

SENATE BILL 857

By Haile

AN ACT to amend Tennessee Code Annotated, Title 37;  
Title 38; Title 39; Title 56; Title 63; Title 68 and  
Title 71, relative to abortion.

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

SECTION 1. Tennessee Code Annotated, Section 39-15-213, is amended by deleting subsection (b) and substituting instead the following:

(b) Except as provided in subsection (f), a person who performs or attempts to perform an abortion commits the offense of criminal abortion. Criminal abortion is a Class C felony.

SECTION 2. Tennessee Code Annotated, Section 39-15-213, is amended by adding the following new subsection:

(f) An abortion is not a violation of this section if:

(1) The abortion is performed on a woman whose pregnancy is the result of aggravated rape, as defined by § 39-13-502; rape, as defined by § 39-13-503; rape of a child, as defined by § 39-13-522; especially aggravated rape, as defined by § 39-13-534; especially aggravated rape of a child, as defined by § 39-13-535; or incest, as defined by § 39-15-302;

(2) The abortion is performed by a physician, who is licensed or certified under title 63, chapter 6 or 9, in a hospital as defined in § 68-11-201, that is licensed by the department of health, or a hospital operated by the state of Tennessee or a branch of the federal government;

(3) The physician performing the abortion confirms that, prior to the procedure:

(A) The pregnant woman reported the offense to the appropriate law enforcement agency or rape crisis center, as defined in 34 U.S.C. § 12291, which then reported the offense to the appropriate law enforcement agency; and

(B) If appropriate and available, submitted to a forensic medical examination, as defined in § 39-13-519;

(4) In performing the abortion, the physician ensures that a sample of the embryonic or fetal tissue extracted during the abortion will be preserved and available to be turned over to the Tennessee bureau of investigation for use in the investigation into the offense; and

(5) At the time of the abortion, the woman had been pregnant for the following amounts of time, as calculated from the first day of the last menstrual period of the woman:

(A) Ten (10) weeks or less, for a woman who is twelve (12) years of age or younger; or

(B) Eight (8) weeks or less, for a woman who is thirteen (13) years of age or older.

SECTION 3. Tennessee Code Annotated, Title 38, Chapter 1, Part 1, is amended by adding the following new section:

Notwithstanding another law to the contrary, a law enforcement officer may confirm the existence of a law enforcement report and forensic medical examination for an alleged aggravated rape, as defined by § 39-13-502; rape, as defined by § 39-13-503; rape of a child, as defined by § 39-13-522; especially aggravated rape, as defined by § 39-13-534; especially aggravated rape of a child, as defined by § 39-13-535; or

incest, as defined by § 39-15-302, and the identity of the victim of the offense to a physician, if the confirmation is required by § 39-15-213(f).

SECTION 4. Tennessee Code Annotated, Section 39-16-502, is amended by deleting subsection (b) and substituting instead:

(b)

(1) Except as provided in subdivision (b)(2), a violation of subdivision (a)(1) or (a)(2) is a Class D felony.

(2) A violation of subdivision (a)(1) is a Class C felony if the false report or statement was made by the defendant in order to obtain an abortion pursuant to § 39-15-213(f). The defendant must be sentenced to a mandatory minimum sentence of at least three (3) years in incarceration, and the person must serve one hundred percent (100%) of the three-year minimum sentence.

(3) A violation of subdivision (a)(3) is a Class C felony.

SECTION 5. This act takes effect July 1, 2023, the public welfare requiring it.