspections and investigations of

313 certain clinics; requiring the agency to adopt rules

314 to require all physicians performing abortions to have

315 admitting privileges at a hospital within a reasonable

316 proximity unless the clinic has a transfer agreement

317 with the hospital; revising requirements for rules

318 that prescribe minimum recovery room standards;

319 revising requirements for the disposal of fetal

320 remains; requiring the agency to submit an annual

321 report to the Legislature; amending s. 390.014, F.S.;

322 providing a different limitation on the amount of a

323 fee; amending s. 390.025, F.S.; requiring certain

324 organizations that provide abortion referral services

325 or abortion counseling services to register with the

326 agency, pay a specified fee, and include certain

327 information in advertisements; requiring biennial

328 renewal of a registration; providing exemptions from

329 the registration requirement; requiring the agency to

330 adopt rules; providing for the assessment of costs in



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331 certain circumstances; amending s. 873.05, F.S.;

332 prohibiting an offer to purchase, sell, donate, or

333 transfer fetal remains obtained from an abortion and

334 the purchase, sale, donation, or transfer of such

335 remains, excluding costs associated with certain

336 transportation of remains; providing an appropriation;

337 providing effective dates.