

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 amend and reenact R.S. 14:32.9(A) and to enact R.S. 40:1061.30, relative to abortion clinics; to make it a crime to perform an abortion in an unlicensed facility if a facility license is required; 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. 14:32.9(A) is hereby amended and reenacted to read as follows:

§32.9. Criminal abortion

A. Criminal abortion is an abortion performed, with or without the consent of the pregnant woman or her legal guardian, that results in the death of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana or by any individual who performs an abortion in a facility that fails to hold a license as an outpatient abortion facility pursuant to R.S. 40:2175.1.

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1 Section 2. R.S. 40:1061.30 is hereby enacted to read as follows:

2 **§1061.30. Standing: action to close outpatient abortion clinic**

3 **A. In addition to any remedy available through the penalty provisions**
4 **of this Chapter, to the Louisiana Department of Health pursuant to R.S.**
5 **40:2175.6, or any other provision of law that provides a civil cause of action**
6 **against an outpatient abortion clinic, the district attorney in any parish in which**
7 **an outpatient abortion clinic is located, the attorney general, or the governor**
8 **may petition the court for an injunction to cease and desist all services at the**
9 **clinic, revoke the clinic's license, and cause the clinic to be permanently closed,**
10 **if the district attorney, attorney general, or governor has information that an**
11 **outpatient abortion clinic has:**

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

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

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

16 **(4) Pre-filled, predated, or completed in advance any portion of patient**
17 **records or forms required by R.S. 40:1061.17 to include patient specific data,**
18 **dates, ages, procedure codes, or signatures.**

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

23 **C. The destruction of documents and forms required by R.S. 40:1061.17**
24 **shall be considered a criminal offense pursuant to R.S. 14:132. The staff of the**
25 **abortion clinic and the employees of the Louisiana Department of Health shall**
26 **both be subject to the penalty provisions of this Subsection and R.S. 14:132 if**
27 **they participated in the destruction of documents or forms required by R.S.**
28 **40:1061.17.**

29 **D. Public employees of the Louisiana Department of Health shall be**

1 subject to malfeasance in office pursuant to R.S. 14:134 for failure to take
 2 action against an outpatient abortion clinic for violation of licensing rules and
 3 regulations set forth in R.S. 40:2175.1 et seq.

4 E. Any owner or operator of an outpatient abortion clinic that loses its
 5 license pursuant to the provisions of this Section, or who has been convicted of
 6 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.
 7 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
 8 be permanently barred from the operation, ownership, or having an interest in
 9 ownership, of an outpatient abortion clinic in Louisiana.

10 F. Performance of an abortion in an unlicensed facility shall be a
 11 criminal offense pursuant to R.S. 14:32.9 if the facility is required to have an
 12 outpatient abortion facility license pursuant to R.S. 40:2175.1 et seq.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 325 Original

2018 Regular Session

Milkovich

Proposed law provides district attorneys in any parish in which an outpatient abortion clinic is located, the attorney general, and the governor with a cause of action to seek an injunction to cease and desist all operations at the clinic and cause the clinic to be permanently closed if there is reason to believe that the clinic has violated certain provisions regarding abortions on minors, record creation, destruction, or tampering.

Proposed law provides for criminal action under laws on injuring public records, criminal abortion, and malfeasance in office for certain violations.

Effective August 1, 2018.

(Amends R.S. 14:32.9(A); adds R.S. 40:1061.30)