

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/4/21 H3/11/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1589

4

5 By: Representatives Breaux, Dotson, Beaty Jr., Bentley, M. Berry, S. Berry, Brown, Bryant, Cloud,
6 Coleman, C. Cooper, Cozart, M. Davis, Deffenbaugh, C. Fite, Furman, Haak, Hollowell, Ladyman,
7 Lundstrum, Lynch, McCollum, McGrew, Miller, Milligan, Payton, Penzo, Rye, Slape, B. Smith, S.
8 Smith, Speaks, Tollett, Underwood, Warren, Watson, Womack

9 By: Senators B. Ballinger, Rapert

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For An Act To Be Entitled

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AN ACT TO PROHIBIT TAXPAYER RESOURCE TRANSACTIONS FOR
13 ABORTIONS; AND FOR OTHER PURPOSES.

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15

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Subtitle

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TO PROHIBIT TAXPAYER RESOURCE

18

TRANSACTIONS FOR ABORTIONS.

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

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23 SECTION 1. DO NOT CODIFY. Legislative findings.

24 The General Assembly finds that:

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

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

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



1 specifically for the purpose of performing elective abortions;

2 (4) Amendment 68 to the Arkansas Constitution of 1874 states,
3 "No public funds will be used to pay for any abortion, except to save the
4 mother's life";

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

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

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

16
17 SECTION 2. Arkansas Code Title 25, Chapter 1, is amended to add an
18 additional subchapter to read as follows:

19 Subchapter 6 – Prohibited Taxpayer Resource Transactions for Abortions

20
21 25-1-601. Definitions.

22 As used in this subchapter:

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

28 (B) "Abortion" as defined under subdivision (1)(A) of this
29 section shall not include an act performed 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 natural
34 causes; or

35 (iv) Remove an ectopic pregnancy;

36 (2) "Affiliate" means an individual or entity that, directly or

1 indirectly, owns, controls, is controlled by, or is under the common control
2 of another individual or entity, in whole or in part, or a subsidiary,
3 parent, or sibling entity;

4 (3) "Governmental entity" means:

5 (A) This state;

6 (B) A state agency in the executive, judicial, or
7 legislative branch of state government; or

8 (C) A political subdivision of this state;

9 (4) "Political subdivision" means an legally separate and
10 distinct instrumentality of the state, including without limitation a:

11 (A) County;

12 (B) City; or

13 (C) Municipality; and

14 (5)(A) "Taxpayer resource transaction" means a sale, purchase,
15 lease, donation of money, goods, services, or real property, or any other
16 transaction between a governmental entity and a private entity that provides
17 to the private entity something of value derived from state or local tax
18 revenue, regardless of whether the governmental entity receives something of
19 value in return.

20 (B) "Taxpayer resource transaction" includes advocacy or
21 lobbying by or on behalf of a governmental entity in behalf of an abortion
22 provider or an affiliate of an abortion provider, but does not include an:

23 (i) Officer's or employee of a governmental entity's
24 providing information to a member of the legislature or appearing before a
25 legislative committee at the request of the member or committee;

26 (ii) Elected official's advocating for or against
27 legislation pending before the legislature or otherwise influencing or
28 attempting to influence the outcome of legislation pending before the
29 legislature while acting in the capacity of an elected official; or

30 (iii) Individual's speaking as a private citizen on
31 a matter of public concern.

32 (C) "Taxpayer resource transaction" does not include the
33 provision of basic public services, including without limitation fire and
34 police protection and utilities, by a governmental entity to an abortion
35 provider or an affiliate of an abortion provider in the same manner as the
36 governmental entity provides the services to the general public.

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25-1-602. Taxpayer resource transaction prohibited.

(a) Except as provided by subsections (b) and (c) of this section, a governmental entity may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider.

(b) Subsection (a) of this section does not apply to a taxpayer resource transaction that is subject to a federal law in conflict with subsection (a) of this section as determined and confirmed in writing by the Attorney General.

(c) Subsection (a) of this section does not apply to:

(1) A hospital licensed under the laws of this state;

(2) A state hospital;

(3) A teaching hospital of a public or private institution of higher education;

(4) An accredited residency program providing training to resident physicians.

(d) Subsection (c) of this section shall not permit the use of taxpayer funds to pay for an abortion.

25-1-603. Action by Attorney General.

(a) The office of the Attorney General may investigate and collect information concerning a violation of this subchapter.

(b) The Attorney General may bring an action in the name of the State of Arkansas to enjoin a violation of this subchapter.

/s/Breaux