

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3943**

04/18/2016 Authored by Murphy, E.,
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; repealing requirements for recording and reporting abortion
1.3 data and data on abortion complications; repealing Minnesota Statutes 2014,
1.4 sections 145.4131, subdivisions 2, 3; 145.4132; 145.4133; 145.4134; 145.4135;
1.5 145.4136; Minnesota Statutes 2015 Supplement, section 145.4131, subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **REPEALER.**

1.8 (a) Minnesota Statutes 2014, sections 145.4131, subdivisions 2 and 3; 145.4132;
1.9 145.4133; 145.4134; 145.4135; and 145.4136, are repealed.

1.10 (b) Minnesota Statutes 2015 Supplement, section 145.4131, subdivision 1, is
1.11 repealed.

145.4131 RECORDING AND REPORTING ABORTION DATA.

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

- (1) the number of abortions performed by the physician in the previous calendar year, reported by month;
- (2) the method used for each abortion;
- (3) the approximate gestational age expressed in one of the following increments:
 - (i) less than nine weeks;
 - (ii) nine to ten weeks;
 - (iii) 11 to 12 weeks;
 - (iv) 13 to 15 weeks;
 - (v) 16 to 20 weeks;
 - (vi) 21 to 24 weeks;
 - (vii) 25 to 30 weeks;
 - (viii) 31 to 36 weeks; or
 - (ix) 37 weeks to term;
- (4) the age of the woman at the time the abortion was performed;
- (5) the specific reason for the abortion, including, but not limited to, the following:
 - (i) the pregnancy was a result of rape;
 - (ii) the pregnancy was a result of incest;
 - (iii) economic reasons;
 - (iv) the woman does not want children at this time;
 - (v) the woman's emotional health is at stake;
 - (vi) the woman's physical health is at stake;
 - (vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;
 - (viii) the pregnancy resulted in fetal anomalies; or
 - (ix) unknown or the woman refused to answer;
- (6) the number of prior induced abortions;
- (7) the number of prior spontaneous abortions;
- (8) whether the abortion was paid for by:
 - (i) private coverage;
 - (ii) public assistance health coverage; or
 - (iii) self-pay;
- (9) whether coverage was under:
 - (i) a fee-for-service plan;
 - (ii) a capitated private plan; or
 - (iii) other;
- (10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form;
- (11) the medical specialty of the physician performing the abortion; and
- (12) whether the abortion resulted in a born alive infant, as defined in section 145.423, subdivision 4, and:
 - (i) any medical actions taken to preserve the life of the born alive infant;
 - (ii) whether the born alive infant survived; and
 - (iii) the status of the born alive infant, should the infant survive, if known.

Subd. 2. **Submission.** A physician performing an abortion or a facility at which an abortion is performed shall complete and submit the form to the commissioner no later than April 1 for abortions performed in the previous calendar year. The annual report to the commissioner shall include the methods used to dispose of fetal tissue and remains.

Subd. 3. **Additional reporting.** Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

145.4132 RECORDING AND REPORTING ABORTION COMPLICATION DATA.

APPENDIX

Repealed Minnesota Statutes: 16-7417

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare an abortion complication reporting form for all physicians licensed and practicing in the state. A copy of this section shall be attached to the form.

(b) The Board of Medical Practice shall ensure that the abortion complication reporting form is distributed:

(1) to all physicians licensed to practice in the state, within 120 days after July 1, 1998, and by December 1 of each subsequent year; and

(2) to a physician who is newly licensed to practice in the state, at the same time as official notification to the physician that the physician is so licensed.

Subd. 2. **Required reporting.** A physician licensed and practicing in the state who knowingly encounters an illness or injury that, in the physician's medical judgment, is related to an induced abortion or the facility where the illness or injury is encountered shall complete and submit an abortion complication reporting form to the commissioner.

Subd. 3. **Submission.** A physician or facility required to submit an abortion complication reporting form to the commissioner shall do so as soon as practicable after the encounter with the abortion-related illness or injury.

