

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

A Bill

HOUSE BILL 1534

4 **By: Representatives Landers, Easley, Newman, Bryant, Wooldridge, K. Wood, Rice, Collier,**
5 **McCuiston, Mullenix, Wallis, Wingfield, *Willems and Brownlee***

6

7

8

For An Act To Be Entitled

9 "AN ACT TO SAFEGUARD THE INTEGRITY OF WOMEN_S MEDICAL
10 DECISIONS; AND FOR OTHER PURPOSES."

11

12

Subtitle

13 "TO SAFEGUARD THE INTEGRITY OF WOMEN_S MEDICAL DECISIONS."

14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16

17 SECTION 1. Definitions.

18 (a) "Department" means the Arkansas Department of Health.

19 (b) "Medical emergency" means that condition which, on the basis of
20 the physician_s good faith clinical judgment, so complicates the medical
21 condition of a pregnant woman as to necessitate the immediate abortion of her
22 pregnancy to avert her death or for which a delay will create serious risk of
23 substantial and irreversible impairment of major bodily function.

24

25 SECTION 2. Informed consent.

26 (a) General Rule. No abortion shall be performed or induced except
27 with the voluntary and informed consent of the woman upon whom the abortion is
28 to be performed or induced. Except in the case of a medical emergency,
29 consent to an abortion is voluntary and informed if and only if:

30 (1) At least twenty-four (24) hours prior to the abortion, the
31 physician who is to perform the abortion or the referring physician has orally
32 informed the woman of:

33 (i) The nature of the proposed procedure or treatment and
34 of those risks associated with and alternatives to the procedure or treatment
35 that a reasonable patient would consider material to the decision of whether

1 or not to undergo the abortion;

2 (ii) The probable gestational age of the unborn child at
3 the time the abortion is to be performed; and

4 (iii) The medical risks associated with carrying her child
5 to term.

6 (2) At least twenty-four (24) hours prior to the abortion, the
7 physician who is to perform the abortion or the referring physician, or a
8 qualified physician assistant, health care practitioner, technician or social
9 worker to whom the responsibility has been delegated by either physician, has
10 informed the pregnant woman that:

11 (i) The department publishes printed materials which
12 describe the unborn child and list agencies which offer alternatives to
13 abortion and she has a right to review the printed materials and a copy will
14 be provided to her free of charge if she chooses to review it;

15 (ii) Medical assistance benefits may be available for
16 prenatal care, childbirth and neonatal care, and that more detailed
17 information on the availability of such assistance is contained in the printed
18 materials published by the department; and

19 (iii) The father of the unborn child is liable to assist in
20 the support of her child, even in instances where he has offered to pay for
21 the abortion. In the case of rape, this information may be omitted.

22 (3) A copy of the printed materials has been provided to the
23 woman if she chooses to view these materials.

24 (4) The pregnant woman certifies in writing, prior to the
25 abortion, that the information required to be provided under paragraphs (1),
26 (2) and (3) has been provided.

27 (b) Emergency. Where a medical emergency compels the performance of
28 an abortion, the physician shall inform the woman, prior to the abortion if
29 possible, of the medical indications supporting his judgment that an abortion
30 is necessary to avert her death or to avert substantial and irreversible
31 impairment of major bodily function.

32 (c) Penalty. Any physician who violates the provisions of this
33 section is guilty of "unprofessional conduct" and his license for the practice
34 of medicine and surgery shall be subject to suspension or revocation in
35 accordance with procedures provided under the Arkansas Medical Practices Act,

1 Arkansas Code Annotated §§17-93-401 et seq., or successor acts. Any physician
2 who performs or induces an abortion without first obtaining the certification
3 required by subsection (a) (4) or with knowledge or reason to know that the
4 informed consent of the woman has not been obtained shall for the first
5 offense be guilty of a Class A misdemeanor. No physician shall be guilty of
6 violating this section for failure to furnish the information required by
7 subsection (a) if he or she can demonstrate, by a preponderance of the
8 evidence, that he or she reasonably believed that furnishing the information
9 would have resulted in a severely adverse effect on the physical or mental
10 health of the patient.

11

12 SECTION 3. Printed information.

13 (a) General Rule. The department shall cause to be published within
14 sixty (60) days after this act becomes law, and shall update on an annual
15 basis, the following easily comprehensible printed materials:

16 (1) Geographically indexed materials designed to inform the
17 woman of public and private agencies and services available to assist a woman
18 through pregnancy, upon childbirth and while the child is dependent, including
19 adoption agencies, which shall include a comprehensive list of the agencies
20 available, a description of the services they offer and a description of the
21 manner, including telephone numbers, in which they might be contacted, or, at
22 the option of the department, printed materials including a toll-free twenty
23 four (24) hour a day telephone number which may be called to obtain, orally,
24 such a list and description of agencies in the locality of the caller and of
25 the services they offer. The materials shall provide information on the
26 availability of medical assistance benefits for prenatal care, childbirth and
27 neonatal care, and state that it is unlawful for any individual to coerce a
28 woman to undergo abortion, that any physician who performs an abortion upon a
29 woman without obtaining her informed consent or without according her a
30 private medical consultation may be liable to her for damages in a civil
31 action at law, that the father of a child is liable to assist in the support
32 of that child, even in instances where the father has offered to pay for an
33 abortion and that the law permits adoptive parents to pay costs of prenatal
34 care, childbirth and neonatal care.

35 (2) Materials designed to inform the woman of the probable

1 anatomical and physiological characteristics of the unborn child at two (2)
2 week gestational increments from fertilization to full term, including
3 pictures representing the development of unborn children at two (2) week
4 gestational increments, and any relevant information on the possibility of the
5 unborn child_s survival; provided that any such pictures or drawings must
6 contain the dimensions of the fetus and must be realistic and appropriate for
7 the woman_s stage of pregnancy. The materials shall be objective,
8 nonjudgmental and designed to convey only accurate scientific information
9 about the unborn child at the various gestational ages. The material shall
10 also contain objective information describing the methods of abortion
11 procedures commonly employed, the medical risks commonly associated with each
12 such procedure, and the medical risks commonly associated with carrying a
13 child to term.

14 (b) Format. The materials shall be printed in a typeface large enough
15 to be clearly legible.

16 (c) Free distribution. The materials required under this section
17 shall be available at no cost from the department upon request and in
18 appropriate numbers to any person, facility or hospital.

19

20 SECTION 4. All provisions of this act of a general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

23

24 SECTION 5. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

29

30 SECTION 6. All laws and parts of laws in conflict with this act are
31 hereby repealed.

32

33

34

35

1

2

/s/Lacy Landers, et al

3