

1                                   A bill to be entitled  
2           An act relating to termination of pregnancies;  
3           amending s. 390.011, F.S.; defining the term  
4           "gestation" and revising the term "third trimester";  
5           amending s. 390.0111, F.S.; revising the requirements  
6           for disposal of fetal remains; revising the criminal  
7           punishment for failure to properly dispose of fetal  
8           remains; prohibiting state agencies, local  
9           governmental entities, and Medicaid managed care plans  
10          from expending or paying funds to or initiating or  
11          renewing contracts under certain circumstances with  
12          certain organizations that perform abortions;  
13          providing exceptions; amending s. 390.0112, F.S.;  
14          requiring directors of certain hospitals and  
15          physicians' offices and licensed abortion clinics to  
16          submit monthly reports to the Agency for Health Care  
17          Administration on a specified form; prohibiting the  
18          report from including personal identifying  
19          information; requiring the agency to submit certain  
20          data to the Centers for Disease Control and Prevention  
21          on a quarterly basis; amending s. 390.012, F.S.;  
22          requiring the agency to develop and enforce rules  
23          relating to license inspections and investigations of  
24          certain clinics; requiring the agency to adopt rules  
25          to require all physicians performing abortions to have  
26          admitting privileges at a hospital within a reasonable

27 | proximity unless the clinic has a transfer agreement  
28 | with the hospital; revising requirements for rules  
29 | that prescribe minimum recovery room standards;  
30 | revising requirements for the disposal of fetal  
31 | remains; requiring the agency to submit an annual  
32 | report to the Legislature; amending s. 390.014, F.S.;  
33 | providing a different limitation on the amount of a  
34 | fee; amending s. 390.025, F.S.; requiring certain  
35 | organizations that provide abortion referral services  
36 | or abortion counseling services to register with the  
37 | agency, pay a specified fee, and include certain  
38 | information in advertisements; requiring biennial  
39 | renewal of a registration; providing exemptions from  
40 | the registration requirement; requiring the agency to  
41 | adopt rules; providing for the assessment of costs in  
42 | certain circumstances; amending s. 873.05, F.S.;  
43 | prohibiting an offer to purchase, sell, donate, or  
44 | transfer fetal remains obtained from an abortion and  
45 | the purchase, sale, donation, or transfer of such  
46 | remains, excluding costs associated with certain  
47 | transportation of remains; providing an appropriation;  
48 | providing effective dates.

49 |  
50 | Be It Enacted by the Legislature of the State of Florida:

51 |  
52 | Section 1. Present subsections (6) through (12) of section

53 390.011, Florida Statutes, are redesignated as subsections (7)  
 54 through (13), respectively, a new subsection (6) is added to  
 55 that section, and present subsection (11) of that section is  
 56 amended, to read:

57 390.011 Definitions.—As used in this chapter, the term:

58 (6) "Gestation" means the development of a human embryo or  
 59 fetus between fertilization and birth.

60 (12)~~(11)~~ "Third Trimester" means one of the following  
 61 three distinct periods of time in the duration of a pregnancy:

62 (a) "First trimester," which is the period of time from  
 63 fertilization through the end of the 11th week of gestation.

64 (b) "Second trimester," which is the period of time from  
 65 the beginning of the 12th week of gestation through the end of  
 66 the 23rd week of gestation.

67 (c) "Third trimester," which is the period of time from  
 68 the beginning of the 24th week of gestation through birth ~~the~~  
 69 ~~weeks of pregnancy after the 24th week of pregnancy.~~

70 Section 2. Subsection (7) of section 390.0111, Florida  
 71 Statutes, is amended, and subsection (15) is added to that  
 72 section, to read:

73 390.0111 Termination of pregnancies.—

74 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a  
 75 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and  
 76 rules adopted thereunder ~~and in accordance with standard health~~  
 77 ~~practices, as provided by rule of the Department of Health.~~

78 Failure to dispose of fetal remains in accordance with this

79 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~  
80 degree, punishable as provided in s. 775.082 or s. 775.083.

81 (15) USE OF PUBLIC FUNDS RESTRICTED.—A state agency, a  
82 local governmental entity, or a managed care plan providing  
83 services under part IV of chapter 409 may not expend funds for  
84 the benefit of, pay funds to, or initiate or renew a contract  
85 with an organization that owns, operates, or is affiliated with  
86 one or more clinics that are licensed under this chapter and  
87 perform abortions unless one or more of the following applies:

88 (a) All abortions performed by such clinics are:

89 1. On fetuses that are conceived through rape or incest;

90 or

91 2. Are medically necessary to preserve the life of the  
92 pregnant woman or to avert a serious risk of substantial and  
93 irreversible physical impairment of a major bodily function of  
94 the pregnant woman, other than a psychological condition.

