



950510

594-03723-16

Proposed Committee Substitute by the Committee on Fiscal Policy  
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to termination of pregnancies;  
amending s. 390.011, F.S.; defining the term  
"gestation" and revising the term "third trimester";  
amending s. 390.0111, F.S.; revising the requirements  
for disposal of fetal remains; revising the criminal  
punishment for failure to properly dispose of fetal  
remains; prohibiting state agencies, local  
governmental entities, and Medicaid managed care plans  
from expending or paying funds to or initiating or  
renewing contracts under certain circumstances with  
certain organizations that perform abortions;  
providing exceptions; amending s. 390.0112, F.S.;  
requiring directors of certain hospitals and  
physicians' offices and licensed abortion clinics to  
submit monthly reports to the Agency for Health Care  
Administration on a specified form; prohibiting the  
report from including personal identifying  
information; requiring the agency to submit certain  
data to the Centers for Disease Control and Prevention  
on a quarterly basis; amending s. 390.012, F.S.;  
requiring the agency to develop and enforce rules  
relating to license inspections and investigations of  
certain clinics; requiring the agency to adopt rules  
that require certain clinics to have written  
agreements with local hospitals for certain  
contingencies; specifying that the rules must require



594-03723-16

28 physicians who perform abortions at a clinic that  
29 performs abortions in the first trimester of pregnancy  
30 to have admitting privileges at a hospital within  
31 reasonable proximity of the clinic; specifying for  
32 clinics that perform or claim to perform abortions  
33 after the first trimester of pregnancy that the rules  
34 must require all physicians performing abortions at  
35 the clinic to have admitting privileges at a hospital  
36 within a reasonable proximity unless the clinic has a  
37 transfer agreement with such a hospital and the  
38 agreement includes certain provisions; revising  
39 requirements for rules that prescribe minimum recovery  
40 room standards; revising requirements for the disposal  
41 of fetal remains; requiring the agency to submit an  
42 annual report to the Legislature; amending s. 390.014,  
43 F.S.; providing a different limitation on the amount  
44 of a fee; amending s. 390.025, F.S.; requiring certain  
45 organizations that provide abortion referral services  
46 or abortion counseling services to register with the  
47 agency, pay a specified fee, and include certain  
48 information in advertisements; requiring biennial  
49 renewal of a registration; providing exemptions from  
50 the registration requirement; requiring the agency to  
51 adopt rules; providing for the assessment of costs in  
52 certain circumstances; amending s. 873.05, F.S.;

53 prohibiting an offer to purchase, sell, donate, or  
54 transfer fetal remains obtained from an abortion and  
55 the purchase, sale, donation, or transfer of such  
56 remains, excluding costs associated with certain



950510

594-03723-16

57 transportation of remains; providing effective dates.

58  
59 Be It Enacted by the Legislature of the State of Florida:

60  
61 Section 1. Present subsections (6) through (12) of section  
62 390.011, Florida Statutes, are redesignated as subsections (7)  
63 through (13), respectively, a new subsection (6) is added to  
64 that section, and present subsection (11) of that section is  
65 amended, to read:

66 390.011 Definitions.—As used in this chapter, the term:

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

69 (12)~~(11)~~ "Third Trimester" means one of the following three  
70 distinct periods of time in the duration of a pregnancy:

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

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

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

79 Section 2. Subsection (7) of section 390.0111, Florida  
80 Statutes, is amended, and subsection (15) is added to that  
81 section, to read:

82 390.0111 Termination of pregnancies.—

83 (7) FETAL REMAINS.—Fetal remains shall be disposed of in a  
84 sanitary ~~and appropriate~~ manner pursuant to s. 381.0098 and  
85 rules adopted thereunder ~~and in accordance with standard health~~



950510

594-03723-16

86 ~~practices, as provided by rule of the Department of Health.~~  
87 Failure to dispose of fetal remains in accordance with this  
88 subsection ~~department rules~~ is a misdemeanor of the first ~~second~~  
89 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

99 2. Are medically necessary to preserve the life of the  
100 pregnant woman or to avert a serious risk of substantial and  
101 irreversible physical impairment of a major bodily function of  
102 the pregnant woman, other than a psychological condition.

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

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

107 Section 3. Subsection (1) of section 390.0112, Florida  
108 Statutes, is amended, present subsections (2), (3), and (4) of  
109 that section are redesignated as subsections (3), (4), and (5),  
110 respectively, and a new subsection (2) is added to that section,  
111 to read:

112 390.0112 Termination of pregnancies; reporting.—

113 (1) The director of any medical facility in which abortions  
114 are performed, including a physician's office, any pregnancy is



950510

594-03723-16

115 ~~terminated~~ shall submit a ~~monthly~~ report each month to the  
116 agency. The report may be submitted electronically, may not  
117 include personal identifying information, and must include:

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

120 (b) The reasons such abortions were performed.

