

CHAPTER 2022-69

Committee Substitute for House Bill No. 5

An act relating to reducing fetal and infant mortality; amending s. 381.84, F.S.; revising the purpose and requirements for the Comprehensive Statewide Tobacco Education and Use Prevention Program; revising a provision relating to a certain report to conform to changes made by the act; creating s. 383.21625, F.S.; providing a definition; requiring the Department of Health to contract with local healthy start coalitions for the creation of fetal and infant mortality review committees in all regions of the state; providing requirements for such committees; requiring local healthy start coalitions to report the findings and recommendations developed by the committees to the department annually; requiring the department to compile such findings and recommendations in a report and submit such report to the Governor and Legislature by a specified date and annually; authorizing the department to adopt rules; amending s. 390.011, F.S.; revising and providing definitions; amending s. 390.0111, F.S.; prohibiting a physician from performing a termination of pregnancy if the physician determines the gestational age of a fetus is more than a specified number of weeks; providing an exception; amending s. 390.0112, F.S.; revising a requirement that the directors of certain medical facilities submit a monthly report to the Agency for Health Care Administration; requiring certain physicians to submit such report to the agency; requiring the report to be submitted electronically on a form adopted by the agency, the Board of Medicine, and the Board of Osteopathic Medicine; requiring the report to include certain additional information; removing obsolete language; creating s. 395.1054, F.S.; requiring that certain hospitals participate in a minimum number of quality improvement initiatives developed in collaboration with the Florida Perinatal Quality Collaborative within the University of South Florida College of Public Health; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2), (3), and (7) of section 381.84, Florida Statutes, are amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(2) PURPOSE, FINDINGS, AND INTENT.—It is the purpose of this section to implement s. 27, Art. X of the State Constitution. The Legislature finds that s. 27, Art. X of the State Constitution requires the funding of a statewide tobacco education and use prevention program that focuses on tobacco use by youth. The Legislature further finds that the primary goals of the program are to reduce the prevalence of tobacco use among youth, adults, and pregnant women, and women who may become pregnant; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco

smoke. Further, it is the intent of the Legislature to base increases in funding for individual components of the program on the results of assessments and evaluations. Recognizing that some components will need to grow faster than inflation, it is the intent of the Legislature to fund portions of the program on a nonrecurring basis in the early years so that those components that are most effective can be supported as the program matures.

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The program shall include the following components, each of which shall focus on educating people, particularly pregnant women, women who may become pregnant, and youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(a) Counter-marketing and advertising; Internet resource center.—The counter-marketing and advertising campaign shall include, at a minimum, Internet, print, radio, and television advertising and shall be funded with a minimum of one-third of the total annual appropriation required by s. 27, Art. X of the State Constitution.

1. The campaign shall include an Internet resource center for copyrighted materials and information concerning tobacco education and use prevention, including cessation. The Internet resource center must be accessible to the public, including parents, teachers, and students, at each level of public and private schools, universities, and colleges in the state and shall provide links to other relevant resources. The Internet address for the resource center must be incorporated in all advertising. The information maintained in the resource center shall be used by the other components of the program.

2. The campaign shall use innovative communication strategies, such as targeting specific audiences who use personal communication devices and frequent social networking websites.

(b) Cessation programs, counseling, and treatment.—This program component shall include two subcomponents:

1. A statewide toll-free cessation service, which may include counseling, referrals to other local resources and support services, and treatment to the extent funds are available for treatment services; and

2. A local community-based program to disseminate information about tobacco-use cessation, how tobacco-use cessation relates to prenatal care and obesity prevention, and other chronic tobacco-related diseases.

(c) Surveillance and evaluation.—The program shall conduct ongoing epidemiological surveillance and shall contract for annual independent evaluations of the effectiveness of the various components of the program in meeting the goals as set forth in subsection (2).

(d) Youth school programs.—School and after-school programs shall use current evidence-based curricula and programs that involve youth to educate youth about the health hazards of tobacco, help youth develop skills to refuse tobacco, and demonstrate to youth how to stop using tobacco.

(e) Community programs and chronic disease prevention.—The department shall promote and support local community-based partnerships that emphasize programs involving youth, pregnant women, and women who may become pregnant, including programs for the prevention, detection, and early intervention of tobacco-related chronic diseases.

(f) Training.—The program shall include the training of health care practitioners, tobacco-use cessation counselors, and teachers by health professional students and other tobacco-use prevention specialists who are trained in preventing tobacco use and health education. Tobacco-use cessation counselors shall be trained by specialists who are certified in tobacco-use cessation.

(g) Administration and management, statewide programs, and county health departments.—The department shall administer the program within the expenditure limit established in subsection (8). Each county health department is eligible to receive a portion of the annual appropriation, on a per capita basis, for coordinating tobacco education and use prevention programs within that county. Appropriated funds may be used to improve the infrastructure of the county health department to implement the comprehensive, statewide tobacco education and use prevention program. Each county health department shall prominently display in all treatment rooms and waiting rooms counter-marketing and advertisement materials in the form of wall posters, brochures, television advertising if televisions are used in the lobby or waiting room, and screensavers and Internet advertising if computer kiosks are available for use or viewing by people at the county health department.

(h) Enforcement and awareness of related laws.—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Clean Indoor Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (a) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

(i) AHEC tobacco-use cessation initiative.—The AHEC network may administer the AHEC tobacco-use cessation initiative in each county within the state and perform other activities as determined by the department.

