

HOUSE BILL 1490

By Ragan

AN ACT to amend Tennessee Code Annotated, Title 9,
Chapter 4, Part 51; Title 67 and Title 68, relative to
family planning services.

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

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2 through 5 as a new chapter 61.

SECTION 2. This chapter shall be known and may cited as the "Life Appropriation Act."

SECTION 3. The general assembly finds that:

(1) The state of Tennessee facilitates the disbursement of both state and federal funds to qualifying entities for purposes of conducting certain activities;

(2) Public dollars awarded to qualifying entities may facilitate or subsidize directly or indirectly expenses or activities not directly related to those for which the funds were intended, including, but not limited to, shared administrative costs, overhead, employee salaries, rent, utilities, and various other expenses;

(3) It is possible that public dollars made available by or through the state of Tennessee may be awarded to an entity that performs convenience abortions or subsidizes or otherwise facilitates the entity's ability to perform convenience abortions although the funds were not disbursed specifically for the purpose of performing convenience abortions;

(4) As elected representatives of the people of Tennessee, the members of the general assembly are entrusted with ensuring that all activities conducted with the aid of public funds are in accordance with the wishes of the people of Tennessee and the intent of the laws of this state;

(5) It is within the purview of the general assembly to establish criteria as the basis on which public funds are disbursed unless prohibited by the United States Constitution;

(6) The United States is a constitutional republic that the state of Tennessee is part of;

(7) The United States Constitution preempts state actions, when they conflict under the doctrine of preemption;

(8) The establishment clause of the First Amendment of the United States Constitution states, "Congress shall make no law respecting an establishment of religion";

(9) The establishment clause of the First Amendment of the United States Constitution applies to the state of Tennessee through the Fourteenth Amendment of the United States Constitution;

(10) As elected representatives, the members of the general assembly have a duty under Article IV of the United States Constitution to not appropriate funds in a manner that violates the establishment clause of the United States Constitution;

(11) The United States supreme court has recognized that secular humanism is a religion for purposes of the establishment clause in *Torcaso v. Watkins*, 367 U.S. 488 (1961) and *Edwards v. Aguillard*, 482 U.S. 578 (1987);

(12) The naked assertions that "abortion is not murder", "that abortion is not immoral", and that "life does not begin at conception" are unproven faith-based assumptions that are implicitly religious and are unproven truth claims that are inseparably linked to the religion of secular humanism;

(13) Many taxpayers, who are nonobservers to the religion of secular humanism, object to their tax dollars being spent to enable convenience abortions because such appropriations coercively cause them to violate their conscience by forcing them to indirectly endorse nonsecular acts that they consider to be immoral and offensive;

(14) Some taxpayers in Tennessee consider convenience abortions to be modern day child sacrifice conducted on the altar of convenience, which is a practice that is nonsecular and controversial;

(15) That the establishment clause prohibits the state of Tennessee from enforcing, respecting, recognizing, favoring, or endorsing policies that fund abortion facilities with tax dollars because the practices are nonsecular and such appropriations have the effect of excessively entangling the government with the religion of secular humanism, putting religion over nonreligion;

(16) The direct or indirect subsidization or facilitation of abortion with funds distributed by the state of Tennessee constitutes paying for an abortion and, therefore, conflicts with the First Amendment establishment clause of the United States Constitution;

(17) The state of Tennessee may not favor or endorse one (1) religion over another, nor may the state of Tennessee favor or endorse the religion of secular humanism generally over nonreligion;

(18) It is the policy of the state of Tennessee to:

(A) Favor childbirth and family planning services that do not include convenience abortions or the promotion of convenience abortions within the continuum of care or services; and

(B) Avoid the direct or indirect use of state funds to promote or support convenience abortions;

(19) The state of Tennessee has a compelling interest to uphold community standards of decency; and

(20) Abortion facilities that provide convenience abortions tend to erode community standards of decency.

SECTION 4. As used in this chapter:

(1) "Abortion referral" means the act of recommending a pregnant woman to a doctor, clinic, or other person or entity for the purpose of obtaining or learning about obtaining a convenience abortion;

(2) "Affiliate" means an individual or entity that, directly or indirectly, owns, controls, is controlled by, or is under the common control of another person or entity, in whole or in part, or a subsidiary, parent, or sibling entity;

(3) "Convenience abortion" is an elective abortion that means the act of using or prescribing an instrument, medicine, drug, device, or another substance or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. "Convenience abortion" does not include an act that is performed with the intent to:

(A) Save the life of the mother;

(B) Save the life or preserve the health of the unborn child;

(C) Remove a dead unborn child caused by spontaneous abortion;

(D) Remove an ectopic pregnancy; or

(E) Abort and remove an unborn child that is the result of rape or incest;

(4) "Pregnancy" means the female reproductive condition of having an unborn child in the woman's uterus; and

(5) "Unborn child" means the offspring of human beings from fertilization until birth.

SECTION 5.

(a) In view of the First Amendment's establishment clause of the United States constitution, an agency or instrumentality of the state shall not award a grant to pay the

direct or indirect costs of performing, inducing, referring, or counseling in favor of abortions, including, but not limited to, administrative costs and expenses; overhead costs; employee salaries; rent and mortgage payments; and telephone and other utility payments. Such appropriations constitute an endorsement of nonsecular conduct that is inseparably linked to the religion of secular humanism and has the effect of excessively entangling the state of Tennessee with the religion of secular humanism.

(b) In view of the First Amendment's establishment clause of the United States Constitution, an agency or instrumentality of the state shall not grant, appropriate, or distribute a grant to an individual or entity that:

(1) Performs convenience abortions, induces convenience abortions, provides convenience abortion referrals, or counsels in favor of convenience abortions; or

(2) Is an affiliate of a person or entity that performs abortions, induces abortions, provides abortion referrals, or counsels in favor of convenience abortions because such appropriations have the effect of endorsing nonsecular practices that excessively entangle the government with the religion of secular humanism.

SECTION 6.

(a) This chapter does not affect the funding of a hospital, medical school, or university. The restrictions under Section 5 do not apply to funding available through Medicaid.

(b) This chapter does not create or recognize:

(1) A right to an abortion; or

(2) A right to public funds, a contract, or a grant.

(c) This chapter recognizes:

(1) The members of the general assembly have a duty to comply with the establishment clause of the First Amendment of the United States Constitution pursuant to Article VI;

(2) That convenience abortions are, by their nature, nonsecular practices that are implicitly religious and inseparably linked to the religion of secular humanism;

(3) That the state of Tennessee is prohibited under the First Amendment's establishment clause from funding or promoting convenience abortions directly or indirectly because such appropriations constitute an endorsement of the religion of secular humanism and have the effect of excessively entangling the government with the religion of secular humanism;

(4) That the United States supreme court and this general assembly have recognized that secular humanism is a religion for the purposes of the establishment clause and convenience abortions are nonsecular practices that are inseparably linked to the religion of secular humanism;

(5) That it is the policy of the state of Tennessee to favor childbirth and family planning services that do not include convenience abortions or the promotion of convenience abortions within the continuum of care or services and to avoid the direct or indirect use of state funds to promote or support convenience abortions;

(6) That the state of Tennessee has a compelling interest to uphold community standards of decency; and

(7) That facilities that provide convenient abortions tend to erode community standards of decency by encouraging promiscuity and normalizing false permission-giving beliefs about sex.

SECTION 7. Tennessee Code Annotated, Section 68-34-105(a), is amended by deleting the language "The department is authorized to receive and disburse such funds" and substituting instead the language "Subject to chapter 61, the department is authorized to receive and disburse such funds".

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.