

1 HB379
2 137334-1
3 By Representative Williams (J)
4 RFD: Health
5 First Read: 21-FEB-12

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8 SYNOPSIS: Under existing law, the Office of Vital
9 Statistics is required to collect certain
10 information related to the induced termination of
11 pregnancies and an induced termination of pregnancy
12 includes any abortion as defined in Act 2011-672.

13 This bill would provide that the Office of
14 Vital Statistics is not required to collect
15 information related to the removal of ectopic
16 pregnancies and would specify that the term
17 abortion would not include the removal of an
18 ectopic pregnancy.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Section 22-9A-13 Code of Alabama 1975, as
25 amended by Act 2011-672 of the 2011 Regular Session and to
26 amend Section 3 of Act 2011-672, now appearing as Section
27 26-23B-3 of the Code of Alabama 1975, to provide that the

1 Office of Vital Statistics is not required to collect
2 information related to the removal of ectopic pregnancy and to
3 specify that the definition of "abortion" does not include the
4 removal of an ectopic pregnancy.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 22-9A-13, Code of Alabama 1975,
7 as amended by Act 2011-672 of the 2011 Regular Session, and
8 Section 3 of Act 2011-672, now appearing as Section 26-23B-3
9 of the Code of Alabama 1975, are amended to read as follows:

10 "§22-9A-13.

11 "(a) A report of fetal death shall be filed with the
12 Office of Vital Statistics, or as otherwise directed by the
13 State Registrar, within five days after the occurrence is
14 known if the fetus has advanced to, or beyond, the twentieth
15 week of uterogestation.

16 "(1) When a fetal death occurs in an institution,
17 the person in charge of the institution or his or her
18 designated representative shall prepare and file the report.

19 "(2) When a fetal death occurs outside an
20 institution, the physician in attendance shall prepare and
21 file the report.

22 "(3) When a fetal death occurs without medical
23 attendance, the county medical examiner, the state medical
24 examiner, or the coroner shall determine the cause of fetal
25 death and shall prepare and file the report.

26 "(4) When a fetal death occurs in a moving
27 conveyance and the fetus is first removed from the conveyance

1 in this state or when a dead fetus is found in this state and
2 the place of fetal death is unknown, the fetal death shall be
3 reported in this state. The county where the fetus was first
4 removed from the conveyance or the dead fetus was found shall
5 be considered the county of fetal death.

6 "(b) A report of induced termination of pregnancy
7 for each induced termination of pregnancy which occurs in this
8 state shall be filed with the Office of Vital Statistics, or
9 as otherwise directed by the State Registrar, no later than 10
10 days after the last day of the month during which the
11 procedure was performed.

12 "(1) When the induced termination of pregnancy is
13 performed in an institution, the person in charge of the
14 institution or his or her designated representative shall
15 prepare and file the report.

16 "(2) When the induced termination of pregnancy is
17 performed outside an institution, the physician in attendance
18 shall prepare and file the report.

19 "(3) Beginning ~~January 1, 2013~~ on the effective date
20 of the act adding this language, the Office of Vital
21 Statistics shall collect the following information for all
22 induced terminations of pregnancies in addition to information
23 already collected; provided, that the definition of induced
24 termination of pregnancy in Section 22-9A-1(5) shall be
25 construed to include every abortion as defined in Section
26 26-23B-3(1), but shall not include the removal of an ectopic
27 pregnancy.

1 "a. Postfertilization age:

2 "1. If a determination of probable postfertilization
3 age was made, whether ultrasound was employed in making the
4 determination, and the week of probable postfertilization age
5 determined.

6 "2. If a determination of probable postfertilization
7 age was not made, the basis of the determination that a
8 medical emergency existed.

9 "b. Method of abortion: Which of the following was
10 employed:

11 "1. Medication abortion (such as, but not limited
12 to, mifepristone/misoprostol or methotrexate/misoprostol).

