

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 300

INTRODUCER: Senators Grall and Gruters

SUBJECT: Pregnancy and Parenting Support

DATE: March 17, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<b>Favorable</b>
2.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 300 amends and creates multiple provisions of law related to pregnancy support and wellness services, the state's Family Planning Program, and the termination of pregnancies.

The bill prohibits abortion after six weeks of gestation unless an exception is met. Current-law exceptions to abortion time frames are maintained and a new exception is established for cases in which the pregnancy is the result of rape or incest. This new exception is available until the 15<sup>th</sup> week of gestation under the bill.

The bill specifies that abortions, including medical abortions,<sup>1</sup> may not be provided through telehealth and that medication intended for the use in a medical abortion may only be dispensed by a physician and may not be dispensed via the U.S. Postal Service or by any other carrier. The bill also prohibits any person, educational institution, and governmental entity from expending state funds for a person to travel to another state to receive services that are intended to support an abortion, unless such expenditure is required by federal law or there is a legitimate medical emergency.

SB 300 also amends the pregnancy support and wellness services network established in s. 381.96, F.S., to expand eligibility for such services to women who have given birth in the past 12 months and to parents or guardians of children under the age of three for up to 12 months. The bill adds new services and assistance which the network is required to provide, including counseling, mentoring, educational materials, and classes as well as material assistance including clothing, car seats, cribs formula, and diapers. The bill also requires that the Department of Health (DOH) report to the Governor and the Legislature annually on the types, amount, and costs of services provided as well as demographic information on persons who receive such services.

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<sup>1</sup> Section 390.011(9), F.S., provides that “medical abortion” means the administration or use of an abortion-inducing drug to induce an abortion.

The bill appropriates \$25 million in recurring general revenue for the expanded network and specifies that contracted organizations in the network must spend at least 85 percent of the funds received on providing services and maintaining a hotline.

The bill also appropriates \$5 million in recurring general revenue, above what is currently appropriated in the General Appropriations Act (GAA), for family planning services provided by the Department of Health pursuant to s. 381.0051, F.S.

The bill makes other technical and clean-up changes, including repealing s. 390.01112, F.S., which is unused; clarifying that the current-law exception for fatal fetal anomalies is available until the third trimester of pregnancy, rather than until fetal viability; and repealing rulemaking language that is no longer applicable.

The provisions of the bill, other than the expansion of the pregnancy support network and the appropriations which are effective upon becoming law, are effective 30 days after one of several events occurs. These events include a Florida Supreme court ruling overturning *In re T.W.*,<sup>2</sup> or one of several other related cases; a Florida Supreme court ruling stating that the privacy clause in the Florida Constitution does not protect the right to abortion; or an amendment to the Florida Constitution which provides the same.

## II. Present Situation:

### Federal Case Law on Abortion

#### *Roe v. Wade*

In 1973, the U.S. Supreme Court issued the landmark *Roe v. Wade* decision.<sup>3</sup> Using the strict scrutiny standard, the Court determined that a woman's right to terminate a pregnancy is protected by a fundamental right to privacy guaranteed under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. Further, the Court reasoned that state regulations limiting the exercise of this right must be justified by a compelling state interest and must be narrowly drawn.

#### *Casey*

In 1992, the U.S. Supreme Court ruled on the constitutionality of a Pennsylvania statute involving a 24-hour waiting period between the provision of information to a woman and the performance of an abortion. In that decision, *Planned Parenthood of Southeastern Pennsylvania v. Casey* (a.k.a. "*Casey*"),<sup>4</sup> the Court upheld the statute and relaxed the standard of review in abortion cases involving adult women from "strict scrutiny" to "unduly burdensome." Under *Casey*, an undue burden exists and makes a statute invalid if the statute's purpose or effect is to place a substantial obstacle in the way of a woman seeking an abortion before the fetus is viable.

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<sup>2</sup> The seminal case on abortion, discussed in the present situation.

<sup>3</sup> *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973)

<sup>4</sup> *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992)

The Court held that the undue burden standard is an appropriate means of reconciling a state's interest in human life with the woman's constitutionally protected liberty to decide whether to terminate a pregnancy. The Court determined that, prior to fetal viability, a woman has the right to an abortion without being unduly burdened by government interference. Before viability, a state's interests are not strong enough under *Casey* to support prohibiting an abortion or the imposition of a substantial obstacle to the woman's right to select the procedure. However, once viability occurs, a state has the power to restrict abortions if the law contains exceptions for pregnancies that endanger a woman's life or health.

