



1                   A bill to be entitled  
2           An act relating to termination of pregnancies;  
3           creating s. 390.0001, F.S.; providing legislative  
4           findings regarding termination of pregnancies;  
5           amending s. 390.011, F.S.; defining the term  
6           "gestation" and revising the term "third trimester";  
7           amending s. 390.0111, F.S.; revising the requirements  
8           for disposal of fetal remains; revising the criminal  
9           punishment for failure to properly dispose of fetal  
10          remains; prohibiting state agencies, local  
11          governmental entities, and Medicaid managed care plans  
12          from expending or paying funds to or initiating or  
13          renewing contracts under certain circumstances with  
14          certain organizations that perform abortions;  
15          providing exceptions; amending s. 390.0112, F.S.;  
16          requiring directors of certain hospitals and  
17          physicians' offices and licensed abortion clinics to  
18          submit monthly reports to the Agency for Health Care  
19          Administration on a specified form; prohibiting the  
20          report from including personal identifying  
21          information; requiring the agency to submit certain  
22          data to the Centers for Disease Control and Prevention  
23          on a quarterly basis; amending s. 390.012, F.S.;  
24          requiring the agency to develop and enforce rules  
25          relating to license inspections and investigations of  
26          certain clinics; requiring the agency to adopt rules



27 | to require all physicians performing abortions to have  
28 | admitting privileges at a hospital within a reasonable  
29 | proximity unless the clinic has a transfer agreement  
30 | with the hospital; revising requirements for rules  
31 | that prescribe minimum recovery room standards;  
32 | revising requirements for the disposal of fetal  
33 | remains; requiring the agency to submit an annual  
34 | report to the Legislature; amending s. 390.014, F.S.;  
35 | providing a different limitation on the amount of a  
36 | fee; amending s. 390.025, F.S.; requiring certain  
37 | organizations that provide abortion referral services  
38 | or abortion counseling services to register with the  
39 | agency, pay a specified fee, and include certain  
40 | information in advertisements; requiring biennial  
41 | renewal of a registration; providing exemptions from  
42 | the registration requirement; requiring the agency to  
43 | adopt rules; providing for the assessment of costs in  
44 | certain circumstances; amending s. 873.05, F.S.;  
45 | prohibiting an offer to purchase, sell, donate, or  
46 | transfer fetal remains obtained from an abortion and  
47 | the purchase, sale, donation, or transfer of such  
48 | remains, excluding costs associated with certain  
49 | transportation of remains; providing an appropriation;  
50 | providing effective dates.

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



53  
54 Section 1. Section 390.0001, Florida Statutes, is created  
55 to read:

56 390.0001 Legislative findings regarding termination of  
57 pregnancies.-

58 (1) The Legislature acknowledges that all persons are  
59 endowed by their Creator with certain unalienable rights and  
60 that first among these is their right to life.

61 (2) The Legislature finds that once human life begins,  
62 there is a compelling state interest in protecting its  
63 development from that moment through birth. Any act of a person  
64 detrimental to unborn human life, when not necessary in defense  
65 of the life of the mother bearing such unborn human life, which  
66 unnaturally terminates that unborn human life is a deprivation  
67 of that unborn human's unalienable right to life.

68 (3) The Legislature finds that the people of Florida seek  
69 to protect all human life by regulating the termination of  
70 pregnancies through the exercise of their right to self-  
71 government.

72 Section 2. Present subsections (6) through (12) of section  
73 390.011, Florida Statutes, are redesignated as subsections (7)  
74 through (13), respectively, a new subsection (6) is added to  
75 that section, and present subsection (11) of that section is  
76 amended, to read:

77 390.011 Definitions.-As used in this chapter, the term:

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



79 fetus between fertilization and birth.

80 (12)-(11) "Third Trimester" means one of the following  
81 three distinct periods of time in the duration of a pregnancy:

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

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

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

90 Section 3. Subsection (7) of section 390.0111, Florida  
91 Statutes, is amended, and subsection (15) is added to that  
92 section, to read:

93 390.0111 Termination of pregnancies.—

94 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a  
95 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and  
96 rules adopted thereunder ~~and in accordance with standard health~~  
97 ~~practices, as provided by rule of the Department of Health.~~  
98 Failure to dispose of fetal remains in accordance with this  
99 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~  
100 degree, punishable as provided in s. 775.082 or s. 775.083.

101 (15) USE OF PUBLIC FUNDS RESTRICTED.—A state agency, a  
102 local governmental entity, or a managed care plan providing  
103 services under part IV of chapter 409 may not expend funds for  
104 the benefit of, pay funds to, or initiate or renew a contract



105 with an organization that owns, operates, or is affiliated with  
 106 one or more clinics that are licensed under this chapter and  
 107 perform abortions unless one or more of the following applies:

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

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

110 or

111 2. Are medically necessary to preserve the life of the  
 112 pregnant woman or to avert a serious risk of substantial and  
 113 irreversible physical impairment of a major bodily function of  
 114 the pregnant woman, other than a psychological condition.