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

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

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

131 (2) The agency shall keep ~~be responsible for keeping~~ such  
132 reports in a central location for the purpose of compiling and  
133 analyzing ~~place from which~~ statistical data and shall submit  
134 data reported pursuant to paragraph (1)(e) to the Division of  
135 Reproductive Health within the Centers for Disease Control and  
136 Prevention, as requested by the Centers for Disease Control and  
137 Prevention ~~analysis can be made.~~

138 Section 4. Paragraph (c) of subsection (1), subsection (2),  
139 paragraphs (c) and (f) of subsection (3), and subsection (7) of  
140 section 390.012, Florida Statutes, are amended, and subsection  
141 (8) is added to that section, to read:

142 390.012 Powers of agency; rules; disposal of fetal  
143 remains.-



950510

594-03723-16

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

148 (c) The rules shall provide for:

149 1. The performance of pregnancy termination procedures only  
150 by a licensed physician.

151 2. The making, protection, and preservation of patient  
152 records, which shall be treated as medical records under chapter  
153 458. When performing a license inspection of a clinic, the  
154 agency shall inspect at least 50 percent of patient records  
155 generated since the clinic's last license inspection.

156 3. Annual inspections by the agency of all clinics licensed  
157 under this chapter to ensure that such clinics are in compliance  
158 with this chapter and agency rule.

159 4. The prompt investigation of credible allegations of  
160 abortions being performed at a clinic that is not licensed to  
161 perform such procedures.

162 (2) For clinics that perform abortions in the first  
163 trimester of pregnancy only, these rules must ~~shall~~ be  
164 comparable to rules that apply to all surgical procedures  
165 requiring approximately the same degree of skill and care as the  
166 performance of first trimester abortions and must require:

167 (a) Clinics to have a written patient transfer agreement  
168 with a hospital within reasonable proximity to the clinic which  
169 includes the transfer of the patient's medical records held by  
170 the clinic and the treating physician to the licensed hospital;  
171 or

172 (b) Physicians who perform abortions at the clinic to have



950510

594-03723-16

173 admitting privileges at a hospital within reasonable proximity  
174 to the clinic.

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

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

181 1. The abortion clinic designate a medical director who is  
182 licensed to practice medicine in this state, and all physicians  
183 who perform abortions in the clinic have ~~who has~~ admitting  
184 privileges at a ~~licensed~~ hospital ~~in this state~~ within  
185 reasonable proximity of the clinic, unless the clinic ~~or~~ has a  
186 written patient transfer agreement with a ~~licensed~~ hospital  
187 within reasonable proximity of the clinic which includes the  
188 transfer of the patient's medical records held by both the  
189 clinic and the treating physician.

190 2. If a physician is not present after an abortion is  
191 performed, a registered nurse, licensed practical nurse,  
192 advanced registered nurse practitioner, or physician assistant  
193 ~~shall~~ be present and remain at the clinic to provide  
194 postoperative monitoring and care until the patient is  
195 discharged.

196 3. Surgical assistants receive training in counseling,  
197 patient advocacy, and the specific responsibilities associated  
198 with the services the surgical assistants provide.

199 4. Volunteers receive training in the specific  
200 responsibilities associated with the services the volunteers  
201 provide, including counseling and patient advocacy as provided



950510

594-03723-16

202 in the rules adopted by the director for different types of  
203 volunteers based on their responsibilities.

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

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

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

211 3. ~~The clinic arranges hospitalization if any complication~~  
212 ~~beyond the medical capability of the staff occurs or is~~  
213 ~~suspected.~~

214 4. A registered nurse, licensed practical nurse, advanced  
215 registered nurse practitioner, or physician assistant who is  
216 trained in the management of the recovery area and is capable of  
217 providing basic cardiopulmonary resuscitation and related  
218 emergency procedures remain ~~remains~~ on the premises of the  
219 abortion clinic until all patients are discharged.

220 4.5. A physician ~~shall~~ sign the discharge order and be  
221 readily accessible and available until the last patient is  
222 discharged to facilitate the transfer of emergency cases if  
223 hospitalization of the patient or viable fetus is necessary.

