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2 91st General Assembly
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4

As Engrossed: H2/10/17

A Bill

HOUSE BILL 1428

5 By: Representatives Lundstrum, Ballinger, Bentley, Cavanaugh, Coleman, Davis, Della Rosa, Dotson, C.
6 Douglas, Farrer, Gates, Gonzales, Hollowell, Jett, Lowery, Lynch, McCollum, D. Meeks, Miller, Penzo,
7 Payton, Pilkington, Richmond, Rye, B. Smith, Speaks, Warren, Watson, J. Williams
8 By: Senators Flippo, Bledsoe, A. Clark, B. Johnson
9

For An Act To Be Entitled

11 AN ACT TO AMEND LAWS CONCERNING UNLAWFUL ABORTIONS;
12 TO AMEND LAWS CONCERNING THE PROCEDURE OF DENIAL,
13 SUSPENSION, OR REVOCATION OF A HEALTH FACILITIES
14 SERVICE LICENSE; TO AMEND THE LAWS REGARDING ABORTION
15 CLINICS; AND FOR OTHER PURPOSES.
16
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Subtitle

19 TO AMEND LAWS CONCERNING UNLAWFUL
20 ABORTIONS; TO AMEND LAWS CONCERNING THE
21 PROCEDURE OF DENIAL, SUSPENSION, OR
22 REVOCATION OF A HEALTH FACILITIES SERVICE
23 LICENSE; AND TO AMEND THE LAWS REGARDING
24 ABORTION CLINICS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 5-61-101 is amended to read as follows:

30 5-61-101. Abortion only by licensed ~~medical practitioner~~ physician.

31 (a) It is unlawful for any person to induce another person to have an
32 abortion or to ~~willfully~~ knowingly terminate the pregnancy of a woman known
33 to be pregnant with the ~~intent~~ purpose to cause fetal death unless the person
34 is a physician licensed to practice medicine in the State of Arkansas.

35 (b) ~~Violation~~ A violation of subsection (a) of this section is a Class
36 D felony.



1 (c) ~~Nothing in this section shall be construed to~~ This section does
2 not allow the charging or conviction of a woman with any criminal offense in
3 the death of her own unborn child in utero.

4
5 SECTION 2. Arkansas Code § 20-9-302 is amended to read as follows:
6 20-9-302. Abortion clinics, health centers, etc.

7 (a)(1) A clinic, health center, or other facility in which the
8 pregnancies of ten (10) or more women known to be pregnant are willfully
9 terminated or aborted ~~each~~ in any month, including nonsurgical abortions,
10 shall be licensed by the Department of Health.

11 (2)(A) ~~The facilities, equipment, procedures, techniques, and~~
12 ~~conditions of those clinics or similar facilities shall be subject to~~
13 ~~periodic inspection by the department~~ The department shall inspect a clinic,
14 health center, or other facility at least annually, and inspections shall
15 include without limitation:

16 (i) The facilities, equipment, and conditions of a
17 clinic, health center, or other facility; and

18 (ii) A representative sample of procedures,
19 techniques, medical records, informed consent signatures, and parental
20 consent signatures.

21 (B) An inspector shall arrive at the clinic, health
22 center, or other facility unannounced and without prior notice.

23 (b) The department ~~may~~ shall:

24 (1) ~~adopt~~ Adopt appropriate rules ~~and regulations regarding,~~
25 including without limitation the facilities, equipment, procedures,
26 techniques, medical records, informed consent signatures, parental consent
27 signatures, and conditions of ~~clinics and other~~ clinics, health centers, and
28 other facilities subject to the provisions of this section to assure at a
29 minimum that:

30 (A) The ~~the~~ facilities, equipment, procedures, techniques,
31 and conditions are aseptic and do not constitute a health hazard; and

32 (B) The medical records, informed consent signatures, and
33 parental consent signatures meet statutory requirements;

34 (2) Levy and collect an annual fee of five hundred dollars
35 (\$500) per facility for issuance of a permanent license to an abortion
36 facility; and

1 (3)(A) Deny, suspend, or revoke licenses on any of the following
2 grounds:

3 (i) The violation of any provision of law or rule;
4 or

5 (ii) The permitting, aiding, or abetting of the
6 commission of any unlawful act in connection with the operation of the
7 institutions.

