

State of Arkansas

As Engrossed: H2/1/11

88th General Assembly

A Bill

Regular Session, 2011

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
By: Representatives Lea, T. Bradford, D. Altes, Baird, Bell, Benedict, Biviano, Branscum, J. Burris, Carnine, Carter, Clemmer, Collins, Collins-Smith, Dale, Deffenbaugh, J. Dickinson, English, Eubanks, Garner, Gillam, Hammer, Harris, Hickerson, Hobbs, Hopper, D. Hutchinson, Johnston, Kerr, King, Lampkin, S. Malone, Mauch, Mayberry, D. Meeks, S. Meeks, Rice, Sanders, Shepherd, Slinkard, G. Smith, Stubblefield, Westerman, Woods, *Barnett, Hubbard*

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



1 the child after live birth, or to remove a dead unborn child who died as the
2 result of natural causes, accidental trauma, or a criminal assault on the
3 pregnant woman or her unborn child; and

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

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

11 (b) The General Assembly finds that:

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

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

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

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

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

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

1 (2) This section does not prevent an individual from purchasing
2 optional supplemental coverage for elective abortions for which a separate
3 premium must be paid in the health insurance market outside of the state
4 health insurance exchange as provided in subsection (d) of this section.

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

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

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

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

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

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

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

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

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

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

36 (B) The notice required under subdivision (d)(3)(A) of

1 this section shall be distinct and apart from the notice of the cost of the
2 premium for the portion of the health plan that provides coverage other than
3 optional supplemental abortion coverage.

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

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

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12 */s/Bledsoe*
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