

# Mississippi

*Dobbs et al., v. Jackson Women's Health Organization et al.*, 597 U.S. 215, 142 S. Ct. 2228, 213 L.Ed.2 545 (2022) (overruling the fifty-year precedent set forth in *Roe v. Wade* recognizing a constitutionally protected right to have an abortion and allows states to decide a person's right to reproductive health.)

*Louisiana, et al., v. EEOC*, 2:24-cv-00629-DCJ-TPL and *USCCB v. EEOC*, et al., 2:24-cv-00691-DCJ-TPL (ruling that nearly two years after the *Dobbs v. Jackson Women's Health Organization* Supreme Court decision, employers in the state of Mississippi are not required to follow a federal rule to give employees time off and other accommodations for an abortion.)

## ***§ 97-3-3. Abortion; causing abortion or miscarriage.***

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(1) Any person willfully and knowingly causing, by means of any instrument, medicine, drug or other means whatever, any woman pregnant with child to abort or miscarry, or attempts to procure or produce an abortion or miscarriage shall be guilty of a felony unless the same were done by a duly licensed, practicing physician:

(a) Where necessary for the preservation of the mother's life;

(b) Where pregnancy was caused by rape.

Said person shall, upon conviction, be imprisoned in the State Penitentiary not less than one (1) year nor more than ten (10) years; provided, however, if the death of the mother results therefrom, the person procuring, causing or attempting to procure or cause the illegal abortion or miscarriage shall be guilty of murder.

(2) No act prohibited in subsection (1) of this section shall be considered exempt under the provisions of paragraph (a) thereof unless performed upon the prior advice in writing, of two (2) reputable licensed physicians.

(3) The license of any physician or nurse shall be automatically revoked upon conviction under the provisions of this section.

(4) Nothing in this section shall be construed as conflicting with Section 41-41-73.

[Miss. Code Ann. § 97-3-3](#)

## ***§ 97-3-4. Failed abortion; unlawful for physician to intentionally allow or cause living child to die; care of living child mandated; penalties***

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1. It shall be unlawful for any physician performing an abortion that results in the delivery of a living child to intentionally allow or cause the child to die.
2. If the child is viable, such child shall be immediately provided appropriate medical care and comfort care necessary to sustain life. If the child is not viable, such child shall be provided comfort care. The provision of this section shall include, but not be limited to, a child born with physical or mental handicapping conditions which, in the opinion of the parent, the physician or other persons, diminishes the quality of the child's life, a child born alive during the course of an attempted abortion and a child not wanted by the parent.
3. As used in this section the term "child" includes every infant member of the species homo sapiens who is born alive at any stage of development.
4. Any person who violates this section shall be guilty of a felony and, upon conviction, be imprisoned for not less than one (1) year nor more than ten (10) years in the State

Penitentiary and fined not more than Fifty Thousand Dollars (\$50,000.00) but not less than Twenty-five Thousand Dollars (\$25,000.00).

***§ 97-3-5. Abortion; advertisement, sale or gift of drugs or instruments.***

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A person who sells, lends, gives away, or in any manner exhibits, or offers to sell, lend, or give away, or has in his possession with intent to sell, lend, or give away, or advertises or offers for sale, loan or distribution any instrument or article, or any drug or medicine, for causing unlawful abortion; or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means such article or medicine can be purchased or obtained, or who manufactures any such article or medicine, is guilty of a misdemeanor, and, on conviction, shall be punished by fine not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00), and by imprisonment in the county jail not exceeding three (3) months.

[Miss. Code Ann. § 97-3-5](#)

***§ 97-3-37. Homicide; killing of an unborn child; “human being” includes unborn child at every stage of gestation from conception until live birth for purposes of offenses of assault and homicide; “unborn child” defined; intentional injury to pregnant woman; penalties; provisions of section not applicable to legal medical procedures, including abortion.***

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(1) For purposes of the offenses enumerated in this subsection (1), the term “human being” includes an unborn child at every stage of gestation from conception until live birth and the term “unborn child” means a member of the species homo sapiens, at any stage of development, who is carried in the womb:

- (a) Section 97-3-7, simple and aggravated assault and domestic violence;
- (b) Section 97-3-15, justifiable homicide;
- (c) Section 97-3-17, excusable homicide;
- (d) Section 97-3-19, murder, capital murder;
- (e) Section 97-3-27, homicide while committing a felony;
- (f) Section 97-3-29, homicide while committing a misdemeanor;
- (g) Section 97-3-33, killing a trespasser unnecessarily;
- (h) Section 97-3-35, killing without malice in the heat of passion;
- (i) Section 97-3-45, homicide by means of a dangerous animal;
- (j) Section 97-3-47, all other homicides;
- (k) Section 97-3-61, poisoning with intent to kill or injure.