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

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

119 Section 4. Subsection (1) of section 390.0112, Florida  
 120 Statutes, is amended, present subsections (2), (3), and (4) of  
 121 that section are redesignated as subsections (3), (4), and (5),  
 122 respectively, and a new subsection (2) is added to that section,  
 123 to read:

124 390.0112 Termination of pregnancies; reporting.—

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

130 (a) Until the agency begins collecting data under



131 paragraph (e), the number of abortions performed.

132 (b) The reasons such abortions were performed.

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

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

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

143 (2) The agency shall keep ~~be responsible for keeping~~ such  
144 reports in a central location for the purpose of compiling and  
145 analyzing ~~place from which~~ statistical data and shall submit  
146 data reported pursuant to paragraph (1)(e) to the Division of  
147 Reproductive Health within the Centers for Disease Control and  
148 Prevention, as requested by the Centers for Disease Control and  
149 Prevention analysis can be made.

150 Section 5. Paragraph (c) of subsection (1), subsection  
151 (2), paragraphs (c) and (f) of subsection (3), and subsection  
152 (7) of section 390.012, Florida Statutes, are amended, and  
153 subsection (8) is added to that section, to read:

154 390.012 Powers of agency; rules; disposal of fetal  
155 remains.—

156 (1) The agency may develop and enforce rules pursuant to



157 ss. 390.011-390.018 and part II of chapter 408 for the health,  
158 care, and treatment of persons in abortion clinics and for the  
159 safe operation of such clinics.

160 (c) The rules shall provide for:

161 1. The performance of pregnancy termination procedures  
162 only by a licensed physician.

163 2. The making, protection, and preservation of patient  
164 records, which shall be treated as medical records under chapter  
165 458. When performing a license inspection of a clinic, the  
166 agency shall inspect at least 50 percent of patient records  
167 generated since the clinic's last license inspection.

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

171 4. The prompt investigation of credible allegations of  
172 abortions being performed at a clinic that is not licensed to  
173 perform such procedures.

174 (2) For clinics that perform abortions in the first  
175 trimester of pregnancy only, these rules must ~~shall~~ be  
176 comparable to rules that apply to all surgical procedures  
177 requiring approximately the same degree of skill and care as the  
178 performance of first trimester abortions and must require:

179 (a) Clinics to have a written patient transfer agreement  
180 with a hospital within reasonable proximity to the clinic which  
181 includes the transfer of the patient's medical records held by  
182 the clinic and the treating physician to the licensed hospital;



183 or

184 (b) Physicians who perform abortions at the clinic to have  
185 admitting privileges at a hospital within reasonable proximity  
186 to the clinic.

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

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

193 1. The abortion clinic designate a medical director who is  
194 licensed to practice medicine in this state, and all physicians  
195 who perform abortions in the clinic have ~~who has~~ admitting  
196 privileges at a licensed hospital within reasonable proximity to  
197 the clinic, unless the clinic in this state or has a written  
198 patient transfer agreement with a licensed hospital within  
199 reasonable proximity to of the clinic which includes the  
200 transfer of the patient's medical records held by both the  
201 clinic and the treating physician.

202 2. If a physician is not present after an abortion is  
203 performed, a registered nurse, licensed practical nurse,  
204 advanced registered nurse practitioner, or physician assistant  
205 ~~shall~~ be present and remain at the clinic to provide  
206 postoperative monitoring and care until the patient is  
207 discharged.

208 3. Surgical assistants receive training in counseling,





209 patient advocacy, and the specific responsibilities associated  
210 with the services the surgical assistants provide.

211 4. Volunteers receive training in the specific  
212 responsibilities associated with the services the volunteers  
213 provide, including counseling and patient advocacy as provided  
214 in the rules adopted by the director for different types of  
215 volunteers based on their responsibilities.

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

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

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

223 ~~3. The clinic arranges hospitalization if any complication~~  
224 ~~beyond the medical capability of the staff occurs or is~~  
225 ~~suspected.~~

226 3.4. A registered nurse, licensed practical nurse,  
227 advanced registered nurse practitioner, or physician assistant  
228 who is trained in the management of the recovery area and is  
229 capable of providing basic cardiopulmonary resuscitation and  
230 related emergency procedures remain ~~remains~~ on the premises of  
231 the abortion clinic until all patients are discharged.

232 ~~4.5.~~ A physician ~~shall~~ sign the discharge order and be  
233 readily accessible and available until the last patient is  
234 discharged to facilitate the transfer of emergency cases if



235 hospitalization of the patient or viable fetus is necessary.

236 ~~5.6.~~ A physician discuss ~~discusses~~ Rho(D) immune globulin  
237 with each patient for whom it is indicated and ensure ~~ensures~~  
238 that it is offered to the patient in the immediate postoperative  
239 period or ~~that it~~ will be available to her within 72 hours after  
240 completion of the abortion procedure. If the patient refuses the  
241 Rho(D) immune globulin, she and a witness must sign a refusal  
242 form approved by the agency which must be ~~shall be signed by the~~  
243 ~~patient and a witness and~~ included in the medical record.

