

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
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 an appropriation;
51 providing effective dates.

52

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

54

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

60 390.011 Definitions.—As used in this chapter, the term:

61 (6) "Gestation" means the development of a human embryo or
 62 fetus between fertilization and birth.

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

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

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

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

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

76 390.0111 Termination of pregnancies.—

77 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a
 78 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and

79 rules adopted thereunder ~~and in accordance with standard health~~
 80 ~~practices, as provided by rule of the Department of Health.~~
 81 Failure to dispose of fetal remains in accordance with this
 82 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~
 83 degree, punishable as provided in s. 775.082 or s. 775.083.

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

- 91 (a) All abortions performed by such clinics are:
 92 1. On fetuses that are conceived through rape or incest;
 93 or
 94 2. Are medically necessary to preserve the life of the
 95 pregnant woman or to avert a serious risk of substantial and
 96 irreversible physical impairment of a major bodily function of
 97 the pregnant woman, other than a psychological condition.

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

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

102 Section 3. Subsection (1) of section 390.0112, Florida
 103 Statutes, is amended, present subsections (2), (3), and (4) of
 104 that section are redesignated as subsections (3), (4), and (5),

105 respectively, and a new subsection (2) is added to that section,
 106 to read:

107 390.0112 Termination of pregnancies; reporting.—

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

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

115 (b) The reasons such abortions were performed.

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

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

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

126 (2) The agency shall keep be responsible for keeping such
 127 reports in a central location for the purpose of compiling and
 128 analyzing place from which statistical data and shall submit
 129 data reported pursuant to paragraph (1) (e) to the Division of
 130 Reproductive Health within the Centers for Disease Control and

131 Prevention, as requested by the Centers for Disease Control and
132 Prevention analysis can be made.

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

140 390.012 Powers of agency; rules; disposal of fetal
141 remains.—

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

146 (c) The rules shall provide for:

147 1. The performance of pregnancy termination procedures
148 only by a licensed physician.

149 2. The making, protection, and preservation of patient
150 records, which shall be treated as medical records under chapter
151 458. When performing a license inspection of a clinic, the
152 agency shall inspect at least 50 percent of patient records
153 generated since the clinic's last license inspection.

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

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

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

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

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

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

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

179 1. The abortion clinic designate a medical director who is
 180 licensed to practice medicine in this state, and all physicians
 181 who perform abortions in the clinic have ~~who has~~ admitting
 182 privileges at a ~~licensed~~ hospital within reasonable proximity to

183 ~~the clinic in this state or has a transfer agreement with a~~
184 ~~licensed hospital within reasonable proximity of the clinic.~~

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

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

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

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

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

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

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

209 ~~3.4.~~ A registered nurse, licensed practical nurse,
 210 advanced registered nurse practitioner, or physician assistant
 211 who is trained in the management of the recovery area and is
 212 capable of providing basic cardiopulmonary resuscitation and
 213 related emergency procedures remain ~~remains~~ on the premises of
 214 the abortion clinic until all patients are discharged.

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

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

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

234 ~~7.8.~~ ~~There is~~ A specified minimum length of time be

235 specified, by type of abortion procedure and duration of
236 gestation, during which ~~that~~ a patient must remain ~~remains~~ in
237 the recovery room ~~by type of abortion procedure and duration of~~
238 ~~gestation.~~

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

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

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

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

261 | misdemeanor of the first degree, punishable as provided in s.
 262 | 775.082 or s. 775.083.

263 | (8) Beginning February 1, 2017, and annually thereafter,
 264 | the agency shall submit a report to the President of the Senate
 265 | and the Speaker of the House of Representatives which summarizes
 266 | all regulatory actions taken during the prior year by the agency
 267 | under this chapter.

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

270 | 390.014 Licenses; fees.—

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

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

281 | 390.025 Abortion referral or counseling agencies;
 282 | penalties.—

283 | (3) An abortion referral or counseling agency, as defined
 284 | in subsection (1), shall register with the Agency for Health
 285 | Care Administration. To register or renew a registration an
 286 | applicant must pay an initial or renewal registration fee

287 established by rule, which must not exceed the costs incurred by
288 the agency in administering this section. Registrants must
289 include in any advertising materials the registration number
290 issued by the agency and must renew their registration
291 biennially.

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

294 (a) Facilities licensed pursuant to this chapter, chapter
295 395, chapter 400, or chapter 408;

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

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

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

306 (6)~~(3)~~ Any person who violates the provisions of
307 subsection (2) commits this section is guilty of a misdemeanor
308 of the first degree, punishable as provided in s. 775.082 or s.
309 775.083. In addition to any other penalties imposed pursuant to
310 this chapter, the Agency for Health Care Administration may
311 assess costs related to an investigation of violations of this
312 section which results in a successful prosecution. Such costs

313 may not include attorney fees.

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

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

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

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

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

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

333 Section 8. For the 2016-2017 fiscal year, 0.5 full-time
334 equivalent positions, with associated salary rate of 39,230, are
335 authorized and the sums of \$59,951 in recurring funds and
336 \$185,213 in nonrecurring funds from the Health Care Trust Fund
337 are appropriated to the Agency for Health Care Administration
338 for the purpose of implementing this act.

CS/HB 1411

2016

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