

AN ACT

ENTITLED, An Act to provide for the inclusion of certain information on required abortion reports and to clarify the confidential nature of the information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-23A-34 be amended to read as follows:

34-23A-34. The Department of Health shall prepare a reporting form for physicians which shall provide for the collection of the following information:

- (1) The month, day, and year of the induced abortion;
- (2) The method of abortion used for each induced abortion;
- (3) The approximate gestational age, in weeks, of the unborn child involved in the abortion;
- (4) The age of the mother at the time of the abortion and, if the mother was younger than sixteen years of age at the time the child was conceived, the age of the father, if known;
- (5) The specific reason for the induced abortion, including the following:
 - (a) The pregnancy was a result of rape;
 - (b) The pregnancy was a result of incest;
 - (c) The mother could not afford the child;
 - (d) The mother did not desire to have the child;
 - (e) The mother's emotional health was at risk;
 - (f) The mother would suffer substantial and irreversible impairment of a major bodily function if the pregnancy continued;
 - (g) Other, which shall be specified;
- (6) Whether the induced abortion was paid for by:
 - (a) Private insurance;
 - (b) Public health plan;

- (c) Other, which shall be specified;
- (7) Whether coverage was under:
 - (a) A-fee-for-service insurance company;
 - (b) A managed care company; or
 - (c) Other, which shall be specified;
 - (8) A description of the complications, if any, for each abortion and for the aftermath of each abortion;
 - (9) The fee collected for performing or treating the abortion;
 - (10) The type of anesthetic, if any, used for each induced abortion;
 - (11) The method used to dispose of fetal tissue and remains;
 - (12) The specialty area of the physician;
 - (13) Whether the physician performing the induced abortion has been subject to license revocation or suspension or other professional sanction;
 - (14) The number of previous abortions the mother has had;
 - (15) The number of previous live births of the mother, including both living and deceased;
 - (16) The date last normal menses began for the mother;
 - (17) The name of physician performing the induced abortion;
 - (18) The name of hospital or physician office where the induced abortion was performed;
 - (19) A unique patient number that can be used to link the report to medical report for inspection, clarification, and correction purposes but that cannot, of itself, reasonably lead to the identification of any person obtaining an abortion; and
 - (20) Certain demographic information including:
 - (a) State, county, and city of occurrence of abortion;
 - (b) State, county, and city of residence of mother;

- (c) Marital status of mother;
 - (d) Education status of mother;
 - (e) Race and hispanic origin of mother; and
- (21) Certain Rhesus factor (Rh) information including:
- (a) Whether the mother received the Rh test;
 - (b) Whether the mother tested positive for the Rh-negative factor;
 - (c) Whether the mother received a Rho(D) immune globulin injection.

Section 2. That § 34-23A-35 be amended to read as follows:

34-23A-35. By January fifteenth of each year, each physician who performed or treated an induced abortion during the previous calendar year or the physician's agent, shall submit to the department a copy of the physicians' information report described in § 34-23A-34 with the requested data entered accurately and completely.

Section 3. That § 34-23A-37 be amended to read as follows:

34-23A-37. The Department of Health shall prepare a reporting form for physicians which shall provide for the collection of the following information:

- (1) The number of females to whom the physician provided the information described in subdivision 34-23A-10.1(1); of that number, the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion;
- (2) The number of females to whom the physician provided the information described in subdivision 34-23A-10.1(2); of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician

who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

- (3) The number of females who availed themselves of the opportunity to obtain a copy of the printed information described in § 34-23A-10.3, and the number who did not; and of each of those numbers, the number who, to the best of the reporting physician's information and belief, went on to obtain the abortion; and
- (4) The number of abortions performed by the physician in which information otherwise required to be provided at least twenty-four hours before the abortion was not provided because an immediate abortion was necessary to avert the female's death, and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function;
- (5) The name of hospital or physician office;
- (6) The date of report by month, day, and year; and
- (7) A unique patient number that can be used to link the report to medical report for inspection, clarification, and correction purposes but that cannot, of itself, reasonably lead to the identification of any person obtaining an abortion.

Section 4. That § 34-23A-39 be amended to read as follows:

34-23A-39. The Department of Health shall prepare a reporting form for physicians which shall provide for the collection of the following information:

- (1) The number of females or parents whom the physician or agent of the physician provided the notice described in § 34-23A-7; and of each of those numbers, the number of females who, to the best of the reporting physician's information and belief, went on to obtain the abortion;
- (2) The number of females upon whom the physician performed an abortion without

providing to the parent of the minor the notice described in § 34-23A-7; of that number, the number who were emancipated minors, and the numbers from whom each of the exceptions to § 34-23A-7 were applicable;

- (3) The number of abortions performed upon a female by the physician after receiving judicial authorization to do so without parental notice;
- (4) The same information described in subdivisions (1) through (3) of this section with respect to females for whom a guardian or conservator has been appointed pursuant to statutes on guardianship or conservatorship because of finding of incompetency;
- (5) The name of hospital or physician office;
- (6) The date of report by month, day, and year; and
- (7) A unique patient number that can be used to link the report to medical report for inspection, clarification, and correction purposes but that cannot, of itself, reasonably lead to the identification of any person obtaining an abortion.

Section 5. That § 34-23A-44 be amended to read as follows:

34-23A-44. No report made under §§ 34-23A-34 to 34-23A-45, inclusive, may include the name of any female having an abortion. The Department of Health shall take care to ensure that none of the information included in any report required by §§ 34-23A-34 to 34-23A-45, inclusive, including printed records, computerized records, or stored information of any type, can reasonably lead to the identification of any person obtaining an abortion. Except in the case of a mother who was younger than the age of sixteen at the time her child was conceived, any information collected by or under the direction of a physician or psychotherapist for the purpose of completing a report required by §§ 34-23A-34 to 34-23A-45, inclusive, is privileged as a confidential communication under § 19-13-7. In the case of a mother who was younger than the age of sixteen at the time the child was conceived, the privilege of confidentiality set forth in § 19-13-7 may not be claimed in any judicial

proceeding involving § 22-22-1 or 22-22-30.1.

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I certify that the attached Act
originated in the

SENATE as Bill No. 54

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 54
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State