

2023300er

1
2 An act relating to pregnancy and parenting support;
3 providing a short title; creating s. 286.31, F.S.;
4 defining the terms "educational institution" and
5 "governmental entity"; prohibiting any person,
6 governmental entity, or educational institution from
7 expending state funds for a specified purpose;
8 providing exceptions; amending s. 381.96, F.S.;
9 revising the definitions of the terms "eligible
10 client" and "pregnancy and parenting support
11 services"; requiring the Department of Health to
12 contract for the management and delivery of parenting
13 support services, in addition to pregnancy support
14 services; revising the contract requirements to
15 conform to changes made by the act; requiring the
16 department to report specified information to the
17 Governor and the Legislature by a specified date each
18 year; amending s. 390.0111, F.S.; prohibiting
19 physicians from knowingly performing or inducing a
20 termination of pregnancy after the gestational age of
21 the fetus is determined to be more than 6 weeks,
22 rather than 15 weeks, with exceptions; providing an
23 exception if the woman obtaining the abortion is doing
24 so because she is a victim of rape, incest, or human
25 trafficking, subject to certain conditions; requiring
26 physicians to report known or suspected human
27 trafficking of adults to local law enforcement;
28 requiring physicians to report incidents of rape,
29 incest, or human trafficking of minors to the central

2023300er

30 abuse hotline; prohibiting any person other than a
31 physician from inducing a termination of pregnancy;
32 prohibiting physicians from using telehealth to
33 perform abortions; requiring that medications intended
34 for use in a medical abortion be dispensed in person
35 by a physician; prohibiting the dispensing of such
36 medication through the United States Postal Service or
37 any other courier or shipping service; conforming
38 provisions to changes made by the act; repealing s.
39 390.01112, F.S., relating to termination of
40 pregnancies during viability; amending s. 390.012,
41 F.S.; revising rules the Agency for Health Care
42 Administration may develop and enforce to regulate
43 abortion clinics; amending s. 456.47, F.S.;
44 prohibiting telehealth providers from using telehealth
45 to provide abortions; providing appropriations;
46 providing effective dates.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. This act may be cited as the "Heartbeat
51 Protection Act."

52 Section 2. Section 286.31, Florida Statutes, is created to
53 read:

54 286.31 Prohibited use of state funds.—

55 (1) As used in this section, the term:

56 (a) "Educational institution" means public institutions
57 under the control of a district school board, a charter school,
58 a state university, a developmental research school, a Florida

2023300er

59 College System institution, the Florida School for the Deaf and
60 the Blind, the Florida Virtual School, private school readiness
61 programs, voluntary prekindergarten programs, private K-12
62 schools, and private colleges and universities.

63 (b) "Governmental entity" means the state or any political
64 subdivision thereof, including the executive, legislative, and
65 judicial branches of government; the independent establishments
66 of the state, counties, municipalities, districts, authorities,
67 boards, or commissions; and any agencies that are subject to
68 chapter 286.

69 (2) Any person, governmental entity, or educational
70 institution may not expend state funds as defined in s. 215.31
71 in any manner for a person to travel to another state to receive
72 services that are intended to support an abortion as defined in
73 s. 390.011, unless:

74 (a) The person, governmental entity, or educational
75 institution is required by federal law to expend state funds for
76 such a purpose; or

77 (b) There is a medical necessity for legitimate emergency
78 medical procedures for termination of the pregnancy to save the
79 pregnant woman's life or to avert a serious risk of imminent
80 substantial and irreversible physical impairment of a major
81 bodily function of the pregnant woman other than a psychological
82 condition.

83 Section 3. Effective upon this act becoming a law, section
84 381.96, Florida Statutes, is amended to read:

85 381.96 Pregnancy support and wellness services.—

86 (1) DEFINITIONS.—As used in this section, the term:

87 (a) "Department" means the Department of Health.

