

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Brownlee**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "TO PROVIDE THAT CERTAIN INFORMATION BE GIVEN TO A
9 PREGNANT WOMAN BEFORE AN ABORTION; TO REQUIRE THE
10 DEPARTMENT OF HEALTH TO PUBLISH SPECIFIED MATERIALS TO BE
11 GIVEN TO A PREGNANT WOMAN PRIOR TO AN ABORTION; TO REQUIRE
12 THE DEPARTMENT OF HUMAN SERVICES TO CONDUCT A PUBLIC
13 INFORMATION PROGRAM TO INFORM WOMEN OF AVAILABLE
14 GOVERNMENTAL SERVICES FOR PREGNANCY-RELATED CARE, CHILD
15 CARE, AND ABORTION ALTERNATIVES; AND FOR OTHER PURPOSES."

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

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20 SECTION 1. As used in this act:

21 (1) "Medical emergency" means a condition of a pregnant woman that, in
22 the reasonable judgment of the physician who is attending the woman, creates
23 an immediate threat of serious risk to the life or physical health of the
24 pregnant woman from the continuation of her pregnancy necessitating the
25 immediate performance or inducement of an abortion.

26 (2) "Probable gestational age of the unborn child" means the
27 gestational age that, in the judgment of the physician who is attending the
28 unborn child's mother, will be, with reasonable probability, the gestational
29 age of the unborn child at the time an abortion is planned to be performed or
30 induced on the unborn child's mother.

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32 SECTION 2. In any action brought pursuant to any civil action based on
33 or related to any injury, death, or loss to person or property suffered as a
34 result of the performance or inducement of an abortion or suffered as a result
35 of an attempt to perform or induce an abortion, the identity of the woman upon

1 whom the abortion was performed, induced, or attempted shall be revealed to
2 the defendant and to the court, but in all other respects the action shall be
3 conducted in a manner that maintains the confidentiality of the woman upon
4 whom the abortion was performed, induced, or attempted.

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6 SECTION 3. Except when there is a medical emergency, consent to an
7 abortion shall be informed. Consent to an abortion is informed only if all of
8 the following conditions are satisfied:

9 (1) At least twenty-four (24) hours prior to the performance or
10 inducement of the abortion, a physician informs the pregnant woman of all of
11 the following:

12 (A) The physical and psychological risks associated with the
13 particular abortion procedure to be used, including when medically accurate,
14 but not limited to, any risk of infection, hemorrhage, infertility, or danger
15 to subsequent pregnancies;

16 (B) The probable gestational age of the unborn child at the time
17 the abortion is to be performed or induced;

18 (C) The physical and psychological risks associated with the
19 pregnant woman carrying her unborn child to term.

20 (2) The physician provides the pregnant woman with the information
21 described in this section in an individual, private setting and gives the
22 pregnant woman an adequate opportunity to ask questions.

23 (3) At least twenty-four (24) hours prior to the performance or the
24 inducement of the abortion, a physician or his agent does all of the
25 following:

26 (A) Informs the pregnant woman of the name of the physician who
27 will perform or induce the abortion;

28 (B) Gives the pregnant woman copies of the printed materials
29 described in Section 4 of this act;

30 (C) Orally informs the pregnant woman that the materials given to
31 her pursuant to this act are provided by the state and that they describe the
32 unborn child and list agencies that offer alternatives to abortion. The
33 pregnant woman may choose to examine or not to examine the materials. The
34 physician or his agent may disassociate himself from the materials and may
35 choose to comment or not to comment on the materials.

1 (4) Prior to the performance or inducement of the abortion, the
 2 pregnant woman certifies in writing that the required information has been
 3 given to her and that her questions about the abortion have been answered in a
 4 satisfactory manner.

5 (5) Prior to the performance or inducement of the abortion, the
 6 physician who is to perform or induce the abortion or his agent receives a
 7 copy of the written certification required by this section.

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 9 SECTION 4. (a) The Department of Health shall cause to be published,
 10 in a typeface large enough to be clearly legible, and in an easily
 11 comprehensible format, the following materials:

12 (1) Materials that inform the pregnant woman of public and
 13 private agencies and services that are available to assist her through her
 14 pregnancy, upon childbirth, and while her child is dependent, including, but
 15 not limited to, adoption agencies. The materials shall be geographically
 16 indexed; include a comprehensive list of the available agencies, a description
 17 of the services offered by the agencies, and the telephone numbers and
 18 addresses of the agencies; and inform the pregnant woman about available
 19 medical assistance benefits for prenatal care, childbirth, and neonatal care
 20 and about the child support obligations of the father of the unborn child.

21 (2) Materials that inform the pregnant woman of the probable
 22 anatomical and physiological characteristics of the unborn child at two-week
 23 gestational increments from the time a woman can be known to be pregnant to
 24 full term, including but not limited to, information on the presence of a
 25 heartbeat, the presence of brain waves, the capacity for movement, the
 26 capacity to respond to stimuli, and any relevant information on the
 27 possibility of the unborn child's survival. The materials shall use language
 28 that is understandable by the average person who is not medically trained,
 29 shall be objective and nonjudgmental, and shall include only accurate
 30 scientific information about the unborn child at the various gestational ages.

31 (b) Upon request, the Department of Health shall make the material that
 32 are published in accordance this act available at no cost and in an
 33 appropriate number to any person, hospital, physician, or medical facility
 34 that requests the materials.

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1 SECTION 5. If a medical emergency compels the performance of an
2 abortion, the physician who will perform or induce the abortion, prior to the
3 performance or inducement of the abortion if possible, shall inform the
4 pregnant woman of the medical indications supporting his judgment that an
5 immediate abortion is necessary because of an immediate threat of serious risk
6 to her life or physical health from the continuation of her pregnancy. Any
7 physician who performs or induces an abortion without obtaining informed
8 consent as in this act because of a medical emergency shall enter the reasons
9 for his conclusion that a medical emergency exists in the medical record of
10 the pregnant woman.

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12 SECTION 6. The Department of Human Services shall prepare and conduct a
13 public information program to inform women of all available governmental
14 programs and agencies that provide services or assistance for prenatal care,
15 child care, or alternatives to abortion.

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17 SECTION 7. All provisions of this act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

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21 SECTION 8. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 9. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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