13 "2. Manual vacuum aspiration.

14 "3. Electrical vacuum aspiration.

15 "4. Dilation and evacuation.

16 "5. Combined induction abortion and dilation and
17 evacuation.

18 "6. Induction abortion with prostaglandins.

19 "7. Induction abortion with intra-amniotic
20 instillation (such as, but not limited to, saline or urea).

21 "8. Induction abortion, other.

22 "9. Intact dilation and extraction (partial-birth).

23 "10. Method not listed (specify).

24 "c. Whether an intra-fetal injection was used in an
25 attempt to induce fetal demise (such as, but not limited to,
26 intra-fetal potassium chloride or digoxin).

27 "d. Age and race of the patient.

1 "e. If the probable postfertilization age was
2 determined to be 20 or more weeks, the basis of the
3 determination that the pregnant woman had a condition which so
4 complicated her medical condition as to necessitate the
5 abortion of her pregnancy to avert her death or to avert
6 serious risk of substantial and irreversible physical
7 impairment of a major bodily function, not including
8 psychological or emotional conditions.

9 "f. If the probable postfertilization age was
10 determined to be 20 or more weeks, whether or not the method
11 of abortion used was one that, in reasonable medical judgment,
12 provided the best opportunity for the unborn child to survive
13 and, if such a method was not used, the basis of the
14 determination that termination of the pregnancy in that manner
15 would pose a greater risk either of the death of the pregnant
16 woman or of the substantial and irreversible physical
17 impairment of a major bodily function, not including
18 psychological or emotional conditions, of the woman than would
19 other available methods.

20 "(4) Reports of induced termination of pregnancy
21 shall not contain the name or the address of the patient whose
22 pregnancy was terminated, nor shall the report contain any
23 other information identifying the patient, except that each
24 report shall contain a unique medical record identifying
25 number, to enable matching the report to the patient's medical
26 records.

1 "(5) Individual induced termination of pregnancy
2 reports shall be maintained in strict confidence by the Office
3 of Vital Statistics, shall not be available for public
4 inspection, and shall not be made available except:

5 "a. To the Attorney General or a district attorney
6 with appropriate jurisdiction pursuant to a criminal
7 investigation.

8 "b. To the Attorney General or a district attorney
9 pursuant to a civil investigation of the grounds for an action
10 under subsection (b) of Section 26-23B-7.

11 "c. Pursuant to court order in an action under
12 Section 26-23B-7.

13 "d. Pursuant to investigations under Section
14 22-9A-25.

15 "e. At the request of the board or its attorney
16 pursuant to an investigation of civil or criminal legal action
17 related to licensure or the need for licensure of health
18 facilities or similar investigation or legal action for
19 failure to file reports required by this section.

20 "f. As provided in subdivision (6).

21 "(6) The Office of Vital Statistics shall annually
22 issue a public report providing aggregate data for the
23 previous calendar year compiled from all of the reports
24 covering that year submitted in accordance with this section
25 for each of the items listed in subdivision (3). Each report
26 shall also provide aggregate data for each such item for all
27 previous calendar years during which this section was in

1 effect, adjusted to reflect any additional information from
2 late or corrected reports. The Office of Vital Statistics
3 shall take care to ensure that none of the information
4 included in the public reports could reasonably lead to the
5 identification of any pregnant woman upon whom an induced
6 termination of pregnancy was performed or attempted and shall
7 not release the names of individual physicians or other staff
8 members employed by institutions performing induced
9 terminations of pregnancy. The Office of Vital Statistics
10 shall not release the number of procedures performed by any
11 particular physician, but shall include in each public report
12 the number of induced terminations of pregnancy, by method and
13 week of postfertilization age, reported by each institution.
14 Information that may not be publicly released under this
15 subdivision shall be made available only as provided with
16 regard to individual induced termination of pregnancy reports
17 in subdivision (5).

18 "(7) The State Registrar may authorize the use of
19 other aggregate statistical data for official government use.

