Senate Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 111

SENATE BILL 1304

AN ACT

AMENDING TITLE 36, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO ABORTION REPORTING REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 36, chapter 20, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. ABORTION REPORTING REQUIREMENTS

36-2161. Abortions; reporting requirements

A. A HOSPITAL OR FACILITY IN THIS STATE WHERE ABORTIONS ARE PERFORMED MUST SUBMIT TO THE DEPARTMENT OF HEALTH SERVICES ON A FORM PRESCRIBED BY THE DEPARTMENT A REPORT OF EACH ABORTION PERFORMED IN THE HOSPITAL OR FACILITY. THE REPORT SHALL NOT IDENTIFY THE INDIVIDUAL PATIENT BY NAME BUT MUST INCLUDE THE FOLLOWING INFORMATION:

1. THE NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION WAS PERFORMED.

2. THE TYPE OF FACILITY WHERE THE ABORTION WAS PERFORMED.

3. THE COUNTY WHERE THE ABORTION WAS PERFORMED.

4. THE WOMAN'S AGE.

5. THE WOMAN'S EDUCATIONAL BACKGROUND BY HIGHEST GRADE COMPLETED AND, IF APPLICABLE, LEVEL OF COLLEGE COMPLETED.

6. THE COUNTY AND STATE IN WHICH THE WOMAN RESIDES.

7. THE WOMAN'S RACE AND ETHNICITY.

8. THE WOMAN'S MARITAL STATUS.

9. THE NUMBER OF PRIOR PREGNANCIES AND PRIOR ABORTIONS OF THE WOMAN.

10. THE NUMBER OF PREVIOUS SPONTANEOUS TERMINATIONS OF PREGNANCY OF THE WOMAN.

11. THE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME OF THE ABORTION.

12. THE REASON FOR THE ABORTION, INCLUDING WHETHER THE ABORTION IS ELECTIVE OR DUE TO MATERNAL OR FETAL HEALTH CONSIDERATIONS.

13. THE TYPE OF PROCEDURE PERFORMED OR PRESCRIBED AND THE DATE OF THE ABORTION.

14. ANY PREEXISTING MEDICAL CONDITIONS OF THE WOMAN THAT WOULD COMPLICATE PREGNANCY AND ANY KNOWN MEDICAL COMPLICATION THAT RESULTED FROM THE ABORTION.

15. THE BASIS FOR ANY MEDICAL JUDGMENT THAT A MEDICAL EMERGENCY EXISTED THAT EXCUSED THE PHYSICIAN FROM COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

16. THE PHYSICIAN'S STATEMENT IF REQUIRED PURSUANT TO SECTION 36-2301.01.

17. IF APPLICABLE, THE WEIGHT OF THE ABORTED FETUS FOR ANY ABORTION PERFORMED PURSUANT TO SECTION 36-2301.01.

B. THE REPORT MUST BE SIGNED BY THE PHYSICIAN WHO PERFORMED THE ABORTION OR, IF A HEALTH PROFESSIONAL OTHER THAN A PHYSICIAN IS AUTHORIZED BY LAW TO PRESCRIBE OR ADMINISTER ABORTION MEDICATION, THE SIGNATURE AND TITLE OF THE PERSON WHO PRESCRIBED OR ADMINISTERED THE ABORTION MEDICATION. THE FORM MAY BE SIGNED ELECTRONICALLY AND SHALL INDICATE THAT THE PERSON WHO SIGNS THE REPORT IS ATTESTING THAT THE INFORMATION IN THE REPORT IS CORRECT

TO THE BEST OF THE PERSON'S KNOWLEDGE. THE HOSPITAL OR FACILITY MUST TRANSMIT THE REPORT TO THE DEPARTMENT WITHIN FIFTEEN DAYS AFTER THE LAST DAY OF EACH REPORTING MONTH.

C. ANY REPORT FILED PURSUANT TO THIS SECTION SHALL BE FILED ELECTRONICALLY AT AN INTERNET WEBSITE THAT IS DESIGNATED BY THE DEPARTMENT UNLESS THE PERSON REQUIRED TO FILE THE REPORT APPLIES FOR A WAIVER FROM ELECTRONIC REPORTING BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT.

