

1 SB365
2 108728-1
3 By Senator Beason
4 RFD: Economic Expansion and Trade
5 First Read: 02-FEB-10

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8 SYNOPSIS: This bill would provide that, prior to
9 performing any abortion, the physician or certified
10 technician working in conjunction with the
11 physician must perform an obstetric ultrasound on
12 the pregnant woman and would provide for civil
13 penalties.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To provide that, prior to performing any abortion,
20 the physician or certified technician working in conjunction
21 with the physician must perform an obstetric ultrasound on the
22 pregnant woman and to provide for civil penalties.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. As used in this act, the following terms
25 shall have the following meanings:

26 (1) ABORTION. The intentional use or prescription of
27 any instrument, medicine, drug, or any other substance or

1 device or method to terminate the life of an unborn child, or
2 to terminate the pregnancy of a woman known to be pregnant
3 with an intention other than to produce a live birth and
4 preserve the life and health of the child after live birth or
5 to remove an ectopic pregnancy, or to remove a dead unborn
6 child who died as the result of a spontaneous abortion,
7 accidental trauma, or a criminal assault on the pregnant
8 female or her unborn child.

9 (2) CERTIFICATION. The determination by the abortion
10 provider that a medical emergency exists and the specific
11 medical conditions that constitute the medical emergency.

12 (3) FALSE STATEMENT. A willful false certification
13 by an abortion provider.

14 (4) MEDICAL EMERGENCY. A condition which, in the
15 reasonable medical judgment of the abortion provider, so
16 complicates the medical condition of the pregnant woman that a
17 delay in commencing an abortion procedure would impose a
18 serious risk of causing grave and irreversible physical health
19 damage entailing substantial impairment of a major bodily
20 function.

21 (5) REASONABLE MEDICAL JUDGMENT. A medical judgment
22 that would be made by a reasonably prudent physician,
23 knowledgeable about the case and the treatment possibilities
24 with respect to the medical conditions involved.

25 (6) UNBORN CHILD. A member of the species homo
26 sapiens, at any stage of development before birth.

1 (7) WOMAN. A female human being whether or not she
2 has reached the age of majority.

3 Section 2. (a) Any abortion provider who knowingly
4 performs any abortion shall comply with the requirements of
5 this section.

6 (b) Prior to a woman giving informed consent to
7 having any part of an abortion performed, the physician who is
8 to perform the abortion or the certified technician working in
9 conjunction with the physician shall do all of the following:

10 (1) Perform an obstetric ultrasound on the pregnant
11 woman.

12 (2) Provide an explanation of the results of the
13 ultrasound.

14 (3) Display the ultrasound images so that the
15 pregnant woman may view them.

16 (4) Provide a medical description of the ultrasound
17 images, which shall include the dimensions of the embryo or
18 fetus and the presence of external members and internal
19 organs, if present and viewable.

20 (c) Nothing in this section shall be construed to
21 prevent a pregnant woman from averting her eyes from the
22 ultrasound images required to be provided to and reviewed with
23 her. Neither the physician nor the pregnant woman shall be
24 subject to any penalty if she refuses to look at the presented
25 ultrasound images.

1 (d) The provisions of this section shall not apply
2 to an abortion provider or facility in the case of a medical
3 emergency.

4 Section 3. (a) An abortion provider who knowingly
5 violates a provision of this act shall be liable for damages
6 as provided in this section and may be enjoined from such acts
7 in accordance with this section in an appropriate court.

8 (b) (1) A cause of action for injunctive relief
9 against any person who has knowingly violated a provision of
10 Section 3 may be maintained by any of the following:

11 a. The female upon whom an abortion was performed or
12 attempted to be performed.

13 b. Any person who is the spouse, parent, sibling, or
14 guardian of, or a current or former licensed health care
15 provider of, the female upon whom an abortion has been
16 performed or attempted to be performed.

17 c. The Attorney General.

18 d. The district attorney in whose district the act
19 was committed.

20 (2) The injunction shall prevent the abortion
21 provider from performing further abortions.

22 (c) Any person who knowingly violates the terms of
23 an injunction issued in accordance with this section shall be
24 subject to civil contempt and shall be fined ten thousand
25 dollars (\$10,000) for the first violation, fifty thousand
26 dollars (\$50,000) for the second violation, and one hundred
27 thousand dollars (\$100,000) for the third and subsequent

1 violations. The fines shall be the exclusive penalties for the
2 contempt. Each performance or attempted performance of an
3 abortion in violation of the terms of an injunction is a
4 separate violation. The fines shall be cumulative. No fine may
5 be assessed against the woman upon whom an abortion is
6 performed or attempted.

7 (d) A pregnant woman upon whom an abortion has been
8 performed in violation of this act or the parent or legal
9 guardian of the woman if she is an unemancipated minor may
10 commence a civil action against the abortion provider for any
11 knowing or reckless violation of this act for actual and
12 punitive damages.

13 (d) An abortion provider who performed an abortion
14 in violation of this act shall be considered to have engaged
15 in unprofessional conduct for which his or her license to
16 provide health care services in Alabama shall be suspended or
17 revoked by the Medical Licensure Board.

18 Section 4. The provisions of this act are severable.
19 If any part of this act is declared invalid or
20 unconstitutional, that declaration shall not affect the part
21 which remains.

22 Section 5. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.