### ***Dobbs***

On June 24, 2022, the U.S. Supreme Court ruled on *Jackson Women's Health Org. v. Dobbs* (a.k.a. "*Dobbs*"),<sup>5</sup> a case involving Mississippi's Gestational Age Act. The Gestational Age Act prohibited all abortions after 15 weeks of gestational age and was permanently enjoined by the lower courts in 2019. In *Dobbs*, the U.S. Supreme Court explicitly and entirely overruled *Roe v. Wade* and *Casey*, returning all abortion regulation decisions back to state control. The Court stated:

[*Roe v. Wade*] was...egregiously wrong and on a collision course with the Constitution from the day it was decided. *Casey* perpetuated its errors, calling both sides of the national controversy to resolve their debate, but in doing so, *Casey* necessarily declared a winning side. Those on the losing side—those who sought to advance the State's interest in fetal life—could no longer seek to persuade their elected representatives to adopt policies consistent with their views. The Court short-circuited the democratic process by closing it to the large number of Americans who disagreed with *Roe*.<sup>6</sup>

The Court's final holding was that "the Constitution does not confer a right to abortion; *Roe* and *Casey* are overruled; and the authority to regulate abortion is returned to the people and their elected representatives."<sup>7</sup>

In Florida, however, abortion restrictions established under Florida Statutes are still held to the stricter standard established in *In re T.W.* (discussed below) unless the Florida Supreme Court eventually overturns the decision in that case.

### **Abortion Law in Florida**

Under Florida law, abortion is defined as the termination of a human pregnancy with an intention other than to produce a live birth or remove a dead fetus.<sup>8</sup> The termination of a pregnancy must be performed by a physician<sup>9</sup> licensed under ch. 458, F.S., or ch. 459, F.S., or a physician practicing medicine or osteopathic medicine in the employment of the United States.<sup>10</sup> The

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<sup>5</sup> *Jackson Women's Health Org. v. Currier*, 349 F. Supp. 3d 536 (S.D. Miss. 2018), *aff'd sub nom. Jackson Women's Health Org. v. Dobbs*, 945 F.3d 265 (5th Cir. 2019)

<sup>6</sup> *Dobbs v. Jackson Women's Health Org.*, No. 19-1392, 2022 WL 2276808 (U.S. June 24, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> Section 390.011(1), F.S.

<sup>9</sup> Section 390.011(2), F.S.

<sup>10</sup> Section 390.011(8), F.S.

Agency for Health Care Administration (AHCA) is responsible for licensing abortion clinics pursuant to ch. 390, F.S.

The termination of a pregnancy may not be performed after 15 weeks gestation<sup>11</sup> unless there is a medical necessity or the fetus has a fatal fetal abnormality. Specifically, an abortion may not be performed after 15 weeks unless two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman, other than a psychological condition. If a second physician is not available, one physician may certify in writing to the medical necessity for legitimate emergency medical procedures for the termination of the pregnancy.<sup>12</sup> Additionally, an abortion may not be performed on a minor under the age of 18 without the consent of the minor's parent or guardian or without the minor obtaining authorization for the abortion from a court.<sup>13</sup>

Sections 390.0111(4) and 390.01112(3), F.S., provide that if a termination of pregnancy is performed during the third trimester or during viability, the physician who performs or induces the termination of pregnancy must use that degree of professional skill, care, and diligence to preserve the life and health of the fetus, which the physician would be required to exercise in order to preserve the life and health of any fetus intended to be born and not aborted. However, the woman's life and health constitute an overriding and superior consideration to the concern for the life and health of the fetus when the concerns are in conflict. A termination of pregnancy after viability in an emergency situation must be performed in a hospital.<sup>14</sup>

### **Legal Challenge of the 15-Week Time Frame**

The portions of ch. 2022-69, L.O.F., related to abortion were challenged by Planned Parenthood (Planned Parenthood v. the State of Florida), and the Second Judicial Circuit Court issued a temporary injunction preventing the law from being enforced, stating that the law does not meet the constitutional standards established under Florida case law in *In re T.W.*, (551 So. 2d 1186 (Fla. 1989)). However, upon appeal, the injunction was automatically stayed and the First District Court of Appeal declined to reverse the automatic stay.