(2) A person who intentionally injures a pregnant woman is guilty of a crime as follows:

- (a) If the conduct results in a miscarriage or stillbirth by that individual, a felony punishable by imprisonment for not more than twenty (20) years or a fine of not more than Seven Thousand Five Hundred Dollars (\$7,500.00), or both.
- (b) If the conduct results in serious physical injury to the embryo or fetus, a felony punishable by imprisonment for not more than twenty (20) years or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.
- (c) If the conduct results in minor physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than six (6) months or a fine of not more than One Thousand Dollars (\$1,000.00), or both.

(3) The provisions of this section shall not apply to any legal medical procedure performed by a licensed physician or other licensed medical professional, including legal abortions, when done at the request of a mother of an unborn child or the mother’s legal guardian, or to the lawful dispensing or administration of lawfully prescribed medication.

(4) Nothing contained in this section shall be construed to prohibit prosecution of an offender pursuant to the provisions of any other applicable statute.

**Miss. Code Ann. § 41-41-31: Definition**

The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a) “Abortion” means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus.
- (b) “Medical emergency” means that condition which, on the basis of the physician's best clinical judgment, so complicates a pregnancy as to necessitate an immediate abortion to avert the death of the mother or for which a twenty-four-hour delay will create grave peril of immediate and irreversible loss of major bodily function.
- (c) “Probable gestational age of the unborn child” means what, in the judgment of the attending physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

**Miss. Code Ann. § 41-41-33: Consent Required**

(1) No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

- (a) The woman is told the following by the physician who is to perform or induce the abortion or by the referring physician, orally and in person, at least twenty-four (24) hours before the abortion:
  - (i) The name of the physician who will perform or induce the abortion;
  - (ii) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage and breast cancer, and the danger to subsequent pregnancies and infertility;
  - (iii) The probable gestational age of the unborn child at the time the abortion is to be performed or induced; and
  - (iv) The medical risks associated with carrying her child to term.
- (b) The woman is informed, by the physician or his agent, orally and in person, at least twenty-four (24) hours before the abortion:
  - (i) That medical assistance benefits may be available for prenatal care, childbirth and neonatal care;
  - (ii) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion;
  - (iii) That there are available services provided by public and private agencies which provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices; and

(iv) That she has the right to review the printed materials described in Section 41-41-35(1)(a), (b) and (c). The physician or his agent shall orally inform the woman that those materials have been provided by the State of Mississippi and that they describe the unborn child and list agencies that offer alternatives to abortion. If the woman chooses to view those materials, copies of them shall be furnished to her. The physician or his agent may disassociate himself or themselves from those materials, and may comment or refrain from comment on them as he chooses. The physician or his agent shall provide the woman with the printed materials described in Section 41-41-35(1)(d).

(c) The woman certifies in writing before the abortion that the information described in paragraphs (a) and (b) of this section has been furnished to her, and that she has been informed of her opportunity to review the information referred to in subparagraph (iv) of paragraph (b) of this section.

(d) Before the abortion is performed or induced, the physician who is to perform or induce the abortion receives a copy of the written certification prescribed by this section.

***§ 41-41-34. Performance of fetal ultrasound imaging and auscultation of fetal heart tone services required before abortion; patient to be offered opportunity to view ultrasound image and hear heartbeat; patient to sign certification form acknowledging being given that opportunity; physician to retain copy of signed certification form.***

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(1) Before the performance of an abortion, as defined in Section 41-41-45, the physician who is to perform the abortion, or a qualified person assisting the physician, shall:

(a) Perform fetal ultrasound imaging and auscultation of fetal heart tone services on the patient undergoing the abortion;

(b) Offer to provide the patient with an opportunity to view the active ultrasound image of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible;

(c) Offer to provide the patient with a physical picture of the ultrasound image of the unborn child;

(d) Obtain the patient's signature on a certification form stating that the patient has been given the opportunity to view the active ultrasound image and hear the heartbeat of the unborn child if the heartbeat is audible, and that she has been offered a physical picture of the ultrasound image; and

(e) Retain a copy of the signed certification form in the patient's medical record.

(2) The State Department of Health shall enforce the requirements of this section.

(3) An ultrasound image must be of a quality consistent with standard medical practice in the community, shall contain the dimensions of the unborn child and shall accurately portray the presence of external members and internal organs, if present or viewable, of the unborn child.

[Miss. Code Ann. § 41-41-34](#)

***Miss. Code Ann. § 41-41-34.1: Abortion Pre-Procedure Requirements***

(1) Before the performance of an abortion, as defined in Section 41-41-45, the physician who is to perform the abortion, or a qualified person assisting the physician, shall:

(a) Perform fetal ultrasound imaging and auscultation of fetal heart tone services on the patient undergoing the abortion;

(b) Offer to provide the patient with an opportunity to view the active ultrasound image of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible;

(c) Offer to provide the patient with a physical picture of the ultrasound image of the unborn child;

(d) Obtain the patient's signature on a certification form stating that the patient has been given the opportunity to view the active ultrasound image and hear the heartbeat of the unborn child if the heartbeat is audible, and that she has been offered a physical picture of the ultrasound image; and

(e) Retain a copy of the signed certification form in the patient's medical record.

