

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 an unlawful abortion;

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

57 licensure and renewal process; providing that the course  
 58 counts toward the total number of continuing education  
 59 hours required for the profession; repealing s. 797.02,  
 60 F.S., relating to the advertising of drugs for abortions;  
 61 repealing s. 797.03, F.S., relating to prohibited acts  
 62 related to abortions and their penalties; providing for  
 63 severability; providing an effective date.  
 64

65 Be It Enacted by the Legislature of the State of Florida:  
 66

67 Section 1. Subsections (1), (2), (7), and (10) of section  
 68 390.0111, Florida Statutes, are amended, and subsections (12),  
 69 (13), and (14) are 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 performing an abortion in violation  
 148 of this chapter, commits a misdemeanor of the first degree,  
 149 punishable as provided in s. 775.082 or s. 775.083.

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

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

164 (13) FAILURE TO COMPLY.—Failure to comply with the  
 165 requirements of this section is grounds for disciplinary action  
 166 under each respective practice act and under s. 456.072.

CS/CS/HB 1397

2011

167       (14) RULES.—The applicable boards, or the department where  
168 there is no board, shall adopt rules necessary to implement the  
169 provisions of this section.

170       Section 2. Subsection (1) of section 390.0112, Florida  
171 Statutes, is amended, and subsection (5) is added to that  
172 section, to read:

173       390.0112 Termination of pregnancies; reporting.—

174       (1) The director of any medical facility or physician's  
175 office in which any pregnancy is terminated shall submit a  
176 monthly report to the agency, on a form developed by the agency  
177 which is consistent with the U.S. Standard Report of Induced  
178 Termination of Pregnancy from the Centers for Disease Control  
179 and Prevention ~~which contains the number of procedures~~  
180 ~~performed, the reason for same, and the period of gestation at~~  
181 ~~the time such procedures were performed to the agency.~~ The  
182 agency shall be responsible for keeping such reports in a  
183 central place from which statistical data and analysis can be  
184 made. The agency shall submit reported data to the Division of  
185 Reproductive Health within the Centers for Disease Control and  
186 Prevention.

187       (5) The agency may adopt rules necessary to implement this  
188 section.

189       Section 3. Paragraph (a) of subsection (3) of section  
190 390.012, Florida Statutes, is amended to read:

191       390.012 Powers of agency; rules; disposal of fetal  
192 remains.—

193       (3) For clinics that perform or claim to perform abortions  
194 after the first trimester of pregnancy, the agency shall adopt

195 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 196 provisions of this chapter, including the following:

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

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

201 2. Dressing rooms for staff and patients.

202 3. Appropriate lavatory areas.

203 4. Areas for preprocedure hand washing.

204 5. Private procedure rooms.

205 6. Adequate lighting and ventilation for abortion  
 206 procedures.

207 7. Surgical or gynecological examination tables and other  
 208 fixed equipment.

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

211 9. Emergency exits to accommodate a stretcher or gurney.

212 10. Areas for cleaning and sterilizing instruments.

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

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

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

222 Section 4. Subsection (7) of section 456.013, Florida



223 Statutes, is amended to read:

224 456.013 Department; general licensing provisions.—

225 (7) (a) The boards, or the department when there is no  
 226 board, shall require the completion of a 2-hour course relating  
 227 to prevention of medical errors as part of the licensure and  
 228 renewal process. The 2-hour course shall count towards the total  
 229 number of continuing education hours required for the  
 230 profession. The course shall be approved by the board or  
 231 department, as appropriate, and shall include a study of root-  
 232 cause analysis, error reduction and prevention, and patient  
 233 safety. In addition, the course approved by the Board of  
 234 Medicine and the Board of Osteopathic Medicine shall include  
 235 information relating to the five most misdiagnosed conditions  
 236 during the previous biennium, as determined by the board. If the  
 237 course is being offered by a facility licensed pursuant to  
 238 chapter 395 for its employees, the board may approve up to 1  
 239 hour of the 2-hour course to be specifically related to error  
 240 reduction and prevention methods used in that facility.

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

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

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

CS/CS/HB 1397

2011

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

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