

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

State of Arkansas
93rd General Assembly
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As Engrossed: H3/4/21 H3/11/21
A Bill

HOUSE BILL 1589

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

By: Senators B. Ballinger, Rapert

For An Act To Be Entitled

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

Subtitle

TO PROHIBIT TAXPAYER RESOURCE TRANSACTIONS FOR ABORTIONS.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

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

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

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



specifically for the purpose of performing elective abortions;

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

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

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

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

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

Subchapter 6 – Prohibited Taxpayer Resource Transactions for Abortions

25-1-601. Definitions.

As used in this subchapter:

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

(B) "Abortion" as defined under subdivision (1)(A) of this section shall not include an act performed to:

- (i) Save the life of the mother;
- (ii) Save the life or preserve the health of the unborn child;
- (iii) Remove a dead unborn child caused by natural causes; or
- (iv) Remove an ectopic pregnancy;

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

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

(3) "Governmental entity" means:

(A) This state;

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

(C) A political subdivision of this state;

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

(A) County;

(B) City; or

(C) Municipality; and

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

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

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

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

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

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

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