

111TH CONGRESS
1ST SESSION

S. 98

To impose admitting privilege requirements with respect to physicians who perform abortions.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To impose admitting privilege requirements with respect to physicians who perform abortions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pregnant Women
5 Health and Safety Act”.

6 **SEC. 2. REQUIREMENT FOR PHYSICIANS RELATING TO THE**
7 **PERFORMANCE OF ABORTIONS.**

8 Chapter 74 of title 18, United States Code, is amend-
9 ed by adding at the end the following:

1 **“§ 1532. Prohibition on certain procedures**

2 “(a) IN GENERAL.—A physician who, in or affecting
3 interstate or foreign commerce, knowingly performs an
4 abortion and, in doing so, fails to comply with subsection
5 (b), shall be fined under this title or imprisoned not more
6 than 2 years, or both. This subsection shall not apply to
7 an abortion that is necessary to save the life of a mother
8 whose life is endangered by a physical disorder, physical
9 illness, or physical injury, including a life-endangering
10 physical condition caused by or arising from the pregnancy
11 itself.

12 “(b) REQUIREMENTS.—A physician who performs an
13 abortion shall—

14 “(1) have admitting privileges at a hospital to
15 which the physician can travel in one hour or less
16 (determined on the basis of starting at the principal
17 medical office of the physician and traveling to the
18 hospital) and under the average conditions of travel
19 for the physician; and

20 “(2) at the time of the abortion, notify the pa-
21 tient involved of the hospital location where the pa-
22 tient can receive follow-up care by the physician if
23 complications resulting from the abortion arise.

24 “(c) DEFINITION.—As used in this section, the term
25 ‘physician’ means a doctor of medicine or osteopathy le-
26 gally authorized to practice medicine and surgery by the

1 State in which the doctor performs such activity, or any
 2 other individual legally authorized by the State to perform
 3 abortions: *Provided, however,* That any individual who is
 4 not a physician or not otherwise legally authorized by the
 5 State to perform abortions, but who nevertheless directly
 6 performs an abortion, shall be subject to the provisions
 7 of this section.

8 “(d) LIMITATION.—A woman upon whom a proce-
 9 dure described in subsection (a) is performed may not be
 10 prosecuted under this section, for a conspiracy to violate
 11 this section, or for an offense under section 2, 3, or 4
 12 of this title based on a violation of this section.”

13 **SEC. 3. REQUIREMENT OF ABORTION CLINICS.**

14 (a) IN GENERAL.—Each abortion clinic that receives
 15 any Federal funds or assistance shall—

16 (1) be licensed by the State in which it is lo-
 17 cated; and

18 (2) be in compliance with the requirements ex-
 19 isting on the date of enactment of this Act for am-
 20 bulatory surgery centers under title XVIII of the So-
 21 cial Security Act (42 U.S.C. 1935 et seq.), except
 22 for the requirement of a certificate of public need.

23 (b) WAIVER.—For purposes of complying with sub-
 24 section (a)(2) with respect to an abortion clinic, a State
 25 board of health may waive the application of certain struc-

1 tural requirements (as determined appropriate by the Sec-
2 retary of Health and Human Services).

3 (c) DEFINITION.—In this section, the term “abortion
4 clinic” mean a facility other than a hospital or an ambula-
5 tory surgery center, in which 25 or more first trimester
6 abortions are performed during any 12-month period.

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