

State of Tennessee

PUBLIC CHAPTER NO. 473

SENATE BILL NO. 1222

By Beavers, Bell, Green, Johnson, Gresham, Gardenhire, Stevens, Bailey, Jackson, Roberts, Yager

Substituted for: House Bill No. 977

By Matthew Hill, Williams, Cameron Sexton, Kumar, Terry, Doss, Eldridge, Moody, Holt, Butt, Kane, Dunn, Pody, Wilburn, Casada, Rogers, Howell, Lynn, Timothy Hill, Littleton, Byrd, Hawk, Jerry Sexton, Matlock, Matheny, Haynes, Kevin Brooks, Goins, Dawn White, Lamberth, Van Huss, Lundberg, Mark White, Harry Brooks, Womick, Johnson, Reedy, Gravitt, Weaver, McManus, Coley, Powers, Dunlap

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 10, Part 3; Title 39, Chapter 15, Part 2; Title 63, Chapter 6; Title 63, Chapter 9 and Title 68, Chapter 11, Part 2, relative to abortion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-15-202, is amended by deleting the section in its entirety and substituting instead the following:

(a) Except in a medical emergency that prevents compliance with this subsection (a), no abortion shall be performed or induced upon a pregnant woman unless the woman has provided her informed written consent, given freely and without coercion. Such consent shall be treated as confidential.

(b) In order to ensure that a consent for an abortion is truly informed consent, except in a medical emergency that prevents compliance with this subsection (b) or any of the requirements of subdivisions (b)(1)–(5), no abortion shall be performed or induced upon a pregnant woman unless she has first been informed orally and in person by the attending physician who is to perform the abortion, or by the referring physician, of the following facts and has signed a consent form acknowledging that she has been informed as follows:

(1) That according to the best judgment of her attending physician or referring physician she is pregnant;

(2) The probable gestational age of the unborn child at the time the abortion is to be performed, based upon the information provided by her as to the time of her last menstrual period or after a history, physical examination, and appropriate laboratory tests;

(3) That if twenty-four (24) or more weeks have elapsed from the first day of her last menstrual period or twenty-two (22) or more weeks have elapsed from the time of conception, her unborn child may be viable, that is, capable of sustained survival outside of the womb, with or without medical assistance, and that if a viable child is prematurely born alive in the course of an abortion, the physician performing the abortion has a legal obligation to take steps to preserve the life and health of the child;

(4) That numerous public and private agencies and services are available to assist her during her pregnancy and after the birth of her child, if she chooses not to have the abortion, whether she wishes to keep her child or place the child for adoption, and that her attending physician or referring physician will provide her with a list of the agencies and the services available if she so requests; and

(5) The normal and reasonably foreseeable medical benefits, risks, or both of undergoing an abortion or continuing the pregnancy to term.

(c) Except in a medical emergency that prevents compliance with this subsection (c), at the same time the attending physician or referring physician provides the information required by subsection (b), that physician shall inform the pregnant woman of the particular risks associated with her pregnancy and continuing the pregnancy to term, based upon the information known to the physician, as well as the risks of undergoing an abortion, along with a general description of the method of abortion to be used and the medical instructions to be followed subsequent to the abortion.

(d)(1) Except in a medical emergency that prevents compliance with this subdivision (d)(1), no abortion shall be performed until a waiting period of forty-eight (48) hours has elapsed after the attending physician or referring physician has provided the information required by subsections (b) and (c), including the day on which the information was provided. After the forty-eight (48) hours have elapsed and prior to the performance of the abortion, the patient shall sign the consent form required by subsection (b).

(2) If any court temporarily, preliminarily, or permanently enjoins enforcement of subdivision (d)(1) or declares it unconstitutional, then the waiting period imposed by subdivision (d)(1) shall be twenty-four (24) hours, subject to the same medical emergency exception. If the injunction or declaration is subsequently vacated or reversed, the waiting period shall revert to forty-eight (48) hours.

(e) Except in a medical emergency that prevents compliance with subsection (b), the physician performing or inducing the abortion shall provide the pregnant woman with a duplicate copy of the consent form signed by her.

