

HB118 INTRODUCED



1 HB118
2 W1JSB59-1
3 By Representatives Gidley, Kiel
4 RFD: Judiciary
5 First Read: 13-Jan-26
6 PFD: 06-Jan-26



1
2
3

4 SYNOPSIS:

5 Under existing law, all forms of abortion are
6 prohibited, except to prevent a serious health risk to
7 the unborn child's mother.

8 This bill would prohibit the manufacture,
9 distribution, mailing, transporting, delivery,
10 prescription, or any other provision of an
11 abortion-inducing drug in this state, unless such
12 manufacture, distribution, mailing, transport,
13 delivery, prescription, or other provision is solely:
14 (i) for a purpose that is not an abortion; or (ii) to
15 treat a medical emergency, remove an ectopic pregnancy,
16 or remove a dead unborn child whose death was caused by
17 a miscarriage.

18 This bill would authorize any individual to
19 bring a qui tam action against a person who violates or
20 intends to violate the prohibition, provided that
21 neither the state nor its political subdivisions may
22 bring, engage with, or intervene in such a suit.

23 This bill would prohibit a qui tam action from
24 being filed against certain parties, including, but not
25 limited to, women using abortion-inducing drugs to
26 abort or attempt to abort their own unborn child;
27 transportation network companies or delivery persons;
28 Internet service providers; air carriers; certain

HB118 INTRODUCED



29 individuals acting under the direction of a federal
30 agency or federal law; health care facilities and
31 hospitals; health care providers who mail, distribute,
32 transport, deliver, prescribe, or otherwise provide
33 abortion-inducing drugs in this state while located
34 outside the state; and certain pharmaceutical
35 manufacturers or distributors who fail to adopt a
36 policy to implement this bill.

37 This bill would prohibit certain individuals who
38 themselves, or in concert with another: (i) commit
39 domestic violence, a sexual offense, or stalking
40 against a woman; or (ii) provide an abortion-inducing
41 drug to a woman without her knowledge, from bringing a
42 qui tam suit.

43 This bill would provide procedures relating to a
44 qui tam action, including a statute of limitation,
45 prohibitions on the disclosure of certain protected or
46 personal information, and taking of depositions.

47 This bill would provide affirmative defense to a
48 qui tam action, including, but not limited to, that the
49 defendant: (i) was unaware of the conduct that is the
50 subject of the suit; and (ii) took reasonable
51 precautions to prohibit violations of the act.

52 This bill would provide that the court must
53 award injunctive relief, a \$100,000 monetary award, and
54 court costs and reasonable attorney fees to a
55 successful qui tam relator.

56 This bill would also authorize certain civil



HB118 INTRODUCED

57 actions to prevent interference with qui tam actions
58 through "clawback" provisions that authorize a civil
59 action in other states.

60

61

62 A BILL

63 TO BE ENTITLED

64 AN ACT

65

66 Relating to abortion; to add Chapter 23J, commencing
67 with Section 26-23J-1, to Title 26 of the Code of Alabama
68 1975; to prohibit the manufacture, distribution, mailing,
69 transport, delivery, prescription, or other provision of
70 abortion-inducing drugs in this state, with limited
71 exceptions; to authorize a qui tam action against a person who
72 violates or intends to violate the prohibition, with
73 exceptions; to provide procedures relating to a qui tam suit,
74 including who may bring such a suit and appropriate defenses;
75 to provide for remedies for successful qui tam suits; and to
76 authorize certain civil actions to prevent interference by
77 certain "clawback" provisions that authorize a civil action in
78 another state.

79 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

80 Section 1. A new Chapter 23J, commencing with Section
81 26-23J-1, is added to Title 26 of the Code of Alabama 1975, to
82 read as follows:

83 §26-23J-1

84 For the purposes of this chapter, the following terms



85 have the following meanings:

86 (1) ABORTION. The same meaning as provided in Section
87 26-23H-3.

88 (2) ABORTION-INDUCING DRUG. The same meaning as
89 provided in Section 26-23E-3.

90 (3) DELIVERY NETWORK COMPANY. A business entity that
91 offers or uses a digital network to arrange for the delivery
92 of food, beverages, or consumer goods from a restaurant or
93 retail establishment to a delivery customer. The term does not
94 include an entity that only delivers products that the entity
95 produces or stores on the entity's premises.

