1	State of Arkansas	As Engrossed: S3/15/11		
2	88th General Assembly	A Bill		
3	Regular Session, 2011		SENATE BILL 845	
4				
5	By: Senator Rapert			
6				
7		For An Act To Be Entitled	d	
8	AN ACT TO CREATE THE ABORTION PATIENTS' ENHANCED			
9	SAFETY ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER			
10	PURPOSES.			
11				
12				
13		Subtitle		
14	AN ACT	TO CREATE THE ABORTION PATE	ENTS'	
15	ENHANC	ED SAFETY ACT AND TO DECLARE	AN	
16	EMERGE	NCY.		
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18				
19	BE IT ENACTED BY THE GET	NERAL ASSEMBLY OF THE STATE (OF ARKANSAS:	
20				
21	SECTION 1. Arkan	sas Code Title 20, Chapter 9	is amended to add an	
22	additional subchapter to	o read as follows:		
23	Subchapter	<u> 13 — Abortion Patients' Enha</u>	nced Safety Act	
24				
25	20-9-1301. Title	<u>•</u>		
26	This subchapter s	hall be known and may be cite	ed as the "Abortion	
27	Patients' Enhanced Safe	ty Act".		
28				
29	20-9-1302. Legis	lative findings — Purposes.		
30	(a) The General	Assembly finds that:		
31		ety-five percent (95%) of al	-	
32	in clinics devoted sole	ly to providing abortions and	d family planning	
33	services.			
34		Most women who seek abortion:		
35	· · · · · · · · · · · · · · · · · · ·	<u>ip with the physician who pe</u>	rforms the abortion either	
36	before or after the pro-	cedure.		

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1	(C) In most instances, the woman's only actual contact		
2	with the abortion provider occurs simultaneously with the abortion procedure		
3	with little opportunity to ask questions about the procedure, potential		
4	complications, and proper follow-up care;		
5	(2) For most abortions, the woman arrives at the clinic on the		
6	day of the procedure, has the procedure in a room within the clinic, and		
7	recovers under the care of clinic staff, all without a hospital admission;		
8	(3)(A) Abortion is an invasive, surgical procedure that can lead		
9	to numerous and serious medical complications.		
10	(B) Potential complications for first trimester abortions		
11	include, among others, bleeding, hemorrhage, infection, uterine perforation,		
12	blood clots, cervical tears, incomplete abortion, retained tissue, failure to		
13	actually terminate the pregnancy, free fluid in the abdomen, acute abdomen,		
14	missed ectopic pregnancies, cardiac arrest, sepsis, respiratory arrest,		
15	reactions to anesthesia, fertility problems, emotional problems, and even		
16	death;		
17	(4)(A) The risks for second trimester abortions are greater than		
18	for first trimester abortions.		
19	(B) The risk of hemorrhage, in particular, is greater and		
20	the resultant complications may require a hysterectomy, other reparative		
21	surgery, or a blood transfusion;		
22	(5) As stated in Williamson v. Lee Optical, 348 U.S. 483, 486		
23	(1955), the State of Arkansas has a legitimate concern for the public's		
24	health and safety;		
25	(6)(A) As stated in Planned Parenthood of Southeastern		
26	Pennsylvania v. Casey, 505 U.S. 833, 846 (1992), the State of Arkansas "has		
27	legitimate interests from the outset of the pregnancy in protecting the		
28	health of the woman".		
29	(B) As stated in Akron v. Akron Ctr. for Reproductive		
30	Health, Inc., 462 U.S. 416, 428 (1983), the State of Arkansas "has a		
31	legitimate concern with the health of women who undergo abortions";		
32	(7) Moreover, as stated in Roe v. Wade, 410 U.S. 113, 150		
33	(1973), the State of Arkansas "has a legitimate interest in seeing to it that		
34	abortion, like any other medical procedure, is performed under circumstances		
35	that insure maximum safety for the patient";		
36	(8) An ambulatory surgery center is a health care facility that		