(7) ANNUAL REPORT REQUIRED.—By January 31 of each year, the department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that evaluates the program's effectiveness in reducing and preventing tobacco use and that recommends improvements to enhance the program's effectiveness. The report must contain, at a minimum, an annual survey of youth attitudes and behavior toward tobacco, as well as a description of the progress in reducing the prevalence of tobacco use among youth, adults, and pregnant women, and women who may become pregnant; reducing per capita tobacco consumption; and reducing exposure to environmental tobacco smoke.

Section 2. Section 383.21625, Florida Statutes, is created to read:

383.21625 Fetal and infant mortality review committees.—

(1) As used in this section, the term “department” means the Department of Health.

(2) The department shall contract with local healthy start coalitions for the creation of fetal and infant mortality review committees in all regions of the state to improve fetal and infant mortality and morbidity in each region. Each committee shall:

(a) Review and analyze rates, trends, causes, and other data related to fetal and infant mortality and morbidity in a geographic area.

(b) Develop findings and recommendations for interventions and policy changes to reduce fetal and infant mortality and morbidity rates.

(c) Engage with local communities and stakeholders to implement recommended policies and procedures to reduce fetal and infant mortality and morbidity.

(3) Each local healthy start coalition shall report the findings and recommendations developed by each fetal and infant mortality review committee to the department annually. Beginning October 1, 2023, the department shall compile such findings and recommendations in an annual report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(4) The department may adopt rules necessary to implement this section.

Section 3. Subsections (6) and (7) of section 390.011, Florida Statutes, are renumbered as subsections (7) and (8), respectively, present subsections (8) through (13) are renumbered as subsections (10) through (15),

respectively, present subsection (6) is amended, and new subsections (6) and (9) are added to that section, to read:

390.011 Definitions.—As used in this chapter, the term:

(6) “Fatal fetal abnormality” means a terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter.

~~(7)(6)~~ “Gestation” means the development of a human embryo or fetus as calculated from the first day of the pregnant woman’s last menstrual period between fertilization and birth.

(9) “Medical abortion” means the administration or use of an abortion-inducing drug to induce an abortion.

Section 4. Subsection (1) of section 390.0111, Florida Statutes, is amended to read:

390.0111 Termination of pregnancies.—

(1) TERMINATION AFTER GESTATIONAL AGE OF 15 WEEKS IN THIRD TRIMESTER; WHEN ALLOWED.—A physician may not perform a ~~No~~ termination of pregnancy if the physician determines the gestational age of the fetus is more than 15 weeks shall be performed on any human being in the third trimester of pregnancy unless one of the following conditions is met:

(a) Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman’s life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition.

(b) The physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman’s life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(c) The fetus has not achieved viability under s. 390.01112 and two physicians certify in writing that, in reasonable medical judgement, the fetus has a fatal fetal abnormality.

Section 5. Section 390.0112, Florida Statutes, is amended to read:

390.0112 Termination of pregnancies; reporting.—

(1) The director of any medical facility in which abortions are performed, including surgical procedures and medical abortions, including a physician's office, shall submit a report each month to the agency. If the abortion is not performed in a medical facility, the physician performing the abortion shall submit the monthly report. The report must may be submitted electronically on a form adopted by the agency, the Board of Medicine, and the Board of Osteopathic Medicine which, may not include personal identifying information, and must include:

(a) ~~Until the agency begins collecting data under paragraph (e), The number of abortions performed.~~

(b) The reasons such abortions were performed. If a woman upon whom an abortion is performed has provided evidence that she is a victim of human trafficking pursuant to s. 390.0111(3)(a)1.b.(IV), such reason must be included in the information reported under this section.

(c) For each abortion, the period of gestation at the time the abortion was performed.

(d) The number of infants born alive or alive immediately after an attempted abortion.

(e) ~~Beginning no later than January 1, 2017, Information consistent with the United States Standard Report of Induced Termination of Pregnancy adopted by the Centers for Disease Control and Prevention.~~

(f) The number of medication abortion regimens prescribed or dispensed.

(2) The agency shall keep such reports in a central location for the purpose of compiling and analyzing statistical data and shall submit data reported pursuant to paragraph (1)(e) to the Division of Reproductive Health within the Centers for Disease Control and Prevention, as requested by the Centers for Disease Control and Prevention.

~~(3) If the termination of pregnancy is not performed in a medical facility, the physician performing the procedure shall be responsible for reporting such information as required in subsection (1).~~

~~(3)(4)~~ Reports submitted pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding.

~~(4)(5)~~ Any person required under this section to file a report or keep any records who willfully fails to file such report or keep such records may be subject to a \$200 fine for each violation. The agency shall be required to impose such fines when reports or records required under this section have not been timely received. For purposes of this section, timely received is defined as 30 days following the preceding month.

Section 6. Section 395.1054, Florida Statutes, is created to read:

395.1054 Birthing quality improvement initiatives.—A hospital that provides birthing services shall at all times participate in at least two quality improvement initiatives developed in collaboration with the Florida Perinatal Quality Collaborative within the University of South Florida College of Public Health.

Section 7. For the 2022-2023 fiscal year, the sum of \$1,602,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Health for the purpose of establishing fetal and infant mortality review committees under s. 383.21625, Florida Statutes.

Section 8. This act shall take effect July 1, 2022.

Approved by the Governor April 14, 2022.

Filed in Office Secretary of State April 14, 2022.