

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S3/18/13*  
**A Bill**

SENATE BILL 913

5 By: Senator Irvin  
6 By: Representative Wren  
7

**For An Act To Be Entitled**

9 AN ACT TO REGULATE THE USE OF CERTAIN DRUGS USED TO  
10 INDUCE AN ABORTION; TO DEFINE CERTAIN TERMS; TO  
11 PROVIDE FOR DISCIPLINARY PROCEEDINGS FOR ABORTIONS  
12 PERFORMED IN VIOLATION OF THIS ACT; TO PROVIDE A  
13 CIVIL CAUSE OF ACTION FOR VIOLATIONS OF THIS ACT; TO  
14 REQUIRE PHYSICIAN REPORTING; AND FOR OTHER PURPOSES.  
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**Subtitle**

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18 TO REGULATE THE USE OF CERTAIN DRUGS USED  
19 TO INDUCE AN ABORTION; AND TO PROVIDE FOR  
20 DISCIPLINARY PROCEEDINGS FOR ABORTIONS  
21 PERFORMED IN VIOLATION OF THIS ACT.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code Title 20, Chapter 16, Subchapter 6, is  
27 amended to add an additional section to read as follows:

28 20-16-603. Drug induced abortions – Procedures – Penalties – Causes of  
29 action.

30 (a) As used in section:

31 (1) "Abortion" means the use or prescription of an instrument,  
32 medicine, drug, or another substance or device to terminate the pregnancy of  
33 a woman known to be pregnant with an intention other than to increase the  
34 probability of a live birth, to preserve the life or health of the child  
35 after live birth, or to remove a dead unborn child who died in utero as the  
36 result of natural causes, accidental trauma, or a criminal assault on the



1 pregnant woman or her unborn child, and that causes the premature termination  
2 of the pregnancy;

3 (2) "Adverse event" means the same as in MedWatch: The FDA  
4 Safety and Information and Adverse Event Reporting Program;

5 (3) "Attempt to perform or induce an abortion" means an act or  
6 an omission of a statutorily required act that, under the circumstances as  
7 the actor believes them to be, constitutes a substantial step in a course of  
8 conduct planned to culminate in the performance or induction of an abortion  
9 in this state in violation of this section;

10 (4) "Mifepristone" means the specific abortion-inducing drug  
11 regimen known as RU-486; and

12 (5) "Physician" means a natural person licensed to practice  
13 medicine in the State of Arkansas under the Arkansas Medical Practices Act, §  
14 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

15 (b)(1) When mifepristone or a drug or chemical is used for the purpose  
16 of inducing an abortion, the drug or chemical shall be administered in the  
17 same room and in the physical presence of the physician who prescribed,  
18 dispensed, or otherwise provided the drug or chemical to the patient.

19 (2) The physician who induces the abortion or a person acting on  
20 behalf of the physician who induces the abortion shall make all reasonable  
21 efforts to ensure that the patient returns twelve (12) to eighteen (18) days  
22 after the administration or use of mifepristone or any drug or chemical for a  
23 follow-up visit so that the physician can confirm that the pregnancy has been  
24 terminated and can assess the patient's medical condition.

25 (3) A brief description of the efforts made to comply with this  
26 section, including the date, time, and identification by name of the person  
27 making the efforts, shall be included in the patient's medical record.

28 (c) This section does not affect telemedicine practice that does not  
29 involve the use of mifepristone or a drug or chemical to induce an abortion.

30 (d)(1) If a licensing board finds that a person licensed by the board  
31 has violated the rules of professional conduct by performing an abortion in  
32 violation of this subchapter, the board shall revoke the person's license.

33 (2) A penalty shall not be assessed against the woman upon whom  
34 the abortion is performed or attempted to be performed.

35 (e)(1)(A) A woman upon whom an abortion has been performed, the father  
36 of the unborn child who was the subject of the abortion if the father was

1 married to the woman who received the abortion at the time the abortion was  
2 performed, or a maternal grandparent of the unborn child may maintain an  
3 action against the person who performed the abortion in violation of this  
4 section for actual and punitive damages.

5 (B) A woman upon whom an abortion has been attempted in  
6 violation of this section may maintain an action against the person who  
7 attempted to perform the abortion for actual and punitive damages.

8 (2)(A) A cause of action for injunctive relief against a person  
9 who has knowingly or recklessly violated this section may be maintained by  
10 the woman upon whom an abortion was performed or attempted to be performed in  
11 violation of this section by a prosecuting attorney.

12 (B) An injunction under subdivision (e)(2)(A) of this  
13 section shall prevent the abortion provider from performing further abortions  
14 in violation of this section.

15 (f)(1) If a judgment is rendered in favor of the plaintiff prevails in  
16 an action under subsection (e) of this section, the court shall award  
17 reasonable attorney fees in favor of the plaintiff against the defendant.

18 (2) If a judgment is rendered in favor of the defendant and the  
19 court finds that the plaintiff's suit was frivolous and brought in bad faith,  
20 the court shall order the plaintiff to pay reasonable attorney's fee to the  
21 defendant.

22 (g) A pregnant woman who obtains or possesses mifepristone or another  
23 drug or chemical for the purpose of inducing an abortion to terminate her own  
24 pregnancy shall not be subject to an action under subsection (e) of this  
25 section.

26 (h)(1) In a civil or criminal proceeding or action brought under this  
27 section, the court shall determine if the anonymity of a woman upon whom an  
28 abortion has been performed or attempted shall be preserved from public  
29 disclosure without her consent.

30 (2)(A) Upon determining that the woman's anonymity shall be  
31 preserved, the court shall issue an order to the parties, witnesses, and  
32 counsel and shall direct the sealing of the record and exclusion of  
33 individuals from courtrooms or hearing rooms to the extent necessary to  
34 safeguard the woman's identity from public disclosure.

35 (B) An order under subdivision (h)(2)(A) of this section  
36 shall be accompanied by specific written findings explaining:

1                   (i) Why the anonymity of the woman should be  
2 preserved from public disclosure;

3                   (ii) Why the order is essential to that end;

4                   (iii) How the order is narrowly tailored to serve  
5 that interest; and

6                   (iv) Why no reasonable less restrictive alternative  
7 exists.

8                   (C) In the absence of written consent of the woman upon  
9 whom an abortion has been performed or attempted, anyone, other than a public  
10 official who brings an action under subsection (e) of this section shall  
11 bring the action under a pseudonym.

12                   (D) This subsection shall not be construed to conceal the  
13 identity of the plaintiff or of a witness from the defendant.

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15   */s/ Irvin*  
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