



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.