2023300er

88 (b) "Eligible client" means any of the following:

89 1. A pregnant woman or a woman who suspects she is
90 pregnant, and the family of such woman, who voluntarily seeks
91 pregnancy support services and any woman who voluntarily seeks
92 wellness services.

93 2. A woman who has given birth in the previous 12 months
94 and her family.

95 3. A parent or parents or a legal guardian or legal
96 guardians, and the families of such parents and legal guardians,
97 for up to 12 months after the birth of a child or the adoption
98 of a child younger than 3 years of age.

99 (c) "Florida Pregnancy Care Network, Inc.," or "network"
100 means the not-for-profit statewide alliance of pregnancy support
101 organizations that provide pregnancy support and wellness
102 services through a comprehensive system of care to women and
103 their families.

104 (d) "Pregnancy and parenting support services" means
105 services that promote and encourage childbirth, including, but
106 not limited to:

107 1. Direct client services, such as pregnancy testing,
108 counseling, referral, training, and education for pregnant women
109 and their families. ~~A woman and her family shall continue to be~~
110 ~~eligible to receive direct client services for up to 12 months~~
111 ~~after the birth of the child.~~

112 2. Nonmedical material assistance that improves the
113 pregnancy or parenting situation of families, including, but not
114 limited to, clothing, car seats, cribs, formula, and diapers.

115 3. Counseling or mentoring, education materials, and
116 classes regarding pregnancy, parenting, adoption, life skills,

2023300er

117 and employment readiness.

118 4. Network Program awareness activities, including a
119 promotional campaign to educate the public about the pregnancy
120 support services offered by the network and a website that
121 provides information on the location of providers in the user's
122 area and other available community resources.

123 ~~5.3.~~ Communication activities, including the operation and
124 maintenance of a hotline or call center with a single statewide
125 toll-free number that is available 24 hours a day for an
126 eligible client to obtain the location and contact information
127 for a pregnancy center located in the client's area.

128 (e) "Wellness services" means services or activities
129 intended to maintain and improve health or prevent illness and
130 injury, including, but not limited to, high blood pressure
131 screening, anemia testing, thyroid screening, cholesterol
132 screening, diabetes screening, and assistance with smoking
133 cessation.

134 (2) DEPARTMENT DUTIES.—The department shall contract with
135 the network for the management and delivery of pregnancy and
136 parenting support services and wellness services to eligible
137 clients.

138 (3) CONTRACT REQUIREMENTS.—The department contract shall
139 specify the contract deliverables, including financial reports
140 and other reports due to the department, timeframes for
141 achieving contractual obligations, and any other requirements
142 the department determines are necessary, such as staffing and
143 location requirements. The contract shall require the network
144 to:

145 (a) Establish, implement, and monitor a comprehensive

2023300er

146 system of care through subcontractors to meet the pregnancy and
147 parenting support and wellness needs of eligible clients.

148 (b) Establish and manage subcontracts with a sufficient
149 number of providers to ensure the availability of pregnancy and
150 parenting support services and wellness services for eligible
151 clients, and maintain and manage the delivery of such services
152 throughout the contract period.

153 (c) Spend at least 85 ~~90~~ percent of the contract funds on
154 pregnancy and parenting support services, excluding services
155 specified in subparagraph (1)(d)4., and wellness services.

156 (d) Offer wellness services through vouchers or other
157 appropriate arrangements that allow the purchase of services
158 from qualified health care providers.

159 (e) Require a background screening under s. 943.0542 for
160 all paid staff and volunteers of a subcontractor if such staff
161 or volunteers provide direct client services to an eligible
162 client who is a minor or an elderly person or who has a
163 disability.

164 (f) Annually monitor its subcontractors and specify the
165 sanctions that shall be imposed for noncompliance with the terms
166 of a subcontract.

167 (g) Subcontract only with providers that exclusively
168 promote and support childbirth.

169 (h) Ensure that informational materials provided to an
170 eligible client by a provider are current and accurate and cite
171 the reference source of any medical statement included in such
172 materials.