(2) The State Department of Health shall enforce the requirements of this section.

(3) An ultrasound image must be of a quality consistent with standard medical practice in the community, shall contain the dimensions of the unborn child and shall accurately portray the presence of external members and internal organs, if present or viewable, of the unborn child.

**Miss. Code Ann. § 41-41-39. Penalties for violations**

Anyone who purposefully, knowingly or recklessly performs or attempts to perform or induce an abortion without complying with Sections 41-41-31 through 41-41-37 shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of One Thousand Dollars (\$1,000.00), by imprisonment in the county jail for a period of time not to exceed six (6) months or both such fine and imprisonment.

**Miss. Code Ann. § 41-41-45 Abortion; definition; prohibition; exceptions**

(1) As used in this section, the term “abortion” means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus.

(2) No abortion shall be performed or induced in the State of Mississippi, except in the case where necessary for the preservation of the mother's life or where the pregnancy was caused by rape.

(3) For the purposes of this section, rape shall be an exception to the prohibition for an abortion only if a formal charge of rape has been filed with an appropriate law enforcement official.

(4) Any person, except the pregnant woman, who purposefully, knowingly or recklessly performs or attempts to perform or induce an abortion in the State of Mississippi, except in the case where necessary for the preservation of the mother's life or where the pregnancy was caused by rape, upon conviction, shall be punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than ten (10) years.

**Miss. Code Ann. § 41-41-53: Parental Consent; Judicial Waiver**

(1) Except as otherwise provided in subsections (2) and (3) of this section, no person shall perform an abortion upon an unemancipated minor unless he or his agent first obtains the written consent of both parents or the legal guardian of the minor.

(2)

(a) If the minor's parents are divorced or otherwise unmarried and living separate and apart, then the written consent of the parent with primary custody, care and control of such minor shall be sufficient.

(b) If the minor's parents are married and one (1) parent is not available to the person performing the abortion in a reasonable time and manner, then the written consent of the parent who is available shall be sufficient.

(c) If the minor's pregnancy was caused by sexual intercourse with the minor's natural father, adoptive father or stepfather, then the written consent of the minor's mother shall be sufficient.

(3) A minor who elects not to seek or does not obtain consent from her parents or legal guardian under this section may petition, on her own behalf or by next friend, the chancery court in the county in which the minor resides or in the county in which the abortion is to be performed for a waiver of the consent requirement of this section pursuant to the procedures of Section 41-41-55.

***§ 41-41-55. Applicability of provisions; court proceedings; standards for waiver of consent requirement.***

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(1) The requirements and procedures under Sections 41-41-51 through 41-41-63 shall apply and are available to minors whether or not they are residents of this state.

(2) The minor may participate in proceedings in the court on her own behalf. The court shall advise her that she has a right to court-appointed counsel and shall provide her with such counsel upon her request or if she is not already adequately represented.

(3) Court proceedings under this section shall be confidential and anonymous and shall be given such precedence over other pending matters as is necessary to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time the application is filed. If for any reason the court fails to rule within seventy-two (72) hours of the time the application is filed, the minor may proceed as if the consent requirement of Section 41-41-53 has been waived.

(4) Consent shall be waived if the court finds by clear and convincing evidence either:

(a) That the minor is mature and well-informed enough to make the abortion decision on her own; or

(b) That performance of the abortion would be in the best interests of the minor.

(5) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence be maintained.

(6) An expedited confidential and anonymous appeal shall be available to any minor to whom the court denies a waiver of consent. The Mississippi Supreme Court shall issue promptly such rules and regulations as are necessary to insure that proceedings under Sections 41-41-51 through 41-41-63 are handled in an expeditious, confidential and anonymous manner.

(7) No filing fees shall be required of any minor who avails herself of the procedures provided by this section.

***§ 41-41-57. Exception for medical emergency.***

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Sections 41-41-51 through 41-41-63 shall not apply when, in the best clinical judgment of the physician on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with Sections 41-41-53 and 41-41-55 by reason of this exception shall state in the medical record of the abortion the medical indications on which his judgment was based.

[Miss. Code Ann. § 41-41-57](#)

***Miss. Code Ann. § 41-41-59. Violation as unprofessional conduct***

If a physician performs an abortion in violation of the provisions of Sections 41-41-51 through 41-41-63 or fails to conform to any requirement of Sections 41-41-51 through 41-41-63, then his action shall be prima facie evidence of unprofessional conduct, subjecting him to action by the State Board of Medical Licensure.

**Miss. Code Ann. §41-41-73: Prohibition of partial-birth abortions; penalties; civil action**

(1) Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Twenty-five Thousand Dollars (\$25,000.00) or imprisoned in the State Penitentiary for not more than two (2) years, or both. This subsection shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury if no other medical procedure would suffice for that purpose.