244 ~~6.7.~~ Written instructions with regard to postabortion  
245 coitus, signs of possible problems, and general aftercare which  
246 are specific to the patient be ~~are~~ given to each patient. The  
247 instructions must include information ~~Each patient shall have~~  
248 ~~specific written instructions~~ regarding access to medical care  
249 for complications, including a telephone number for use in the  
250 event of a ~~to call for~~ medical emergency ~~emergencies~~.

251 ~~7.8.~~ ~~There is~~ A specified minimum length of time be  
252 specified, by type of abortion procedure and duration of  
253 gestation, during which ~~that~~ a patient must remain ~~remains~~ in  
254 the recovery room ~~by type of abortion procedure and duration of~~  
255 ~~gestation~~.

256 ~~8.9.~~ The physician ensure ~~ensures~~ that, with the patient's  
257 consent, a registered nurse, licensed practical nurse, advanced  
258 registered nurse practitioner, or physician assistant from the  
259 abortion clinic makes a good faith effort to contact the patient  
260 by telephone, ~~with the patient's consent~~, within 24 hours after



261 surgery to assess the patient's recovery.

262 ~~9.10.~~ Equipment and services be ~~are~~ readily accessible to  
263 provide appropriate emergency resuscitative and life support  
264 procedures pending the transfer of the patient or viable fetus  
265 to the hospital.

266 (7) If an ~~any~~ owner, operator, or employee of an abortion  
267 clinic fails to dispose of fetal remains and tissue in a  
268 sanitary manner pursuant to s. 381.0098, rules adopted  
269 thereunder, and rules adopted by the agency pursuant to this  
270 section consistent with the disposal of other human tissue in a  
271 competent professional manner, the license of such clinic may be  
272 suspended or revoked, and such person commits ~~is guilty of~~ a  
273 misdemeanor of the first degree, punishable as provided in s.  
274 775.082 or s. 775.083.

275 (8) Beginning February 1, 2017, and annually thereafter,  
276 the agency shall submit a report to the President of the Senate  
277 and the Speaker of the House of Representatives which summarizes  
278 all regulatory actions taken during the prior year by the agency  
279 under this chapter.

280 Section 6. Subsection (3) of section 390.014, Florida  
281 Statutes, is amended to read:

282 390.014 Licenses; fees.—

283 (3) In accordance with s. 408.805, an applicant or  
284 licensee shall pay a fee for each license application submitted  
285 under this chapter and part II of chapter 408. The amount of the  
286 fee shall be established by rule and may not be more than



287 required to pay for the costs incurred by the agency in  
288 administering this chapter ~~less than \$70 or more than \$500.~~

289 Section 7. Effective January 1, 2017, present subsection  
290 (3) of section 390.025, Florida Statutes, is amended, and new  
291 subsections (3), (4), and (5) are added to that section, to  
292 read:

293 390.025 Abortion referral or counseling agencies;  
294 penalties.—

295 (3) An abortion referral or counseling agency, as defined  
296 in subsection (1), shall register with the Agency for Health  
297 Care Administration. To register or renew a registration an  
298 applicant must pay an initial or renewal registration fee  
299 established by rule, which must not exceed the costs incurred by  
300 the agency in administering this section. Registrants must  
301 include in any advertising materials the registration number  
302 issued by the agency and must renew their registration  
303 biennially.

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

306 (a) Facilities licensed pursuant to this chapter, chapter  
307 395, chapter 400, or chapter 408;

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

311 (c) Health care practitioners, as defined in s. 456.001,  
312 who, in the course of their practice outside of a facility



313 licensed pursuant to this chapter, chapter 395, chapter 400, or  
314 chapter 408, refer five or fewer patients for abortions each  
315 month.

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

318 (6)~~(3)~~ Any person who violates the provisions of  
319 subsection (2) commits this section is guilty of a misdemeanor  
320 of the first degree, punishable as provided in s. 775.082 or s.  
321 775.083. In addition to any other penalties imposed pursuant to  
322 this chapter, the Agency for Health Care Administration may  
323 assess costs related to an investigation of violations of this  
324 section which results in a successful prosecution. Such costs  
325 may not include attorney fees.

326 Section 8. Section 873.05, Florida Statutes, is amended to  
327 read:

328 873.05 Advertising, purchase, or sale, or transfer of  
329 human embryos or fetal remains prohibited.-

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

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

336 (2) A person may not advertise or offer to purchase, sell,  
337 donate, or transfer, or purchase, sell, donate, or transfer,  
338 fetal remains obtained from an abortion, as defined in s.



339 390.011. This subsection does not prohibit the transportation or  
340 transfer of fetal remains for disposal pursuant to s. 381.0098  
341 or rules adopted thereunder.

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

345 Section 9. For the 2016-2017 fiscal year, 0.5 full-time  
346 equivalent positions, with associated salary rate of 39,230, are  
347 authorized and the sums of \$59,951 in recurring funds and  
348 \$185,213 in nonrecurring funds from the Health Care Trust Fund  
349 are appropriated to the Agency for Health Care Administration  
350 for the purpose of implementing this act.

351 Section 10. Except as otherwise expressly provided in this  
352 act, this act shall take effect July 1, 2016.