

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1407

5 By: Representative Hammer
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS REGARDING DISPOSITION OF
9 HUMAN AND FETAL TISSUE; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE LAWS REGARDING DISPOSITION
12 OF HUMAN AND FETAL TISSUE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 20, Chapter 17, Subchapter 8, is
20 amended to read as follows:

21 Subchapter 8 – Disposition of Human Tissue 22

23 20-17-801. Fetus and tissue generally.

24 (a)(1)(A) Any physician removing or otherwise acquiring ~~any tissue of~~
25 ~~the human body may~~ human tissue, in his or her discretion, after making or
26 causing to be made ~~such~~ scientific examination of the human tissue as he or
27 she may deem appropriate or as may be required by law, custom, or rules and
28 regulations of the hospital or other institution in which the human tissue
29 may have been removed or acquired, may authorize disposition of the ~~tissue by~~
30 ~~incineration, cremation, burial, or other sanitary method approved by the~~
31 ~~State Board of Health~~ human tissue in a respectful and proper manner after
32 separating the human tissue from other medical waste.

33 (B) The physician may authorize the disposition pursuant
34 to this subsection unless he or she has been furnished, prior to removal or
35 acquisition of the tissue or at any time prior to its disposal, a written
36 request that the tissue ~~shall~~ be delivered to the patient or someone in his



1 or her behalf or, if death has occurred, to the person claiming the dead body
2 for burial or cremation.

3 (2) However, ~~no tissue~~ human tissue shall not be delivered
4 except as may be permitted by rules and regulations of the ~~board~~ State Board
5 of Health.

6 (3) Any hospital or other institution acquiring possession of
7 any human tissue and not having written instructions to the contrary from the
8 attending physician, the patient, or the person claiming a dead body for
9 burial or cremation, or someone acting in their behalf, may immediately
10 dispose of the human tissue as provided for in this subsection.

11 (b)(1)(A) ~~No~~ An external member of the human body ~~may~~ shall not be
12 disposed of pursuant to subsection (a) of this section within forty-eight
13 (48) hours of its removal or acquisition unless consent ~~thereto~~ is obtained
14 in writing from the patient or the person authorizing the medical or surgical
15 treatment of the patient.

16 (B) ~~and no~~ A dead fetus shall not be ~~so~~ disposed of within
17 ~~the same period of time~~ forty-eight (48) hours of its removal or acquisition
18 unless consent ~~thereto~~ is obtained in writing from the mother of the dead
19 fetus or the mother's spouse.

20 (2) For the purposes of this section, ~~an external member of the~~
21 ~~human body is defined as an arm or one (1) or more joints thereof, a hand, a~~
22 ~~finger or one (1) or more joints thereof, a leg or one (1) or more joints~~
23 ~~thereof, a foot, a toe or one (1) or more joints thereof, an ear or the~~
24 ~~greater part thereof, or the nose or the greater part thereof.:~~

25 (3) ~~For the purposes of this section, a dead fetus is defined as~~
26 ~~a product of human conception exclusive of its placenta or connective tissue,~~
27 ~~which has suffered death prior to its complete expulsion or extraction from~~
28 ~~the mother as established by the fact that, after the expulsion or extraction~~
29 ~~the fetus does not breathe or show any other evidence of life, such as~~
30 ~~beating of the heart, pulsation of the umbilical cord, or definite movement~~
31 ~~of voluntary muscles.~~

32 (A) "Dead fetus" means a product of human conception
33 exclusive of its placenta or connective tissue, which has suffered death
34 prior to its complete expulsion or extraction from the mother as established
35 by the fact that, after the expulsion or extraction the fetus does not
36 breathe or show any other evidence of life, such as beating of the heart,

1 pulsation of the umbilical cord, or definite movement of voluntary muscles;

2 (B) "External member of the human body" means an arm or
 3 one (1) or more joints of the arm, a hand, a finger or one (1) or more joints
 4 of the finger, a leg or one (1) or more joints of the leg, a foot, a toe or
 5 one (1) or more joints of the toe, an ear or the greater part of the ear, or
 6 the nose or the greater part of the nose;

7 (C) "Human tissue" means any tissue of the human body,
 8 including without limitation an external member of the human body, fetal
 9 tissue, placenta, or fetal connective tissue; and

10 (D) "Respectful and proper manner" means either releasing
 11 the human tissue to the patient or authorized person, incineration, burial,
 12 or cremation.

13 (c)(1) The board shall promulgate all reasonable and necessary rules
 14 and regulations to ~~effectuate~~ implement the provisions of this section.

15 (2) Facilities licensed by the Department of Health shall
 16 establish operational policies to implement the board rules and this section.

18 20-17-802. Fetal remains resulting from abortion.

19 (a) ~~Any~~ A physician ~~or facility who~~ that performs an abortion shall
 20 ensure that the fetal remains and all parts ~~thereof~~ are disposed of in a
 21 fashion similar to that in which other tissue is disposed.

22 (b)~~(1)~~ ~~No~~ A person shall not perform any biomedical or behavioral
 23 research on:

24 (1) a A fetus born alive as the result of a legal abortion
 25 unless the research is for the exclusive benefit of the fetus so born; or

26 ~~(2) No person shall perform any biomedical or behavioral~~
 27 ~~research on any~~ A fetus born dead as the result of a legal abortion or on any
 28 fetal tissue produced by the abortion without permission of the mother.

29 (c) ~~No~~ A person shall not buy, sell, give, exchange, or barter or
 30 offer to buy, sell, give, exchange, or barter any fetus born dead as a result
 31 of a legal abortion or any organ, member, or tissue of fetal material
 32 resulting from a legal abortion.

33 (d) ~~No~~ A person shall not possess either a fetus born dead as a result
 34 of a legal abortion or any organ, member, or tissue of fetal material
 35 resulting from a legal abortion.

36 (e) This section ~~shall~~ does not apply to:

1 (1) A physician performing a legal abortion or a pathologist
2 performing a pathological examination as the result of a legal abortion ~~and~~
3 ~~shall not apply to;~~

4 (2) ~~an~~ An employee, agent, or servant of ~~such~~ a physician
5 performing a legal abortion or pathologist performing a pathological
6 examination as the result of a legal abortion;

7 ~~(2)(3)~~ (3) The staff, faculty, students, or governing body of any
8 institution of higher learning or institution of secondary education to the
9 extent of courses of instruction taught and research conducted at the
10 institutions;

11 ~~(3)(4)~~ (4) Licensed physicians or their employees, agents, and
12 servants while in the conduct of medical research; or

13 ~~(4)(5)~~ (5) Any licensed physician when performing a standard autopsy
14 examination.

15 (f) ~~Any~~ A person violating this section ~~shall be~~ is guilty of a Class
16 A misdemeanor.

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