(2)

(a) As used in this section, “partial-birth abortion” means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

(b) As used in this section, “physician” means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State of Mississippi. However, any individual who is not a physician but who nevertheless directly performs a partial-birth abortion shall be subject to the provisions of this section.

(3)

(a) The husband of a mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of eighteen (18) years at the time of the abortion, the mother's parents may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(b) Such relief shall include:

(i) Money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(ii) Statutory damages equal to three (3) times the cost of the partial-birth abortion.

(4) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section.

**Miss. Code Ann. § 41-41-77: Reporting; confidentiality; penalties**

(1) A physician shall file a written report with the State Department of Health regarding each patient who comes under the physician's professional care and requires medical treatment or suffers death that the attending physician has a reasonable basis to believe is a primary, secondary, or tertiary result of an induced abortion.

(2) These reports shall be submitted within thirty (30) days of the discharge or death of the patient treated for the complication.

(3) The department shall summarize aggregate data from the reports required under this section for purposes of inclusion into the annual Vital Statistics Report.

(4) The department shall develop and distribute or make available online in a downloadable format a standardized form for the report required under this section.

(5) The department shall communicate this reporting requirement to all medical professional organizations, licensed physicians, hospitals, emergency rooms, abortion facilities, Department of Health clinics and ambulatory surgical facilities operating in the state.



(6) The department shall destroy each individual report required by this section and each copy of the report after retaining the report for five (5) years after the date the report is received.

(7) The report required under this section shall not contain the name of the woman, common identifiers such as her social security number or motor vehicle operator's license number or 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. A state agency shall not compare data in an electronic or other information system file with data in another electronic or other information system that would result in identifying in any manner or under any circumstances an individual obtaining or seeking to obtain an abortion. Statistical information that may reveal the identity of a woman obtaining or seeking to obtain an abortion shall not be maintained.

(8) The department or an employee of the department shall not disclose to a person or entity outside the department the reports or the contents of the reports required under this section in a manner or fashion as to permit the person or entity to whom the report is disclosed to identify in any way the person who is the subject of the report.

(9) Disclosure of confidential identifying information in violation of this section shall constitute a felony which, upon conviction, shall be punished by imprisonment in the State Penitentiary for not more than three (3) years, or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

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No abortion coverage may be provided by a qualified health plan offered through an exchange created pursuant to the federal Patient Protection and Affordable Care Act within the State of Mississippi.

**Miss. Code Ann. § 41-41-78. Contents of report**

(1) Each report of medical treatment following abortion required under Section 41-41-77 shall contain the following information:

(a) The age and race of the patient;

(b) The characteristics of the patient, including residency status, county of residence, marital status, education, number of previous pregnancies, number of stillbirths, number of living children and number of previous abortions;

(c) The date the abortion was performed and the method used if known;

(d) The type of facility where the abortion was performed;

(e) The condition of the patient that led to treatment, including, but not limited to, pelvic infection, hemorrhage, damage to pelvic organs, renal failure, metabolic disorder, shock, embolism, coma or death.

(f) The amount billed to cover the treatment of the complication, including whether the treatment was billed to Medicaid, insurance, private pay or other method. This should include charges for physician, hospital, emergency room, prescription or other drugs, laboratory tests and any other costs for the treatment rendered.

(g) The charges are to be coded with IDC-9 classification numbers in such a way as to distinguish treatment following induced abortions from treatments following ectopic or molar pregnancies.

(2) Nothing in Sections 41-41-75 through 41-41-80 shall be construed as an instruction to



discontinue collecting data currently being collected.

**Miss. Code Ann. § 41-41-91. Use of public funds for abortions prohibited; exceptions**

Notwithstanding any other provision of law to the contrary, no public funds that are made available to any institution, board, commission, department, agency, official, or employee of the State of Mississippi, or of any local political subdivision of the state, whether those funds are made available by the government of the United States, the State of Mississippi, or a local governmental subdivision, or from any other public source, shall be used in any way for, to assist in, or to provide facilities for abortion, except:

When the abortion is medically necessary to prevent the death of the mother; or

When the abortion is being sought to terminate a pregnancy resulting from an alleged act of rape or incest; or

When there is a fetal malformation that is incompatible with the baby being born alive.

**Miss. Code Ann. § 41-41-79. Penalties; civil liability**

Willful violation of the provisions of Sections 41-41-75 through 41-41-80 shall constitute a misdemeanor and shall be punishable as provided for by law, except that disclosure of confidential identifying information shall constitute a felony as provided in subsection (9) of Section 41-41-77. No physician or hospital, its officers, employees or medical and nursing personnel practicing in the hospital shall be civilly liable for violation of the provisions of Sections 41-41-75 through 41-41-80, except to the extent of liability for actual damages in a civil action for willful or reckless and wanton acts or omissions constituting that violation.

