**A** **BILL**

TO AMEND SECTION 44‑41‑680, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ABORTION PROHIBITION EXCEPTIONS UPON DETECTING A FETAL HEARTBEAT, SO AS TO REQUIRE PHYSICIANS TO RETAIN FETAL TISSUE WHEN PERFORMING AN ABORTION IF THE PATIENT ALLEGES THE PREGNANCY IS DUE TO RAPE OR INCEST AND TO DELIVER THE FETAL TISSUE TO LAW ENFORCEMENT FOR INCLUSION IN THE STATE DNA DATABASE AT THE TIME OF REPORTING THE ALLEGATION OF RAPE OR INCEST, AND TO PROVIDE CERTAIN CIVIL AND CRIMINAL IMMUNITY FOR PHYSICIANS WHO MAKE SUCH A REPORT; AND BY ADDING SECTION 23‑3‑622 SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑41‑680(C) of the 1976 Code, as added by Act 1 of 2021, is amended to read:

“(C)(1) A physician who performs or induces an abortion on a pregnant woman based on the exception in either subsection (B)(1) or (2) must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed. The report must be made no later than twenty‑four hours after performing or inducing the abortion, may be made orally or otherwise, and shall include the name and contact information of the pregnant woman making the allegation. Prior to performing or inducing an abortion, a physician who performs or induces an abortion based upon an allegation of rape or incest must notify the pregnant woman that the physician will report the allegation of rape or incest to the sheriff. The physician shall make written notations in the pregnant woman’s medical records that the abortion was performed pursuant to the applicable exception, that the doctor timely notified the sheriff of the allegation of rape or incest, and that the woman was notified prior to the abortion that the physician would notify the sheriff of the allegation of rape or incest. A physician who performs an abortion pursuant to this item must retain the fetal tissue and provide to law enforcement in accordance with item (2).

(2) At the time of reporting the allegation of rape or incest to law enforcement pursuant to item (1), the physician must provide the retained fetal tissue to the sheriff of the county in which the abortion was performed. The sheriff immediately shall deliver the fetal tissue to SLED to maintain in the State DNA Database, as evidence relating to any future legal proceedings instituted regarding the allegations of rape or incest.

(3) A physician who reports an allegation of rape or incest pursuant to this subsection, or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this subsection extends to full disclosure by the physician of the facts which gave the physician the reason to believe that the pregnancy resulted from rape or incest.”

SECTION 2. Article 9, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑622. Following an abortion performed pursuant to Section 44‑41‑680(B)(1) or (2), the physician must retain fetal tissue and provide to the sheriff of the county in which the abortion was performed, who shall deliver the sample for inclusion in the State DNA Database.”

SECTION 3. This act takes effect upon approval by the Governor.

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