

HOUSE BILL 3808

By Hill

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 10, Part 3; Title 39, Chapter 15, Part 2
and Title 68, relative to abortion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Life Defense Act of 2012."

SECTION 2. Tennessee Code Annotated, Section 39-15-202, is amended by adding the following as a new subsection:

(h)

(1) A physician may not perform an abortion unless the physician has admitting privileges at a hospital licensed under title 68 that is located:

(A) In the county in which the abortion is performed; or

(B) In a county adjacent to the county in which the abortion is performed.

(2) The physician who performs an abortion or a health care provider licensed pursuant to title 63 under the supervision of the physician shall notify the patient of the location of the hospital at which the physician has privileges and where the patient may receive follow-up care by the physician if complications arise.

SECTION 3. Tennessee Code Annotated, Section 39-15-203, is amended by deleting the section in its entirety and by substituting instead the following:

39-15-203.

(a) For the purpose of promoting maternal health and life by adding to the sum of medical public health knowledge through the compilation of relevant data, and to promote the state's interest in protection of the unborn child, a report of each abortion performed shall be made to the department of health on forms prescribed by the commissioner of health. The report forms shall not identify the individual patient by name and shall include the following information:

- (1) Identification of the physician who performed the abortion and the physician's office, clinic, hospital or other facility where the abortion was performed;
- (2) The county and state in which the woman resides;
- (3) The woman's age, race and marital status;
- (4) The number of prior pregnancies and prior abortions of the woman;
- (5) The gestational age in number of weeks of the unborn child at the time of the abortion;
- (6) The type of procedure performed or prescribed and the date of the abortion; and
- (7) Pre-existing medical conditions of the woman which would complicate pregnancy, if any, and, if known, any medical complication which resulted from the abortion itself.

(b) The reports shall be completed by the facility where the abortion was performed, signed by the physician who performed the abortion and transmitted to the department of health within fifteen (15) days after each reporting month.

(c)

- (1) The commissioner of health shall prepare a comprehensive annual statistical report for the general assembly based upon the data gathered under

subsection (a). Such report shall not lead to the disclosure of the identity of any person filing a report or about whom a report is filed, and shall be available for public inspection and copying and shall be posted on the department's web site. In addition to whatever other information the commissioner of health includes in the annual report, the commissioner shall include the number of abortions performed in each county of the state and the number of facilities in each county, as well as aggregate statistics based on the data gathered under subdivisions (a)(2) - (a)(6) including but not limited to abortion rates by age and race.

(2) Reports filed pursuant to subsection (a) shall be confidential in nature and shall not be accessible to the public, except that disclosure may be made to law enforcement officials upon an order of court after application showing good cause therefore. The court may condition disclosure of the information upon any appropriate safeguards it may impose.

(3) Original copies of all reports filed under subsection (a) shall be available to the board of medical examiners and the board of osteopathic examination for use in the performance of their official duties.

(4) Any person who willfully discloses any information obtained from reports filed pursuant to subsection (a), other than that disclosure authorized under subdivision (c)(1), (c)(2) or (c)(3) or as otherwise authorized by law, commits a misdemeanor.

(d)

(1) Any person required under this section to file a report, keep any records or supply any information, who willfully fails to file such report, keep such records or supply such information at the time or times required by law or regulation is guilty of unprofessional conduct and the person's license for the

practice of medicine and surgery shall be subject to suspension or revocation in accordance with the procedures provided under title 63, chapters 6 and 9.

(2) Any person who willfully delivers or discloses to the department of health any report, record or information known by the person to be false, commits a misdemeanor.

(3) In addition to the above penalties, any person, organization or facility who willfully violates any of the provisions of this section requiring reporting shall upon conviction thereof:

(A) For the first time, have its license suspended by any appropriate licensing board under title 63 or 68 for a period of six (6) months;

(B) For the second time, have its license suspended by any appropriate licensing board under title 63 or 68 for a period of one (1) year; and

(C) For the third time, have its license revoked by any appropriate licensing board under title 63 or 68.

(e)

(1) "Abortion" has the meaning set forth in § 39-15-201(a)(1).

(2) "Unborn child" means an individual organism of the species homo sapiens at any stage of gestation in utero from fertilization until live birth.

SECTION 4. Any provision of this act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder

hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SECTION 5. This act shall take effect July 1, 2012, the public welfare requiring it.