

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

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S3/30/21

A Bill

SENATE BILL 527

5 By: Senators Gilmore, Beckham, Bledsoe, Flippo, K. Hammer, Hester, B. Johnson, Rapert, D. Wallace
6 By: Representatives Bentley, Beaty Jr., Brown, Cloud, Dotson, Furman, Ladyman, Penzo
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING ABORTION
10 FACILITIES; TO REQUIRE ABORTION FACILITIES TO POST
11 INFORMATION REGARDING HUMAN TRAFFICKING AND TO
12 PROVIDE LAURA'S CARD TO PATIENTS; TO AMEND THE
13 DEFINITION OF "ABORTION" WITHIN THE CHERISH ACT; TO
14 REQUIRE WRITTEN AGREEMENTS BETWEEN AN ABORTION
15 FACILITY AND A HOSPITAL; TO REQUIRE WRITTEN
16 AGREEMENTS BETWEEN AN ABORTION FACILITY AND AN
17 AMBULANCE SERVICE; AND FOR OTHER PURPOSES.
18

Subtitle

19
20
21 TO AMEND THE LAWS CONCERNING ABORTION
22 FACILITIES.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 12-19-102(a), concerning the posting of
28 information about the National Human Trafficking Hotline, is amended to read
29 as follows:

30 (a) The following establishments shall post in a conspicuous place
31 near the entrance of the establishment, or where posters and notices of this
32 type customarily are posted, a poster described in subsection (b) of this
33 section measuring at least eight and one-half inches by eleven inches (8½" x
34 11") in size:

35 (1) A hotel, motel, or other establishment that has been cited
36 as a public nuisance for prostitution under § 20-27-401;



- 1 (2) A strip club or other sexually oriented business;
- 2 (3) A private club that has a liquor permit for on-premises
- 3 consumption and does not hold itself out to be a food service establishment;
- 4 (4) An airport;
- 5 (5) A train station that serves passengers;
- 6 (6) A bus station; ~~and~~
- 7 (7) A privately owned and operated facility that provides food,
- 8 fuel, shower or other sanitary facilities, and overnight parking; and
- 9 (8) An abortion facility.

10

11 SECTION 2. Arkansas Code Title 20, Chapter 9, Subchapter 3, is amended

12 to add an additional section to read as follows:

13 20-9-312. Written agreements of abortion facility.

14 (a)(1) An abortion facility shall enter into a written agreement with

15 a licensed acute care hospital that is capable of treating patients with

16 unforeseen complications related to procedures performed at an abortion

17 facility.

18 (2) Under the written agreement described in subdivision (a)(1)

19 of this section, the licensed acute care hospital shall agree to accept and

20 treat patients with unforeseen complications related to procedures performed

21 at an abortion facility.

22 (3) The written agreement described in subdivision (a)(1) of

23 this section shall:

24 (A) Be with a licensed acute care hospital located:

25 (i) In the same county as the abortion facility; or

26 (ii) No further than thirty (30) miles from the

27 abortion facility;

28 (B) Be a legally binding contractual document;

29 (C) Be signed by the individuals who:

30 (i) Are authorized to execute the written agreement

31 on behalf of the abortion facility and the licensed acute care hospital; and

32 (ii) Certify that they have the authority described

33 in subdivision (a)(3)(C)(i) of this section;

34 (D) Require transfer of a patient if deemed medically

35 necessary by the attending physician;

36 (E) Identify responsibilities of the abortion facility in

1 which the abortion facility shall at a minimum:

2 (i) At the time of transfer, provide the licensed
3 acute care hospital with complete and accurate information regarding the
4 patient being transferred to the licensed acute care hospital;

5 (ii) Notify the licensed acute care hospital of the
6 impending transfer of a patient and receive confirmation of the availability
7 of appropriate facilities, services, and staff necessary for the care of the
8 patient;