96 (4) DELIVERY PERSON. An individual who undertakes a
97 digitally prearranged delivery in the state using a digital
98 network company's digital network.

99 (5) DIGITAL NETWORK. Any online-enabled application,
100 website, or system offered by either of the following:

101 a. A transportation network company that enables the
102 prearrangement of rides between passengers and drivers.

103 b. A delivery network company that enables digitally
104 prearranged drives.

105 (6) DIGITALLY PREARRANGED DELIVERY. The transport and
106 delivery or attempted delivery of goods to a delivery customer
107 which is prearranged through a delivery network company's
108 digital network, including the selection or collection of
109 items for delivery by an individual using a delivery network
110 company's digital network and other tasks incidental to
111 delivery.

112 (7) DIGITALLY PREARRANGED RIDE. A ride in a personal



113 vehicle between points chosen by a passenger which is
114 prearranged through a digital network.

115 (8) DRIVER. An individual who undertakes a digitally
116 prearranged ride between points chosen by a passenger.

117 (9) HEALTH CARE FACILITY. The meaning as provided in
118 Section 22-11A-60, except the term does not include a
119 hospital.

120 (10) HEALTH CARE PROVIDER. An individual who is
121 licensed, certified, or otherwise authorized by this state to
122 diagnose, prevent, alleviate, or cure a human illness or
123 injury. The term does not include a physician.

124 (11) HOSPITAL. The same meaning as provided under
125 Section 22-21-410, including any such hospital owned,
126 maintained, or operated by this state.

127 (12) MEDICAL EMERGENCY. The same meaning as provided
128 under Section 26-23H-3.

129 (13) PHYSICIAN. An individual licensed to practice
130 medicine in this state, including a medical doctor and a
131 doctor of osteopathic medicine.

132 (14) PHYSICIAN GROUP. An entity that is formed by a
133 physician or group of physicians to provide medical services.
134 The term includes, but is not limited to, any professional
135 organization, partnership, limited liability partnership,
136 nonprofit health corporation, or company formed by a physician
137 or group of physicians.

138 (15) TRANSPORTATION NETWORK COMPANY. A corporation,
139 partnership, sole proprietorship, or other entity that, for
140 compensation, enables a passenger to prearrange with a driver,



141 exclusively through the entity's digital network, a digitally
142 prearranged ride. The term does not include an entity that
143 provides any of the following:

- 144 a. Street-hail taxicab services.
- 145 b. Limousine or other car services arranged by a method
146 other than through a digital network.
- 147 c. Shared expense carpool or vanpool arrangements.
- 148 d. A type of ride service for which: (i) the fee
149 received by the driver does not exceed the driver's costs of
150 providing the ride; or (ii) the driver receives a fee that
151 exceeds the driver's costs associated with providing the ride
152 but makes not more than three round-trips per day between the
153 driver's or passenger's place of employment and the driver's
154 or passenger's home.

155 (16) WOMAN. The same meaning as provided in Section
156 1-1-1.

157 §26-23J-2

158 (a) This chapter does not apply to, and a civil action
159 under this chapter may not be brought against, any of the
160 following:

- 161 (1) A hospital.
- 162 (2) A health care facility licensed, owned, maintained,
163 or operated by this state.

164 (3) A health care provider, other than a provider
165 against whom a qui tam action may be brought in accordance
166 with Section 26-23J-4(d)(7).

167 (4) A physician, other than a physician against whom a
168 qui tam action may be brought in accordance with Section



169 26-23J-4 (d) (7) .

170 (5) A physician group.

171 (6) An Internet service provider or an Internet service
172 provider's affiliates or subsidiaries.

173 (7) An Internet search engine.

174 (8) A cloud service provider solely providing access or
175 connection to or from:

176 a. An Internet website; or

177 b. Information or content on the Internet or on a
178 facility, system, or network that is not under the cloud
179 service provider's control, including transmission,
180 downloading, intermediate storage, access software, or other
181 services.

