

1 HB118
2 216270-1
3 By Representatives Wingo, Mooney, Fincher, Holmes, Collins,
4 Sorrells, Dismukes, Carns, Hill, Drake, Pettus, Standridge,
5 Reynolds, Paschal, Shedd, Brown (K), Shaver, Rich, Bedsole,
6 Greer, Lee, Robertson, Shiver, Meadows, Wilcox, Sells,
7 Marques, Lipscomb and Simpson
8 RFD: State Government
9 First Read: 13-JAN-22

8 SYNOPSIS: This bill would prohibit the public funding
9 or subsidization of abortion activities, with
10 exceptions.

11 This bill would prohibit government entities
12 from allowing their property or facilities to be
13 used for abortion activities, with exceptions.

14 This bill would prohibit government-owned
15 healthcare facilities from contracting with
16 healthcare providers for abortion services, with
17 exceptions.

18 This bill would prohibit public funds from
19 being expended, paid, or granted to or on behalf of
20 an existing or proposed research project that
21 involves abortion, human cloning, or prohibited
22 human research.

23 This bill would prohibit facilities operated
24 on the property of a public K-12 school or operated
25 by a public school district and employees of public
26 K-12 schools acting within the scope of their
27 employment from providing abortion services to

1 public school students or counseling in favor of
2 abortions.

3 This bill would prohibit federal or state
4 funds that are appropriated by this state for the
5 provision of legal services by private agencies
6 from being used directly or indirectly to advocate
7 for or provide legal assistance with respect to the
8 right to abortion or the procurement of abortion
9 services.

10 This bill would prohibit funds from an IOLTA
11 (interest on lawyers' trust account) from being
12 used directly or indirectly to advocate for or
13 provide legal assistance with respect to the right
14 to abortion or the procurement of abortion
15 services.

16 This bill would authorize the provision of
17 Medicaid-funded abortion services for instances of
18 danger to the life of the mother only when a
19 physician other than the physician performing the
20 abortion issues a medical opinion that the life of
21 the mother is in danger as a result of the
22 pregnancy.

23 This bill would authorize the provision of
24 Medicaid-funded abortion services for instances of
25 rape or incest only when an appropriate law
26 enforcement agency submits a report to the
27 physician performing the abortion that the incident

1 of rape or incest was properly reported to the
2 agency.

3 This bill would also authorize the Attorney
4 General to enforce its provisions.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 Relating to abortion; to prohibit the public funding
11 or subsidization of abortion activities, with exceptions; to
12 prohibit government entities from allowing their property or
13 facilities to be used for abortion activities, with
14 exceptions; to prohibit government-owned healthcare facilities
15 from contracting with healthcare providers for abortion
16 services, with exceptions; to prohibit public funds from being
17 used for certain endeavors, including abortion; to prohibit
18 facilities operated on the property of a public K-12 school or
19 operated by a public school district and employees of public
20 K-12 schools acting within the scope of their employment from
21 providing abortion services to public school students or
22 counseling in favor of abortions; to prohibit federal or state
23 funds that are appropriated by this state for the provision of
24 legal services by private agencies from being used to advocate
25 for or provide legal assistance with respect to the right to
26 abortion or the procurement of abortion services; to prohibit
27 funds from an IOLTA (interest on lawyers' trust account) from

1 being used to advocate for or provide legal assistance with
2 respect to the right to abortion or the procurement of
3 abortion services; to authorize the provision of
4 Medicaid-funded abortion services in certain circumstances;
5 and to authorize the Attorney General to enforce its
6 provisions.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) The Legislature finds as follows:

9 (1) A decision not to subsidize abortions with
10 public funds would place no governmental obstacle in the path
11 of a woman who chooses to terminate her pregnancy. *Rust v.*
12 *Sullivan*, 500 U.S. 173, 201 (1991).

13 (2) The government may rationally distinguish
14 between abortion and other medical procedures because "no
15 other procedure involves the purposeful termination of a
16 potential life." *Harris v. McRae*, 448 U.S. 297, 325 (1980).

17 (3) State policy is that normal childbirth is to be
18 given preference, encouragement, and support by law and
19 through state action and affirmed as serving the best
20 interests and common good of Alabama residents.

21 (b) The purpose of this bill is to ensure that
22 public funds are not used to subsidize abortions directly or
23 indirectly.

24 Section 2. This act shall be known and may be cited
25 as the Abortion Subsidy Prohibition Act.

26 Section 3. For the purposes of this act, the
27 following terms have the following meanings:

1 (1) ABORTION. The use or prescription of any
2 instrument, medicine, drug, or any other substance or device
3 with the intent to terminate the pregnancy of a woman with
4 knowledge that the termination by those means will with
5 reasonable likelihood cause the death of the unborn child. The
6 term does not include these activities if done with the intent
7 to save the life or preserve the health of an unborn child,
8 remove a dead unborn child, deliver the unborn child
9 prematurely to avoid a serious health risk to the unborn
10 child's mother, or preserve the health of the unborn child.
11 The term does not include termination of the pregnancy of a
12 woman with an ectopic pregnancy, nor does it include
13 termination of the pregnancy of a woman when the unborn child
14 has a lethal anomaly.