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1	specializes in providing surgery services in an outpatient setting; and		
2	(9) A patient who elects to have surgery in an ambulatory		
3	surgery center arrives on the day of the procedure, has the surgery in an		
4	operating room, and recovers under the care of the nursing staff, all withou		
5	a hospital admission.		
6	(b) Based on the findings in subsection (a) of this section, it is the		
7	purpose of this subchapter to:		
8	(1) Regulate abortion clinics in a manner consistent with rules		
9	applied to ambulatory surgery centers in this state;		
10	(2) Promote and enforce the highest standard for care and safety		
11	in facilities performing abortions in this state;		
12	(3) Provide for the protection of public health through the		
13	establishment and enforcement of rigorous and medically appropriate standard		
14	of care and safety in abortion clinics; and		
15	(4) Regulate the provision of abortion consistent with and to		
16	the extent permitted by the decisions of the Supreme Court of the United		
17	States.		
18			
19	20-9-1303. Definitions.		
20	As used in this subchapter:		
21	(1)(A) "Abortion" means the act of using or prescribing any		
22	instrument, medicine, drug, or any other substance, device, or means with the		
23	intent to terminate the clinically diagnosable pregnancy of a woman with		
24	knowledge that the termination by those means will with reasonable likelihood		
25	cause the death of the unborn child.		
26	(B) The use, prescription, or means is not an abortion if		
27	done with the intent to:		
28	(i) Save the life or preserve the health of the		
29	unborn child;		
30	(ii) Remove a dead unborn child caused by		
31	spontaneous abortion; or		
32	(iii) Remove an ectopic pregnancy; and		
33	(2) "Abortion clinic" means a facility, other than an accredited		
34	hospital, in which five (5) or more first trimester abortions in any month of		
35	any second or third trimester abortions are performed; and		
36	(3) "Ambulatory surgery center" means a facility in which		

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1 surgical services other than minor dental surgery are offered that require 2 the use of general or intravenous anesthetics and in which, in the opinion of 3 the attending physician, hospitalization, as defined in the present licensure 4 law, is not necessary. 5 6 20-9-1304. Licensing and regulatory standards. 7 An abortion clinic shall meet the licensing and regulatory standards 8 prescribed for ambulatory surgical centers. 9 10 20-9-1305. Criminal penalties. 11 A violation of this subchapter is a Class A misdemeanor. 12 20-9-1306. Fines. 13 14 (a) The Department of Health may impose a fine of not more than one 15 thousand dollars (\$1,000) for a violation of this subchapter. 16 (b) Each day during which a violation occurs is a separate offense for 17 purposes of assessing a fine. 18 (c) Both the office of the Attorney General and the office of the 19 prosecuting attorney for the county in which the violation occurred may bring 20 an action to enforce collection of a fine under this section. 21 22 20-9-1307. Injunctive relief. 23 (a) In addition to any other penalty provided by law, whenever in the judgment of the Director of the Department of Health, a person has engaged or 24 25 is about to engage in an act or practice that constitutes a violation of this 26 subchapter, the director shall make application to a court of competent 27 jurisdiction for an order enjoining the act or practice. (b) Upon a showing by the director that the person has engaged or is 28 29 about to engage in an act or practice that constitutes a violation of this 30 subchapter, the court shall issue an injunction, a restraining order, or 31 another appropriate order. 32 20-9-1308. Inspection of abortion facilities. 33 (a)(1) The Department of Health shall establish policies and 34 35 procedures for conducting annual inspections of abortion clinics regulated 36 under this subchapter.

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1	(2) The department shall adopt rules for the conduct of on-site			
2	inspections to ensure compliance with the requirements of this subchapter.			
3	(b)(1) The department also shall establish policies and procedures fo			
4	conducting inspections and investigations pursuant to complaints received by			
5	the department for alleged violations of the requirements of this			
6	subchapter.			
7	(2) The department shall receive, record, and dispose of			
8	complaints under the policies and procedures established in this section.			
9	(c) In promulgating rules under subsections (a) and (b) of this			
10	section, the department shall specifically include rules protecting the			
11	confidentiality of all patient records and patient-identifying information			
12	reviewed or accessed during the inspections required under this subchapter.			
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14	20-9-1309. Construction - Intent.			
15	(a) This subchapter does not create or recognize a right to an			
16	abortion.			
17	(b) This subchapter is not intended to make lawful an abortion that is			
18	currently unlawful.			
19				
20	SECTION 2. Emergency Clause. It is found and determined by the			
21	General Assembly of the State of Arkansas that an individual's health is of			
22	the highest priority where medical procedures are concerned; that abortions			
23	are currently being performed by medical facilities that do not meet the			
24	appropriate level of standards for surgical procedures; that the failure of			
25	these clinics to meet the appropriate level of standards for surgical			
26	procedures represents a major health risk to any woman seeking an abortion;			
27	and that this subchapter is immediately necessary because it will raise the			
28	standards for abortion clinics and promote and protect women's health in			
29	Arkansas. Therefore, an emergency is declared to exist and this subchapter			
30	being immediately necessary for the preservation of the public peace, health			
31	and safety shall become effective on July 1, 2011.			
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33	/s/Rapert			
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