Planned Parenthood of Southwest and Central Florida appealed the order declining to reverse the stay to the Florida Supreme Court. Additionally, Planned Parenthood asked the Supreme Court to accept jurisdiction over the case. On Jan. 23, 2023, the Court both accepted jurisdiction of the case and denied the motion to vacate the automatic stay of the temporary injunction. Currently, the case resides at the Supreme Court. The Petitioner's initial brief on the merits of the case was served on Feb. 27, 2023, and the response to the brief is due 30 days from then.<sup>15</sup>

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<sup>11</sup> In the 2022 session the Florida Legislature passed HB 5, a ban on abortions after 15 weeks of gestation with exceptions for emergencies, substantial physical impairment of a major bodily function, and genetic conditions incompatible with life outside of the womb and that will result in death upon birth or imminently thereafter. The law took effect on July 1, 2022.

<sup>12</sup> Sections 390.0111(1) and 390.01112(1), F.S.

<sup>13</sup> Section 390.01114, F.S.

<sup>14</sup> Section 797.03(3), F.S.

<sup>15</sup> PLANNED PARENTHOOD OF SOUTHWEST & CENTRAL FLORIDA, ET AL. vs. STATE OF FLORIDA, ET AL. 1<sup>st</sup> DCA case no. 1D22-2034 and Supreme Court case number SC22-1050.

**Florida Case Law on Abortion: *In re T.W.***

In the 1989 case *In re T.W., a Minor*,<sup>16</sup> the Florida Supreme Court upheld a lower court ruling striking the requirement that a minor obtain parental consent prior to obtaining an abortion. This ruling is the controlling case law for abortion law in Florida and is of consequence because, rather than standing the ruling upon the established federal case law of *Roe v. Wade* and *Casey*, the Florida Supreme Court determined that:

To be held constitutional, the instant statute must pass muster under both the federal and state constitutions. Were we to examine it solely under the federal Constitution, our analysis necessarily would track the decisions noted above. However, Florida is unusual in that it is one of at least four states having its own express constitutional provision guaranteeing an independent right to privacy,... and we opt to examine the statute first under the Florida Constitution. If it fails here, then no further analysis under federal law is required.

The Court determined that the right to privacy enshrined in Art. I, S. 23 of the Florida Constitution “is clearly implicated in a woman's decision of whether or not to continue her pregnancy.” Therefore, unlike under the Federal Constitution which requires a state only to show that a restriction on abortion is not “unduly burdensome,” in Florida the state must show that the abortion restriction “furthers a compelling state interest through the least intrusive means.”

The court further determined that “Under our Florida Constitution, the state's interest becomes compelling upon viability, as defined below. Until this point, the fetus is a highly specialized set of cells that is entirely dependent upon the mother for sustenance. No other member of society can provide this nourishment. The mother and fetus are so inextricably intertwined that their interests can be said to coincide. Upon viability, however, society becomes capable of sustaining the fetus, and its interest in preserving its potential for life thus becomes compelling.”

**Florida Pregnancy Support and Services Network**

Section 381.96, F.S., establishes the Florida Pregnancy Care Network (Network) defined as a “not-for-profit statewide alliance of pregnancy support organizations that provide pregnancy support and wellness services through a comprehensive system of care to women and their families.” The statute requires the DOH to contract with the network for the management and delivery of pregnancy support and wellness services to eligible clients and draws a distinction between pregnancy support services and wellness services. Pregnancy support services are services that promote and encourage childbirth, including:

- Direct client services, such as pregnancy testing, counseling, referral, training, and education for pregnant women and their families. A woman and her family shall continue to be eligible to receive direct client services for up to 12 months after the birth of the child.
- Program awareness activities, including a promotional campaign to educate the public about the pregnancy support services offered by the network and a website that provides information on the location of providers in the user’s area and other available community resources.

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<sup>16</sup> *In re T.W.*, 551 So. 2d 1186 (Fla. 1989)

- Communication activities, including the operation and maintenance of a hotline or call center with a single statewide toll-free number that is available 24 hours a day for an eligible client to obtain the location and contact information for a pregnancy center located in the client's area.

Wellness services are services or activities intended to maintain and improve health or prevent illness and injury, including, but not limited to, high blood pressure screening, anemia testing, thyroid screening, cholesterol screening, diabetes screening, and assistance with smoking cessation.