95 (b) The funds must be expended to fulfill the terms of a  
96 contract entered into before July 1, 2016.

97 (c) The funds must be expended as reimbursement for  
98 Medicaid services provided on a fee-for-service basis.

99 Section 3. Subsection (1) of section 390.0112, Florida  
100 Statutes, is amended, present subsections (2), (3), and (4) of  
101 that section are redesignated as subsections (3), (4), and (5),  
102 respectively, and a new subsection (2) is added to that section,  
103 to read:

104 390.0112 Termination of pregnancies; reporting.—

105 (1) The director of any medical facility in which  
 106 abortions are performed, including a physician's office, ~~any~~  
 107 ~~pregnancy is terminated~~ shall submit a ~~monthly~~ report each month  
 108 to the agency. The report may be submitted electronically, may  
 109 not include personal identifying information, and must include:

110 (a) Until the agency begins collecting data under  
 111 paragraph (e), the number of abortions performed.

112 (b) The reasons such abortions were performed.

113 (c) For each abortion, the period of gestation at the time  
 114 the abortion was performed.

115 (d) ~~which contains the number of procedures performed, the~~  
 116 ~~reason for same, the period of gestation at the time such~~  
 117 ~~procedures were performed, and~~ The number of infants born alive  
 118 or alive during or immediately after an attempted abortion.

119 (e) Beginning no later than January 1, 2017, information  
 120 consistent with the United States Standard Report of Induced  
 121 Termination of Pregnancy adopted by the Centers for Disease  
 122 Control and Prevention.

123 (2) The agency shall keep ~~be responsible for keeping~~ such  
 124 reports in a central location for the purpose of compiling and  
 125 analyzing ~~place from which~~ statistical data and shall submit  
 126 data reported pursuant to paragraph (1) (e) to the Division of  
 127 Reproductive Health within the Centers for Disease Control and  
 128 Prevention, as requested by the Centers for Disease Control and  
 129 Prevention ~~analysis can be made.~~

130 Section 4. Paragraph (c) of subsection (1), subsection

131 (2), paragraphs (c) and (f) of subsection (3), and subsection  
 132 (7) of section 390.012, Florida Statutes, are amended, and  
 133 subsection (8) is added to that section, to read:

134 390.012 Powers of agency; rules; disposal of fetal  
 135 remains.—

136 (1) The agency may develop and enforce rules pursuant to  
 137 ss. 390.011-390.018 and part II of chapter 408 for the health,  
 138 care, and treatment of persons in abortion clinics and for the  
 139 safe operation of such clinics.

140 (c) The rules shall provide for:

141 1. The performance of pregnancy termination procedures  
 142 only by a licensed physician.

143 2. The making, protection, and preservation of patient  
 144 records, which shall be treated as medical records under chapter  
 145 458. When performing a license inspection of a clinic, the  
 146 agency shall inspect at least 50 percent of patient records  
 147 generated since the clinic's last license inspection.

148 3. Annual inspections by the agency of all clinics  
 149 licensed under this chapter to ensure that such clinics are in  
 150 compliance with this chapter and agency rules.

151 4. The prompt investigation of credible allegations of  
 152 abortions being performed at a clinic that is not licensed to  
 153 perform such procedures.

154 (2) For clinics that perform abortions in the first  
 155 trimester of pregnancy only, these rules must ~~shall~~ be  
 156 comparable to rules that apply to all surgical procedures

157 requiring approximately the same degree of skill and care as the  
 158 performance of first trimester abortions and must require:

159 (a) Clinics to have a written patient transfer agreement  
 160 with a hospital within reasonable proximity to the clinic which  
 161 includes the transfer of the patient's medical records held by  
 162 the clinic and the treating physician to the licensed hospital;  
 163 or

164 (b) Physicians who perform abortions at the clinic to have  
 165 admitting privileges at a hospital within reasonable proximity  
 166 to the clinic.

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

171 (c) Rules relating to abortion clinic personnel. At a  
 172 minimum, these rules shall require that:

173 1. The abortion clinic designate a medical director who is  
 174 licensed to practice medicine in this state, and all physicians  
 175 who perform abortions in the clinic have ~~who has~~ admitting  
 176 privileges at a ~~licensed~~ hospital within reasonable proximity to  
 177 the clinic, unless the clinic in this state ~~or~~ has a written  
 178 patient transfer agreement with a ~~licensed~~ hospital within  
 179 reasonable proximity to ~~of~~ the clinic which includes the  
 180 transfer of the patient's medical records held by both the  
 181 clinic and the treating physician.