9 (iii) At the time of the transfer, provide the
10 licensed acute care hospital with copies of relevant portions of the
11 patient's clinical record;

12 (iv) Transfer the patient, the patient's medical
13 records, demographic information, insurance information, and other
14 information deemed necessary or otherwise required by law to facilitate the
15 provision of medical care when the patient arrives at the licensed acute care
16 hospital; and

17 (v) Arrange for the immediate transfer of the
18 patient's personal effects, including a document listing the effects; and

19 (F) Identify responsibilities of the licensed acute care
20 hospital in which the licensed acute care hospital shall at a minimum:

21 (i) Provide prompt and appropriate evaluation and
22 treatment of a patient transferred to the licensed acute care hospital under
23 the written agreement;

24 (ii) Accept responsibility for the patient's care
25 when the patient is received by the licensed acute care hospital;

26 (iii) Direct charges performed by the licensed acute
27 care hospital to the patient or the patient's third-party payer; and

28 (iv) Acknowledge receipt of the patient's personal
29 effects in writing signed by an authorized representative of the licensed
30 acute care hospital and deliver the receipt to the abortion facility.

31 (b) If an unforeseen complication arises before or during a procedure
32 performed at an abortion facility, the patient shall be transferred to:

33 (1) The licensed acute care hospital with which the abortion
34 facility has a written agreement as described in subsection (a) of this
35 section; or

36 (2) A hospital selected by the patient.

1 (c)(1) An abortion facility shall enter into a written agreement with
2 a licensed local ambulance service for the transport of any emergency patient
3 within the scope of subsection (a) of this section to the licensed acute care
4 hospital.

5 (2) The written agreement described in subdivision (c)(1) of
6 this section shall:

7 (A) Be with a licensed local ambulance service located:

8 (i) In the same county as the abortion facility; or

9 (ii) No further than five (5) miles or ten (10)
10 minutes normal driving time from the abortion facility;

11 (B) Be signed by the individuals who:

12 (i) Are authorized to execute the written agreement
13 on behalf of the abortion facility and the licensed local ambulance service;
14 and

15 (ii) Certify that they have the authority described
16 in subdivision (c)(2)(B)(i) of this section; and

17 (C) Identify responsibilities of the licensed local
18 ambulance service in which the licensed local ambulance service shall at a
19 minimum:

20 (i) Provide services in accordance with all federal
21 and state laws, federal regulations, and state rules applicable to emergency
22 service entities;

23 (ii) Employ sufficient staff, including paramedics
24 and emergency medical technicians, to provide patient care and operate
25 vehicles and equipment in accordance with industry standards and applicable
26 federal and state laws, federal regulations, and state rules;

27 (iii) Require all responding medical personnel to
28 familiarize themselves with the floor plan of the abortion facility to
29 minimize the time required to locate the patient in the facility and exit the
30 facility with the patient as expeditiously as possible;

31 (iv) Acknowledge the existence of and the licensed
32 local ambulance service's familiarity with the terms of the written agreement
33 between the abortion facility and the licensed acute care hospital; and

34 (v) Transport the patient to the licensed acute care
35 hospital that is party to the written agreement unless otherwise directed by
36 the patient.

1 (d) Within ten (10) days of finalization of the written agreements
2 described in subsections (a) and (c) of this section, the abortion facility
3 shall file the written agreements described in subsections (a) and (c) of
4 this section with the Department of Health.

5 (e) An abortion facility shall have ninety (90) days after the
6 effective date of this section to come into compliance with this section.

7 (f)(1) An abortion facility applying for a renewal license or an
8 applicant for a provisional license may submit a request in writing for
9 extensions of time to comply with the written agreement requirements
10 described in subsections (a) and (c) of this section to the Secretary of the
11 Department of Health in accordance with the provisions of this subsection.

