

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

SENATE BILL 113

4  
5 By: Senators Bledsoe, G. Baker, J. Dismang, Files, Hendren, Holland, J. Hutchinson, Irvin, G. Jeffress, J.  
6 Key, M. Lamoureux, B. Pritchard, Rapert, B. Sample, J. Taylor, Whitaker, E. Williams, D. Wyatt  
7 By: Representatives Lea, T. Bradford, D. Altes, Baird, Bell, Benedict, Biviano, Branscum, J. Burris,  
8 Carnine, Carter, Clemmer, Collins, Collins-Smith, Dale, Deffenbaugh, J. Dickinson, English, Eubanks,  
9 Fielding, Garner, Gillam, Hammer, Harris, Hickerson, Hobbs, Hopper, D. Hutchinson, Johnston, Kerr,  
10 King, Lampkin, S. Malone, Mauch, Mayberry, D. Meeks, S. Meeks, Rice, Sanders, Shepherd, Slinkard,  
11 G. Smith, Stubblefield, Summers, Westerman, Woods

## For An Act To Be Entitled

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

## Subtitle

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

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

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

29 23-79-155. Health insurance exchange coverage of abortions in the  
30 state health insurance exchange prohibited.

31 (a) As used in this section:

32 (1) "Abortion" means the use or prescription of any instrument,  
33 medicine, drug, or any other substance or device intentionally to terminate  
34 the pregnancy of a woman known to be pregnant with an intention other than to  
35 increase the probability of a live birth, to preserve the life or health of  
36 the child after live birth, or to remove a dead unborn child who died as the



1 result of natural causes, accidental trauma, or a criminal assault on the  
2 pregnant woman or her unborn child; and

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

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

10 (b) The General Assembly finds that:

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

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

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

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

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

32 (c)(1) In accordance with the Patient Protection and Affordable Care  
33 Act, Pub. L. No. 111-148, all qualified health plans offered through a health  
34 insurance exchange established in this state shall not include elective  
35 abortion coverage.

36 (2) This section does not prevent an individual from purchasing

1 optional supplemental coverage for elective abortions for which a separate  
2 premium must be paid in the health insurance market outside of the state  
3 health insurance exchange as provided in subsection (d) of this section.

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

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

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

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

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

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

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

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

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

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

35 (B) The notice required under subdivision (d)(3)(A) of  
36 this section shall be distinct and apart from the notice of the cost of the

1 premium for the portion of the health plan that provides coverage other than  
2 optional supplemental abortion coverage.

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

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

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