(f)(1) For purposes of subsections (a), (b), (c), (d), and (e), a medical emergency is a condition that, on the basis of the physician's good faith medical judgment, so complicates a medical condition of a pregnant woman as to necessitate an immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(2) When a medical emergency compels the performance of an abortion, the physician shall inform the woman, prior to the abortion if possible, of the medical reasons supporting the physician's judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of major bodily function.

(3) In any case in which a physician has determined that a medical emergency exists that excuses compliance with subsection (a), (b), (c), or (d), the physician shall state in the pregnant woman's medical records the basis for such determination.

(g) For purposes of this section, "the physician", "the attending physician", or "the referring physician" means any person who is licensed to practice medicine or osteopathy in this state.

(h)(1) An intentional or knowing violation of subsection (a), (b), (c), or (d), or subdivision (f)(2) by a physician is a Class E felony.

(2) An intentional, knowing, or reckless violation of subsection (e) or subdivision (f)(3) by a physician is a Class A misdemeanor.

(3) In addition to subdivisions (h)(1) and (2), any physician who intentionally, knowingly, or recklessly violates any of the provisions of this section is guilty of unprofessional conduct and such physician's license for the practice of medicine and surgery or osteopathy shall be subject to suspension or revocation in accordance with the procedures provided under title 63, chapters 6 and 9.

(i)(1)(A) Any private physician's office, ambulatory surgical treatment center, or other facility or clinic in which abortions, other than abortions necessary to prevent the death of the pregnant female, are performed shall conspicuously post a sign in a location defined in subdivision (i)(1)(C) so as to be clearly visible to patients, which reads:

Notice: It is against the law for anyone, regardless of the person's relationship to you, to coerce you into having or to force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against

the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened criminal offense to coerce an abortion.

(B) The sign required pursuant to subdivision (i)(1)(A) shall be printed in languages appropriate for the majority of clients of the facility with lettering that is legible and that is Arial font, at least 40-point bold-faced type.

(C) A facility in which abortions are performed that is a private physician's office or an ambulatory surgical treatment center shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed. A hospital or any other facility in which abortions are performed that is not a private physician's office or ambulatory surgical treatment center shall post the required sign in the admissions or registration department used by patients on whom abortions are performed.

(2)(A) An ambulatory surgical treatment center or other licensed facility shall be assessed a civil penalty by the board for licensing health care facilities of two thousand five hundred dollars (\$2,500) for each day of violation in which:

(i) The sign required in subdivision (i)(1)(A) was not posted during business hours when patients or prospective patients were present; and

(ii) An abortion other than an abortion necessary to prevent the death of the pregnant female was performed in the ambulatory surgical treatment center or other licensed facility.

(B) A licensed physician shall be assessed a civil penalty by the physician's title 63 medical licensing board of one thousand dollars (\$1,000) for each day of violation in which:

(i) The sign required in subdivision (i)(1)(A) was not posted during business hours when patients or prospective patients were present at the private physician's office or clinic; and

(ii) The physician performed an abortion in the private physician's office.

(3) The penalty provided for in subdivision (i)(2) is in addition to any other remedies applicable under other law, and subdivision (i)(2) does not preclude prosecution and conviction under any applicable criminal law.

(j)(1) A physician may not perform an abortion unless the physician has admitting privileges at a hospital licensed under title 68 that is located:

(A) In the county in which the abortion is performed; or

(B) In a county adjacent to the county in which the abortion is performed.

(2) The physician who performs an abortion or a healthcare provider licensed pursuant to title 63 under the supervision of the physician shall notify the patient of the location of the hospital at which the physician has privileges and where the patient may receive follow-up care by the physician if complications arise.

SECTION 2. The attorney general and reporter shall notify the secretary of state and the executive secretary of the Tennessee code commission upon the occurrence of any of the events described in SECTION 1(d)(2) of this act.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 4. This act shall take effect July 1, 2015, the public welfare requiring it.

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PASSED: April 22, 2015

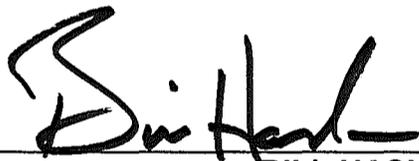


RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of MAY 2015



BILL HASLAM, GOVERNOR