

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

West's Tennessee Code Annotated  
Title 39. **Criminal** Offenses  
Chapter 15. Offenses Against the Family (Refs & Annos)  
Part 2. **Abortion** (Refs & Annos)

T. C. A. § 39-15-213

§ 39-15-213. **Criminal abortion**

Effective: April 28, 2023

Currentness

<Text of section effective August 25, 2022. See *Dobbs v. Jackson*, 597 U.S. \_\_\_\_, 2022 WL 2276808 (U.S. June 24, 2022).>

(a) As used in this section:

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

(2) “Fertilization” means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum;

(3) “Pregnant” means the human female reproductive condition of having a living unborn child within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization until birth; and

(4) “Unborn child” means an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization until birth.

(b) A person who performs or attempts to perform an **abortion** commits the offense of **criminal abortion**. **Criminal abortion** is a Class C felony.

(c)(1) Notwithstanding subsection (b), a person who performs or attempts to perform an **abortion** does not commit the offense of **criminal abortion** if the **abortion** is performed or attempted by a licensed physician in a licensed hospital or ambulatory surgical treatment center and the following conditions are met:

(A) The physician determined, using reasonable medical judgment, based upon the facts known to the physician at the time, that the abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman; and

(B) The physician performs or attempts to perform the abortion in the manner which, using reasonable medical judgment, based upon the facts known to the physician at the time, provides the best opportunity for the unborn child to survive, unless using reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk of death to the pregnant woman or substantial and irreversible impairment of a major bodily function.

(2) An abortion is not authorized under subdivision (c)(1)(A) and a greater risk to the pregnant woman does not exist under subdivision (c)(1)(B) if either determination is based upon a claim or a diagnosis that the pregnant woman will engage in conduct that would result in her death or the substantial and irreversible impairment of a major bodily function or for any reason relating to the pregnant woman's mental health.

(d) Medical treatment provided to the pregnant woman by a licensed physician which results in the accidental death of or unintentional injury to or death of the unborn child shall not be a violation of this section.

(e) This section does not subject the pregnant woman upon whom an **abortion** is performed or attempted to **criminal** conviction or penalty.

(f) While this section is in effect, this section supersedes §§ 39-15-211, 39-15-212, 39-15-214, 39-15-215, 39-15-216, 39-15-217, and 39-15-218.

#### Credits

2019 Pub.Acts, c. 351, § 2; 2023 Pub.Acts, c. 313, §§ 1 to 3, eff. April 28, 2023.

#### Editors' Notes

##### Relevant Additional Resources

Additional Resources listed below contain your search terms.

#### CROSS REFERENCES

Counties, prohibition on fund expenditure on **criminal abortions**, see § 5-9-115.

Metropolitan governments, prohibition on fund expenditure on **criminal abortions**, see § 7-3-106.

Municipalities, prohibition on fund expenditure on **criminal abortions**, see § 6-56-152.

##### Relevant Notes of Decisions (1)

[View all 12](#)

Notes of Decisions listed below contain your search terms.

#### Construction and application

The disposal of a human embryo that has not been transferred to a woman's uterus is not punishable as a **criminal abortion** under the Human Life Protection Act, which only applies when a woman has a living unborn child within her body. Op. Atty. Gen. No. 22-12, October 20, 2022, [2022 WL 16701602](#).

T. C. A. § 39-15-213, TN ST § 39-15-213

Current with laws from the 2023 Regular Sess. of the 113th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text. Unless legislatively provided, section name lines are prepared by the publisher.

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