However, that liability shall be subject to any immunities or limitations of liability or damages provided by law.

**§ 41-41-105. Definitions.**

As used in Sections 41-41-101 through 41-41-117, the following terms shall have the meanings ascribed in this section unless the context indicates otherwise:

(a) “Abortion-inducing drug” means a medicine, drug or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman to cause the death of the unborn child. This includes the use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion. Use of those drugs to induce abortion is also known as “medical abortion.” This definition does not apply to drugs that may be known to cause an abortion but are prescribed for other medical indications (e.g., chemotherapeutic agents and diagnostic drugs).

(b) “Abortion” means the act of using or prescribing any instrument, medicine, drug or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman to cause the death of the unborn child. That use, prescription or means is not an abortion if done with the intent to:

(i) Save the life of the mother;

(ii) Save the life or preserve the health of the unborn child;

(iii) Remove a dead unborn child caused by spontaneous abortion;

(iv) Remove an ectopic pregnancy;

(v) Prevent hemorrhaging by the pregnant woman; or

(vi) Treat a maternal disease or illness other than pregnancy for which the prescribed drug is indicated.

- (c) “Department” means the State Department of Health.
- (d) “LMP” or “gestational age” means the time that has elapsed since the first day of the woman’s last menstrual period.
- (e) “Physician” means any medical doctor (M.D.) or osteopathic doctor (D.O.) licensed to practice medicine in this state.
- (f) “Pregnant” or “pregnancy” means the female reproductive condition of having an unborn child in the woman’s uterus.
- (g) “Unborn child” means the offspring of human beings from conception until birth.

[Miss. Code Ann. § 41-41-105](#)

**Miss. Code Ann. §41-41-107: Abortion-inducing drugs**

- (1) It shall be unlawful to knowingly give, sell, dispense, administer or otherwise provide or prescribe any abortion-inducing drug to a pregnant woman for the purpose of inducing an abortion in that pregnant woman, or enabling another person to induce an abortion in a pregnant woman, unless the person who gives, sells, dispenses, administers or otherwise provides or prescribes the abortion-inducing drug is a physician, and the provision or prescription of the abortion-inducing drug satisfies the standard of care.
- (2) Because the failure and complications from medical abortion increase with increasing gestational age, because the physical symptoms of medical abortion can be identical to the symptoms of ectopic pregnancy, and because abortion-inducing drugs do not treat ectopic pregnancies but rather are contraindicated in ectopic pregnancies, the physician giving, selling, dispensing, administering or otherwise providing or prescribing the abortion-inducing drug must first physically examine the woman and document in the woman's medical chart the gestational age and intrauterine location of the pregnancy before giving, selling, dispensing, administering or otherwise providing or prescribing the abortion-inducing drug.
- (3) When any drug or chemical is used for the purpose of inducing an abortion, the drug or chemical must be administered in the same room and in the physical presence of the physician who gave, sold, dispensed or otherwise provided or prescribed the drug or chemical to the patient.
- (4) Every pregnant woman to whom a physician gives, sells, dispenses, administers or otherwise provides or prescribes any abortion-inducing drug shall be provided with a copy of the drug's final printed label or FPL.
- (5) If the physician giving, selling, dispensing, administering or otherwise providing or prescribing any abortion-inducing drug is unable to provide follow-up care, the physician must have a signed contract with a physician who agrees to provide follow-up care and produce that signed contract if requested by the patient or by the department. The contract shall include the name and contact information of the follow-up physician. The contract follow-up physician must have active hospital admitting privileges and gynecological/surgical privileges.
- (6) The physician giving, selling, dispensing, administering or otherwise providing or prescribing any abortion-inducing drug, or an agent of the physician, must schedule a follow-up visit for the woman at approximately fourteen (14) days after administration of the abortion-inducing drug to provide treatment that meets the standard of care.

**Miss. Code Ann. §41-41-115 Mississippi Code of 1972, is amended as follows:**

- (1) Nothing in Sections 41-41-101 through 41-41-117 shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of Sections 41-41-101 through 41-41-117 to make lawful \* \* \* any abortion that is currently unlawful.

**Miss. Code Ann. §41-41-109: Reporting requirements for physicians who provide abortion-inducing drugs**

(1) If a physician provides an abortion-inducing drug to another for the purpose of inducing an abortion as authorized in Section 41-41-107:

(a) The physician shall report that action to the department; and

(b) If the physician knows that the woman who uses the abortion-inducing drug for the purpose of inducing an abortion experiences, during or after the use, an adverse event, the physician shall provide a written report of the serious event to the FDA via the Medwatch Reporting System.

(2) For the purposes of this section, “adverse event” shall be defined according to the FDA criteria given in the Medwatch Reporting System.

**Miss. Code Ann. § 41-41-111. Penalties**

(1) A person who intentionally, knowingly or recklessly violates any provision of Sections 41-41-101 through 41-41-117 is guilty of a misdemeanor.

