House Public Health Subcommittee Am. #1

Amendment No._____

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Date _____
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Clerk _____
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Signature of Sponsor

AMEND Senate Bill No. 2465 House Bill No. 2568*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 15, Part 2, is amended by adding Sections 2 through 10 as new sections.

SECTION 2. As used in this section and Sections 3 through 10:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or other substance or device to intentionally:

(A) Kill the unborn child of a woman known to be pregnant; or

(B) Terminate the pregnancy of a woman known to be pregnant, with an intention other than:

(i) After viability, to produce a live birth and preserve the life and health of the child born alive; or

(ii) To remove a dead unborn child;

(2) "Chemical abortion" means the use or prescription of an abortion-inducing drug dispensed with intent to cause the death of the unborn child;

(3) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition is a medical emergency if based on a claim or diagnosis that the woman will engage in conduct that the

woman intends to result in the death or in substantial and irreversible physical impairment of a major bodily function of the woman; and

(4) "Stable internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the department of health.

SECTION 3.

(a) This section applies to a private office, ambulatory surgical treatment center, as defined in § 68-11-201, or other facility, as defined in § 68-11-201, or clinic, if more than fifty (50) elective abortions were provided in the private office, ambulatory surgical treatment center, facility, or clinic, other than abortions necessary to prevent the death of the pregnant woman, during the previous calendar year. Each private office, ambulatory surgical treatment center, facility, or clinic shall conspicuously post a sign in a location described in subsection (c) in a manner clearly visible to patients, which reads as follows:

Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately.

(b) The sign required pursuant to subsection (a) must be printed with lettering that is legible and at least three quarters of an inch (0.75") boldfaced type.

(c) A private office or an ambulatory surgical treatment center shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed. A hospital or any other facility that is not a private office or ambulatory surgical treatment center shall post the required sign in each patient admission area used by patients on whom abortions are performed.

SECTION 4.

(a) Except in the case of a medical emergency, a chemical abortion involving the two-drug process of dispensing mifepristone first and then misoprostol shall not be performed or induced or attempted to be performed or induced unless the woman is informed by the physician who is to perform the abortion at least forty-eight (48) hours before the abortion, that:

(1) It may be possible to reverse the intended effects of a chemical abortion utilizing mifepristone if the woman changes her mind, but that time is of the essence; and

(2) Information on and assistance with reversing the effects of a chemical abortion utilizing mifepristone is available on the department of health website.

(b) After the first drug involved in the two-drug process is dispensed in a chemical abortion utilizing mifepristone, the physician or an agent of the physician shall provide written medical discharge instructions to the pregnant woman, which must include the following statement:

> Recent developing research has indicated that mifepristone alone is not always effective in ending a pregnancy. It may be possible to avoid, cease, or even reverse the intended effects of a chemical abortion utilizing mifepristone if the second pill has not been taken. Please consult with a healthcare professional immediately.

SECTION 5. When a medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's professional medical judgment that an abortion is necessary to prevent the woman's death or that a delay of forty-eight (48) hours will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

SECTION 6.

(a) Within ninety (90) days after the effective date of this act, the department of health shall publish, in English and in each language that is the primary language of two percent (2%) or more of this state's population, and make available on the department's website as provided in subsection (b), the printed materials required by this subsection (a) in a manner that ensures that the information is easily understood by the general public. The materials must be designed to inform the woman of the possibility of reversing the effects of a chemical abortion utilizing mifepristone if the woman changes her mind and information on and assistance with the resources that may be available to help reverse the effects of a chemical abortion.

(b) The department of health shall develop and maintain a stable internet website to provide the information described in subsection (a). The department shall not collect or retain any information regarding website visitors or users. The department shall monitor the website on a daily basis to prevent and correct tampering. The website must be maintained at a minimum resolution of seventy (70) dots per inch. All pictures appearing on the website must be a minimum of two hundred (200) by three hundred (300) pixels. All letters on the website must be a minimum of twelve-point font. All information and pictures must be accessible with an industry standard browser, requiring no additional plugins.

SECTION 7. Any person who knowingly or recklessly performs or induces or attempts to perform or induce an abortion in violation of Sections 3 through 6 commits a Class E felony. No penalty may be assessed against the woman upon whom the abortion is performed or induced or attempted to be performed or induced. No penalty or civil liability may be assessed for failure to comply with Section 4(a)(2) unless the department of health has made the information available on the website at the time the physician is required to inform the woman.

SECTION 8. The department of health shall assess any private office, ambulatory surgical treatment center, or other facility or clinic that fails to post a sign required by Section 3 in negligent violation of Section 3 a civil penalty of ten thousand dollars ($10,000). Each day on

which an abortion, other than in the case of a medical emergency, is performed in any private office, ambulatory surgical treatment center, or other facility or clinic during which the required sign is not posted is a separate violation.

SECTION 9.

(a) Any person upon whom an abortion has been performed that was not in compliance with Sections 3-6, the father of the unborn child who was the subject of the abortion, or if the woman was younger than eighteen (18) years of age at the time of the chemical abortion or has died as a result of the chemical abortion, the grandparent of the unborn child may bring an action against the person who performed the abortion in knowing or reckless violation of this act for actual and punitive damages. Any person, upon whom an abortion that was in violation of Sections 3-6 has been attempted, may bring an action against the person who attempted to perform the abortion in knowing or reckless violation of this act for actual and punitive damages. A court shall not award damages to a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(b) If judgment is rendered in favor of the plaintiff in any action brought pursuant to this section, then the court shall also award the plaintiff reasonable attorney's fees. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, then the court shall award the defendant reasonable attorney's fees.

SECTION 10. In each civil or criminal proceeding brought under Section 7, 8, or 9, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted must be preserved from public disclosure if the woman does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the woman's anonymity must be preserved, shall issue orders to the parties, witnesses, and counsel and direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. The order must be accompanied by specific written findings explaining

why the anonymity of the woman must be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone who brings an action under Section 9 shall do so under a pseudonym. This section must not be construed to conceal the identity of the plaintiff or witnesses from the defendant.

SECTION 11. This act does not affect a provider's legal obligations pursuant to § 39-15-202.

SECTION 12. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

SECTION 13. This act shall take effect July 1, 2020, the public welfare requiring it.

House Public Health Subcommittee Am. #2

Amendment No._____

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Date _____
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Signature of Sponsor

AMEND Senate Bill No. 89 **House Bill No. 132***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 71-3-502(j)(3)(D), is amended by designating the existing language as subdivision (i) and inserting the following as subdivision (ii):

Beginning August 1, 2020, and each year thereafter, the department shall provide a bonus subsidy payment equal to the twelve-month average of the total reimbursement from the previous year to each participating child care agency with a child care quality rating of three (3) stars that accepts the department's child care assistance subsidy payments, subject to available funding in the department's budget.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it.