

2018 Regular Session

SENATE BILL NO. 325

BY SENATOR MILKOVICH

ABORTION. Provides relative to abortion clinics and services. (8/1/18)

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AN ACT

To enact R.S. 40:1061.30, relative to abortion clinics; to authorize and provide for civil action to enjoin the operation of an abortion clinic under certain circumstances; to provide penalties for public employees; to provide for certain terms, conditions, procedures, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1061.30 is hereby enacted to read as follows:

§1061.30. Standing: action to close outpatient abortion clinic

A. In addition to any remedy available through the penalty provisions of this Chapter, to the Louisiana Department of Health pursuant to R.S. 40:2175.6, or any other provision of law that provides a civil cause of action against an outpatient abortion clinic, the district attorney in any parish in which an outpatient abortion clinic is located, the attorney general, or the governor may petition the court for an injunction to cease and desist all services at the clinic, revoke the clinic's license, and cause the clinic to be permanently closed, if the district attorney, attorney general, or governor has information that an outpatient abortion clinic has:

1 (1) Performed an abortion on a minor in violation of R.S. 40:1061.14.

2 (2) Performed a post-live birth abortion.

3 (3) Systematically, intentionally, or deliberately falsified or destroyed
4 patient files or records required by R.S. 40:1061.17.

5 (4) Prefilled, predated, or completed in advance any portion of patient
6 records or forms required by R.S. 40:1061.17 to include patient specific data,
7 dates, ages, procedure codes, or signatures.

8 B. In addition to the authority of the Louisiana Department of Health,
9 the district attorney in any parish in which an outpatient abortion clinic is
10 located, the attorney general, and the governor shall have standing to review,
11 inspect, or conduct discovery of all forms required by R.S. 40:1061.17.

12 C. The destruction of documents and forms required by R.S. 40:1061.17
13 shall be considered a criminal offense pursuant to R.S. 14:132. The staff of the
14 abortion clinic and the employees of the Louisiana Department of Health shall
15 both be subject to the penalty provisions of this Subsection and R.S. 14:132 if
16 they participated in the destruction of documents or forms required by R.S.
17 40:1061.17.

18 D. Public employees of the Louisiana Department of Health shall be
19 subject to malfeasance in office pursuant to R.S. 14:134 for failure to take
20 action against an outpatient abortion clinic for violation of licensing rules and
21 regulations set forth in R.S. 40:2175.1 et seq.

22 E. Any owner or operator of an outpatient abortion clinic that loses its
23 license pursuant to the provisions of this Section, or who has been convicted of
24 R.S. 14: 32.5, R.S. 14:32.9, R.S. 14:32.9.1, R.S. 14: 32.10, R.S. 14:32.11, R.S.
25 14:87, R.S. 14:87.3, R.S. 14:87.4, R.S. 14:88, R.S. 14:132, or R.S. 14:286, shall
26 be permanently barred from the operation, ownership, or having an interest in
27 ownership, of an outpatient abortion clinic in Louisiana.

28 F. Performance of an abortion in an unlicensed facility shall be a
29 criminal offense pursuant to R.S. 14:32.9 if the facility is required to have an

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outpatient abortion facility license pursuant to R.S. 40:2175.1 et seq.

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alden A. Clement, Jr.

DIGEST

SB 325 Engrossed

2018 Regular Session

Milkovich

Proposed law provides that in addition to any remedy available through certain penalty provisions in present law, the district attorney in any parish in which an outpatient abortion clinic is located, the attorney general, or the governor may petition the court for an injunction to cease and desist all services at the clinic, revoke the clinic's license, and cause the clinic to be permanently closed, if the district attorney, attorney general, or governor has information that an outpatient abortion clinic has:

- (1) Performed an abortion on a minor in violation of present law.
- (2) Performed a post-live birth abortion.
- (3) Systematically, intentionally, or deliberately falsified or destroyed patient files or records required by present law.
- (4) Prefilled, predated, or completed in advance any portion of patient records or forms required by present law.

Proposed law provides that in addition to the authority of the Dept. of Health, the district attorney in any parish in which an outpatient abortion clinic is located, the attorney general, and the governor have standing to review, inspect, or conduct discovery of all forms required by present law.

Proposed law provides that the destruction of documents and forms required by present law is a criminal offense. Proposed law provides that the staff of the abortion clinic and the employees of the Dept. of Health are both subject to the penalty provisions of proposed law if they participated in the destruction of documents or forms required by present law.

Proposed law provides that public employees of the Dept. of Health are subject to malfeasance in office for failure to take action against an outpatient abortion clinic for violation of licensing rules and regulations set forth in present law.

Proposed law provides that any owner or operator of an outpatient abortion clinic that loses its license pursuant to the provisions of proposed law, or who has been convicted of certain enumerated provisions of present law will be permanently barred from the operation, ownership, or having an interest in ownership, of an outpatient abortion clinic in Louisiana.

Proposed law provides that performance of an abortion in an unlicensed facility is a criminal offense pursuant to present law relative to criminal abortion if the facility is required to have an outpatient abortion facility license pursuant to present law.

Effective August 1, 2018.

(Adds R.S. 40:1061.30)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Deletes proposed law relative to criminal abortion.