

1 State of Arkansas
2 92nd General Assembly
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4

A Bill

HOUSE BILL 1453

5 By: Representatives Penzo, Lundstrum, Breaux, Brown, Christiansen, Coleman, C. Cooper, Crawford,
6 Evans, Hollowell, Maddox, J. Mayberry, Payton, Pilkington, Rye, B. Smith, Sullivan
7 By: Senator K. Hammer
8

For An Act To Be Entitled

9
10 AN ACT TO CREATE THE PERINATAL HOSPICE INFORMATION
11 ACT; AND FOR OTHER PURPOSES.
12
13

Subtitle

14
15 TO CREATE THE PERINATAL HOSPICE
16 INFORMATION ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 20, Chapter 16, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 20 – Perinatal Hospice Information Act
24

25 20-16-2001. Title.

26 This subchapter shall be known and may be cited as the "Perinatal
27 Hospice Information Act".
28

29 20-16-2002. Legislative findings and purpose.

30 (a) The General Assembly finds that:

31 (1) As diagnosis of prenatal conditions improve, more lethal
32 fetal anomalies are diagnosed earlier in pregnancy;

33 (2)(A) Currently, parents are often given minimal options.

34 (B) Parents must choose between terminating the pregnancy
35 or simply waiting for the child to die;

36 (3) The majority of parents in situation as described in



1 subdivision (a)(2) of this section choose to terminate the pregnancy with
 2 only twenty percent (20%) of parents deciding to continue the pregnancy;

3 (4) Studies indicate that choosing to terminate a pregnancy can
 4 pose severe long-term psychological risks for a woman including the risk of
 5 post-traumatic stress, depression, and anxiety;

6 (5) Parents who choose to continue the pregnancy under a
 7 supportive, compassionate care of a perinatal hospice team report being
 8 emotionally and spiritually prepared for the birth of a child; and

9 (6) Studies reveal that when given the option, at least eighty
 10 to eighty-seven percent (80-87%) of parents choose to continue their
 11 pregnancies in a supportive environment of perinatal hospice care.

12 (b) It is the purpose of this subchapter to:

13 (1) Guarantee that a woman considering an abortion after a
 14 diagnosis of a lethal fetal anomaly is presented with information on the
 15 option of perinatal hospice care; and

16 (2) Ensure that any abortion choice that a woman makes has been
 17 fully informed.

18
 19 20-16-2003. Definitions.

20 As used in this subchapter:

21 (1)(A) "Abortion" means the act of using or prescribing any
 22 instrument, medicine, drug, or any other substance, device, or means with the
 23 intent to terminate the clinically diagnosable pregnancy of a woman, with
 24 knowledge that the termination by any of those means will with reasonable
 25 likelihood cause the death of the unborn child.

26 (B) An act under subdivision (1)(A) of this section is not
 27 an abortion if the act is performed with the intent to:

28 (i) Save the life or preserve the health of the
 29 unborn child;

30 (ii) Remove a dead unborn child caused by
 31 spontaneous abortion; or

32 (iii) Remove an ectopic pregnancy;

33 (2) "Lethal fetal anomaly" means a fetal condition diagnosed
 34 before birth that will result in the death of the unborn child with
 35 reasonable certainty within three (3) months of the birth;

36 (3) "Medical emergency" means based on the good faith clinical

1 judgment of the physician, a condition that complicated the medical condition
2 of the pregnant woman as to necessitate the immediate termination of the
3 pregnancy to avert her death or for which a delay will create a serious risk
4 of substantial and irreversible impairment of a major bodily function;

5 (4)(A) "Perinatal hospice" means comprehensive support to the
6 pregnant woman and her family that includes support from the time of
7 diagnosis, through the time of birth and the death of the infant, and through
8 the postpartum period.

9 (B) "Perinatal hospice" may include without limitation
10 counseling and medical care by maternal-fetal medical specialists,
11 obstetricians, neonatologists, anesthesia specialists, clergy, social
12 workers, and specialty nurses focused on alleviating fear and ensuring that
13 the woman and her family experience the life and death of the child in a
14 comfortable and supportive environment; and

15 (5) "Physician" means a person licensed to practice medicine in
16 this state, including a medical doctor and a doctor of osteopathy.

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18 20-16-2004. Informed consent for abortion to include perinatal hospice
19 information.

20 (a) Except in the case of a medical emergency, consent to an abortion
21 when the unborn child has been diagnosed with a lethal fetal anomaly is
22 voluntary and informed only if at least seventy-two (72) hours before the
23 abortion:

24 (1) The physician performing the abortion has verbally informed
25 the pregnant woman that perinatal hospice services are available and has
26 offered perinatal hospice services as an alternative to abortion; and

27 (2) The pregnant woman is given a list of perinatal hospice
28 services available both in the state and nationally that is prepared by the
29 Department of Health and organized geographically by location.

30 (b) If the pregnant woman declines perinatal hospice services, the
31 pregnant woman shall certify in writing that:

32 (1) She declines the perinatal hospice services; and

33 (2) She has received the materials described in subdivision
34 (a)(2) of this section.

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36 20-16-2005. Professional sanctions.

1 (a) A violation of this subchapter shall constitute unprofessional
2 conduct and shall result in the revocation of a physician's license to
3 practice medicine.

4 (b) A violation of this subchapter may be used as the basis for:

5 (1) Denying an application for licensure, certification, permit,
6 registration, or other form of permission required to practice or engage in a
7 trade, occupation, or profession;

8 (2) Denying an application for renewal of licensure,
9 certification, permit, registration, or other form of permission required to
10 practice or engage in a trade, occupation, or profession; and

11 (3) Revoking a licensure, certification, permit, registration,
12 or other form of permission required to practice or engage in a trade,
13 occupation, or profession.

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15 20-16-2006. Right of intervention.

16 The General Assembly by joint resolution may appoint one (1) or more of
17 its members who sponsored or cosponsored this subchapter in his or her
18 official capacity to intervene as a matter of right in any case in which the
19 constitutionality of this subchapter is challenged.

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21 SECTION 2. DO NOT CODIFY. Publication of materials.

22 The Department of Health shall publish or cause to be published the
23 printed materials described in § 20-16-2004 in English, Spanish, and any
24 other appropriate languages within ninety (90) days of the effective date of
25 this act.