173 (i) Ensure that the department is provided with all
174 information necessary for the report required under subsection

2023300er

175 (5).

176 (4) SERVICES.—Services provided pursuant to this section
177 must be provided in a noncoercive manner and may not include any
178 religious content.

179 (5) REPORT.—By July 1, 2024, and each year thereafter, the
180 department shall report to the Governor, the President of the
181 Senate, and the Speaker of the House of Representatives on the
182 amount and types of services provided by the network; the
183 expenditures for such services; and the number of, and
184 demographic information for, women, parents, and families served
185 by the network.

186 Section 4. Subsections (1), (2), (10), and (13) of section
187 390.0111, Florida Statutes, are amended to read:

188 390.0111 Termination of pregnancies.—

189 (1) TERMINATION AFTER GESTATIONAL AGE OF 6 ~~15~~ WEEKS; WHEN
190 ALLOWED.—A physician may not knowingly perform or induce a
191 termination of pregnancy if the physician determines the
192 gestational age of the fetus is more than 6 ~~15~~ weeks unless one
193 of the following conditions is met:

194 (a) Two physicians certify in writing that, in reasonable
195 medical judgment, the termination of the pregnancy is necessary
196 to save the pregnant woman's life or avert a serious risk of
197 substantial and irreversible physical impairment of a major
198 bodily function of the pregnant woman other than a psychological
199 condition.

200 (b) The physician certifies in writing that, in reasonable
201 medical judgment, there is a medical necessity for legitimate
202 emergency medical procedures for termination of the pregnancy to
203 save the pregnant woman's life or avert a serious risk of

2023300er

204 imminent substantial and irreversible physical impairment of a
205 major bodily function of the pregnant woman other than a
206 psychological condition, and another physician is not available
207 for consultation.

208 (c) The pregnancy has not progressed to the third trimester
209 fetus has not achieved viability under s. 390.01112 and two
210 physicians certify in writing that, in reasonable medical
211 judgment, the fetus has a fatal fetal abnormality.

212 (d) The pregnancy is the result of rape, incest, or human
213 trafficking and the gestational age of the fetus is not more
214 than 15 weeks as determined by the physician. At the time the
215 woman schedules or arrives for her appointment to obtain the
216 abortion, she must provide a copy of a restraining order, police
217 report, medical record, or other court order or documentation
218 providing evidence that she is obtaining the termination of
219 pregnancy because she is a victim of rape, incest, or human
220 trafficking. If the woman is 18 years of age or older, the
221 physician must report any known or suspected human trafficking
222 to a local law enforcement agency. If the woman is a minor, the
223 physician must report the incident of rape, incest, or human
224 trafficking to the central abuse hotline as required by s.
225 39.201.

226 (2) IN-PERSON PERFORMANCE BY PHYSICIAN REQUIRED.—Only a
227 physician may perform or induce a ~~No~~ termination of pregnancy
228 shall be performed at any time except by a physician as defined
229 in s. 390.011. A physician may not use telehealth as defined in
230 s. 456.47 to perform an abortion, including, but not limited to,
231 medical abortions. Any medications intended for use in a medical
232 abortion must be dispensed in person by a physician and may not

2023300er

233 be dispensed through the United States Postal Service or by any
234 other courier or shipping service.

235 (10) PENALTIES FOR VIOLATION.—Except as provided in
236 subsections (3), (7), and (12):

237 (a) Any person who willfully performs, or actively
238 participates in, a termination of pregnancy in violation of the
239 requirements of this section ~~or s. 390.01112~~ commits a felony of
240 the third degree, punishable as provided in s. 775.082, s.
241 775.083, or s. 775.084.

242 (b) Any person who performs, or actively participates in, a
243 termination of pregnancy in violation of this section ~~or s.~~
244 ~~390.01112~~ which results in the death of the woman commits a
245 felony of the second degree, punishable as provided in s.
246 775.082, s. 775.083, or s. 775.084.

