

1 State of Arkansas As Engrossed: S3/12/13 S3/25/13 S4/3/13

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 818

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5 By: Senators G. Stubblefield, A. Clark, J. Dismang, Hester, B. King, Rapert

6 By: Representatives Alexander, Ballinger, Dotson, Fite, Harris, D. Meeks, S. Meeks, Miller, Neal,

7 Womack

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For An Act To Be Entitled

10 AN ACT TO BAR THE DISBURSEMENT OF FUNDS BY THE STATE

11 TO CERTAIN ENTITIES; AND FOR OTHER PURPOSES.

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13

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Subtitle

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TO BAR THE DISBURSEMENT OF FUNDS BY THE

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STATE TO CERTAIN ENTITIES.

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

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21 SECTION 1. DO NOT CODIFY. Findings.

22 The General Assembly finds that:

23 (1) The State of Arkansas facilitates the disbursement of both
24 state and federal funds to qualifying entities for purposes of conducting
25 certain activities;

26 (2) Public dollars awarded to qualifying entities may facilitate
27 or subsidize directly or indirectly expenses or activities not directly
28 related to those for which the funds were intended, including without
29 limitation shared administrative costs, overhead, employee salaries, rent,
30 utilities, and various other expenses;

31 (3) It is possible that public dollars made available by or
32 through the State of Arkansas may be awarded to an entity that performs
33 elective abortions or subsidizes or otherwise facilitates the entity's
34 ability to perform elective abortions although the funds were not disbursed
35 specifically for the purpose of performing elective abortions;

36 (4) Amendment 68 to the Arkansas Constitution of 1874 says, "No



1 public funds will be used to pay for any abortion, except to save the
 2 mother's life";

3 (5) The direct or indirect subsidization or facilitation of
 4 abortion with funds distributed by the state constitutes paying for an
 5 abortion, and, therefore, conflicts with Amendment 68 to the Arkansas
 6 Constitution of 1874;

7 (6) As elected representatives of the people of Arkansas, the
 8 members of the General Assembly are entrusted with ensuring that all
 9 activities conducted with the aid of public funds are in accordance with the
 10 wishes of the people of Arkansas and the intent of the laws of this state;
 11 and

12 (7) It is within the purview of the General Assembly to
 13 establish criteria as the basis on which public funds are disbursed.

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 15 SECTION 2. Arkansas Code Title 20, Chapter 16, is amended to add an
 16 additional subchapter to read as follows:

17 *Subchapter 13 – Advancing Women's Health Act of 2013*

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 19 20-16-1301. Definitions.

20 As used in this subchapter:

21 (1)(A) "Abortion" means the act of using or prescribing an
 22 instrument, medicine, drug, another substance, device, or means with the
 23 intent to terminate the clinically diagnosable pregnancy of a woman with
 24 knowledge that the termination by those means will with reasonable likelihood
 25 cause the death of the unborn child.

26 (B) "Abortion" does not include the act of using or
 27 prescribing any instrument, medicine, drug, another substance, device, or
 28 means with the intent to terminate the clinically diagnosable pregnancy if
 29 done with the intent to:

30 (i) Save the life of the mother;

31 (ii) Save the life or preserve the health of the
 32 unborn child;

33 (iii) Remove a dead unborn child caused by
 34 spontaneous abortion; or

35 (iv) Remove an ectopic pregnancy;

36 (2) "Abortion referral" means the act of recommending a pregnant

1 woman to a doctor, clinic, or other person or entity for the purpose of
2 obtaining or learning about obtaining an abortion;

3 (3) "Affiliate" means an individual or entity that has a legal
4 relationship with another entity, which relation is created or governed by at
5 least one (1) written instrument that demonstrates:

6 (A) Common ownership, management, or control;

7 (B) A franchise; or

8 (C) The granting or extension of a license or other
9 agreement that authorizes the affiliate to use other entity's brand name,
10 trademark, service mark, or other registered identification mark;

11 (3) "Pregnancy" means that female reproductive condition of
12 having an unborn child in the woman's uterus; and

13 (4) "Unborn child" means the offspring of human beings from
14 fertilization until birth.

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16 20-16-1302. Awarding of public funds to entities that perform
17 abortions prohibited.

18 An agency or instrumentality of the state shall not award a grant to an
19 entity that:

20 (1) Performs abortions or provides abortion referrals;

21 (2) Contracts with a person or entity that performs abortions or
22 abortion referrals; or

23 (3) Is an affiliate of a person or entity that performs
24 abortions or abortion referrals.

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26 20-16-1303. Construction – Severability.

27 (a)(1) This subchapter does not affect the funding of a hospital,
28 medical school, or university.

29 (2) The restrictions under § 20-16-1302 do not apply to funding
30 available through the Medicaid program.

31 (b) This subchapter does not create or recognize a right to an
32 abortion.

33 (c) This subchapter does not create or recognize a right to public
34 funds, a contract, or a grant.

35 (d) If a court determines that a provision of this subchapter or the
36 application of this subchapter is invalid, the determination shall not affect

1 the provisions or applications of this subchapter that can be given effect
2 without the invalid provision or application, and to that end the provisions
3 of this subchapter are severable.

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5 */s/G. Stubblefield*
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