

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 463

5 By: Senator B. Johnson
6 By: Representative Furman
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS REGARDING ABORTION REPORTING
10 AND INSPECTIONS OF ABORTION FACILITIES; TO REQUIRE
11 CERTAIN DOCUMENTATION BE PRESENTED BEFORE PERFORMING
12 AN ABORTION WHEN THE PREGNANCY IS A RESULT OF RAPE OR
13 INCEST; AND FOR OTHER PURPOSES.
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Subtitle

16 TO AMEND THE LAWS REGARDING ABORTION
17 REPORTING AND INSPECTIONS OF ABORTION
18 FACILITIES; AND TO REQUIRE CERTAIN
19 DOCUMENTATION BE PRESENTED BEFORE
20 PERFORMING AN ABORTION WHEN THE PREGNANCY
21 IS A RESULT OF RAPE OR INCEST.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 20-9-302, concerning abortion facilities,
28 is amended to add additional subsections to read as follows:

29 (g) The department shall:

30 (1) Send all abortion data collected under state law to the
31 Centers for Disease Control and Prevention;

32 (2) Record and report to the Centers for Disease Control and
33 Prevention all instances of a suspension of a physician's license related to
34 abortions or abortion facilities; and

35 (3) Make available to the public via the Division of Vital
36 Records the following information:



- 1 (A) All abortion data collected under state law; and
- 2 (B) All instances of a suspension of a physician’s license
- 3 related to abortions or abortion facilities.

4 (h)(1) A person who notifies an abortion facility that the department
 5 may or will conduct its inspection on a specific date or time shall be guilty
 6 upon conviction of a Class A misdemeanor.

7 (2) A person who knowingly conceals or removes information that
 8 is relevant to an inspection of an abortion facility shall be guilty upon
 9 conviction of a Class A misdemeanor.

10 (i) All inspections of abortion facilities shall be conducted by at
 11 least two (2) persons at the same time.

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13 SECTION 2. Arkansas Code Title 20, Chapter 16, Subchapter 6, is
 14 amended to add an additional section to read as follows:

15 20-16-608. Reporting data on abortions to save the life of the mother.

16 A physician, healthcare provider, or abortion facility shall report to
 17 the Department of Health the number of abortions performed to save the life
 18 of the mother.

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20 SECTION 3. Arkansas Code § 20-16-705(c), concerning the prohibition of
 21 and exceptions for the abortion of a viable fetus, is amended to read as
 22 follows:

23 (c)(1) This subchapter shall not prohibit the abortion of a viable
 24 fetus if the pregnancy is the result of rape or incest perpetrated on a minor
 25 when documentation is presented that states that the crime has been reported
 26 to law enforcement.

27 (2) The physician or abortion facility shall:

28 (A) File the documentation that a crime has been reported
 29 to law enforcement in the pregnant woman’s medical record; and

30 (B) Report to the Department of Health the number of
 31 abortions performed because of rape or incest.

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33 SECTION 4. Arkansas Code § 20-16-1305(b), concerning the exemptions
 34 within the Arkansas Human Heartbeat Protection Act, is amended to read as
 35 follows:

36 (b) This subchapter does not apply to:

1 (1) An abortion performed to save the life of the mother;

2 (2)(A) A pregnancy that results from rape under § 5-14-103 or
3 incest under § 5-26-202 when documentation is presented that states that the
4 crime has been reported to law enforcement.

5 (B) The physician or abortion facility shall:

6 (i) File the documentation that a crime has been
7 reported to law enforcement in the pregnant woman's medical record; and

8 (ii) Report to the Department of Health the number
9 of abortions performed because of rape or incest; or

10 (3) A medical emergency.

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12 SECTION 5. Arkansas Code § 20-16-1405(a)(3), concerning the
13 prohibition of an abortion on an unborn child who is twenty (20) weeks or
14 more post-fertilization age within the Pain-Capable Unborn Child Protection
15 Act, is amended to read as follows:

16 (3)(A) Subdivision (a)(1) of this section does not apply if the
17 pregnancy results from rape under § 5-14-103 or incest under § 5-26-202 when
18 documentation is presented that states that the crime has been reported to
19 law enforcement.

20 (B) The physician or abortion facility shall:

21 (i) File the documentation that a crime has been
22 reported to law enforcement in the pregnant woman's medical record; and

23 (ii) Report to the Department of Health the number
24 of abortions performed because of rape or incest.

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26 SECTION 6. Arkansas Code § 20-16-1803(d), concerning the ban on
27 dismemberment abortion within the Arkansas Unborn Child Protection from
28 Dismemberment Abortion Act, is amended to read as follows:

29 (d)(1) This subchapter does not prohibit an abortion by any other
30 method for any reason, including rape or incest when documentation is
31 presented that states that the crime has been reported to law enforcement.

32 (2) The physician or abortion facility shall:

33 (A) File the documentation that a crime has been reported
34 to law enforcement in the pregnant woman's medical record; and

35 (B) Report to the Department of Health the number of
36 abortions performed because of rape or incest.

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2 SECTION 7. Arkansas Code § 20-16-2004(a) and (b), concerning abortion
3 prohibitions in the Cherish Act, are amended to read as follows:

4 (a) Except in a medical emergency or if the pregnancy results from a
5 rape under § 5-14-103 or incest under § 5-26-202 when documentation is
6 presented that states that the crime has been reported to law enforcement, a
7 person shall not perform, induce, or attempt to perform or induce an abortion
8 unless the physician or referring physician has:

9 (1) Made a determination of the probable gestational age of the
10 unborn human being according to standard medical practices and techniques
11 used in the medical community; and

12 (2) Documented the probable gestational age in the medical
13 records of the pregnant woman and, if required, in a report with the
14 Department of Health as described in subsection (c) of this section.

15 (b) Except in a medical emergency or if the pregnancy results from a
16 rape under § 5-14-103 or incest under § 5-26-202 when documentation is
17 presented that states that the crime has been reported to law enforcement, a
18 person shall not intentionally or knowingly perform, induce, or attempt to
19 perform or induce an abortion of an unborn human being if the probable
20 gestational age of the unborn human being is determined to be greater than
21 eighteen (18) weeks' gestation.

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23 SECTION 8. Arkansas Code § 20-16-2004, concerning abortion
24 prohibitions in the Cherish Act, is amended to add an additional subsection
25 to read as follows:

26 (d) The physician or abortion facility shall:

27 (1) File the documentation that a crime has been reported to law
28 enforcement in the pregnant woman's medical record; and

29 (2) Report to the department the number of abortions performed
30 because of rape or incest.

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33 **APPROVED: 4/21/21**
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