247 (13) FAILURE TO COMPLY.—Failure to comply with the
248 requirements of this section ~~or s. 390.01112~~ constitutes grounds
249 for disciplinary action under each respective practice act and
250 under s. 456.072.

251 Section 5. Section 390.01112, Florida Statutes, is
252 repealed.

253 Section 6. Subsection (1) of section 390.012, Florida
254 Statutes, is amended to read:

255 390.012 Powers of agency; rules; disposal of fetal
256 remains.—

257 (1) The agency may develop and enforce rules pursuant to
258 ss. 390.011–390.018 and part II of chapter 408 for the health,
259 care, and treatment of persons in abortion clinics and for the
260 safe operation of such clinics.

261 ~~(a)~~ The rules must ~~shall~~ be reasonably related to the

2023300er

262 preservation of maternal health of the clients and must.

263 ~~(b) The rules shall be in accordance with s. 797.03 and may~~
264 ~~not impose an unconstitutional burden on a woman's freedom to~~
265 ~~decide whether to terminate her pregnancy.~~

266 ~~(c) The rules shall provide for:~~

267 (a)1. The performance of pregnancy termination procedures
268 only by a licensed physician.

269 (b)2. The making, protection, and preservation of patient
270 records, which must ~~shall~~ be treated as medical records under
271 chapter 458. When performing a license inspection of a clinic,
272 the agency shall inspect at least 50 percent of patient records
273 generated since the clinic's last license inspection.

274 (c)3. Annual inspections by the agency of all clinics
275 licensed under this chapter to ensure that such clinics are in
276 compliance with this chapter and agency rules.

277 (d)4. The prompt investigation of credible allegations of
278 abortions being performed at a clinic that is not licensed to
279 perform such procedures.

280 Section 7. Paragraph (f) is added to subsection (2) of
281 section 456.47, Florida Statutes, to read:

282 456.47 Use of telehealth to provide services.—

283 (2) PRACTICE STANDARDS.—

284 (f) A telehealth provider may not use telehealth to perform
285 an abortion, including, but not limited to, medical abortions as
286 defined in s. 390.011.

287 Section 8. (1) For the 2023-2024 fiscal year:

288 (a) In addition to any funds appropriated in the General
289 Appropriations Act, the sum of \$5 million in recurring funds
290 from the General Revenue Fund is appropriated to the Department

2023300er

291 of Health for the purpose of implementing s. 381.0051(3), (4),
292 and (6), Florida Statutes.

293 (b) The sum of \$25 million in recurring funds from the
294 General Revenue Fund is appropriated to the Department of Health
295 for the purpose of implementing s. 381.96, Florida Statutes.

296 (2) This section takes effect upon this act becoming a law.

297 Section 9. Except as otherwise expressly provided in this
298 act and except for this section, which shall take effect upon
299 this act becoming a law, this act shall take effect 30 days
300 after any of the following occurs: a decision by the Florida
301 Supreme Court holding that the right to privacy enshrined in s.
302 23, Article I of the State Constitution does not include a right
303 to abortion; a decision by the Florida Supreme Court in *Planned*
304 *Parenthood v. State*, SC2022-1050, that allows the prohibition on
305 abortions after 15 weeks in s. 390.0111(1), Florida Statutes, to
306 remain in effect, including a decision approving, in whole or in
307 part, the First District Court of Appeal's decision under review
308 or a decision discharging jurisdiction; an amendment to the
309 State Constitution clarifying that s. 23, Article I of the State
310 Constitution does not include a right to abortion; or a decision
311 from the Florida Supreme Court after March 7, 2023, receding, in
312 whole or in part, from *In re T.W.*, 551 So. 2d 1186 (Fla. 1989),
313 *North Fla. Women's Health v. State*, 866 So. 2d 612 (Fla. 2003),
314 or *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243 (Fla.
315 2017).