(2) No criminal penalty may be assessed against the pregnant woman upon whom the drug-induced abortion is performed.

***§ 41-41-113. Remedies; availability; no liability against pregnant women.***

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(1) All remedies under the statutory laws of this state are available if there is failure to comply with the requirements of Sections 41-41-101 through 41-41-117.

(2) No civil liability may be assessed against the pregnant woman upon whom the drug-induced abortion is performed.

(3) In any legal action for failure to comply with the requirements of Sections 41-41-101 through 41-41-117, the court, when requested, shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the drug-induced abortion was performed.

[Miss. Code Ann. § 41-41-113](#)

***§ 41-41-133. Definitions.***

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As used in Sections 41-41-131 through 41-41-145:

(a) “Abortion” means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus.

(b) “Gestational age” means the time that has elapsed since the first day of the woman’s last menstrual period as determined using methods consistent with standard medical practice in the community.

(c) “Severe fetal abnormality” means a life-threatening physical condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb.

(d) “Major bodily function” includes, but is not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

[Miss. Code Ann. § 41-41-133](#)

### **Miss. Code Ann. § 41-41-135. Requirements before abortion permitted**

Except as otherwise provided by Section 41-41-141, a physician may not perform, or induce or attempt to perform or induce an abortion without, before the procedure:

- (a) Making a determination of the probable gestational age of the unborn child; or
- (b) Possessing and relying on a determination of the probable gestational age of the unborn child made by another physician. The physician making such a determination must do so in accordance with reasonable medical judgment.

### **Miss. Code Ann. §41-41-137. Prohibition of abortion at or after twenty weeks of gestational age**

Except as otherwise provided by Section 41-41-141, a person may not perform or induce or attempt to perform or induce an abortion on a woman if it has been determined, by the physician performing, inducing, or attempting to perform or induce the abortion or by another physician on whose determination that physician relies, that the probable gestational age of the unborn child is twenty (20) or more weeks.

### **Miss. Code Ann. § 41-41-139. Application**

- (1) This section applies only to an abortion authorized under Section 41-41-141(1) in which:
  - (a) The probable gestational age of the unborn child is twenty (20) or more weeks; or
  - (b) The probable gestational age of the unborn child has not been determined but could reasonably be twenty (20) or more weeks.
- (2) A physician performing or inducing an abortion under subsection (1) of this section shall terminate the pregnancy in the manner that, in the physician's reasonable medical judgment, provides the best opportunity for the unborn child to survive.

### **Miss. Code Ann. § 41-41-141. Exceptions**

- (1) The prohibitions and requirements under Sections 41-41-135, 41-41-137 and 41-41-139(2) do not apply if there exists a condition in which an abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function (as specifically defined in paragraph (d) of Section 41-41-133) of the pregnant woman.
- (2) The prohibitions and requirements under Sections 41-41-135, 41-41-137 and 41-41-139(2) do not apply to an abortion performed or induced on an unborn child who has a severe fetal abnormality if the mother is informed twenty-four (24) hours before the abortion that supportive care, including, but not limited to, counseling and medical care by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses focused on alleviating fear and ensuring that the woman and her family experience the life and death of their child in a comfortable and supportive environment, is available should she choose to carry her pregnancy to term.

***§ 41-41-143. Protection of privacy of woman on whom abortion was performed or induced or attempted to be performed or induced in civil or criminal proceedings.***

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(1) Except as otherwise provided by this section, in a civil or criminal proceeding or action involving an act prohibited under Sections 41-41-131 through 41-41-145, the identity of the woman on whom an abortion has been performed or induced or attempted to be performed or induced is not subject to public disclosure if the woman does not give consent to disclosure.

(2) Unless the court makes a ruling under subsection (3) of this section to allow disclosure of the woman's identity, the court shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to protect the woman's identity from public disclosure.

(3) A court may order the disclosure of information that is confidential under this section if:

(a) A motion is filed with the court requesting release of the information and a hearing on that request; and

(b) Notice of the hearing is served on each interested party.

(4) If the conditions specified in subsection (3) of this section are fulfilled, then after an in camera hearing, for each order issued under subsection (2) of this section that is challenged by a motion under subsection (3) of this section, the court shall either vacate the order or issue specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists.

[Miss. Code Ann. § 41-41-143](#)

**Miss. Code Ann. § 41-41-153. Definitions**

For the purposes of [Sections 41-41-151](#) through [41-41-169](#), the following terms shall be defined as provided in this section:

(a) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device:

(i) To purposely kill the unborn child of a woman known to be pregnant; or

(ii) To purposely terminate the pregnancy of a woman known to be pregnant, with a purpose other than:

1. After viability to produce a live birth and preserve the life and health of the child born alive; or

2. To remove a dead unborn child.

(b) "Attempt to perform an abortion" means to do or omit to do anything that, under the circumstances as the actor believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in oneself performing an abortion. Such substantial steps include, but are not limited to:

(i) Agreeing with an individual to perform an abortion on that individual or on some other person, whether or not the term "abortion" is used in the agreement, and whether or not the agreement is contingent on another factor such as receipt of payment or a determination of pregnancy; or

(ii) Scheduling or planning a time to perform an abortion on an individual, whether or not the term "abortion" is used, and whether or not the performance is contingent on another factor such as receipt of payment or a determination of pregnancy.