182 2. If a physician is not present after an abortion is

183 performed, a registered nurse, licensed practical nurse,  
 184 advanced registered nurse practitioner, or physician assistant  
 185 ~~shall~~ be present and remain at the clinic to provide  
 186 postoperative monitoring and care until the patient is  
 187 discharged.

188 3. Surgical assistants receive training in counseling,  
 189 patient advocacy, and the specific responsibilities associated  
 190 with the services the surgical assistants provide.

191 4. Volunteers receive training in the specific  
 192 responsibilities associated with the services the volunteers  
 193 provide, including counseling and patient advocacy as provided  
 194 in the rules adopted by the director for different types of  
 195 volunteers based on their responsibilities.

196 (f) Rules that prescribe minimum recovery room standards.  
 197 At a minimum, these rules must ~~shall~~ require that:

198 1. Postprocedure recovery rooms be ~~are~~ supervised and  
 199 staffed to meet the patients' needs.

200 2. Immediate postprocedure care consist ~~consists~~ of  
 201 observation in a supervised recovery room for as long as the  
 202 patient's condition warrants.

203 ~~3. The clinic arranges hospitalization if any complication~~  
 204 ~~beyond the medical capability of the staff occurs or is~~  
 205 ~~suspected.~~

206 3.4. A registered nurse, licensed practical nurse,  
 207 advanced registered nurse practitioner, or physician assistant  
 208 who is trained in the management of the recovery area and is

209 | capable of providing basic cardiopulmonary resuscitation and  
210 | related emergency procedures remain ~~remains~~ on the premises of  
211 | the abortion clinic until all patients are discharged.

212 | ~~4.5.~~ A physician ~~shall~~ sign the discharge order and be  
213 | readily accessible and available until the last patient is  
214 | discharged to facilitate the transfer of emergency cases if  
215 | hospitalization of the patient or viable fetus is necessary.

216 | ~~5.6.~~ A physician discuss ~~discusses~~ Rho(D) immune globulin  
217 | with each patient for whom it is indicated and ensure ~~ensures~~  
218 | that it is offered to the patient in the immediate postoperative  
219 | period or ~~that it~~ will be available to her within 72 hours after  
220 | completion of the abortion procedure. If the patient refuses the  
221 | Rho(D) immune globulin, she and a witness must sign a refusal  
222 | form approved by the agency which must be ~~shall be signed by the~~  
223 | ~~patient and a witness~~ and included in the medical record.

224 | ~~6.7.~~ Written instructions with regard to postabortion  
225 | coitus, signs of possible problems, and general aftercare which  
226 | are specific to the patient be ~~are~~ given to each patient. The  
227 | instructions must include information ~~Each patient shall have~~  
228 | ~~specific written instructions~~ regarding access to medical care  
229 | for complications, including a telephone number for use in the  
230 | event of a ~~to call for~~ medical emergency ~~emergencies~~.

231 | ~~7.8.~~ ~~There is~~ A ~~specified~~ minimum length of time be  
232 | specified, by type of abortion procedure and duration of  
233 | gestation, during which ~~that~~ a patient must remain ~~remains~~ in  
234 | the recovery room ~~by type of abortion procedure and duration of~~

235 gestation.

236 ~~8.9.~~ The physician ensure ~~ensures~~ that, with the patient's  
237 consent, a registered nurse, licensed practical nurse, advanced  
238 registered nurse practitioner, or physician assistant from the  
239 abortion clinic makes a good faith effort to contact the patient  
240 by telephone, ~~with the patient's consent~~, within 24 hours after  
241 surgery to assess the patient's recovery.

242 ~~9.10.~~ Equipment and services be ~~are~~ readily accessible to  
243 provide appropriate emergency resuscitative and life support  
244 procedures pending the transfer of the patient or viable fetus  
245 to the hospital.

246 (7) If an ~~any~~ owner, operator, or employee of an abortion  
247 clinic fails to dispose of fetal remains and tissue in a  
248 sanitary manner pursuant to s. 381.0098, rules adopted  
249 thereunder, and rules adopted by the agency pursuant to this  
250 section consistent with the disposal of other human tissue in a  
251 competent professional manner, the license of such clinic may be  
252 suspended or revoked, and such person commits ~~is guilty of~~ a  
253 misdemeanor of the first degree, punishable as provided in s.  
254 775.082 or s. 775.083.

