

By Senator Flores

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1 A bill to be entitled
2 An act relating to abortions; amending s. 390.0111,
3 F.S.; restricting the circumstances in which an
4 abortion may be performed in the third trimester or
5 after viability; requiring an abortion clinic to
6 provide conspicuous notice on any form or medium of
7 advertisement that the abortion clinic is prohibited
8 from performing abortions in the third trimester or
9 after viability; providing certain physician,
10 location, and clinic licensure and ownership
11 requirements; requiring a physician who offers to
12 perform or performs terminations of pregnancy to
13 complete continuing education related to ethics;
14 prohibiting a termination of pregnancy from being
15 performed in a location other than a validly licensed
16 hospital, abortion clinic, or physician's office;
17 prohibiting a person from establishing, conducting,
18 managing, or operating an abortion clinic without a
19 valid, current license; prohibiting a person from
20 performing or assisting in performing an abortion on a
21 person in the third trimester or after viability,
22 other than in a hospital; requiring an abortion clinic
23 to be owned and operated by a physician who has
24 received training during residency in performing a
25 dilation-and-curettage procedure or a dilation-and-
26 evacuation procedure; providing a penalty; providing
27 that failure to dispose of fetal remains in accordance
28 with rules of the Department of Health is a
29 misdemeanor of the first degree rather than a

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30 misdemeanor of the second degree; clarifying
31 provisions providing that it is a first-degree
32 misdemeanor to unlawfully advertise how to obtain a
33 miscarriage of a woman pregnant with a child;
34 requiring the Department of Health to permanently
35 revoke the license of any health care practitioner who
36 is convicted or found guilty of, or enters a plea of
37 guilty or nolo contendere to, regardless of
38 adjudication, certain felony criminal acts; requiring
39 the Agency for Health Care Administration to submit to
40 the Governor and Legislature an annual report of
41 aggregate statistical data relating to abortions and
42 provide such data on its website; amending s.
43 390.0112, F.S.; requiring the director of a medical
44 facility or physician's office to submit a report to
45 the agency following each termination of pregnancy on
46 a form developed by the agency which is consistent
47 with the U.S. Standard Report of Induced Termination
48 of Pregnancy from the Centers for Disease Control and
49 Prevention; requiring the agency to submit reported
50 data to the Division of Reproductive Health within the
51 Centers for Disease Control and Prevention; amending
52 s. 390.012, F.S.; requiring the agency to adopt rules
53 that prescribe standards for placing conspicuous
54 notice on any form or medium of advertisement of an
55 abortion clinic which states that the abortion clinic
56 is prohibited from performing abortions in the third
57 trimester or after viability; amending s. 456.013,
58 F.S.; requiring that each applicable board require a

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physician who offers to perform or performs terminations of pregnancy to annually complete a course relating to ethics as part of the licensure and renewal process; providing that the course counts toward the total number of continuing education hours required for the profession; requiring the applicable board to approve the course; repealing s. 797.02, F.S., relating to the advertising of drugs for abortions; repealing s. 797.03, F.S., relating to prohibited acts related to abortions and their penalties; providing for severability; providing an effective date.

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

Section 1. Subsections (1), (2), (7), and (10) of section 390.0111, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

390.0111 Termination of pregnancies.—

(1) TERMINATION IN THIRD TRIMESTER OR AFTER VIABILITY; WHEN ALLOWED.—

(a) A ~~No~~ termination of pregnancy may not ~~shall~~ be performed after the period at which, in the best medical judgment of the physician, the fetus has attained viability, as defined in subsection (4), or on any person ~~human-being~~ in the third trimester of pregnancy unless:

1.-(a) Two physicians certify in writing to the existence of a medical emergency, as defined in s. 390.0111(2)(d) fact that,
~~to a reasonable degree of medical probability, the termination~~

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88 ~~of pregnancy is necessary to save the life or preserve the~~
89 ~~health of the pregnant woman; or~~

90 2. (b) The physician certifies in writing to the existence
91 of a medical emergency, as defined in s. 390.01114(2)(d) ~~medical~~
92 ~~necessity for legitimate emergency medical procedures for~~
93 ~~termination of pregnancy in the third trimester, and another~~
94 ~~physician is not available for consultation.~~

95 (b) An abortion clinic must provide conspicuous notice on
96 any form or medium of advertisement that the abortion clinic is
97 prohibited from performing abortions in the third trimester or
98 after viability.

99 (2) PHYSICIAN, LOCATION, AND CLINIC LICENSURE AND OWNERSHIP
100 REQUIREMENTS ~~PERFORMANCE BY PHYSICIAN REQUIRED.~~

101 (a) No termination of pregnancy shall be performed at any
102 time except by a physician as defined in s. 390.011. A physician
103 who offers to perform or performs terminations of pregnancy in
104 an abortion clinic must annually complete a minimum of 3 hours
105 of continuing education that must relate to ethics.

106 (b) Except for procedures that must be conducted in a
107 hospital or in emergency-care situations, a termination of
108 pregnancy may not be performed in a location other than in a
109 validly licensed hospital, abortion clinic, or physician's
110 office.

111 (c) A person may not establish, conduct, manage, or operate
112 an abortion clinic without a valid current license.

