

SENATE BILL 1661

By Burks

AN ACT to amend Tennessee Code Annotated, Title 49; Title 56; Title 63; Title 68 and Title 71, and to enact the "Tennessee Pregnant Women Support Act".

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

SECTION 1. Tennessee Code Annotated, Title 68, is amended by inserting Sections 2 through 6 below as a new chapter thereto to be designated as Chapter 61.

SECTION 2. This chapter shall be known and may be cited as, the "Tennessee Pregnant Women Support Act".

SECTION 3. The purpose of this chapter is to provide for programs that reduce the need for abortion, help women bear healthy children, and support new parents.

SECTION 4. The department of health is authorized to and shall apply for any available federal grant providing for the collection of data regarding the number of abortions performed in this state, the characteristics of those seeking abortions, the reasons why women choose abortion, or any other information applicable to pregnant women in this state who may be seeking an abortion. The department of health shall conduct such collection consistent with the requirements of any such federal grant received and shall provide a report regarding such data to the federal government consistent with the requirements of any such grant received.

SECTION 5. The department of health shall develop an informational pamphlet for distribution to Tennessee licensed physicians. The pamphlet shall address options or alternatives to abortion that are available in this state, including but not limited to adoption, and the resources available in the community to assist women choosing to carry their pregnancies to term or for new parents. Every licensed physician in this state shall provide, or cause to be provided by a member of the physician's staff, such pamphlet to all pregnant women who the

physician sees or treats and to all pregnant women who inquire concerning a possible abortion if such physician has the name and address of the person making such inquiry. The pamphlet shall contain a list of public and private health care services available to women during pregnancy and after the birth of a child, whether the women wish to keep their children or place them for adoption; and public and private adoption resources available in the state, including but not limited to the surrender of an infant without criminal liability pursuant to § 68-11-255. The pamphlet shall contain the name, address and telephone number of public and private organizations, health care facilities, or other persons providing these services; provided, that the commissioner of health may promulgate such rules in the commissioner's discretion as are necessary for any public or private organization, health care facility, or other person to qualify for inclusion in the pamphlet. The department shall make the pamphlet available to physicians by no later than January 1, 2010.

SECTION 6. The department of health shall develop a toll-free telephone hotline for pregnant women or other interested parties to obtain information about resources that are available to assist pregnant women who intend to carry their pregnancies to term or to assist new parents. The information shall include public and private health care services available to women during pregnancy and after the birth of a child, whether the women wish to keep their children or place them for adoption; and public and private adoption resources available in the state, including but not limited to the surrender of an infant without criminal liability pursuant to § 68-11-255. The department shall operate the toll-free telephone hotline no fewer than eight (8) hours per day for no fewer than five (5) days per week, during normal business hours, and shall publicize the hotline through the use of media which may include radio, television, newspaper, billboard or other advertisements. The commissioner of health may promulgate such rules, in the commissioner's discretion, as are necessary for any public or private organization, health

care facility, or other person to qualify for inclusion in the information distributed pursuant to the hotline. The department shall make the hotline available by no later than January 1, 2010.

#### SECTION 7.

(a) There is created in the general fund an account to be known as the "Tennessee pregnant women support fund", hereinafter known as "the fund", as a special nonreverting fund. Funds appropriated from the Tennessee pregnant women support fund shall be administered by the department of health to support women and families who are facing unplanned pregnancy.

(b) The department is authorized to solicit gifts, donations, bequests and grants on behalf of the fund from any source and to deposit all moneys received in the fund. The commissioner shall submit to the governor an annual report of all gifts, donations, grants and bequests accepted; the names of the donors; and the respective amounts contributed by each donor.

(c) All moneys received from any source pursuant to subsection (b) shall be credited to the fund. Interest earned on moneys in the fund shall remain in the fund and be credited to it. Any moneys remaining in the fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the fund. Moneys in the fund shall be used solely for the purposes of carrying out the activities enumerated below:

(1) Purchasing or upgrading ultrasound equipment for the benefit of any public health program or private health provider in this state; provided that each grantee approved for a grant for this purpose shall inform each pregnant woman that she has the right to view the visual image of the unborn child, hear a general anatomical and physiological description of the characteristics of the unborn child, and learn the approximate age of the embryo or unborn child;

(2) Creating a separate program within the department to address domestic violence, dating violence, sexual assault and stalking screening against pregnant women and new mothers;

(3) Conducting the campaign outlined in this chapter to increase public awareness of public and private resources available to pregnant women in this state;

(4) Providing support services for students of institutions of higher education in this state who are pregnant and who intend to carry their pregnancies to term;

(5) Providing funds to allow early childhood education programs to work with pregnant or parenting teens to complete high school and provide job training education; or

(6) Providing education on the health needs of infants to teenage or first time mothers through free home visits by registered nurses.

(d) The department shall establish an application process and related procedures for community health centers, migrant health centers, homeless health centers, public-housing centers, or any other public or private entity seeking grants from the fund. A grant may be made only if an application for the grant is submitted to the department in such manner as specified by the department pursuant to rule.

SECTION 8. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding any other law to the contrary, any individual, franchise, blanket, or group health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, health maintenance organization, preferred provider organization, or managed

care organization which provides hospital, surgical, or medical expense insurance shall not deny coverage under any such policy, contract, or plan for obstetrical services to a pregnant woman insured on the basis that the pregnancy was a pre-existing condition if such plan otherwise provides coverage for obstetrical services for insureds who become pregnant after enrollment in such policy, contract or plan.

(b) This section is applicable to all health benefit policies, programs, or contracts which are offered by commercial insurance companies, nonprofit insurance companies, health maintenance organizations, preferred provider organizations, and managed care organizations, and which are entered into, delivered, issued for delivery, amended, or renewed after January 1, 2010.

(c) Reimbursement for obstetrical services for insureds who are pregnant at the time of their enrollment shall be determined according to the same formula by which charges are developed for obstetrical services for other insureds. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and coinsurance factors that are no less favorable than for other types of obstetrical services generally.

(d) Nothing in this section shall be construed to prohibit any insurer from providing medical benefits greater than or more favorable to the insured than the benefits established pursuant to this section.

(e) This section shall not apply to short term travel policies, short term nonrenewable policies of not more than six (6) months' duration, accident only policies, limited or specific disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans, including the TennCare and Medicaid programs.

SECTION 9. Tennessee Code Annotated, Title 68, Chapter 5, Part 5, is amended by inserting the following as a new, appropriately designated section thereto:

Any person who offers or provides to a pregnant woman a testing or screening service to detect genetic disorders in that woman's fetus shall inform the woman in a medically and statistically accurate manner of the likelihood that a positive result of such test or screen might be a false positive. For a person who is a licensed physician or osteopathic physician in this state, a violation of this section may be considered a violation of the practice act governing that person pursuant to title 63, chapter 6 or title 63, chapter 9, respectively. In addition, a violation of this section may be considered a violation of the licensure requirements governing any facility licensed by the department pursuant to this title where the testing or screening service was provided.

SECTION 10. Tennessee Code Annotated, Section 68-11-255, is amended by deleting subdivision (a)(1) and by substituting instead the following:

(1) "Facility" means any hospital as defined by § 68-11-201, birthing center as defined by § 68-11-201, community health clinic, outpatient "walk-in" clinic, local department of health clinic, local office of the department of human services, or local fire department or police station.

SECTION 11. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, title 4, chapter 5.

SECTION 12. This act shall take effect July 1, 2009, the public welfare requiring it.