

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

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

57 continuing education hours required for the profession;  
 58 requiring the applicable board to approve the course;  
 59 repealing s. 797.02, F.S., relating to the advertising of  
 60 drugs for abortions; repealing s. 797.03, F.S., relating  
 61 to prohibited acts related to abortions and their  
 62 penalties; providing for severability; providing an  
 63 effective date.

64

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

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67 Section 1. Subsections (1), (2), (7), and (10) of section  
 68 390.0111, Florida Statutes, are amended, and subsection (12) is  
 69 added to that section, to read:

70 390.0111 Termination of pregnancies.—

71 (1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.—

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

78 1.(a) Two physicians certify in writing to the fact that,  
 79 to a reasonable degree of medical probability, the termination  
 80 of pregnancy is necessary to prevent the death of the pregnant  
 81 woman or prevent the substantial and irreversible impairment of  
 82 a major bodily function ~~save the life or preserve the health~~ of  
 83 the pregnant woman; or

84 2.(b) The physician certifies in writing to the existence

85 of a medical emergency, as defined in s. 390.01114(2)(d) ~~medical~~  
 86 ~~necessity for legitimate emergency medical procedures for~~  
 87 ~~termination of pregnancy in the third trimester,~~ and another  
 88 physician is not available for consultation.

89 (b) An abortion clinic must provide conspicuous notice on  
 90 any form or medium of advertisement that the abortion clinic is  
 91 prohibited from performing abortions in the third trimester or  
 92 after viability.

93 (2) PHYSICIAN, LOCATION, AND CLINIC LICENSURE AND  
 94 OWNERSHIP REQUIREMENTS PERFORMANCE BY PHYSICIAN REQUIRED.—No  
 95 termination of pregnancy shall be performed at any time except  
 96 by a physician as defined in s. 390.011. A physician who offers  
 97 to perform or performs terminations of pregnancy in an abortion  
 98 clinic shall annually complete a minimum of 3 hours of  
 99 continuing education that must relate to ethics.

100 (a) Except for procedures that must be conducted in a  
 101 hospital or in a medical emergency as defined in s. 390.01114, a  
 102 termination of pregnancy may not be performed in a location  
 103 other than in a validly licensed hospital, abortion clinic, or  
 104 physician's office.

105 (b) A person may not establish, conduct, manage, or  
 106 operate an abortion clinic without a valid current license.

107 (c) A person may not perform or assist in performing an  
 108 abortion on a person in the third trimester or after viability,  
 109 other than in a hospital.

110 (d) Other than abortion clinics licensed before October 1,  
 111 2011, an abortion clinic must be wholly owned and operated by a  
 112 physician who has received training during residency in

113 performing a dilation-and-curettage procedure or a dilation-and-  
 114 evacuation procedure.

115 (e) A person who willfully violates paragraph (b),  
 116 paragraph (c), or paragraph (d) commits a misdemeanor of the  
 117 second degree, punishable as provided in s. 775.082 or s.  
 118 775.083.

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

125 (10) PENALTIES FOR VIOLATION.—

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

127 1.(a) Any person who willfully performs, or actively  
 128 participates in, a termination of pregnancy procedure in  
 129 violation of the requirements of this section commits a felony  
 130 of the third degree, punishable as provided in s. 775.082, s.  
 131 775.083, or s. 775.084.

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

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

141 or reference containing words or language giving or conveying  
 142 any notice, hint, or reference to any person, or the name of any  
 143 person, real or fictitious, from whom, or to any place, house,  
 144 shop, or office where any poison, drug, mixture, preparation,  
 145 medicine, or noxious thing, or any instrument or means whatever,  
 146 or any advice, direction, information, or knowledge may be  
 147 obtained for the purpose of causing or procuring the miscarriage  
 148 of any woman pregnant with child, commits a misdemeanor of the  
 149 first degree, punishable as provided in s. 775.082 or s.  
 150 775.083.

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

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

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

167 390.0112 Termination of pregnancies; reporting.—

168 (1) The director of any medical facility or physician's

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169 office in which any pregnancy is terminated shall submit a  
170 ~~monthly~~ report to the agency following each termination, on a  
171 form developed by the agency which is consistent with the U.S.  
172 Standard Report of Induced Termination of Pregnancy from the  
173 Centers for Disease Control and Prevention ~~which contains the~~  
174 ~~number of procedures performed, the reason for same, and the~~  
175 ~~period of gestation at the time such procedures were performed~~  
176 ~~to the agency.~~ The agency shall be responsible for keeping such  
177 reports in a central place from which statistical data and  
178 analysis can be made. The agency shall submit reported data to  
179 the Division of Reproductive Health within the Centers for  
180 Disease Control and Prevention.

181 Section 3. Paragraph (a) of subsection (3) of section  
182 390.012, Florida Statutes, is amended to read:

183 390.012 Powers of agency; rules; disposal of fetal  
184 remains.—

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

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

- 191 1. Adequate private space that is specifically designated  
192 for interviewing, counseling, and medical evaluations.
- 193 2. Dressing rooms for staff and patients.
- 194 3. Appropriate lavatory areas.
- 195 4. Areas for preprocedure hand washing.
- 196 5. Private procedure rooms.

- 197           6. Adequate lighting and ventilation for abortion  
 198 procedures.
- 199           7. Surgical or gynecological examination tables and other  
 200 fixed equipment.
- 201           8. Postprocedure recovery rooms that are equipped to meet  
 202 the patients' needs.
- 203           9. Emergency exits to accommodate a stretcher or gurney.
- 204           10. Areas for cleaning and sterilizing instruments.
- 205           11. Adequate areas for the secure storage of medical  
 206 records and necessary equipment and supplies.
- 207           12. The display in the abortion clinic, in a place that is  
 208 conspicuous to all patients, of the clinic's current license  
 209 issued by the agency.
- 210           13. Conspicuous notice to be provided on any form or  
 211 medium of advertisement of the abortion clinic, which must state  
 212 that the abortion clinic is prohibited from performing abortions  
 213 in the third trimester or after viability.

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

216           456.013 Department; general licensing provisions.—

217           (7) (a) The boards, or the department when there is no  
 218 board, shall require the completion of a 2-hour course relating  
 219 to prevention of medical errors as part of the licensure and  
 220 renewal process. The 2-hour course shall count towards the total  
 221 number of continuing education hours required for the  
 222 profession. The course shall be approved by the board or  
 223 department, as appropriate, and shall include a study of root-  
 224 cause analysis, error reduction and prevention, and patient



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225 safety. In addition, the course approved by the Board of  
226 Medicine and the Board of Osteopathic Medicine shall include  
227 information relating to the five most misdiagnosed conditions  
228 during the previous biennium, as determined by the board. If the  
229 course is being offered by a facility licensed pursuant to  
230 chapter 395 for its employees, the board may approve up to 1  
231 hour of the 2-hour course to be specifically related to error  
232 reduction and prevention methods used in that facility.

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

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

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

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

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