113 (d) A person may not perform or assist in performing an
114 abortion on a person in the third trimester or after viability,
115 other than in a hospital.

116 (e) After October 1, 2011, an abortion clinic must be

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wholly owned and operated by a physician who has received training during residency in performing a dilation-and-curettage procedure or a dilation-and-evacuation procedure.

(f) A person who willfully violates paragraph (c), paragraph (d), or paragraph (e) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) FETAL REMAINS.—Fetal remains shall be disposed of in a sanitary and appropriate manner and in accordance with standard health practices, as provided by rule of the Department of Health. Failure to dispose of fetal remains in accordance with department rules is a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(10) PENALTIES FOR VIOLATION.—

(a) Except as provided in subsections (3) and (7):

1. ~~(a)~~ Any person who willfully performs, or actively participates in, a termination of pregnancy procedure in violation of the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. ~~(b)~~ Any person who performs, or actively participates in, a termination of pregnancy procedure in violation of the provisions of this section which results in the death of the woman commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any person who knowingly advertises, prints, publishes, distributes, or circulates, or who knowingly causes to be advertised, printed, published, distributed, or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement,

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146 or reference containing words or language giving or conveying
147 any notice, hint, or reference to any person, or the name of any
148 person, real or fictitious, from whom, or to any place, house,
149 shop, or office where any poison, drug, mixture, preparation,
150 medicine, or noxious thing, or any instrument or means whatever,
151 or any advice, direction, information, or knowledge that may be
152 obtained for the purpose of performing an abortion in violation
153 of this chapter, commits a misdemeanor of the first degree,
154 punishable as provided in s. 775.082 or s. 775.083.

155 (b) The department shall permanently revoke the license of
156 any licensed health care practitioner who has been convicted or
157 found guilty of, or entered a plea of guilty or nolo contendere
158 to, regardless of adjudication, a felony criminal act provided
159 in paragraph (a).

160 (12) RESPONSIBILITIES OF THE AGENCY.—Before each general
161 legislative session, the agency shall report aggregate
162 statistical data relating to abortions, which has been reported
163 to the Division of Reproductive Health within the Centers for
164 Disease Control and Prevention, on its website and provide an
165 annual report to the Governor, the President of the Senate, and
166 the Speaker of the House of Representatives regarding such data.
167 Any information required to be reported under this paragraph
168 must not include any personal identifying information.

169 Section 2. Subsection (1) of section 390.0112, Florida
170 Statutes, is amended to read:

171 390.0112 Termination of pregnancies; reporting.—

172 (1) The director of any medical facility or physician's
173 office in which any pregnancy is terminated shall submit a
174 ~~monthly~~ report to the agency following each termination, on a

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175 form developed by the agency which is consistent with the U.S.
176 Standard Report of Induced Termination of Pregnancy from the
177 Centers for Disease Control and Prevention ~~which contains the~~
178 ~~number of procedures performed, the reason for same, and the~~
179 ~~period of gestation at the time such procedures were performed~~
180 ~~to the agency.~~ The agency shall be responsible for keeping such
181 reports in a central place from which statistical data and
182 analysis can be made. The agency shall submit reported data to
183 the Division of Reproductive Health within the Centers for
184 Disease Control and Prevention.

185 Section 3. Paragraph (a) of subsection (3) of section
186 390.012, Florida Statutes, is amended to read:

187 390.012 Powers of agency; rules; disposal of fetal
188 remains.—

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

193 (a) Rules for an abortion clinic's physical facilities. At
194 a minimum, these rules shall prescribe standards for:

195 1. Adequate private space that is specifically designated
196 for interviewing, counseling, and medical evaluations.

197 2. Dressing rooms for staff and patients.

198 3. Appropriate lavatory areas.

199 4. Areas for preprocedure hand washing.

200 5. Private procedure rooms.

201 6. Adequate lighting and ventilation for abortion
202 procedures.

203 7. Surgical or gynecological examination tables and other

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fixed equipment.

8. Postprocedure recovery rooms that are equipped to meet the patients' needs.

9. Emergency exits to accommodate a stretcher or gurney.

10. Areas for cleaning and sterilizing instruments.

11. Adequate areas for the secure storage of medical records and necessary equipment and supplies.

12. The display in the abortion clinic, in a place that is conspicuous to all patients, of the clinic's current license issued by the agency.

13. Conspicuous notice to be provided on any form or medium of advertisement of the abortion clinic, which must state that the abortion clinic is prohibited from performing abortions in the third trimester or after viability.

Section 4. Subsection (7) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(7)(a) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine shall include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the

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course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

(b) In accordance with the requirement under s. 390.0111, the boards, or the department if there is no board, shall require a physician who offers to perform or performs terminations of pregnancy in an abortion clinic to annually complete a 3-hour course related to ethics as part of the licensure and renewal process. The 3-hour course shall count toward the total number of continuing education hours required for the profession. The applicable board, or the department if there is no board, shall approve the course, as appropriate.

Section 5. Section 797.02, Florida Statutes, is repealed.

Section 6. Section 797.03, Florida Statutes, is repealed.

Section 7. If any provision of this act is held invalid with respect to any person or circumstance, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 8. This act shall take effect October 1, 2011.