Subd. 4. **Additional reporting.** Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortion complications.

145.4133 REPORTING OUT-OF-STATE ABORTIONS.

The commissioner of human services shall report to the commissioner by April 1 each year the following information regarding abortions paid for with state funds and performed out of state in the previous calendar year:

(1) the total number of abortions performed out of state and partially or fully paid for with state funds through the medical assistance, general assistance medical care, or MinnesotaCare program, or any other program;

(2) the total amount of state funds used to pay for the abortions and expenses incidental to the abortions; and

(3) the gestational age at the time of abortion.

145.4134 COMMISSIONER'S PUBLIC REPORT.

(a) By July 1 of each year, except for 1998 and 1999 information, the commissioner shall issue a public report providing statistics for the previous calendar year compiled from the data submitted under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249. For 1998 and 1999 information, the report shall be issued October 1, 2000. Each report shall provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner shall ensure that none of the information included in the public reports can reasonably lead to identification of an individual having performed or having had an abortion. All data included on the forms under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249 must be included in the public report, except that the commissioner shall maintain as confidential, data which alone or in combination may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles. The commissioner shall submit the report to the senate Health and Family Security Committee and the house of representatives Health and Human Services Committee.

(b) The commissioner may, by rules adopted under chapter 14, alter the submission dates established under sections 145.4131 to 145.4133 for administrative convenience, fiscal savings, or other valid reason, provided that physicians or facilities and the commissioner of human services submit the required information once each year and the commissioner issues a report once each year.

145.4135 ENFORCEMENT; PENALTIES.

(a) If the commissioner finds that a physician or facility has failed to submit the required form under section 145.4131 within 60 days following the due date, the commissioner shall notify the physician or facility that the form is late. A physician or facility who fails to submit the required form under section 145.4131 within 30 days following notification from the commissioner that a report is late is subject to a late fee of \$500 for each 30-day period, or portion thereof, that the form is overdue. If a physician or facility required to report under this section does not submit a report, or submits only an incomplete report, more than one year following the due date, the commissioner may take action to fine the physician or facility or may bring an action

APPENDIX

Repealed Minnesota Statutes: 16-7417

to require that the physician or facility be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt. Notwithstanding section 13.39 to the contrary, action taken by the commissioner to enforce the provision of this section shall be treated as private if the data related to this action, alone or in combination, may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles.

(b) If the commissioner fails to issue the public report required under section 145.4134 or fails in any way to enforce this section, a group of 100 or more citizens of the state may seek an injunction in a court of competent jurisdiction against the commissioner requiring that a complete report be issued within a period stated by court order or requiring that enforcement action be taken.

(c) A physician or facility reporting in good faith and exercising due care shall have immunity from civil, criminal, or administrative liability that might otherwise result from reporting. A physician who knowingly or recklessly submits a false report under this section is guilty of a misdemeanor.

(d) The commissioner may take reasonable steps to ensure compliance with sections 145.4131 to 145.4133 and to verify data provided, including but not limited to, inspection of places where abortions are performed in accordance with chapter 14.

(e) The commissioner shall develop recommendations on appropriate penalties and methods of enforcement for physicians or facilities who fail to submit the report required under section 145.4132, submit an incomplete report, or submit a late report. The commissioner shall also assess the effectiveness of the enforcement methods and penalties provided in paragraph (a) and shall recommend appropriate changes, if any. These recommendations shall be reported to the chairs of the senate Health and Family Security Committee and the house of representatives Health and Human Services Committee by November 15, 1998.

145.4136 SEVERABILITY.

If any one or more provision, section, subdivision, sentence, clause, phrase, or word in sections 145.4131 to 145.4135, or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4131 to 145.4135 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4131 to 145.4135, and each provision, section, subdivision, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subdivision, sentence, clause, phrase, or word be declared unconstitutional.