

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

State of Arkansas
92nd General Assembly
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As Engrossed: S2/19/19 S2/28/19

A Bill

SENATE BILL 3

By: Senators T. Garner, *B. Ballinger, Bledsoe, A. Clark, J. Cooper, B. Davis, L. Eads, J. English, Flippo, K. Hammer, Hester, Hill, Irvin, B. Johnson, M. Johnson, Rapert, Rice, G. Stubblefield, J. Sturch, D. Wallace*

By: Representatives *Barker, Beck, Bentley, Breaux, Brown, Capp, Christiansen, Cloud, C. Cooper, Crawford, Della Rosa, Evans, M. Gray, Hawks, Kelly, Maddox, J. Mayberry, Penzo, Petty, Rye, B. Smith, S. Smith, Speaks, Vaught*

For An Act To Be Entitled

AN ACT TO REQUIRE ADDITIONAL REPORTING REQUIREMENTS
BY CERTAIN PHYSICIANS AND HEALTHCARE FACILITIES FOR
ABORTION COMPLICATIONS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE ADDITIONAL REPORTING
REQUIREMENTS BY CERTAIN PHYSICIANS AND
HEALTHCARE FACILITIES FOR ABORTION
COMPLICATIONS.

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

SECTION 1. Arkansas Code Title 20, Chapter 16, Subchapter 6, is amended to add an additional section to read as follows:

20-16-605. Reporting requirements for abortion complications.

(a) As used in this section:

(1)(A) "Abortion complication" means any harmful event or adverse outcome with respect to a patient related to an abortion that is performed on the patient and that is diagnosed or treated by a physician or at a healthcare facility.

(B) "Abortion complication" includes without limitation:

(i) Shock;



- (ii) Uterine perforation;
- (iii) Cervical laceration;
- (iv) Hemorrhage;
- (v) Aspiration or allergic response;
- (vi) Infection;
- (vii) Sepsis;
- (viii) Death;
- (ix) Incomplete abortion;
- (x) Damage to the uterus; and
- (xi) An infant born alive after an abortion

procedure; and

(2) "Healthcare facility" means a hospital, abortion facility, or healthcare facility that provides emergency medical care.

(b) This section applies only to:

(1) A physician who:

(A) Performs at an abortion facility an abortion that results in an abortion complication diagnosed or treated by the physician; or

(B) Diagnoses or treats at an abortion facility an abortion complication that is the result of an abortion performed by another physician at the abortion facility; and

(2) A healthcare facility.

(c)(1)(A) A physician described under subdivision (b)(1) of this section shall electronically submit to the Department of Health a report on each abortion complication diagnosed or treated by the physician not later than the end of the third business day after the date on which the abortion complication was diagnosed or treated.

(B) A healthcare facility described under subdivision (b)(2) of this section shall electronically submit to the department a report on each abortion complication diagnosed or treated by the healthcare facility not later than the thirtieth day after the date on which the abortion complication was diagnosed or treated.

(2) The reports described in subdivision (c)(1) of this section shall:

(A) Be submitted in the form and manner prescribed by rule of the department;

(B) Identify the name of the physician submitting the

report or the name and type of healthcare facility submitting the report;

(C) Not identify by any means the physician performing the abortion or the patient on whom the abortion was performed;

(D) Include the most specific, accurate, and complete reporting for the highest level of specificity; and

(E) Include the following information, if known, for each abortion complication:

(i) The date of the abortion that caused or may have caused the abortion complication;

(ii) The type of abortion that caused or may have caused the abortion complication;

(iii) The gestational age of the fetus at the time that the abortion was performed;

(iv) The name and type of healthcare facility in which the abortion was performed;

(v) The date the abortion complication was diagnosed or treated;

(vi) The name and type of any healthcare facility other than the reporting healthcare facility in which the abortion complication was diagnosed or treated;

(vii) A description of the abortion complication;

(viii) The patient's year of birth, race, marital status, state of residence, and county of residence;

(ix) The date of the first day of the patient's last menstrual period that occurred before the date of the abortion that caused or may have caused the abortion complication, if known;

(x) The number of previous live births of the patient; and

(xi) The number of previous induced abortions of the patient.

(3) An event associated with a medical procedure performed after a natural miscarriage, spontaneous abortion, or fetal death is not subject to reporting under this section.

(d)(1) The department shall develop and publish on the website of the department an annual report that aggregates on a statewide basis each abortion complication reported under this section.

(2) The annual report shall not include any duplicative data.

(e)(1) The information and records held by the department under this section are confidential and shall not be disclosed under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) The information and records shall be released only in the following circumstances:

(A) For statistical purposes, but only if a person, patient, or healthcare facility is not identified;

(B) With the consent of each person, patient, and healthcare facility identified in the information released;

(C) For the purpose of enforcing this section, to medical personnel, appropriate state agencies, county courts, or district courts; or

(D) For the purpose of enforcing state licensing laws, to appropriate state licensing boards.

(f)(1) A physician or healthcare facility that violates this section is subject to a civil penalty of five hundred dollars (\$500) for each violation.

(2) The Attorney General, at the request of the department or appropriate licensing board, may file an action to recover a civil penalty assessed under subdivision (f)(1) of this section and may recover attorney's fees and costs incurred in bringing the civil action.

(3) Each day of a continuing violation shall constitute a separate violation.

(4) A third separate violation of this section shall constitute grounds for:

(A) Revocation or suspension of the physician's or the healthcare facility's license, permit, registration, certificate, or other authority; or

(B) Other disciplinary action against the physician or healthcare facility by the appropriate licensing board.

(5) The department shall notify the Arkansas State Medical Board of any violations of this section by a physician.

/s/T. Garner