This definition shall not be construed to require that an abortion procedure actually must be initiated for an attempt to occur.

(c) "Dismemberment abortion" means, with the purpose of causing the death of an unborn child, purposely to dismember a living unborn child and extract him or her one piece at a time from the

uterus through use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush, and/or grasp a portion of the unborn child's body to cut or rip it off.

The term “dismemberment abortion” does not include an abortion that uses suction to dismember the body of the unborn child by sucking fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion is used to cause the death of an unborn child but suction is subsequently used to extract fetal parts after the death of the unborn child.

**(d)** “Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery, or otherwise legally authorized to perform an abortion.

**(e)** “Purposely” means the following: A person acts purposely with respect to a material element of an offense when:

(i) If the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and

(ii) If the element involves the attendant circumstances, he is aware of the existence of those circumstances or he believes or hopes that they exist.

**(f)** “Serious health risk to the unborn child's mother” means that in reasonable medical judgment, she has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct that she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

**(g)** “Woman” means a female human being whether or not she has reached the age of majority.

### **Miss. Code Ann. §41-41-155 Dismemberment abortion prohibited**

**(1)** Notwithstanding any other provision of law, it shall be unlawful for any person to purposely perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

**(2)** A person accused in any proceeding of unlawful conduct under subsection (1) of this section may seek a hearing before the State Board of Medical Licensure on whether the dismemberment abortion was necessary to prevent serious health risk to the unborn child's mother. The board's findings are admissible on that issue at any trial in which the unlawful conduct is alleged. Upon a motion of the person accused, the court shall delay the beginning of the trial for not more than thirty (30) days to permit such a hearing to take place.

**(3)** No woman upon whom an abortion is performed or attempted to be performed shall be thereby liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be thereby liable for performing or attempting to perform a dismemberment abortion.

**(4)** Sections 41-41-151 through 41-41-169 do not prevent abortion for any reason, including rape and incest by any other method.



### **Miss. Code Ann. 41-41-157 Remedies--injunctions against dismemberment abortions**

(1) Civil and criminal penalties for violations of Sections 41-41-151 through 41-41-169 may be imposed under the following priority:

- (a) Injunctive relief;
- (b) Civil cause of action; and
- (c) Criminal action.

(2) A cause of action for injunctive relief against a person who has performed or attempted to perform a dismemberment abortion in violation of Section 41-41-155 may be maintained as a priority action by:

- (a) A woman upon whom such a dismemberment abortion was performed or attempted to be performed;
- (b) A person who is the spouse, parent or guardian of, or a current or former licensed health care provider of, a woman upon whom such a dismemberment abortion was performed or attempted to be performed; or
- (c) A prosecuting attorney with appropriate jurisdiction.

(3) The injunction shall prevent the defendant from performing or attempting to perform further dismemberment abortions in violation of Section 41-41-155 in this state.

### **Miss. Code Ann. §41-41-163. Criminal penalty**

Only in the event a judgment is rendered in favor of the defendant in an action described in Section 41-41-157 or 41-41-159, a district attorney with jurisdiction may bring an indictment for criminal punishment under this section. Any person who violates Section 41-41-155 is guilty of a felony and, upon conviction, shall be punished by a fine not more than Ten Thousand Dollars (\$10,000.00), or commitment to the custody of the Department of Corrections for not more than two (2) years, or both.

### **Miss. Code Ann. §41-41-191 Gestational Age Act**

(3) **Definitions.** As used in this section:

- (a) “Abortion” means the use or prescription of an instrument, medicine, drug, or other substance or device with the intent to terminate a clinically diagnosable pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the unborn human being, to terminate an ectopic pregnancy, or to remove a dead unborn human being.
- (b) “Attempt to perform or induce an abortion” means to do or omit anything that, under the circumstances as the person believes them to be, is an act or omission that constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in violation of this section.
- (c) “Conception” means the fusion of human spermatozoon with a human ovum.
- (d) “Department” means the Mississippi State Department of Health.
- (e) “Gestation” means the time that has elapsed since the first day of the woman's last menstrual period.
- (f) “Gestational age” or “probable gestation age” means the age of an unborn human being

as calculated from the first day of the last menstrual period of the pregnant woman.

**(g)** “Human being” means an individual member of the species *Homo sapiens*, from and after the point of conception.

**(h)** “Severe fetal abnormality” means a life-threatening physical condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb.

