

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

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Subsections (1), (2), (7), and (10) of section
75 390.0111, Florida Statutes, are amended, and subsection (12) is
76 added to that section, to read:

77 390.0111 Termination of pregnancies.—

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

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

85 1. ~~(a)~~ Two physicians certify in writing to the existence of
86 a medical emergency, as defined in s. 390.01114(2)(d) ~~fact that,~~
87 ~~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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117 wholly owned and operated by a physician who has received
118 training during residency in performing a dilation-and-curettage
119 procedure or a dilation-and-evacuation procedure.

120 (f) A person who willfully violates paragraph (c),
121 paragraph (d), or paragraph (e) commits a misdemeanor of the
122 second degree, punishable as provided in s. 775.082 or s.
123 775.083.

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

130 (10) PENALTIES FOR VIOLATION.—

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

132 1. ~~(a)~~ Any person who willfully performs, or actively
133 participates in, a termination of pregnancy procedure in
134 violation of the requirements of this section commits a felony
135 of the third degree, punishable as provided in s. 775.082, s.
136 775.083, or s. 775.084.

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

142 3. Any person who knowingly advertises, prints, publishes,
143 distributes, or circulates, or who knowingly causes to be
144 advertised, printed, published, distributed, or circulated, any
145 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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204 fixed equipment.

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

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

208 10. Areas for cleaning and sterilizing instruments.

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

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

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

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

220 456.013 Department; general licensing provisions.—

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

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

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

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

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

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

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