

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/5/15
A Bill

HOUSE BILL 1407

By: Representative Hammer
By: Senator J. Cooper

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAWS REGARDING DISPOSITION
OF HUMAN AND FETAL TISSUE.

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

SECTION 1. Arkansas Code Title 20, Chapter 17, Subchapter 8, is amended to read as follows:

Subchapter 8 – Disposition of Human Tissue

20-17-801. Fetus and tissue generally.

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

(B) The physician may authorize the disposition pursuant to this subsection unless he or she has been furnished, prior to removal or acquisition of the tissue or at any time prior to its disposal, a written



request that the tissue ~~shall~~ be delivered to the patient or someone in his or her behalf or, if death has occurred, to the person claiming the dead body for burial or cremation.

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

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

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

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

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

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

(A) "Dead fetus" means a product of human conception exclusive of its placenta or connective tissue, which has suffered death prior to its complete expulsion or extraction from the mother as established by the fact that, after the expulsion or extraction the fetus does not

breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/Hammer