

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 463

By: Senator B. Johnson  
By: Representative Furman

## For An Act To Be Entitled

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

## Subtitle

TO AMEND THE LAWS REGARDING ABORTION REPORTING AND INSPECTIONS OF ABORTION FACILITIES; AND TO REQUIRE CERTAIN DOCUMENTATION BE PRESENTED BEFORE PERFORMING AN ABORTION WHEN THE PREGNANCY IS A RESULT OF RAPE OR INCEST.

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

SECTION 1. Arkansas Code § 20-9-302, concerning abortion facilities, is amended to add additional subsections to read as follows:

(g) The department shall:

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

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

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



(A) All abortion data collected under state law; and

(B) All instances of a suspension of a physician's license related to abortions or abortion facilities.

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

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

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

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

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

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

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

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

(2) The physician or abortion facility shall:

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

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

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

(b) This subchapter does not apply to:

- (1) An abortion performed to save the life of the mother;
- (2)(A) A pregnancy that results from rape under § 5-14-103 or incest under § 5-26-202 when documentation is presented that states that the crime has been reported to law enforcement.
  - (B) The physician or abortion facility shall:
    - (i) File the documentation that a crime has been reported to law enforcement in the pregnant woman’s medical record; and
    - (ii) Report to the Department of Health the number of abortions performed because of rape or incest; or
- (3) A medical emergency.

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

- (3)(A) Subdivision (a)(1) of this section does not apply if the pregnancy results from rape under § 5-14-103 or incest under § 5-26-202 when documentation is presented that states that the crime has been reported to law enforcement.
  - (B) The physician or abortion facility shall:
    - (i) File the documentation that a crime has been reported to law enforcement in the pregnant woman’s medical record; and
    - (ii) Report to the Department of Health the number of abortions performed because of rape or incest.

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

- (d)(1) This subchapter does not prohibit an abortion by any other method for any reason, including rape or incest when documentation is presented that states that the crime has been reported to law enforcement.
  - (2) The physician or abortion facility shall:
    - (A) File the documentation that a crime has been reported to law enforcement in the pregnant woman’s medical record; and
    - (B) Report to the Department of Health the number of abortions performed because of rape or incest.

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

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

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

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

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

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

(d) The physician or abortion facility shall:

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

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