

By Senator Stargel

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1 A bill to be entitled
2 An act relating to termination of pregnancies;
3 amending s. 390.011, F.S.; defining the term
4 "gestation" and revising the term "third trimester";
5 amending s. 390.0111, F.S.; revising the requirements
6 for disposal of fetal remains; revising the criminal
7 punishment for failure to properly dispose of fetal
8 remains; prohibiting state agencies, local
9 governmental entities, and Medicaid managed care plans
10 from expending or paying funds to or initiating or
11 renewing contracts under certain circumstances with
12 certain organizations that perform abortions;
13 providing exceptions; amending s. 390.0112, F.S.;
14 requiring directors of certain hospitals and
15 physicians' offices and licensed abortion clinics to
16 submit monthly reports to the Agency for Health Care
17 Administration on a specified form; prohibiting the
18 report from including personal identifying
19 information; requiring the agency to submit certain
20 data to the Centers for Disease Control and Prevention
21 on a quarterly basis; amending s. 390.012, F.S.;
22 requiring the agency to develop and enforce rules
23 relating to license inspections and investigations of
24 certain clinics; requiring the agency to adopt rules
25 that require certain clinics to have written
26 agreements with local hospitals for certain
27 contingencies; specifying that the rules must require
28 physicians who perform abortions at a clinic that
29 performs abortions in the first trimester of pregnancy
30 to have admitting privileges at a hospital within
31 reasonable proximity to the clinic; revising
32 requirements for rules that prescribe minimum recovery

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33 room standards; revising requirements for the disposal
34 of fetal remains; requiring the agency to submit an
35 annual report to the Legislature; amending s. 390.014,
36 F.S.; providing a different limitation on the amount
37 of a fee; amending s. 390.025, F.S.; requiring certain
38 organizations that provide abortion referral services
39 or abortion counseling services to register with the
40 agency, pay a specified fee, and include certain
41 information in advertisements; requiring biennial
42 renewal of a registration; providing exemptions from
43 the registration requirement; requiring the agency to
44 adopt rules; providing for the assessment of costs in
45 certain circumstances; amending s. 873.05, F.S.;

46 prohibiting an offer to purchase, sell, donate, or
47 transfer fetal remains obtained from an abortion and
48 the purchase, sale, donation, or transfer of such
49 remains, excluding costs associated with certain
50 transportation of remains; providing effective dates.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Present subsections (6) through (12) of section
55 390.011, Florida Statutes, are redesignated as subsections (7)
56 through (13), respectively, a new subsection (6) is added to
57 that section, and present subsection (11) of that section is
58 amended, to read:

59 390.011 Definitions.—As used in this chapter, the term:
60 (6) "Gestation" means the development of a human embryo or
61 fetus between fertilization and birth.

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62 (12)~~(11)~~ "Third Trimester" means one of the following three
63 distinct periods of time in the duration of a pregnancy:

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

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

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

72 Section 2. Subsection (7) of section 390.0111, Florida
73 Statutes, is amended, and subsection (15) is added to that
74 section, to read:

75 390.0111 Termination of pregnancies.—

76 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
77 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and
78 rules adopted thereunder ~~and in accordance with standard health~~
79 ~~practices, as provided by rule of the Department of Health.~~
80 Failure to dispose of fetal remains in accordance with this
81 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~
82 degree, punishable as provided in s. 775.082 or s. 775.083.

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

90 (a) All abortions performed by such clinics are:

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91 1. On fetuses that are conceived through rape or incest; or

92 2. Are medically necessary to preserve the life of the
93 pregnant woman or to avert a serious risk of substantial and
94 irreversible physical impairment of a major bodily function of
95 the pregnant woman, other than a psychological condition.

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

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

100 Section 3. Subsection (1) of section 390.0112, Florida
101 Statutes, is amended, present subsections (2), (3), and (4) of
102 that section are redesignated as subsections (3), (4), and (5),
103 respectively, and a new subsection (2) is added to that section,
104 to read:

105 390.0112 Termination of pregnancies; reporting.-

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

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

113 (b) The reasons such abortions were performed.

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

116 ~~(d) which contains the number of procedures performed, the~~
117 ~~reason for same, the period of gestation at the time such~~
118 ~~procedures were performed, and~~ The number of infants born alive
119 or alive during or immediately after an attempted abortion.