182 (9) A person who manufactures, distributes, mails,
183 transports, delivers, prescribes, provides, or possesses
184 abortion-inducing drugs in this state solely for one or more
185 of the following purposes:

186 a. Treating a medical emergency.

187 b. Removing an ectopic pregnancy.

188 c. Removing a dead, unborn child whose death was caused
189 by miscarriage.

190 d. A purpose that does not include performing,
191 inducing, attempting, or assisting an abortion, other than an
192 abortion performed in response to a medical emergency.

193 (b) This chapter may not be construed to require the
194 actual performance, inducement, or attempted performance of an
195 abortion in order for an individual to bring a civil action
196 authorized by this chapter.



197 \$26-23J-3

198 (a) Except as provided by subsection (b) or Section
199 26-23J-2, a person may not:

200 (1) Manufacture or distribute an abortion-inducing drug
201 in this state; or

202 (2) Mail, transport, deliver, prescribe, or provide an
203 abortion-inducing drug in any manner to or from any individual
204 or location in this state.

205 (b) This section does not prohibit:

206 (1) Speech or conduct protected by the First Amendment
207 to the United States Constitution or protected by Section 4,
208 Article I of the Constitution of Alabama of 2022;

209 (2) Conduct a pregnant woman takes in the course of
210 aborting or attempting to abort the woman's unborn child;

211 (3) The manufacture, distribution, mailing, transport,
212 delivery, prescribing, provision, or possession of an
213 abortion-inducing drug solely for one or more of the purposes
214 described by Section 26-23J-2(a)(9); or

215 (4) Conduct a person takes under the direction of a
216 federal agency, contractor, or employee to carry out a duty
217 under federal law, if prohibiting that conduct would violate
218 the doctrine of preemption or intergovernmental immunity.

219 (c) (1) This section may be enforced only through a qui
220 tam action brought under this chapter.

221 (2) No other direct or indirect enforcement of this
222 section may be taken or threatened by this state, a political
223 subdivision of this state, a district or county attorney, or
224 any officer or employee of this state or a political



225 subdivision of this state against any person, by any means
226 whatsoever, except through a qui tam action brought under this
227 chapter.

228 (d) This section does not preclude or limit the
229 enforcement of any other law or rule against conduct that is
230 independently prohibited by the other law or rule and that
231 would remain prohibited by the other law or rule in the
232 absence of this section.

233 §26-23J-4

234 (a) An individual, other than this state, a political
235 subdivision of this state, or an officer or employee of this
236 state or a political subdivision of this state, has standing
237 to bring and may bring a qui tam action against a person who:

238 (1) Violates Section 26-23J-3; or
239 (2) Intends to violate Section 26-23J-3.

240 (b) An action brought under this section must be
241 brought in the name of the qui tam relator, who is an assignee
242 of this state's claim for relief. Notwithstanding any other
243 law, the transfer of this state's claim to the qui tam relator
244 is absolute, with the state retaining no interest in the
245 subject matter of the claim.

246 (c) A qui tam relator may not bring an action under
247 this section if the action is preempted by 47 U.S.C. § 230(c).

248 (d) A qui tam action may not be brought against any of
249 the following under this section:

250 (1) A woman for using, obtaining, or seeking to obtain
251 abortion-inducing drugs to abort or attempt to abort her
252 unborn child.



HB118 INTRODUCED

253 (2) A person acting under the direction of a federal
254 agency, contractor, or employee who is carrying out a duty
255 under federal law if the imposition of liability would violate
256 the doctrine of preemption or intergovernmental immunity.

257 (3) A transportation network company or a driver for
258 using a transportation network company's digital network to
259 provide a digitally prearranged ride.

260 (4) A delivery network company or a delivery person for
261 using a delivery network company's digital network to provide
262 a digitally prearranged delivery.

263 (5) A person to whom this chapter does not apply and
264 against whom a civil action under this chapter may not be
265 brought under Section 26-23J-2.

266 (6) A health care provider or physician, unless the qui
267 tam relator pleads and proves that the health care provider or
268 physician engaged in conduct constituting a violation of
269 Section 26-23J-3 while located outside this state.