36-2162. Complications; reporting requirements

A. A HEALTH PROFESSIONAL WHO PROVIDES MEDICAL CARE OR TREATMENT TO A WOMAN WHO, IN THE GOOD FAITH JUDGMENT OF THE HEALTH PROFESSIONAL, IS IN NEED OF MEDICAL CARE BECAUSE OF A COMPLICATION OR COMPLICATIONS RESULTING FROM HAVING UNDERGONE AN ABORTION OR ATTEMPTED ABORTION MUST FILE A REPORT WITH THE DEPARTMENT OF HEALTH SERVICES ON A FORM PRESCRIBED BY THE DEPARTMENT. THE REPORT SHALL NOT IDENTIFY THE INDIVIDUAL PATIENT BY NAME BUT MUST CONTAIN THE FOLLOWING INFORMATION AND OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE:

1. THE DATE OF THE ABORTION.
2. THE WOMAN'S AGE.
3. THE NUMBER OF PREGNANCIES THE WOMAN MAY HAVE HAD BEFORE THE ABORTION.
4. THE NUMBER AND TYPE OF ABORTIONS THE WOMAN MAY HAVE HAD BEFORE THIS ABORTION.
5. THE NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION WAS PERFORMED.
6. THE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME OF THE ABORTION, IF KNOWN.
7. THE TYPE OF ABORTION PERFORMED, IF KNOWN.
8. THE NATURE OF THE COMPLICATION OR COMPLICATIONS.
9. THE MEDICAL TREATMENT GIVEN.
10. THE NATURE AND EXTENT, IF KNOWN, OF ANY PERMANENT CONDITION CAUSED BY THE COMPLICATION.

B. THE HOSPITAL OR FACILITY SHALL COMPLETE THE COMPLICATION REPORT, WHICH MAY BE SIGNED ELECTRONICALLY AND SHALL INDICATE THAT THE PERSON WHO SIGNS THE REPORT IS ATTESTING THAT THE INFORMATION IN THE REPORT IS CORRECT TO THE BEST OF THAT PERSON'S KNOWLEDGE. THE HOSPITAL OR FACILITY MUST TRANSMIT THE REPORT TO THE DEPARTMENT WITHIN FIFTEEN DAYS AFTER THE LAST DAY OF EACH REPORTING MONTH.

C. ANY REPORT FILED PURSUANT TO THIS SECTION SHALL BE FILED ELECTRONICALLY AT AN INTERNET WEBSITE THAT IS DESIGNATED BY THE DEPARTMENT UNLESS THE PERSON REQUIRED TO FILE THE REPORT APPLIES FOR A WAIVER FROM ELECTRONIC REPORTING BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT.

36-2163. Reports; confidentiality; annual statistical report; violations; classification; unprofessional conduct

A. A REPORT REQUIRED BY THIS ARTICLE SHALL NOT CONTAIN THE NAME OF THE WOMAN, COMMON IDENTIFIERS SUCH AS THE WOMAN'S SOCIAL SECURITY NUMBER, DRIVER

LICENSE NUMBER OR INSURANCE CARRIER IDENTIFICATION NUMBERS OR ANY OTHER INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT POSSIBLE TO IDENTIFY IN ANY MANNER OR UNDER ANY CIRCUMSTANCES AN INDIVIDUAL WHO HAS OBTAINED OR SEEKS TO OBTAIN AN ABORTION.

B. THE DEPARTMENT OF HEALTH SERVICES SHALL COLLECT ALL ABORTION REPORTS AND COMPLICATION REPORTS AND PREPARE A COMPREHENSIVE ANNUAL STATISTICAL REPORT BASED ON THE DATA GATHERED IN THE REPORTS. THE STATISTICAL REPORT SHALL NOT LEAD TO THE DISCLOSURE OF THE IDENTITY OF ANY PERSON FILING A REPORT OR ABOUT WHOM A REPORT IS FILED. THE DEPARTMENT SHALL MAKE THE STATISTICAL REPORT AVAILABLE ON ITS WEBSITE AND FOR PUBLIC INSPECTION AND COPYING.