224 5.6. A physician discuss ~~discusses~~ Rho(D) immune globulin  
225 with each patient for whom it is indicated and ensure ~~ensures~~  
226 that it is offered to the patient in the immediate postoperative  
227 period or ~~that it~~ will be available to her within 72 hours after  
228 completion of the abortion procedure. If the patient refuses the  
229 Rho(D) immune globulin, she and a witness must sign a refusal  
230 form approved by the agency which must be ~~shall be signed by the~~





950510

594-03723-16

231 ~~patient and a witness and~~ included in the medical record.  
232       ~~6.7.~~ Written instructions with regard to postabortion  
233 coitus, signs of possible problems, and general aftercare which  
234 are specific to the patient be ~~are~~ given to each patient. The  
235 instructions must include information ~~Each patient shall have~~  
236 ~~specific written instructions~~ regarding access to medical care  
237 for complications, including a telephone number for use in the  
238 event of a ~~to call for~~ medical emergency ~~emergencies~~.  
239       ~~7.8.~~ There is A ~~specified~~ minimum length of time be  
240 specified, by type of abortion procedure and duration of  
241 gestation, during which ~~that~~ a patient must remain ~~remains~~ in  
242 the recovery room ~~by type of abortion procedure and duration of~~  
243 ~~gestation~~.  
244       ~~8.9.~~ The physician ensure ~~ensures~~ that, with the patient's  
245 consent, a registered nurse, licensed practical nurse, advanced  
246 registered nurse practitioner, or physician assistant from the  
247 abortion clinic makes a good faith effort to contact the patient  
248 by telephone, ~~with the patient's consent,~~ within 24 hours after  
249 surgery to assess the patient's recovery.  
250       ~~9.10.~~ Equipment and services be ~~are~~ readily accessible to  
251 provide appropriate emergency resuscitative and life support  
252 procedures pending the transfer of the patient or viable fetus  
253 to the hospital.  
254       (7) If an ~~any~~ owner, operator, or employee of an abortion  
255 clinic fails to dispose of fetal remains and tissue in a  
256 sanitary manner pursuant to s. 381.0098, rules adopted  
257 thereunder, and rules adopted by the agency pursuant to this  
258 section ~~consistent with the disposal of other human tissue in a~~  
259 ~~competent professional manner,~~ the license of such clinic may be



950510

594-03723-16

260 suspended or revoked, and such person commits ~~is guilty of~~ a  
261 misdemeanor of the first degree, punishable as provided in s.  
262 775.082 or s. 775.083.

263 (8) Beginning February 1, 2017, and annually thereafter,  
264 the agency shall submit a report to the President of the Senate  
265 and the Speaker of the House of Representatives which summarizes  
266 all regulatory actions taken during the prior year by the agency  
267 under this chapter.

268 Section 5. Subsection (3) of section 390.014, Florida  
269 Statutes, is amended to read:

270 390.014 Licenses; fees.—

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

277 Section 6. Effective January 1, 2017, present subsection  
278 (3) of section 390.025, Florida Statutes, is amended, and new  
279 subsections (3), (4), and (5) are added to that section, to  
280 read:

281 390.025 Abortion referral or counseling agencies;  
282 penalties.—

283 (3) An abortion referral or counseling agency, as defined  
284 in subsection (1), shall register with the Agency for Health  
285 Care Administration. To register or renew a registration an  
286 applicant must pay an initial or renewal registration fee  
287 established by rule, which must not exceed the costs incurred by  
288 the agency in administering this section. Registrants must



950510

594-03723-16

289 include in any advertising materials the registration number  
290 issued by the agency and must renew their registration  
291 biennially.

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

294 (a) Facilities licensed pursuant to chapter 390, chapter  
295 395, chapter 400, or chapter 408;

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

299 (c) Health care practitioners, as defined in s. 456.001,  
300 who, in the course of their practice outside of a facility  
301 licensed pursuant to chapter 390, chapter 395, chapter 400, or  
302 chapter 408, refer five or fewer patients for abortions each  
303 month.

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

306 (6)~~(3)~~ Any person who violates the provisions of subsection  
307 (2) ~~this section~~ is guilty of a misdemeanor of the first degree,  
308 punishable as provided in s. 775.082 or s. 775.083. In addition  
309 to any other penalties imposed pursuant to this chapter, the  
310 Agency for Health Care Administration may assess costs related  
311 to an investigation of violations of this section which results  
312 in a successful prosecution. Such costs may not include attorney  
313 fees.

314 Section 7. Section 873.05, Florida Statutes, is amended to  
315 read:

316 873.05 Advertising, purchase, ~~or sale,~~ or transfer of human  
317 embryos or fetal remains prohibited.-



950510

594-03723-16

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

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

324 (2) A person may not advertise or offer to purchase, sell,  
325 donate, or transfer, or purchase, sell, donate, or transfer,  
326 fetal remains obtained from an abortion, as defined in s.  
327 390.011. This subsection does not prohibit the transportation or  
328 transfer of fetal remains for disposal pursuant to s. 381.0098  
329 or rules adopted thereunder.

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

333 Section 8. Except as otherwise expressly provided in this  
334 act, this act shall take effect July 1, 2016.