

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

SENATE BILL 336

5 By: Senators P. Malone, Fitch, B. Walker
6
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For An Act To Be Entitled

9 THE INFORMED CONSENT ACT OF 2001.

Subtitle

11 THE INFORMED CONSENT ACT OF 2001.
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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
16

17 SECTION 1. Title. This act shall be known and may be cited as the
18 "Informed Consent Act of 2001".
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20 SECTION 2. Definitions. For purposes of this act:

21 (1) "Abortion" means the use or prescription of any instrument,
22 medicine, drug, or any other substance or device to intentionally terminate
23 the pregnancy of a woman known to be pregnant for a purpose other than to
24 increase the probability of a live birth, to preserve the life or health of
25 the child after live birth, or to remove a dead fetus;

26 (2) "Department" means the Department of Health;

27 (3) "Director" means the Director of the Department of Health;

28 (4) "Gestational age" means the age of the fetus as calculated
29 from the first day of the last menstrual period of the pregnant woman;

30 (5) "Medical emergency" means any condition which, on the basis
31 of the physician's good faith clinical judgment, so complicates the medical
32 condition of a pregnant woman as to necessitate the immediate termination of
33 her pregnancy to avert her death or for which a delay will create serious risk
34 of substantial and irreversible impairment of a major bodily function; and

35 (6) "Physician" means any person licensed to practice medicine in
36 this state.

SECTION 3. Informed Consent.

(a) No abortion shall be performed in this state except with the voluntary and informed consent of the woman upon whom the abortion is to be performed.

(b)(1) Except in the case of a medical emergency, consent to an abortion is voluntary and informed if, prior to the procedure, the woman is informed of the following, by telephone or in person and in accordance with department guidelines:

(A) The name of the physician who will perform the abortion;

(B) The medical risks associated with the particular abortion procedure to be employed;

(C) The probable gestational age of the fetus at the time the abortion is to be performed; and

(D) The medical risks associated with carrying the fetus to term.

(2)(A)(i) The information required by subdivision (b)(1) may be provided by telephone without conducting a physical examination or tests of the woman.

(ii) If the information is supplied by telephone, the information may be based both on facts supplied to the physician by the woman and on whatever other relevant information is reasonably available to the physician.

(B) If a physical examination, tests, or other new information subsequently indicates, in the medical judgment of the physician, the need for a revision of the information previously supplied to the woman, that revised information may be communicated to the woman at any time prior to the performance of the abortion.

(C) Nothing in this section may be construed to preclude provision of required information through a translator in a language understood by the woman.

(3) Prior to the procedure, the woman shall be informed, by telephone or in person, by the physician:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

1 (B) That the father is liable to assist in the support of
2 her child, even in instances in which the father has offered to pay for the
3 abortion;

4 (C)(i) That she has the right to review the printed or
5 electronic materials described in Section 4 of this act; and

6 (ii) That those materials have been provided by the
7 State of Arkansas; and

8 (D)(i) That if the woman chooses to view the materials in a
9 printed form, they will either be provided to her as expeditiously as
10 possible; or

11 (ii) If she chooses to view the materials via the
12 internet, she shall be informed of the web address at the time of requesting
13 the procedure;

14 (4) Prior to the termination of the pregnancy, the woman
15 certifies in writing that the information described in subdivisions (b)(1) and
16 (3) has been furnished to her and that she has been informed of her
17 opportunity to review the information referred to in subdivision (b)(3)(C);
18 and

19 (5) Prior to the abortion, the physician who is to perform the
20 procedure or the physician's agent receives a copy of the written
21 certification prescribed by subdivision (4) of this subsection (b).

22 (c) The information required by subdivision (b)(1) may be provided by a
23 tape recording if provision is made to record or otherwise register
24 specifically whether the woman does or does not choose to review the printed
25 materials.

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27 SECTION 4. (a) The Center for Health Statistics of the Department of
28 Health shall ensure that all information collected by the center regarding
29 abortions performed in this state shall be available to the public in printed
30 form and on a twenty-four (24) hour basis on the center's website.

31 (b) The information collected by the center regarding abortions
32 performed in this state shall be continually updated.

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34 SECTION 5. Procedure in Case of Medical Emergency.

35 When a medical emergency compels the performance of an abortion, the
36 physician shall inform the woman, prior to the abortion if possible, of the

1 medical indications supporting the physician's judgment that:

2 (1) An abortion is necessary to avert her death; or

3 (2) That a twenty-four (24) hour delay will create a serious risk
4 of substantial and irreversible impairment of a major bodily function.

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