Pregnancy support services are available to a pregnant woman or woman who suspects she is pregnant, and the family of such a woman, while wellness support services are available to any woman who seeks such services.

The section establishes contracting provisions which require the DOH to:

- Establish, implement, and monitor a comprehensive system of care through subcontractors to meet the pregnancy support and wellness needs of eligible clients.
- Establish and manage subcontracts with a sufficient number of providers to ensure the availability of pregnancy support and wellness services for eligible clients, and maintain and manage the delivery of such services throughout the contract period.
- Spend at least 90 percent of the contract funds on pregnancy support and wellness services.
- Offer wellness services through vouchers or other appropriate arrangements that allow the purchase of services from qualified health care providers.
- Require a background screening under s. 943.0542, F.S., for all paid staff and volunteers of a subcontractor if such staff or volunteers provide direct client services to an eligible client who is a minor or an elderly person or who has a disability.
- Annually monitor its subcontractors and specify the sanctions that shall be imposed for noncompliance with the terms of a subcontract.
- Subcontract only with providers that exclusively promote and support childbirth.
- Ensure that informational materials provided to an eligible client by a provider are current and accurate and cite the reference source of any medical statement included in such materials.

This section of statute specifies that services provided pursuant to the section must be provided in a non-coercive manner and may not include religious content.

### **The Comprehensive Family Planning Act**

Section 381.0051, F.S., establishes the Comprehensive Family Planning Act (Act). The Act requires the DOH to implement a comprehensive family planning program which must include, but is not limited to:

- Comprehensive family planning education and counseling programs.
- Prescription for and provision of all medically recognized methods of contraception.
- Medical evaluation, including cytological examination and other appropriate laboratory studies.

- Treatment of physical complications other than pregnancy resulting from the use of contraceptive methods.

The program must provide services at locations and times readily available to the population served and must emphasize service to postpartum mothers. The services are to be available to anyone who desires them on a fee schedule based on the cost of service and the individual's ability to pay.<sup>17</sup> Family planning and related health services are available in all 67 counties through local county health departments or contracted agencies.<sup>18</sup>

Minors are able to receive maternal health, contraceptive information, and services of a nonsurgical nature<sup>19</sup> if the services are provided by a physician or by the DOH directly through the program and if the minor:

- Is married;
- Is a parent;
- Is pregnant;
- Has the consent of a parent or legal guardian; or
- May, in the opinion of the physician, suffer probable health hazards if such services are not provided.

### **Medical Abortion**

Medical abortion is a two-step process that does not require surgical intervention. Medical abortions consist of a health care practitioner, usually a physician, providing a patient with mifepristone and misoprostol. The FDA has approved the use of these drugs during the first 70 days of a pregnancy under the following dosing regimen:<sup>20</sup>

- 200 mg of mifepristone taken by mouth. This blocks progesterone, which is a hormone that is necessary for a pregnancy to continue. Without progesterone, the embryo or fetus detaches from the uterine wall.
- 24 to 48 hours after taking mifepristone: 800 mcg of misoprostol taken buccally (in the cheek pouch), at a location appropriate for the patient. This softens and dilates the cervix and causes uterine contractions that expel the detached embryo or fetus.
- Seven to fourteen days after taking mifepristone: follow-up visit with the health care provider to confirm that the abortion is complete.

Originally, the FDA required practitioners to dispense mifepristone only in clinics, medical offices, and hospitals.<sup>21</sup> This necessitates an in-person visit to obtain the drugs. This requirement

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<sup>17</sup> One such fee schedule, from Martin County Health Department, for 2020/2021 provides for costs between \$28.32 and \$166.59 for most family planning items including annual exams and IUD insertion and removal. This fee schedule is available at <https://martin.floridahealth.gov/about-us/documents/familyplanningfees2021.pdf>, (last visited March 16, 2023).

<sup>18</sup> Family Planning, DOH website, available at <https://www.floridahealth.gov/programs-and-services/womens-health/family-planning/index.html>, (last visited March 16, 2023).

<sup>19</sup> The section specifies that the application of a nonpermanent internal contraceptive device is deemed to be nonsurgical.

<sup>20</sup> *Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, U.S. Food & Drug Administration, available at <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation> (last visited March 16, 2023).

