

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1100

5 By: Representative B. Wilkins  
6

## For An Act To Be Entitled

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

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13 AN ACT TO PROHIBIT HEALTH INSURANCE  
14 EXCHANGE POLICIES FROM OFFERING COVERAGE  
15 FOR ABORTIONS EXCEPT THROUGH A SEPARATE  
16 RIDER.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 23, Chapter 79, Subchapter 1, is  
23 amended to add an additional section to read as follows:

24 23-79-156. Health insurance exchange – Coverage of abortions  
25 prohibited – Definitions – Findings.

26 (a) As used in this section:

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

34 (2) "Elective abortion" means an abortion for any reason other  
35 than:

36 (A)(i) To prevent the death of the mother upon whom the



1 abortion is performed.

2 (ii) However, an abortion shall not be deemed an  
3 elective abortion to prevent the death of the mother based on a claim or  
4 diagnosis that without the abortion the mother will engage in conduct that  
5 will result in her death; or

6 (B) In a pregnancy resulting from rape or incest; and

7 (3) "Qualified health plan" means a health plan that meets the  
8 requirements under 42 U.S.C. § 18021, as it existed on January 1, 2013.

9 (b) The General Assembly finds that:

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

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

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

19 (4)(A) It is the longstanding policy of this state to protect  
20 the right to life of the unborn child by prohibiting abortion, and that  
21 policy is impermissible only because of the decisions of the United States  
22 Supreme Court.

23 (B) Therefore, if those decisions of the United States  
24 Supreme Court are ever reversed or modified or the United States Constitution  
25 is amended to allow protection of the unborn, then the existing policy of  
26 this state to prohibit abortions shall be enforced.

27 (c)(1) In accordance with the Patient Protection and Affordable Care  
28 Act, Pub. L. No. 111-148, a qualified health plan offered through a health  
29 insurance exchange established in this state shall not include elective  
30 abortion coverage.

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

35 (d) An issuer of a health plan that offers optional supplemental  
36 abortion coverage offered in the health insurance market outside of the state

1 health insurance exchange shall:

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

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

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

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

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

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

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

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

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

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

34 (e) An issuer of a health plan providing coverage offered through a  
35 health insurance exchange established in this state that provides coverage  
36 other than elective abortion coverage shall not discount or reduce the

1 premium for the coverage on the basis that an enrollee has elective abortion  
2 coverage.

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

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