270 (7) A pharmaceutical manufacturer, pharmaceutical
271 distributor, or common carrier, unless the qui tam relator
272 pleads and proves that the defendant failed to adopt and
273 implement a policy to not distribute, mail, transport,
274 deliver, provide, or possess abortion-inducing drugs other
275 than for one or more of the purposes described by Section
276 26-23J-2(a)(9).

277 (e) A qui tam action may not be brought by any of the
278 following:

279 (1) An individual who has impregnated a woman through
280 conduct constituting a sexual offense under Article 4, Chapter



281 6 of Title 13A.

282 (2) An individual who has committed conduct
283 constituting domestic violence in the first, second, or third
284 degree under Article 7, Chapter 6 of Title 13A, or an offense
285 against the family under Chapter 13 of Title 13A, or has been
286 determined by a court to have perpetrated domestic or family
287 violence.

288 (3) An individual who provided an abortion-inducing
289 drug to a pregnant woman for the purpose of performing,
290 inducing, or attempting an abortion without the woman's
291 consent or knowledge.

292 (4) An individual who has been convicted of an offense
293 under Article 5, Chapter 6 of Title 13A.

294 (5) An individual who acts in concert or participation
295 with an individual described by this subsection.

296 (f) Notwithstanding any rule of civil procedure adopted
297 under Title 6 or any other law, an action brought under this
298 section may not be litigated on behalf of a claimant class or
299 a defendant class, and a court may not certify a class in the
300 action.

301 (g) An individual may bring an action under this
302 section not later than six years after the date the cause of
303 action accrues.

304 §26-23J-5

305 (a) (1) It is an affirmative defense to an action
306 brought under Section 26-23J-4 that the defendant:

307 a. Was unaware the defendant was engaged in the conduct
308 prohibited by Section 26-23J-3; and



309 b. Took reasonable precautions to ensure the defendant
310 would not violate Section 26-23J-3.

311 (2) The defendant has the burden of proving an
312 affirmative defense under this section by a preponderance of
313 the evidence.

314 (b) The following are affirmative defenses to an action
315 brought under Section 26-23J-4:

316 (1) The imposition of civil liability on the defendant
317 will violate the defendant's rights under federal law,
318 including the United States Constitution.

319 (2) The defendant has standing to assert the rights of
320 a third party under the tests for third-party standing
321 established by the United States Supreme Court and
322 demonstrates that the imposition of civil liability on the
323 defendant will violate the third party's rights under federal
324 law, including the United States Constitution.

325 (3) The imposition of civil liability on the defendant
326 will violate the defendant's rights under the Constitution of
327 Alabama of 2022.

328 (4) The imposition of civil liability on the defendant
329 will violate limits on extraterritorial jurisdiction imposed
330 by the United States Constitution or the Constitution of
331 Alabama of 2022.

332 (c) The following are not defenses to an action brought
333 under Section 26-23J-4:

334 (1) A defendant's ignorance or mistake of law,
335 including a defendant's mistaken belief that the requirements
336 or provisions of this chapter are unconstitutional or were



337 unconstitutional.

338 (2) A defendant's reliance on any court decision that
339 has been vacated, reversed, or overruled on appeal or by a
340 subsequent court, even if that court decision had not been
341 vacated, reversed, or overruled when the cause of action
342 accrued.

343 (3) A defendant's reliance on a state or federal court
344 decision that is not binding on the court in which the action
345 has been brought.

346 (4) A defendant's reliance on a federal agency
347 regulation or action that has been repealed, superseded, or
348 declared invalid or unconstitutional, even if the federal
349 agency regulation or action had not been repealed, superseded,
350 or declared invalid or unconstitutional when the cause of
351 action accrued.

352 (5) The laws of another state or jurisdiction,
353 including an abortion shield law, unless the Constitution of
354 Alabama of 2022 or federal law compels the court to enforce
355 that law.

356 (6) Non-mutual issue preclusion or non-mutual claim
357 preclusion.

358 (7) Sovereign immunity, governmental immunity, or
359 official immunity, other than sovereign immunity, governmental
360 immunity, or official immunity applicable to any of the
361 following:

362 a. A hospital owned, maintained, or operated by this
363 state that facilitates the availability of or makes available
364 abortion-inducing drugs solely for one or more of the purposes



HB118 INTRODUCED

365 described by Section 26-23J-2.