8 (B)(i) If the department determines to deny, suspend, or
9 revoke a license, the department shall send to the applicant or licensee, by
10 certified mail, a notice setting forth the particular reasons for the
11 determination.

12 (ii) The denial, suspension, or revocation shall
13 become final thirty (30) days after the mailing of the notice unless the
14 applicant or licensee gives written notice within the thirty-day period of a
15 desire for hearing.

16 (iii)(a) The department shall issue an immediate
17 suspension of a license if an investigation or survey determines that:

18 (1) The applicant or licensee is in
19 violation of any state law, rule, or regulation; and

20 (2) The violation or violations pose an
21 imminent threat to the health, welfare, or safety of a patient.

22 (b)(1) The department shall give the applicant
23 or licensee written notice of the immediate suspension.

24 (2) The suspension of the license is
25 effective upon the receipt of the written notice.

26 (iv) The denial, suspension, or revocation order
27 shall remain in effect until all violations have been corrected.

28 (C) The applicant or licensee shall:

29 (i) Be given a fair hearing; and

30 (ii) Have the right to present evidence as may be
31 proper.

32 (D)(i) On the basis of the evidence at the hearing, the
33 determination involved shall be affirmed or set aside.

34 (ii) A copy of the decision, setting forth the
35 finding of facts and the particular grounds upon which it is based, shall be
36 sent by certified mail to the applicant or licensee.

1 (iii) The decision shall become final fifteen (15)
2 days after it is mailed unless the applicant or licensee, within the fifteen-
3 day period, appeals the decision to the court.

4 (E) A full and complete record of all proceedings shall be
5 kept and all testimony shall be reported, but it need not be transcribed
6 unless the decision is appealed or a transcript is requested by an interested
7 party who shall pay the cost of preparing the transcript.

8 (F) Witnesses may be subpoenaed by either party and shall
9 be allowed fees at a rate prescribed by rule.

10 (G) The procedure governing hearings authorized by this
11 section shall be in accordance with rules promulgated by the department.

12 ~~(e) The department may levy and collect an annual fee of five hundred~~
13 ~~dollars (\$500) per facility for issuance of a permanent license to an~~
14 ~~abortion facility.~~

15 ~~(d)(1)~~ Applicants for a license shall file applications upon such
16 forms as are prescribed by the department.

17 (2) A license shall be issued only for the premises and persons
18 in the application and shall not be transferable.

19 ~~(e)(d)(1)~~ A license shall be effective on a calendar-year basis and
20 shall expire on December 31 of each calendar year.

21 (2) Applications for annual license renewal shall be postmarked
22 no later than January 2 of the succeeding calendar year.

23 (3) License applications for existing institutions received
24 after that date shall be subject to a penalty of two dollars (\$2.00) per day
25 for each day after January 2.

26 ~~(f)(e)~~ Subject to such rules and regulations as may be implemented by
27 the Chief Fiscal Officer of the State, the disbursing officer for the
28 department may transfer all unexpended funds relative to the abortion clinics
29 that pertain to fees collected, as certified by the Chief Fiscal Officer of
30 the State, to be carried forward and made available for expenditures for the
31 same purpose for any following fiscal year.

32 ~~(g)(f)~~ All fees levied and collected under this section are special
33 revenues and shall be deposited into the State Treasury, ~~there~~ to be credited
34 to the Public Health Fund.

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36 SECTION 3. Arkansas Code § 20-16-1703(d), concerning the informed

1 consent requirement within the Woman's Right-to-Know Act, is amended to read
2 as follows:

3 (d) A physician, facility, employee or volunteer of a facility, or any
4 other person or entity shall not require or obtain payment for a service
5 provided in relation to abortion to a patient who has inquired about an
6 abortion or scheduled an abortion until the expiration of the forty-eight-
7 hour reflection period required in this section.

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/s/Lundstrum

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