12 (2) Any request shall:

13 (A) Be in writing;

14 (B) Contain a certification under oath that the abortion
15 facility seeking the extension of time has exhausted all reasonable efforts
16 to obtain a written agreement described in subsections (a) and (c) of this
17 section for a continuous ninety (90) calendar day period before the request;
18 and

19 (C) Contain a detailed description of the efforts taken to
20 secure the written agreements described in subsections (a) and (c) of this
21 section.

22 (3) In deciding to grant or deny the request for an extension of
23 time, the secretary shall consider all factors the secretary deems relevant
24 under the circumstances, but at least the following factors:

25 (A) Whether the abortion facility or applicant made, and
26 continues to make, a good faith effort to obtain a written agreement
27 described in subsections (a) and (c) of this section;

28 (B) Whether the abortion facility or applicant can provide
29 the same level of patient care and safety via alternative health services
30 during any extension period; and

31 (C) Regulatory compliance history at the abortion facility
32 and at any other healthcare facility owned, in whole or in part, by the
33 applicant or any other individual or entity having an ownership interest with
34 the abortion facility.

35 (4) If the request is granted, the extension of time shall be
36 effective for a time period of ninety (90) calendar days from the date of

1 issuance.

2 (5) The secretary may rescind a previously granted extension of
 3 time at any time upon determining that the abortion facility or applicant has
 4 not met, or is not meeting, the conditions of subdivision (d)(3) of this
 5 section.

6 (6) If the request is for a written agreement described in
 7 subsection (a) of this section, the written agreement described in subsection
 8 (c) of this section does not have to comply with subdivision (c)(2)(C)(iv)
 9 and (v) for the duration of the extension of time.

10 (7)(A) If a request for an extension is denied, an abortion
 11 facility or applicant shall have ten (10) calendar days to submit a written
 12 request for reconsideration to the secretary, whose decision shall be final.

13 (B) The abortion facility or applicant for provisional
 14 license may appeal a denial in accordance with the Arkansas Administrative
 15 Procedures Act, § 25-15-201 et seq.

16 (g)(1) This section does not create or recognize a right to abortion.

17 (2) This section is not intended to make lawful an abortion that
 18 is currently unlawful.

19
 20 SECTION 3. Arkansas Code § 20-16-1703(b)(2), concerning the informed
 21 consent requirements under the Woman's Right-to-Know Act, is amended to add
 22 an additional subdivision to read as follows:

23 (F) Human trafficking literature, also known as "Laura's
 24 Card", as described in § 16-90-1107;

25
 26 SECTION 4. Arkansas Code § 20-16-2003(1), concerning the definition of
 27 "abortion" within the Cherish Act, is amended to read as follows:

28 (1)(A) "Abortion" means the use or prescription of any
 29 instrument, medicine, drug, or any other substance or device;

30 (A) To terminate the pregnancy of a woman known to be
 31 pregnant with an intention other than to;

32 (i) Increase the probability of a live birth;

33 (ii) Preserve the life or health of the unborn
 34 child;

35 (iii) Terminate an ectopic pregnancy; or

36 (iv) Remove a dead unborn child who died in utero as

1 ~~the result of natural causes, accidental trauma, or a criminal assault on the~~
2 ~~pregnant woman or her unborn child; and~~

3 ~~(B) That causes the premature termination of the~~
4 ~~pregnancy; act of using or prescribing any instrument, medicine, drug, or~~
5 ~~any other substance, device, or means with the intent to terminate the~~
6 ~~clinically diagnosable pregnancy of a woman, with knowledge that the~~
7 ~~termination by any of those means will with reasonable likelihood cause the~~
8 ~~death of the unborn child.~~

9 (B) An act under subdivision (1)(A) of this section is not
10 an abortion if the act is performed with the intent to:

11 (i) Save the life or preserve the health of the
12 unborn child;

13 (ii) Remove a dead unborn child caused by
14 spontaneous abortion; or

15 (iii) Remove an ectopic pregnancy;

16
17 */s/Gilmore*
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36