15 (2) FACILITY or MEDICAL FACILITY. Any public or
16 private hospital, clinic, center, medical school, medical
17 training institution, healthcare facility, physician's office,
18 infirmary, dispensary, ambulatory surgical treatment center,
19 or other institution or location wherein medical care is
20 provided to any individual.

21 (3) HUMAN CLONING. Human asexual reproduction
22 accomplished by doing any of the following:

23 a. Introducing the genetic material from one or more
24 human somatic or embryonic cells into a fertilized or
25 unfertilized oocyte whose nuclear material has been removed or
26 inactivated before or after introduction, so as to produce an

1 organism at any stage of development with a human or
2 predominantly human genetic constitution.

3 b. Artificially subdividing a human embryo at any
4 time from the two-cell stage onward, such that more than one
5 human organism results.

6 c. Introducing pluripotent cells from any source
7 into a human embryo, nonhuman embryo, or artificially
8 manufactured human embryo or trophoblast, under conditions
9 where the introduced cells generate all or most of the body
10 tissues of the developing organism.

11 (4) PHYSICIAN. An individual licensed to practice
12 medicine in this state.

13 (5)a. PROHIBITED HUMAN RESEARCH. Either of the
14 following:

15 1. Any medical procedure, scientific or laboratory
16 research, or other kinds of investigation that kills or
17 injures the human subject of the research at any stage of
18 development.

19 2. Any scientific or laboratory research or other
20 kinds of investigation conducted on fetal tissue obtained from
21 an abortion, unless the research is done to obtain forensic or
22 other evidence in a rape or incest investigation.

23 b. This term does not include any of the following:

24 1. In vitro fertilization and accompanying embryo
25 transfer to a woman's body.

26 2. Research in the use of nuclear transfer or other
27 cloning techniques to produce molecules, deoxyribonucleic

1 acid, or cells other than human embryos, tissues, organs,
2 plants, or animals other than humans.

3 3. Any diagnostic procedure that benefits the human
4 subject of the tests.

5 (6) UNBORN CHILD. A human being, specifically
6 including an unborn child in utero at any stage of
7 development, regardless of viability.

8 Section 4. (a) Notwithstanding any other provision
9 of law to the contrary, public funds made available to any
10 institution, board, commission, department, agency, official,
11 employee of the State of Alabama or of any of its political
12 subdivisions, whether the funds are made available by the
13 government of the United States, this state, a political
14 subdivision thereof, or from any other public source, and
15 monies paid by students as part of tuition or fees to a state
16 university or a community college may not be used in any way
17 for, to assist in, or to provide facilities for, an abortion
18 or for training to perform an abortion. It is unlawful for any
19 individual employed by this state, any of its agencies, or any
20 of its political subdivisions, within the scope of the
21 individual's employment, to perform or assist an abortion.

22 (b) A fund or committee authorized by state law for
23 the special protection of women or children may not be
24 authorized to use or distribute public funds for the payment
25 of abortions, abortion referrals, abortion counseling, or
26 abortion-related services.

1 (c) An organization that receives funds authorized
2 or appropriated by this state may not use those funds to
3 perform or promote abortions, provide counseling in favor of
4 abortions, or to make referrals for abortions.

5 (d) The limitations in subsections (a) through (c)
6 shall not apply to an abortion performed when the life of the
7 mother is endangered by a physical disorder, physical illness,
8 or physical injury, including a life-endangering physical
9 condition caused by or arising from the pregnancy itself.

10 Section 5. (a) It is unlawful for any public
11 institution, public facility, public equipment, or other
12 physical asset owned, leased, or controlled by this state or
13 any of its agencies or political subdivisions, to be used for
14 the purpose of performing or assisting in the performance of
15 an abortion.

16 (b) It is unlawful for any public institution or
17 facility to lease, sell, or permit the subleasing of its
18 facilities or property to any physician or health facility for
19 use in the provision, inducement, or performance of an
20 abortion.

21 (c) This section does not apply to an abortion
22 performed when the physician reasonably believes that it is
23 necessary to prevent either the death of the pregnant woman or
24 the substantial and irreversible impairment of a major bodily
25 function of the woman.

26 Section 6. An applicant, student, teacher, or
27 employee of any public K-12 school or public institution of

1 higher education may not be required to pay any fees that
2 would, in whole or in part, fund an abortion for any other
3 applicant, student, teacher, or employee of that school or
4 university.

5 Section 7. A hospital, clinic, or other health
6 facility owned or operated by this state, any of its political
7 subdivisions, or any other governmental entity, except the
8 government of the United States, another state, or a foreign
9 nation, may not enter into any contract with any physician or
10 health facility under the terms of which the physician or
11 health facility agrees to provide, induce, or perform
12 abortions, except when the physician reasonably believes that
13 it is necessary to prevent either the death of the pregnant
14 woman or the substantial and irreversible impairment of a
15 major bodily function of the woman.