C. THE REPORT PREPARED BY THE DEPARTMENT PURSUANT TO SUBSECTION B OF THIS SECTION SHALL INCLUDE STATISTICS FROM THE ADMINISTRATIVE OFFICE OF THE COURTS CONTAINING THE FOLLOWING INFORMATION:

1. THE NUMBER OF PETITIONS FILED PURSUANT TO SECTION 36-2152, SUBSECTION B.

2. OF THE PETITIONS FILED PURSUANT TO SECTION 36-2152, SUBSECTION B, THE NUMBER IN WHICH THE JUDGE APPOINTED A GUARDIAN AD LITEM OR COURT-APPOINTED COUNSEL FOR THE MINOR PURSUANT TO SECTION 36-2152, SUBSECTION D.

3. OF THE PETITIONS FILED PURSUANT TO SECTION 36-2152, SUBSECTION B, THE NUMBER IN WHICH THE JUDGE ISSUED AN ORDER AUTHORIZING AN ABORTION WITHOUT PARENTAL CONSENT.

4. OF THE PETITIONS FILED PURSUANT TO SECTION 36-2152, SUBSECTION B, THE NUMBER IN WHICH THE JUDGE ISSUED AN ORDER DENYING THE PETITION.

5. OF THE PETITIONS DENIED, THE NUMBER APPEALED TO THE COURT OF APPEALS.

6. THE NUMBER OF THOSE APPEALS THAT RESULTED IN THE DENIALS BEING AFFIRMED.

7. THE NUMBER OF THOSE APPEALS THAT RESULTED IN THE DENIAL BEING REVERSED.

D. EXCEPT FOR A STATISTICAL REPORT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A REPORT FILED PURSUANT TO THIS ARTICLE IS NOT A PUBLIC RECORD AND IS NOT AVAILABLE FOR PUBLIC INSPECTION, EXCEPT THAT DISCLOSURE MAY BE MADE TO LAW ENFORCEMENT OFFICIALS ON AN ORDER OF A COURT AFTER APPLICATION SHOWING GOOD CAUSE. THE COURT MAY CONDITION DISCLOSURE OF THE INFORMATION ON ANY APPROPRIATE SAFEGUARDS IT MAY IMPOSE.

E. ORIGINAL COPIES OF ALL REPORTS FILED PURSUANT TO SECTIONS 36-2161 AND 36-2162 SHALL BE AVAILABLE TO THE ARIZONA MEDICAL BOARD AND THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY FOR USE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. THE ARIZONA MEDICAL BOARD AND THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY SHALL MAINTAIN THE CONFIDENTIALITY OF ANY REPORTS OBTAINED PURSUANT TO THIS SUBSECTION.

F. AN EMPLOYEE, AGENT OR CONTRACTOR OF THE DEPARTMENT WHO WILFULLY DISCLOSES ANY INFORMATION OBTAINED FROM REPORTS FILED PURSUANT TO THIS

ARTICLE, OTHER THAN DISCLOSURE AUTHORIZED UNDER SUBSECTIONS B, D AND E OF THIS SECTION OR AS OTHERWISE AUTHORIZED BY LAW, IS GUILTY OF A CLASS 3 MISDEMEANOR.

G. A PERSON WHO IS REQUIRED BY THIS ARTICLE TO FILE A REPORT, KEEP ANY RECORDS OR SUPPLY ANY INFORMATION AND WHO WILFULLY FAILS TO FILE THAT REPORT, KEEP RECORDS OR SUPPLY INFORMATION AS REQUIRED BY LAW IS GUILTY OF UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINE INCLUDING LICENSE SUSPENSION OR REVOCATION.

H. A PERSON WHO WILFULLY DELIVERS OR DISCLOSES TO THE DEPARTMENT ANY REPORT, RECORD OR INFORMATION KNOWN BY THAT PERSON TO BE FALSE COMMITS A CLASS 1 MISDEMEANOR.

I. IN ADDITION TO THE PENALTIES PRESCRIBED BY SUBSECTIONS F, G AND H OF THIS SECTION, AN ORGANIZATION OR FACILITY THAT WILFULLY VIOLATES THE REPORTING REQUIREMENTS OF THIS ARTICLE IS SUBJECT TO DISCIPLINE BY THE DEPARTMENT INCLUDING THE SAME CIVIL PENALTIES AS PRESCRIBED IN SECTION 36-126.

36-2164. Construction of article

THIS ARTICLE DOES NOT ESTABLISH OR RECOGNIZE A RIGHT TO AN ABORTION AND DOES NOT MAKE LAWFUL AN ABORTION THAT IS OTHERWISE UNLAWFUL.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.