<sup>21</sup> *Id.*

discourages the use of telemedicine, although there is no express federal prohibition against using telemedicine for a medical abortion.

In April 2021, the FDA waived this in-person dispensing requirement for the duration of the COVID-19 federal public health emergency.<sup>22</sup> This allowed patients to receive abortion-inducing drugs through the mail or other home delivery services. This increased the probability of prescribers using telemedicine to perform medical abortion in states where not prohibited by state law. On December 16, 2021, the FDA permanently removed the in-person dispensing requirement.<sup>23</sup>

### **Telehealth**

Telehealth is a mechanism for delivery of health care services. Health care professionals use telehealth as a platform to provide traditional health care services in a non-traditional manner. These services include, among others, preventative medicine and the treatment of chronic conditions.<sup>24</sup> Section 456.74, F.S., enacted in 2019, regulates the use of telehealth by Florida and out-of-state health care providers.

Current law broadly defines telehealth as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to:<sup>25</sup>

- Assessment, diagnosis, consultation, treatment, and monitoring of a patient;
- Transfer of medical data;
- Patient and professional health-related education;
- Public health services; and
- Health administration.

A patient receiving telehealth services may be in any location at the time services are rendered and a telehealth provider may be in any location when providing telehealth services to a patient.

Health care services may be provided via telehealth by a Florida-licensed health care practitioner, a practitioner licensed under a multistate health care licensure compact of which Florida is a member,<sup>26</sup> or an out-of-state-health care provider who registers with the Department of Health.<sup>27</sup>

Current law requires telehealth providers to meet the same standard of care required for in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services.<sup>28</sup>

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> U.S. Department of Health and Human Services, *Report to Congress: E-Health and Telemedicine* (August 12, 2016), available at <https://aspe.hhs.gov/system/files/pdf/206751/TelemedicineE-HealthReport.pdf> (last visited March 16, 2023).

<sup>25</sup> S. 456.47(1)(a), F.S.

<sup>26</sup> Florida is a member of the Nurse Licensure Compact. *See* s. 464.0095, F.S.

<sup>27</sup> S. 456.47(4), F.S.

<sup>28</sup> S. 456.47(2), F.S.



### III. Effect of Proposed Changes:

#### Abortion Restrictions

SB 300 amends several sections of the Florida Statutes, and creates one new section of law, relating to abortion.

The bill amends s. 390.0111, F.S., to prohibit a physician from knowingly performing or inducing an abortion after six weeks of gestation.<sup>29</sup> The bill maintains current-law exceptions to abortion time frames and applies them to the six-week prohibition, including exceptions for the life and health of the mother, for emergency situations, and for a fetus with a fatal fetal abnormality.

The bill adds one new exception for cases in which the pregnancy is the result of rape or incest and the gestational age of the fetus is not more than 15 weeks. In order to qualify for the exception for rape or incest, at the time a pregnant woman schedules or arrives for her appointment to obtain the abortion, she must provide a copy of a restraining order, police report, medical record, or other court order or documentation providing evidence that she is obtaining the abortion because she is the victim of rape or incest. If the woman is a minor, the bill requires that the physician report the incident of rape or incest to the central abuse hotline as required by s. 39.201, F.S.

The bill specifies that only an allopathic or osteopathic physician may perform or induce an abortion and that a physician may not use telehealth to perform an abortion, including, but not limited to, medical abortions. The bill also amends s. 456.47, F.S., to include the prohibition on the use of telehealth in the established practice standards for telehealth.

The bill prohibits medications intended for use in a medical abortion from being dispensed by anyone other than a physician and from being dispensed through the United States Postal Service or by any other courier or shipping service.

Additionally, the bill creates s. 286.31, F.S., to prohibit any person, educational institution, or governmental entity from using state funds<sup>30</sup> for a person to travel to another state to receive services that are intended to support an abortion. The bill defines:

- “Educational institution” to mean any public institutions under the control of a district school board, a charter school, a state university, a developmental research school, a Florida College System institution, the Florida School for the Deaf and the Blind, the Florida Virtual School, private school readiness programs, voluntary prekindergarten programs, private K-12 schools, and private colleges and universities.
- “Governmental entity” to mean the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; and any agencies that are subject to ch. 286, F.S.

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<sup>29</sup> “Gestation” is defined in s. 390.

