

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

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As Engrossed: S3/30/21
A Bill

SENATE BILL 527

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

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAWS CONCERNING ABORTION FACILITIES.

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

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

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

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



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

SECTION 2. Arkansas Code Title 20, Chapter 9, Subchapter 3, is amended to add an additional section to read as follows:

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

(a)(1) An abortion facility shall enter into a written agreement with a licensed acute care hospital that is capable of treating patients with unforeseen complications related to procedures performed at an abortion facility.

(2) Under the written agreement described in subdivision (a)(1) of this section, the licensed acute care hospital shall agree to accept and treat patients with unforeseen complications related to procedures performed at an abortion facility.

(3) The written agreement described in subdivision (a)(1) of this section shall:

(A) Be with a licensed acute care hospital located:
(i) In the same county as the abortion facility; or
(ii) No further than thirty (30) miles from the abortion facility;

(B) Be a legally binding contractual document;

(C) Be signed by the individuals who:
(i) Are authorized to execute the written agreement on behalf of the abortion facility and the licensed acute care hospital; and
(ii) Certify that they have the authority described in subdivision (a)(3)(C)(i) of this section;

(D) Require transfer of a patient if deemed medically necessary by the attending physician;

(E) Identify responsibilities of the abortion facility in

which the abortion facility shall at a minimum:

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

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

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

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

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

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

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

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

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

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

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

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

(2) A hospital selected by the patient.

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

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

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

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

(ii) No further than five (5) miles or ten (10)

minutes normal driving time from the abortion facility;

(B) Be signed by the individuals who:

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

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

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

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

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

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

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

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

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

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

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

(2) Any request shall:

(A) Be in writing;

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

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

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

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

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

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

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

issuance.

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

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

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

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

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

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

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

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

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

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

~~(A) To terminate the pregnancy of a woman known to be pregnant with an intention other than to:~~

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

~~(ii) Preserve the life or health of the unborn~~

~~child;~~

~~(iii) Terminate an ectopic pregnancy; or~~

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

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

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

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

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

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

(iii) Remove an ectopic pregnancy;

/s/Gilmore