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

124 (2) The agency shall ~~keep~~ ~~be responsible for keeping~~ such
125 reports in a central ~~location~~ ~~for the purpose of compiling and~~
126 ~~analyzing~~ ~~place from which~~ statistical data and ~~shall submit~~
127 ~~data reported pursuant to paragraph (1) (e) to the Division of~~
128 ~~Reproductive Health within the Centers for Disease Control and~~
129 ~~Prevention, as requested by the Centers for Disease Control and~~
130 ~~Prevention analysis can be made.~~

131 Section 4. Paragraph (c) of subsection (1), subsection (2),
132 and paragraphs (c) and (f) of subsection (3) of section 390.012,
133 Florida Statutes, are amended, present paragraphs (g) and (h) of
134 subsection (3) are redesignated as paragraphs (h) and (i),
135 respectively, a new paragraph (g) is added to that subsection,
136 subsection (7) of that section is amended, and subsection (8) is
137 added to that section, to read:

138 390.012 Powers of agency; rules; disposal of fetal
139 remains.—

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

144 (c) The rules shall provide for:

145 1. The performance of pregnancy termination procedures only
146 by a licensed physician.

147 2. The making, protection, and preservation of patient
148 records, which shall be treated as medical records under chapter

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149 458. When performing a license inspection of a clinic, the
150 agency shall inspect at least 50 percent of patient records
151 generated since the clinic's last license inspection.

152 3. Annual inspections by the agency of all clinics licensed
153 under this chapter to ensure that such clinics are in compliance
154 with this chapter and agency rule.

155 4. The prompt investigation of credible allegations of
156 abortions being performed at a clinic that is not licensed to
157 perform such procedures.

158 (2) For clinics that perform abortions in the first
159 trimester of pregnancy only, these rules must ~~shall~~ be
160 comparable to rules that apply to all surgical procedures
161 requiring approximately the same degree of skill and care as the
162 performance of first trimester abortions and must require:

163 (a) Clinics to have a written patient transfer agreement
164 with a hospital within reasonable proximity to the clinic which
165 includes the transfer of the patient's medical records held by
166 the clinic and the treating physician to the licensed hospital;
167 or

168 (b) Physicians who perform abortions at the clinic to have
169 admitting privileges at a hospital within reasonable proximity
170 to the clinic.

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

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

177 1. The abortion clinic designate a medical director who is

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178 licensed to practice medicine in this state, and all physicians
179 who perform abortions in the clinic have ~~who has~~ admitting
180 privileges at a ~~licensed hospital in this state~~ within
181 reasonable proximity to the clinic ~~or has a transfer agreement~~
182 ~~with a licensed hospital within reasonable proximity of the~~
183 ~~elinie.~~

184 2. If a physician is not present after an abortion is
185 performed, a registered nurse, licensed practical nurse,
186 advanced registered nurse practitioner, or physician assistant
187 ~~shall~~ be present and remain at the clinic to provide
188 postoperative monitoring and care until the patient is
189 discharged.

190 3. Surgical assistants receive training in counseling,
191 patient advocacy, and the specific responsibilities associated
192 with the services the surgical assistants provide.

193 4. Volunteers receive training in the specific
194 responsibilities associated with the services the volunteers
195 provide, including counseling and patient advocacy as provided
196 in the rules adopted by the director for different types of
197 volunteers based on their responsibilities.

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

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

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

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

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207 ~~suspected.~~

208 ~~4.~~ A registered nurse, licensed practical nurse, advanced
209 registered nurse practitioner, or physician assistant who is
210 trained in the management of the recovery area and is capable of
211 providing basic cardiopulmonary resuscitation and related
212 emergency procedures remain ~~remains~~ on the premises of the
213 abortion clinic until all patients are discharged.

214 ~~4.5.~~ A physician ~~shall~~ sign the discharge order and be
215 readily accessible and available until the last patient is
216 discharged to facilitate the transfer of emergency cases if
217 hospitalization of the patient or viable fetus is necessary.

218 ~~5.6.~~ A physician discuss ~~discusses~~ Rho(D) immune globulin
219 with each patient for whom it is indicated and ensure ~~ensures~~
220 that it is offered to the patient in the immediate postoperative
221 period or ~~that it~~ will be available to her within 72 hours after
222 completion of the abortion procedure. If the patient refuses the
223 Rho(D) immune globulin, she and a witness must sign a refusal
224 form approved by the agency which must be ~~shall be signed by the~~
225 ~~patient and a witness and~~ included in the medical record.