366 b. A political subdivision of this state that
367 facilitates the availability of or makes available
368 abortion-inducing drugs solely for one or more of the purposes
369 described by Section 26-23J-2(a)(9).

370 c. A physician or health care provider who prescribes,
371 distributes, administers, or otherwise makes available
372 abortion-inducing drugs solely for one or more of the purposes
373 described by Section 26-23J-4(a)(9), if the physician or
374 health care provider is: (i) employed by a hospital owned or
375 operated by this state or a political subdivision of this
376 state; and (ii) acting within the scope of the physician's or
377 health care provider's employment.

378 (8) A claim that the enforcement of this chapter or the
379 imposition of civil liability against the defendant will
380 violate the constitutional or federally protected rights of
381 third parties, except as provided by subsection (b).

382 (9) Consent to the abortion by the claimant or the
383 unborn child's mother.

384 §26-23J-6

385 (a) Notwithstanding any other law, if a qui tam
386 relator prevails in an action brought under Section 26-23J-4,
387 the court shall award to the relator all of the following:

388 (1) Injunctive relief sufficient to prevent the
389 defendant from violating Section 26-23J-3.

390 (2) An amount of not less than one hundred thousand
391 dollars (\$100,000) for each violation of Section 26-23J-3.

392 (3) Costs and reasonable attorney fees.



HB118 INTRODUCED

393 (b) A court may not award relief under subdivisions
394 (a) (2) or (a) (3) in response to a violation of Section
395 26-23J-3 if the defendant demonstrates both of the following:

396 (1) A court previously ordered the defendant to pay an
397 amount under subdivision (a)(2) in another action for that
398 particular violation.

399 (2) The court order described by subdivision (1) has
400 not been vacated, reversed, or overturned.

401 (c) A court may not award costs or attorney fees under
402 the Alabama Rules of Civil Procedure or any other rule adopted
403 by the Supreme Court of Alabama to a defendant against whom an
404 action is brought under Section 26-23J-4. This subsection does
405 not preclude a court from sanctioning a litigant or attorney
406 for frivolous, malicious, or bad-faith conduct.

407

411 (1) Act in concert or participation with a qui tam
412 relator bringing an action under Section 26-23J-4.

413 (2) Establish or attempt to establish any type of
414 agency or fiduciary relationship with a qui tam relator
415 bringing an action under Section 26-23J-4.

416 (3) Attempt to control or influence an individual's
417 decision to bring an action under Section 26-23J-4 or that
418 individual's conduct of the litigation.

419 (4) Intervene in an action brought under Section
420 26-23J-4.



421 (b) This section does not prohibit the state, a
422 political subdivision of the state, or an officer or employee
423 thereof from filing an amicus curiae brief in an action
424 brought under Section 26-23J-4 if the state, the political
425 subdivision, the officer, or the employee does not act in
426 concert or participation with the qui tam relator.

427 §26-23J-8

428 Notwithstanding any other law to the contrary:

429 (1) The courts of this state have personal jurisdiction
430 over a defendant sued under Section 26-23J-4 to the maximum
431 extent permitted by the Fourteenth Amendment to the United
432 States Constitution, and the defendant may be served outside
433 this state;

434 (2) The law of this state applies to an action brought
435 under Section 26-23J-4 to the maximum extent permitted by the
436 Constitution of Alabama of 2022, and federal law, including
437 the United States Constitution;

438 (3) Any contractual provision that requires or purports
439 to require application of the laws of a different
440 jurisdiction, or that requires or purports to require a qui
441 tam action under Section 26-23J-4 to be litigated in a
442 particular forum, is void based on this state's public policy
443 and is not enforceable in any court; and

444 (4) A court may not apply the law of another state or
445 jurisdiction to any qui tam action brought under Section
446 26-23J-4 unless the Constitution of Alabama of 2022 or federal
447 law compels the court to apply that law.

448 §26-23J-9



HB118 INTRODUCED

449 (a) For purposes of this section, the term "clawback
450 provision" refers to any law of another state or jurisdiction
451 which authorizes the bringing of a civil action against a
452 person for any of the following:

453 (1) Bringing or engaging in an action authorized by
454 this chapter, or attempting, intending, or threatening to do
455 so.