20 "(c) The reports required under this section are
21 statistical reports only and are not to be incorporated into
22 the official records of the Office of Vital Statistics.

23 Certified copies of these records shall not be issued by the
24 Office of Vital Statistics. The State Registrar shall retain
25 and safeguard all individual reports received, making them
26 available only as provided in subdivision (5).

1 "(d) The Office of Vital Statistics, in advance of
2 2013 and each succeeding calendar year, shall determine
3 whether as a result of changes in abortion practice the list
4 of methods of abortion for reports of induced termination of
5 pregnancy to be used during that calendar year should be
6 modified from those listed in subdivision (3)b. of subsection
7 (b) so as to add new methods, modify the description of
8 methods, or delete methods no longer in use, and shall issue a
9 public notice incorporating changes based on that
10 determination.

11 "(e) The Office of Vital Statistics may charge a
12 filing fee for each report of induced termination of pregnancy
13 required by this section calculated to be sufficient, based on
14 the number of reports estimated to be filed, to recoup and
15 cover the costs to the Office of Vital Statistics of
16 fulfilling its duties under subsections (b) to (d), inclusive,
17 of this section.

18 "§26-23B-3.

19 "For purposes of this chapter, the following terms
20 shall have the following meanings:

21 "(1) ABORTION. The use or prescription of any
22 instrument, medicine, drug, or any other substance or device
23 to terminate the pregnancy of a woman known to be pregnant
24 with an intention other than to increase the probability of a
25 live birth, to preserve the life or health of the child after
26 live birth, or to remove a dead unborn child who died as the
27 result of natural causes in utero, accidental trauma, or a

1 criminal assault on the pregnant woman or her unborn child,
2 and which causes the premature termination of the pregnancy.
3 The term does not include the removal of an ectopic pregnancy.

4 "(2) ATTEMPT TO PERFORM OR INDUCE AN ABORTION. An
5 act, or an omission of a statutorily required act, that, under
6 the circumstances as the actor believes them to be,
7 constitutes a substantial step in a course of conduct planned
8 to culminate in the performance or induction of an abortion in
9 this state in violation of this chapter.

10 "(3) FERTILIZATION. The fusion of a human
11 spermatozoon with a human ovum.

12 "(4) MEDICAL EMERGENCY. A condition which, in
13 reasonable medical judgment, so complicates the medical
14 condition of the pregnant woman as to necessitate the
15 immediate abortion of her pregnancy without first determining
16 postfertilization age to avert her death or for which the
17 delay necessary to determine postfertilization age will create
18 serious risk of substantial and irreversible physical
19 impairment of a major bodily function, not including
20 psychological or emotional conditions. No condition shall be
21 deemed a medical emergency if based on a claim or diagnosis
22 that the woman will engage in conduct which she intends to
23 result in her death or in substantial and irreversible
24 physical impairment of a major bodily function.

25 "(5) POSTFERTILIZATION AGE. The age of the unborn
26 child as calculated from the fertilization of the human ovum.

1 "(6) REASONABLE MEDICAL JUDGMENT. A medical judgment
2 that would be made by a reasonable prudent physician,
3 knowledgeable about the case and the treatment possibilities
4 with respect to the medical conditions involved.

5 "(7) PHYSICIAN. Any person licensed to practice
6 medicine and surgery or osteopathic medicine and surgery in
7 this state.

8 "(8) PROBABLE POSTFERTILIZATION AGE OF THE UNBORN
9 CHILD. What, in reasonable medical judgment, will with
10 reasonable probability be the postfertilization age of the
11 unborn child at the time the abortion is planned to be
12 performed or induced.

13 "(9) UNBORN CHILD or FETUS. An individual organism
14 of the species homo sapiens from fertilization until live
15 birth.

16 "(10) WOMAN. A female human being whether or not she
17 has reached the age of majority."

18 Section 2. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.