255 (8) Beginning February 1, 2017, and annually thereafter,  
256 the agency shall submit a report to the President of the Senate  
257 and the Speaker of the House of Representatives which summarizes  
258 all regulatory actions taken during the prior year by the agency  
259 under this chapter.

260 Section 5. Subsection (3) of section 390.014, Florida

261 Statutes, is amended to read:

262 390.014 Licenses; fees.—

263 (3) In accordance with s. 408.805, an applicant or  
 264 licensee shall pay a fee for each license application submitted  
 265 under this chapter and part II of chapter 408. The amount of the  
 266 fee shall be established by rule and may not be more than  
 267 required to pay for the costs incurred by the agency in  
 268 administering this chapter ~~less than \$70 or more than \$500.~~

269 Section 6. Effective January 1, 2017, present subsection  
 270 (3) of section 390.025, Florida Statutes, is amended, and new  
 271 subsections (3), (4), and (5) are added to that section, to  
 272 read:

273 390.025 Abortion referral or counseling agencies;  
 274 penalties.—

275 (3) An abortion referral or counseling agency, as defined  
 276 in subsection (1), shall register with the Agency for Health  
 277 Care Administration. To register or renew a registration an  
 278 applicant must pay an initial or renewal registration fee  
 279 established by rule, which must not exceed the costs incurred by  
 280 the agency in administering this section. Registrants must  
 281 include in any advertising materials the registration number  
 282 issued by the agency and must renew their registration  
 283 biennially.

284 (4) The following are exempt from the requirement to  
 285 register pursuant to subsection (3):

286 (a) Facilities licensed pursuant to this chapter, chapter

287 395, chapter 400, or chapter 408;

288 (b) Facilities that are exempt from licensure as a clinic  
 289 under s. 400.9905(4) and that refer five or fewer patients for  
 290 abortions per month; and

291 (c) Health care practitioners, as defined in s. 456.001,  
 292 who, in the course of their practice outside of a facility  
 293 licensed pursuant to this chapter, chapter 395, chapter 400, or  
 294 chapter 408, refer five or fewer patients for abortions each  
 295 month.

296 (5) The agency shall adopt rules to administer this  
 297 section and part II of chapter 408.

298 (6)-(3) Any person who violates the provisions of  
 299 subsection (2) commits this section is guilty of a misdemeanor  
 300 of the first degree, punishable as provided in s. 775.082 or s.  
 301 775.083. In addition to any other penalties imposed pursuant to  
 302 this chapter, the Agency for Health Care Administration may  
 303 assess costs related to an investigation of violations of this  
 304 section which results in a successful prosecution. Such costs  
 305 may not include attorney fees.

306 Section 7. Section 873.05, Florida Statutes, is amended to  
 307 read:

308 873.05 Advertising, purchase, or sale, or transfer of  
 309 human embryos or fetal remains prohibited.-

310 (1) A ~~No~~ person may not ~~shall~~ knowingly advertise or offer  
 311 to purchase or sell, or purchase, sell, or otherwise transfer, a  
 312 ~~any~~ human embryo for valuable consideration.

313 ~~(2)~~ As used in this subsection ~~section~~, the term "valuable  
 314 consideration" does not include the reasonable costs associated  
 315 with the removal, storage, and transportation of a human embryo.

316 (2) A person may not advertise or offer to purchase, sell,  
 317 donate, or transfer, or purchase, sell, donate, or transfer,  
 318 fetal remains obtained from an abortion, as defined in s.  
 319 390.011. This subsection does not prohibit the transportation or  
 320 transfer of fetal remains for disposal pursuant to s. 381.0098  
 321 or rules adopted thereunder.

322 (3) A person who violates ~~the provisions of~~ this section  
 323 commits is guilty of a felony of the second degree, punishable  
 324 as provided in s. 775.082, s. 775.083, or s. 775.084.

325 Section 8. For the 2016-2017 fiscal year, 0.5 full-time  
 326 equivalent positions, with associated salary rate of 39,230, are  
 327 authorized and the sums of \$59,951 in recurring funds and  
 328 \$185,213 in nonrecurring funds from the Health Care Trust Fund  
 329 are appropriated to the Agency for Health Care Administration  
 330 for the purpose of implementing this act.

331 Section 9. Except as otherwise expressly provided in this  
 332 act, this act shall take effect July 1, 2016.