**(i)** “Major bodily function” includes, but is not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**(j)** “Medical emergency” means a condition in which, on the basis of the physician's good faith clinical judgment, an abortion is necessary to preserve the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition arising from the pregnancy itself, or when the continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function.

**(k)** “Physician” or “referring physician” means a person licensed to practice medicine in the State of Mississippi.

**(4) Abortion limited to fifteen (15) weeks' gestation except in medical emergency and in cases of severe fetal abnormality.**

**(a)** Except in a medical emergency or in the case of a severe fetal abnormality, a person shall not perform, induce, or attempt to perform or induce an abortion unless the physician or the referring physician has first made a determination of the probable gestational age of the unborn human being and documented that gestational age in the maternal patient's chart and, if required, in a report to be filed with the department as set forth in paragraph (c) of this subsection. The determination of probable gestational age shall be made according to standard medical practices and techniques used in the community.

**(b)** Except in a medical emergency or in the case of a severe fetal abnormality, 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 has been determined to be greater than fifteen (15) weeks.

**(c)** In every case in which a physician performs or induces an abortion on an unborn human being whose gestational age is greater than fifteen (15) weeks, the physician shall within fifteen (15) days of the abortion cause to be filed with the department, on a form supplied by the department, a report containing the following information:

**(i)** Date the abortion was performed;

**(ii)** Specific method of abortion used;

**(iii)** The probable gestational age of the unborn human being and the method used to calculate gestational age;

**(iv)** A statement declaring that the abortion was necessary to preserve the life or physical health of the maternal patient;

**(v)** Specific medical indications supporting the abortion; and

- (vi) Probable health consequences of the abortion and specific abortion method used.

The physician shall sign the form as his or her attestation under oath that the information stated thereon is true and correct to the best of his or her knowledge.

- (d) Reports required and submitted under this subsection (4) shall not contain the name of the maternal patient upon whom the abortion was performed or any other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who obtained or sought to obtain an abortion.

**(5) Reporting forms.** The department shall create the forms required by this section within thirty (30) days after March 19, 2018. No provision of this section requiring the reporting of information on forms published by the department shall be applicable until ten (10) days after the requisite forms have been made available or March 19, 2018, whichever is later.

**(6) Professional sanctions and civil penalties.**

- (a) A physician who intentionally or knowingly violates the prohibition in subsection (4) of this section commits an act of unprofessional conduct and his or her license to practice medicine in the State of Mississippi shall be suspended or revoked pursuant to action by the Mississippi State Board of Medical Licensure.

- (b) A physician who knowingly or intentionally delivers to the department any report required by subsection (4)(c) of this section and known by him or her to be false shall be subject to a civil penalty or fine up to Five Hundred Dollars (\$500.00) per violation imposed by the department.

**(7) Additional enforcement.** The Attorney General shall have authority to bring an action in law or equity to enforce the provisions of this section on behalf of the Director of the Mississippi State Department of Health or the Mississippi State Board of Medical Licensure. The Mississippi State Board of Medical Licensure shall also have authority to bring such action on its own behalf.

**Miss. Code Ann. §41-41-407: Abortion may not be performed because of race, sex, or genetic abnormality except in a medical emergency**

**(1)** Except in a medical emergency as defined in paragraph (j) of Section 41-41-405, a person shall not perform, induce or attempt to perform or induce an abortion unless the physician who is to perform or induce the abortion has first confirmed that the abortion is not being sought because of the race or sex of the unborn human being or because of the presence or presumed presence of a genetic abnormality and documented these facts in the maternal patient's chart, as well as in the report to be filed with the department as set forth in subsection (4) of this section.

**(2)** Except in a medical emergency as defined in paragraph (j) of Section 41-41-405, a person shall not intentionally or knowingly perform, induce or attempt to perform or induce an abortion of an unborn human being if the abortion is being sought because of the actual or presumed race or sex of the unborn human being or because of the presence or presumed presence of a genetic abnormality.

**(3)** In every case in which a physician performs or induces an abortion on an unborn human being, the physician shall within fifteen (15) days of the procedure cause to be filed with the department, on a form supplied by the department, a report containing the following information:

- (a)** Date the abortion was performed;
- (b)** Specific method of abortion used;
- (c)** Whether the race of, sex of, or the presence or presumed presence of any genetic abnormality in the unborn human being had been detected at the time of the abortion by genetic testing (such as by maternal serum tests) or ultrasound (such as by nuchal translucency screening (NT)), or by other forms of testing;
- (d)** A statement confirming that the reason for the abortion, as stated by the maternal patient, was not because of the unborn human being's actual or presumed race or sex or the presence or presumed presence of any genetic abnormality; and
- (e)** Probable health consequences of the abortion and specific abortion method used.

The physician shall sign the form as his or her attestation under oath that the information stated thereon is true and correct to the best of his or her knowledge.

**(4)** Reports required and submitted under subsection (3) of this section shall not contain the name of the maternal patient upon whom the abortion was performed or any other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who obtained or sought to obtain an abortion.