<sup>30</sup> As defined in s. 215.31, F.S., “state funds” means revenue, including licenses, fees, imposts, or exactions collected or received under the authority of the laws of the state by each and every state official, office, employee, bureau, division, board, commission, institution, agency, or undertaking of the state or the judicial branch

The bill provides exceptions to this prohibition when the person, governmental entity, or educational institution is required by federal law to expend state funds for such a purpose and for cases of a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or to avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman, other than a psychological condition.

### **Expansion of the Florida Pregnancy Care Network**

SB 300 amends s. 381.986, F.S., to expand the Network.

The bill amends to the definition of "eligible client" to add eligibility for:

- Women who have given birth in the previous 12 months; and
- Parents, or legal guardians, for up to 12 months after the birth of a child or the adoption of a child younger than three years of age.

The bill also amends the definition of "pregnancy support services" to be "pregnancy and parenting support services" and makes the following services available:

- Nonmedical material assistance that improves the pregnancy or parenting situation of families, including, but not limited to, clothing, car seats, cribs, formula, and diapers; and
- Counseling or mentoring, education materials, and classes regarding pregnancy, parenting, adoption, life skills, and employment readiness.

The bill requires the DOH's contract with the Network to require the Network to spend at least 85 percent of contract funds on pregnancy and parenting support services and to exclude network awareness activities from the services that qualify to make up the required 85 percent.<sup>31</sup>

Additionally, by July 1, 2024, and annually thereafter, the bill requires the DOH to report to the Governor and the Legislature on the amount and types of services provided by the network; the expenditures for such services; and the number of, and demographic information for, women, parents, and families served by the network. The bill also requires DOH's contract with the Network to ensure the DOH is provided with all information necessary for the annual report detailed below.

### **Funding Provisions**

In addition to any funds appropriated in the General Appropriations Act, SB 300 appropriates \$5 million in recurring funds from the General Revenue Fund (GR) to the DOH for the purpose of implementing the Family Planning Program, specifically subsections (3), (4), and (6) and s. 381.0051, F.S.

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<sup>31</sup> Current law requires the Network to spend at least 90 percent of funds on pregnancy support services, but also includes network awareness activities in the services that count toward the 90 percent. Effectively this change will limit the amount spent on network awareness activities, which includes a promotional campaign and a website, to 5 percent of the contracted funds.

The bill also appropriates \$25 million in recurring GR funds to the DOH for the purpose of implementing the expanded Florida Pregnancy Care Network.

### **Clean-Up Provisions**

SB 300 repeals s. 390.01112, F.S., which restricts abortion at the point of viability. This section is obsolete and is not used. Additionally, the bill strikes rule language requiring AHCA rules for abortion clinics to not impose an unconstitutional burden on a woman's freedom to decide whether to terminate her pregnancy. If the bill becomes effective due to one of the effective date triggers (detailed below), this provision will no longer be applicable as there will no longer be constitutional restraints on the ability for the Legislature to restrict abortion.

### **Effective Date**

Other than the expansion of the Network and the appropriation provisions, which are effective upon becoming law, SB 300 provides that the bill is effective 30 days after one of the following occurs:

- A decision by the Florida Supreme Court holding that the right to privacy enshrined in s. 23, Article I of the State Constitution does not include a right to abortion;
- A decision by the Florida Supreme Court in *Planned Parenthood v. State*, SC2022-1050, that allows the prohibition on abortions after 15 weeks in s. 390.0111(1), F.S., to remain in effect, including a decision approving, in whole or in part, the First District Court of Appeal's decision under review or a decision discharging jurisdiction;
- An amendment to the State Constitution clarifying that s. 23, Article I of the State Constitution does not include a right to abortion; or
- A decision from the Florida Supreme Court after March 7, 2023, receding, in whole or in part, from *In re T.W.*, 551 So. 2d 1186 (Fla. 1989), *North Fla. Women's Health v. State*, 866 So. 2d 612 (Fla. 2003), or *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243 (Fla. 2017).

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

E. **Other Constitutional Issues:**

Because the provisions of the bill that might be challenged as unconstitutional do not become law unless specified criteria are met which would render such provisions constitutional, there are likely no constitutional issues with SB 300.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

None.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.96, 390.0111, 390.012, and 456.47.

This bill creates section 286.31 of the Florida Statutes.

This bill repeals section 390.01112 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.