

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/18/15

A Bill

SENATE BILL 1050

By: Senator Flippo

For An Act To Be Entitled

AN ACT TO AMEND LAWS CONCERNING UNLAWFUL ABORTIONS;
TO AMEND LAWS CONCERNING THE PROCEDURE OF DENIAL,
SUSPENSION, OR REVOCATION OF A HEALTH FACILITIES
SERVICE LICENSE; TO AMEND THE LAWS REGARDING ABORTION
CLINICS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND LAWS CONCERNING UNLAWFUL
ABORTIONS; TO AMEND LAWS CONCERNING THE
PROCEDURE OF DENIAL, SUSPENSION, OR
REVOCATION OF A HEALTH FACILITIES SERVICE
LICENSE; AND TO AMEND THE LAWS REGARDING
ABORTION CLINICS.

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

*SECTION 1. Arkansas Code § 5-61-101, concerning abortions, is amended
to read as follows:*

5-61-101. Abortion only by licensed ~~medical practitioner~~ physician.

*(a) It is unlawful for any person to induce another person to have an
abortion or to ~~willfully~~ knowingly terminate the pregnancy of a woman known
to be pregnant with the ~~intent~~ purpose to cause fetal death unless the person
is a physician licensed to practice medicine in the State of Arkansas.*

*(b) ~~Violation~~ A violation of subsection (a) of this section is a Class
D felony.*

*(c) ~~Nothing in this section shall be construed to~~ This section does
not allow the charging or conviction of a woman with any criminal offense in*



1 the death of her own unborn child in utero.

2
3 SECTION 2. Arkansas Code § 20-9-215 is amended to read as follows:

4 20-9-215. License – Denial, suspension, and revocation.

5 (a) The State Board of Health ~~is empowered to~~ may deny, suspend, or
6 revoke licenses on any of the following grounds:

7 (1) ~~Violation of~~ Violating any of the provisions of this
8 subchapter or the rules and regulations lawfully promulgated under this
9 subchapter; or

10 (2) Permitting, aiding, or abetting the commission of any
11 unlawful act in connection with the operation of the institutions.

12 (b)(1) If the Department of Health determines to deny, suspend, or
13 revoke a license, ~~the department~~ shall send to the applicant or licensee,
14 by certified mail, a notice setting forth the particular reasons for the
15 determination.

16 (2) The denial, suspension, or revocation shall become final
17 thirty (30) days after the mailing of the notice unless the applicant or
18 licensee gives written notice within the thirty-day period of a desire for
19 hearing.

20 (3)(A) The department may issue an immediate suspension of a
21 license if an investigation or survey determines that:

22 (i) The applicant or licensee is in violation of any
23 federal or state law, rule, or regulation; and

24 (ii) The violation or violations pose an imminent
25 threat to the health, welfare, or safety of a patient.

26 (B)(i) The department shall give the applicant or licensee
27 written notice of the immediate suspension.

28 (ii) The suspension of the license is effective upon
29 the receipt of the written notice.

30 (4) The denial, suspension, or revocation order shall remain in
31 effect until all violations have been corrected.

32 (c) ~~Thereupon, the~~ The applicant or licensee shall:

33 (1) be ~~Be~~ given a fair hearing; and

34 (2) shall have ~~Have~~ the right to present ~~such~~ evidence as may be
35 proper.

36 (d)(1) On the basis of the evidence at the hearing, the determination

involved shall be affirmed or set aside.

(2) A copy of the decision, setting forth the finding of facts and the particular grounds upon which it is based, shall be sent by certified mail to the applicant or licensee.

(3) The decision shall become final fifteen (15) days after it is mailed unless the applicant or licensee, within the fifteen-day period, appeals the decision to the court under § 20-9-216.

(e) A full and complete record of all proceedings shall be kept and all testimony shall be reported, but it need not be transcribed unless the decision is appealed pursuant to § 20-9-216 or a transcript is requested by an interested party who shall pay the cost of preparing the transcript.

(f) Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by regulations.

(g) The procedure governing hearings authorized by this section shall be in accordance with regulations promulgated by the department.

SECTION 3. Arkansas Code § 20-9-302 is amended to read as follows:
20-9-302. Abortion clinics, health centers, etc.

(a)(1) A clinic, health center, or other facility in which the pregnancies of ten (10) or more women known to be pregnant are willfully terminated or aborted ~~each~~ in any month, including nonsurgical abortions, shall be licensed by the Department of Health.

~~(2)(A) The facilities, equipment, procedures, techniques, and conditions of those clinics or similar facilities shall be subject to periodic inspection by the department~~ The department shall inspect at least annually and inspections shall include without limitation the facilities, equipment, procedures, techniques, medical records, informed consent signatures, parental consent signatures, and conditions of a clinic or similar facility.

(B) An inspector may arrive at the facility unannounced and without prior notice.

(b) The department ~~may~~ shall:

(1) adopt ~~Adopt~~ appropriate rules and regulations ~~regarding~~ including without limitation the facilities, equipment, procedures, techniques, medical records, informed consent signatures, parental consent signatures, and conditions of clinics and other facilities subject to the

1 provisions of this section to assure at a minimum that the facilities,
2 equipment, procedures, techniques, medical records, informed consent
3 signatures, parental consent signatures, and conditions are aseptic and do
4 not constitute a health hazard; and

5 (2) Levy and collect an annual fee of five hundred dollars
6 (\$500) per facility for issuance of a permanent license to an abortion
7 facility.

8 ~~(e) The department may levy and collect an annual fee of five hundred~~
9 ~~dollars (\$500) per facility for issuance of a permanent license to an~~
10 ~~abortion facility.~~

11 ~~(d)(c)(1)~~ Applicants for a license shall file applications upon such
12 forms as are prescribed by the department.

13 (2) A license shall be issued only for the premises and persons
14 in the application and shall not be transferable.

15 ~~(e)(d)(1)~~ A license shall be effective on a calendar-year basis and
16 shall expire on December 31 of each calendar year.

17 (2) Applications for annual license renewal shall be postmarked
18 no later than January 2 of the succeeding calendar year.

19 (3) License applications for existing institutions received
20 after that date shall be subject to a penalty of two dollars (\$2.00) per day
21 for each day after January 2.

22 ~~(f)(e)~~ Subject to such rules and regulations as may be implemented by
23 the Chief Fiscal Officer of the State, the disbursing officer for the
24 department may transfer all unexpended funds relative to the abortion clinics
25 that pertain to fees collected, as certified by the Chief Fiscal Officer of
26 the State, to be carried forward and made available for expenditures for the
27 same purpose for any following fiscal year.

28 ~~(g)(f)~~ All fees levied and collected under this section are special
29 revenues and shall be deposited into the State Treasury, ~~there~~ to be credited
30 to the Public Health Fund.

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32 /s/Flippo
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