226 ~~6.7.~~ Written instructions with regard to postabortion
227 coitus, signs of possible problems, and general aftercare which
228 are specific to the patient be ~~are~~ given to each patient. The
229 instructions must include information ~~Each patient shall have~~
230 ~~specific written instructions~~ regarding access to medical care
231 for complications, including a telephone number for use in the
232 event of a ~~to call for medical~~ emergency ~~emergencies~~.

233 ~~7.8.~~ ~~There is~~ A specified minimum length of time be
234 specified, by type of abortion procedure and duration of
235 gestation, during which ~~that~~ a patient must remain ~~remains~~ in

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236 the recovery room ~~by type of abortion procedure and duration of~~
237 ~~gestation.~~

238 8.9. The physician ensure ~~ensures~~ that, with the patient's
239 consent, a registered nurse, licensed practical nurse, advanced
240 registered nurse practitioner, or physician assistant from the
241 abortion clinic makes a good faith effort to contact the patient
242 by telephone, ~~with the patient's consent~~, within 24 hours after
243 surgery to assess the patient's recovery.

244 9.10. Equipment and services be ~~are~~ readily accessible to
245 provide appropriate emergency resuscitative and life support
246 procedures pending the transfer of the patient or viable fetus
247 to the hospital.

248 (g) Rules that require clinics to have a written patient
249 transfer agreement with a hospital within reasonable proximity
250 to the clinic which includes the transfer of the patient's
251 medical records held by both the clinic and the treating
252 physician.

253 (7) If an ~~any~~ owner, operator, or employee of an abortion
254 clinic fails to dispose of fetal remains and tissue in a
255 sanitary manner pursuant to s. 381.0098, rules adopted
256 thereunder, and rules adopted by the agency pursuant to this
257 section consistent with the disposal of other human tissue in a
258 ~~competent professional manner~~, the license of such clinic may be
259 suspended or revoked, and such person commits ~~is guilty of~~ a
260 misdemeanor of the first degree, punishable as provided in s.
261 775.082 or s. 775.083.

262 (8) Beginning February 1, 2017, and annually thereafter,
263 the agency shall submit a report to the President of the Senate
264 and the Speaker of the House of Representatives which summarizes

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265 all regulatory actions taken during the prior year by the agency
266 under this chapter.

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

269 390.014 Licenses; fees.—

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

276 Section 6. Effective January 1, 2017, present subsection
277 (3) of section 390.025, Florida Statutes, is amended, and new
278 subsections (3), (4), and (5) are added to that section, to
279 read:

280 390.025 Abortion referral or counseling agencies;
281 penalties.—

282 (3) An abortion referral or counseling agency, as defined
283 in subsection (1), shall register with the Agency for Health
284 Care Administration. To register or renew a registration an
285 applicant must pay an initial or renewal registration fee
286 established by rule, which must not exceed the costs incurred by
287 the agency in administering this section. Registrants must
288 include in any advertising materials the registration number
289 issued by the agency and must renew their registration
290 biennially.

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

293 (a) Facilities licensed pursuant to chapter 390, chapter

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294 395, chapter 400, or chapter 408;

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

298 (c) Health care practitioners, as defined in s. 456.001,
299 who, in the course of their practice outside of a facility
300 licensed pursuant to chapter 390, chapter 395, chapter 400, or
301 chapter 408, refer five or fewer patients for abortions each
302 month.

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

305 (6)~~(3)~~ Any person who violates the provisions of subsection
306 (2) this section is guilty of a misdemeanor of the first degree,
307 punishable as provided in s. 775.082 or s. 775.083. In addition
308 to any other penalties imposed pursuant to this chapter, the
309 Agency for Health Care Administration may assess costs related
310 to an investigation of violations of this section which results
311 in a successful prosecution. Such costs may not include attorney
312 fees.

313 Section 7. Section 873.05, Florida Statutes, is amended to
314 read:

315 873.05 Advertising, purchase, or sale, or transfer of human
316 embryos or fetal remains prohibited.-

317 (1) A ~~No~~ person may not shall knowingly advertise or offer
318 to purchase or sell, or purchase, sell, or otherwise transfer, a
319 ~~any~~ human embryo for valuable consideration.

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

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323 (2) A person may not advertise or offer to purchase, sell,
324 donate, or transfer, or purchase, sell, donate, or transfer,
325 fetal remains obtained from an abortion, as defined in s.
326 390.011. This subsection does not prohibit the transportation or
327 transfer of fetal remains for disposal pursuant to s. 381.0098
328 or rules adopted thereunder.

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

332 Section 8. Except as otherwise expressly provided in this
333 act, this act shall take effect July 1, 2016.