459 (3) Providing legal representation or any type of
460 assistance to a person who brings or engages in an action
461 described by this subsection.

462 (b) Notwithstanding any law to the contrary and except
463 as otherwise provided by federal law or the Constitution of
464 Alabama of 2022, the laws of this state apply to all of the
465 following:

466 (1) Conduct described by subsection (a).

467 (2) An action brought against a person for engaging in
468 conduct described by subsection (a).

469 (3) An action brought under a clawback provision
470 against a resident of this state.

471 (4) Testifying as a witness in an action described by
472 this subsection.

473 (5) An action brought under subsection (d).

474 (c) Notwithstanding any law to the contrary:

475 (1) In an action described by subdivision (a)(1) or
476 (a)(2), the court shall, on request, issue a temporary,



477 preliminary, or permanent injunction that restrains each
478 defendant in the action, each person in privity with the
479 defendant, and each person with whom the defendant is in
480 active concert or participation from: (i) bringing an action
481 under any clawback provision against a claimant or prosecutor,
482 a person in privity with the claimant or prosecutor, or a
483 person providing legal representation or any type of
484 assistance to the claimant or prosecutor; or (ii) continuing
485 to litigate an action under any clawback provision which has
486 been brought against a claimant or prosecutor, a person in
487 privity with the claimant or prosecutor, or a person providing
488 legal representation or any type of assistance to the claimant
489 or prosecutor;

490 (2) The doctrines of res judicata and collateral
491 estoppel preclude a defendant against whom a judgment is
492 entered in an action described by subdivision (a)(1) or (a)(2)
493 and each person in privity with the defendant from litigating
494 or relitigating any claim or issue under any clawback
495 provision against a claimant, prosecutor, or person in privity
496 with the claimant or prosecutor that was raised or could have
497 been raised as a claim, cross-claim, counterclaim, or
498 affirmative defense under the federal or this state's rules of
499 civil procedure; and

500 (3) A court of this state may not enforce an
501 out-of-state judgment obtained in an action brought under a
502 clawback provision unless federal law or the Constitution of
503 Alabama of 2022 requires the court to enforce the judgment.

504 (d) (1) Notwithstanding any other law to the contrary,



505 if an action is brought or judgment is entered against a
506 person under a clawback provision based wholly or partly on
507 the person's decision to engage in conduct described by
508 subsection (a), that person is entitled to injunctive relief
509 and damages from any person who brought the action or obtained
510 the judgment or who sought to enforce the judgment.

511 Notwithstanding any other law, the relief described by this
512 subsection must include the following:

513 a. Compensatory damages, including money damages in an
514 amount equal to the judgment damages and costs, expenses, and
515 reasonable attorney fees spent in defending the action.

516 b. Costs, expenses, and reasonable attorney fees
517 incurred in bringing an action under this subsection.

518 c. Additional amounts consisting of the greater of
519 twice the sum of the damages, costs, expenses, and fees
520 described by paragraphs a. and b., or one hundred thousand
521 dollars (\$100,000).

522 d. Injunctive relief that restrains each person who
523 brought the action under the clawback provision, each person
524 in privity with the person, and each person acting in concert
525 or participation with the person from all of the following:

526 1. Bringing further actions under any clawback
527 provision against the person against whom the action was
528 brought, each person in privity with the person, or any person
529 providing legal representation or any type of assistance to
530 the person.

531 2. Continuing to litigate any actions brought under a
532 clawback provision against the persons described by



533 subparagraph 1.

534 3. Enforcing or attempting to enforce any judgment
535 obtained in any actions brought under a clawback provision
536 against the persons described by subparagraph 1.

537 (2) Neither of the following is a defense to an action
538 brought under this subsection:

539 a. The claimant failed to seek recovery under this
540 subsection in an action brought against the claimant under a
541 clawback provision.

542 b. A court in a preceding action brought against the
543 claimant declined to recognize or enforce this subsection or
544 held any provision of that subsection invalid,
545 unconstitutional, or preempted by federal law, notwithstanding
546 the doctrines of issue or claim preclusion.

547 Section 2. This act shall become effective on October
548 1, 2026.