Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas

As Engrossed: H2/1/11 H2/2/11

A Bill

SENATE BILL 113

By: Senators Bledsoe, G. Baker, J. Dismang, Files, Hendren, Holland, J. Hutchinson, Irvin, G. Jeffress, J. Key, M. Lamoureux, B. Pritchard, Rapert, B. Sample, J. Taylor, Whitaker, E. Williams, D. Wyatt


For An Act To Be Entitled

AN ACT TO PROHIBIT HEALTH INSURANCE EXCHANGE POLICIES FROM OFFERING COVERAGE FOR ABORTIONS EXCEPT THROUGH A SEPARATE RIDER; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO PROHIBIT HEALTH INSURANCE EXCHANGE POLICIES FROM OFFERING COVERAGE FOR ABORTIONS EXCEPT THROUGH A SEPARATE RIDER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 79, Subchapter 1 is amended to add an additional section to read as follows:

23-79-155. Health insurance exchange coverage of abortions in the state health insurance exchange prohibited.

(a) As used in this section:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of
the child after live birth, or to remove a dead unborn child who died as the
result of natural causes, accidental trauma, or a criminal assault on the
pregnant woman or her unborn child; and

(2)(A) "Elective abortion" means an abortion for any reason
other than to prevent the death of the mother upon whom the abortion is
performed.

(B) However, an abortion shall not be deemed an elective
abortion to prevent the death of the mother based on a claim or diagnosis
that without the abortion the mother will engage in conduct that will result
in her death.

(b) The General Assembly finds that:

(1) Federal funding for insurance plans that cover abortions is
prohibited by the Hyde Amendment and the Federal Employee Health Benefits
Program;

(2) Congress enacted and the president signed into law the
Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148;

(3) In the Patient Protection and Affordable Care Act of 2010,
Pub. L. No. 111-148, states are explicitly permitted to pass laws prohibiting
qualified health plans offered through a health insurance exchange in their
state from offering abortion coverage;

(4) It is the longstanding policy of this state that the unborn
child is a human being from the time of conception and is, therefore, a legal
person for purposes of the unborn child’s right to life and is entitled to
the right to life from conception under the laws and constitution of this
state; and

(5) It is the longstanding policy of this state to protect the
right to life of the unborn child from conception by prohibiting abortion,
and that policy is impermissible only because of the decisions of the United
States Supreme Court. Therefore, if those decisions of the United States
Supreme Court are ever reversed or modified or the United States Constitution
is amended to allow protection of the unborn then the existing policy of this
state to prohibit abortions shall be enforced.

(c)(1) In accordance with the Patient Protection and Affordable Care
Act, Pub. L. No. 111-148, all qualified health plans offered through a health
insurance exchange established in this state shall not include elective
abortion coverage.
(2) This section does not prevent an individual from purchasing optional supplemental coverage for elective abortions for which a separate premium must be paid in the health insurance market outside of the state health insurance exchange as provided in subsection (d) of this section.

(d) An issuer of any health plan that offers optional supplemental abortion coverage offered in the health insurance market outside of the state health insurance exchange shall:

   (1)(A) Calculate the premium for optional supplemental abortion coverage so that the premium fully covers the estimated cost of an elective abortion for an individual who enrolls for elective abortion coverage.

   (B)(i) The insurer shall determine the premium required under subdivision (d)(1)(A) of this section on an average actuarial basis.

   (ii)(a) In making the calculation required under subdivision (d)(1)(B)(i) of this section, the issuer shall not take into account any cost reduction in a qualified health plan offered through a health insurance exchange established in this state estimated to result from the provision of abortion coverage that the insurer offers and that covers the individual who enrolls for elective abortion coverage.

   (b) As used in subdivision (d)(1)(B)(ii)(a) of this section, cost reduction estimated to result from provision of abortion coverage includes estimated cost reduction in prenatal care, delivery, and postnatal care;

   (2) Require that if an enrollee is enrolling in a health insurance plan that provides coverage other than optional supplemental abortion coverage, at the same time as the enrollee is enrolling, the enrollee shall sign at the same time three (3) separate signatures:

       (A) A signature for coverage for optional supplemental abortion coverage;

       (B) A signature for coverage other than for optional supplemental abortion coverage; and

       (C) A signature acknowledging that the enrollee has received the cost of the separate premium; and

   (3)(A) Provide at the time of enrollment a notice to enrollees that specifically states the cost of the separate premium for coverage of elective abortions.

       (B) The notice required under subdivision (d)(3)(A) of
this section shall be distinct and apart from the notice of the cost of the
premium for the portion of the health plan that provides coverage other than
optional supplemental abortion coverage.

(e) An issuer of a health plan providing coverage offered through a
health insurance exchange established in this state that provides coverage
other than elective abortion coverage shall not discount or reduce the
premium for the coverage on the basis that an enrollee has elective abortion
coverage.

(f) This section does not apply in circumstances in which federal law
preempts state health insurance regulation.

/s/Bledsoe