16 Section 8. (a) Public funds may not be expended,
17 paid, or granted to or on behalf of an existing or proposed
18 research project that involves abortion, human cloning, or
19 prohibited human research.

20 (b) Monies derived from an award of public funds may
21 not be passed through to any other research project,
22 individual, or entity that involves abortion, human cloning,
23 or prohibited human research.

24 (c) A research project that receives an award of
25 public funds shall maintain financial records that demonstrate
26 strict compliance with this section.

1 (d) Any audit conducted pursuant to any grant or
2 contract awarding public funds shall certify whether there is
3 compliance with this section and shall note any noncompliance
4 as a material audit finding.

5 Section 9. (a) A facility operated on the property
6 of a public K-12 school or operated by a public school
7 district, and an employee of any public K-12 school acting
8 within the scope of his or her employment, may not provide any
9 of the following services to public school students:

10 (1) Performance of abortions.

11 (2) Counseling in favor of abortion.

12 (3) Referrals for abortion.

13 (4) Dispensing drugs classified as emergency
14 contraception by the Food and Drug Administration.

15 (b) The Alabama Department of Public Health and any
16 county and local units of administration are prohibited from
17 utilizing state funds for the procurement of abortions or
18 distribution of drugs classified as emergency contraception by
19 the federal Food and Drug Administration.

20 Section 10. (a) Federal or state funds that are
21 appropriated by this state for the provision of legal services
22 by private agencies may not be used directly or indirectly to
23 do any of the following:

24 (1) Advocate for a legal right to abortion.

25 (2) Provide legal assistance with respect to any
26 proceeding or litigation that seeks to procure any abortion or
27 to procure public funding for any abortion.

1 (3) Provide legal assistance with respect to any
2 proceeding or litigation that seeks to compel the performance
3 or assistance in the performance of any abortion or the
4 provision of facilities for the performance of any abortion.

5 (b) Nothing in this section shall be construed to
6 require or prevent the expenditure of funds pursuant to a
7 court order awarding fees for attorney's services under the
8 Civil Rights Attorney's Fees Awards Act of 1976, Public Law
9 94-559, 90 Stat. 2641, nor shall this section be construed to
10 prevent the use of public funds to provide court appointed
11 counsel to a minor in a judicial bypass proceeding for
12 abortion pursuant to Section 26-21-4, Code of Alabama 1975.

13 Section 11. Funds from an IOLTA (interest on
14 lawyers' trust account) may not be used directly or indirectly
15 to do any of the following:

16 (1) Advocate for a legal right to abortion.

17 (2) Provide legal assistance with respect to any
18 proceeding or litigation that seeks to procure any abortion or
19 to procure public funding for any abortion.

20 (3) Provide legal assistance with respect to any
21 proceeding or litigation that seeks to compel the performance
22 or assistance in the performance of any abortion or the
23 provision of facilities for the performance of any abortion.

24 Section 12. (a) Medicaid is a joint federal and
25 state program to provide health care services to certain
26 individuals. Under the Hyde Amendment, Medicaid may pay for
27 abortion services only when the pregnancy poses a risk to the

1 life of the mother, and in instances of rape or incest. This
2 act shall not prohibit the provision of those abortion
3 services by Medicaid, but shall otherwise not permit any of
4 the other services prohibited by this act pursuant to any law,
5 rule, regulation, order, or other enactment by any federal or
6 state authority.

7 (b) Medicaid provision of abortion services for a
8 pregnancy that threatens the life of the mother shall only be
9 permitted based on a medical opinion that the life of the
10 mother is in danger as a result of the pregnancy. The opinion
11 shall be by a physician licensed by this state other than the
12 physician who will perform the abortion. Medicaid provision of
13 abortion services as a result of rape or incest shall only be
14 permitted by provision to the physician performing the
15 abortion of a duly prepared report by a law enforcement agency
16 of competent jurisdiction that the incident of rape or incest
17 was properly reported.

18 (c) If this Medicaid regulation becomes no longer in
19 force, the present services identified herein shall also be
20 prohibited.

21 Section 13. The Attorney General shall enforce this
22 act. A circuit court of this state shall have jurisdiction to
23 award injunctive relief, attorney fees to the state, and court
24 costs.

25 Section 14. (a) Nothing in this act shall be
26 construed to recognize a right to abortion or to make legal an
27 abortion that is otherwise unlawful. Nothing in this act shall

1 be construed to repeal or modify any existing or future law
2 that regulates or prohibits abortion.

3 (b) Nothing in this act shall be construed as
4 creating or recognizing a right to abortion.

5 (c) Nothing in this act shall be construed as
6 creating or recognizing a right to federal or state funds for
7 abortions or family planning services.

8 Section 15. Any provision of this act held to be
9 invalid or unenforceable by its terms, or as applied to any
10 individual or circumstance, shall be construed to give it the
11 maximum effect permitted by law, unless the holding is one of
12 utter invalidity or unenforceability, in which event the
13 provision shall be deemed severable herefrom and shall not
14 affect the remainder hereof or the application of the
15 provision to other individuals not similarly situated or to
16 other, dissimilar circumstances.

17 Section 16. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.