

SENATE, No. 185

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

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District 25 (Morris)

SYNOPSIS

"Women's Right to Know Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the provision of information to women about
2 abortion and alternatives thereto and supplementing chapter 65A
3 of Title 2A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Women's
9 Right to Know Act."

10
11 2. The Legislature finds and declares that:

12 a. It is essential to a woman considering an abortion that she
13 receive complete and accurate information on the abortion
14 procedure and alternatives.

15 b. The knowledgeable exercise of a woman's decision to have an
16 abortion depends on the extent to which the woman receives full
17 and sufficient information to make an informed choice between two
18 alternatives: giving birth or having an abortion.

19 c. Most women who seek abortions do not have any relationship
20 with the physician who performs the abortion, before or after the
21 procedure. In most instances, the woman's only actual contact with
22 the physician occurs simultaneously with the abortion procedure,
23 with little opportunity to receive counseling concerning her
24 decision.

25 d. The decision to abort is an important and often a stressful
26 one, and it is desirable and imperative that it be made with full
27 knowledge of its nature and its consequences.

28 e. The medical, emotional and psychological consequences of an
29 abortion are serious and can be lasting.

30 f. Many abortion facilities or providers hire untrained, so-called
31 counselors whose primary goal is to sell abortion services.

32 g. It is, therefore, the purpose of this act to: ensure that every
33 woman considering an abortion receive full and complete
34 information on her alternatives, and that every woman submitting to
35 an abortion do so only after giving her voluntary and informed
36 consent to the abortion procedure; and reduce the risk that a woman
37 may elect an abortion, only to discover later, with devastating
38 psychological consequences, that her decision was not fully
39 informed.

40
41 3. As used in this act:

42 "Abortion" means the use or prescription of any instrument,
43 medicine, drug, or any other substance or device with the intent to
44 terminate the pregnancy of a woman known to be pregnant. Such
45 use or prescription is not an abortion if done with the intent to: save
46 the life or preserve the health of an unborn child, remove a dead
47 child, or deliver an unborn child prematurely in order to preserve
48 the life of both the pregnant woman and her unborn child.

1 "Conception" means the fusion of a human spermatozoon with a
2 human ovum.

3 "Department" means the Department of Health and Senior
4 Services.

5 "Facility" means any public or private hospital, clinic, center,
6 medical school, medical training institution, health care facility,
7 physician's office, infirmary, dispensary, ambulatory surgical
8 treatment center or other institution or location in which medical
9 care is provided to any person.

10 "Gestational age" means the time that has elapsed since the first
11 day of the woman's last menstrual period.

12 "Medical emergency" means any condition which, on the basis of
13 the physician's good faith clinical judgment, so complicates the
14 medical condition of the pregnant woman as to necessitate the
15 immediate abortion of her pregnancy to avert her death.

16 "Physician" means any person licensed to practice medicine and
17 surgery in this State.

18 "Pregnant" or "pregnancy" means the female reproductive
19 condition of conception and having an unborn child in the woman's
20 body.

21 "Unborn child" means the offspring of a human being from
22 conception until birth.

23 "Woman" means a female person.
24

25 4. No abortion shall be performed or induced without the
26 voluntary and informed consent of the woman upon whom the
27 abortion is to be performed or induced. Except in the case of a
28 medical emergency, consent to an abortion is voluntary and
29 informed if:

30 a. At least 24 hours before the abortion, the physician who is to
31 perform the abortion or the referring physician has informed the
32 woman, orally and in person, of:

33 (1) the name of the physician who will perform the abortion;

34 (2) the particular medical risks associated with the particular
35 abortion procedure to be used, including, but not limited to, the
36 risks of infection, hemorrhage, danger to subsequent pregnancies,
37 breast cancer, the possible adverse psychological effects associated
38 with an abortion, and alternatives to the abortion that a reasonable
39 patient would consider material to the decision of whether or not to
40 undergo the abortion;

41 (3) the probable gestational age of the unborn child at the time
42 the abortion is to be performed; and

43 (4) the medical risks associated with carrying her child to term.

44 b. At least 24 hours before the abortion, the physician who is to
45 perform the abortion, the referring physician, a licensed health care
46 professional, or a licensed social worker designated by either
47 physician has informed the woman, orally and in person, that:

48 (1) medical assistance benefits may be available for prenatal

1 care, childbirth and neonatal care, and that more detailed
2 information on the availability of this assistance is contained in the
3 printed materials described in section 5 of this act;

4 (2) the father of the unborn child is liable to assist in the support
5 of the child, even if he has offered to pay for the abortion. In the
6 case of rape or incest, this information may be omitted;

7 (3) she has the right to review the printed materials described in
8 section 5 of this act;

9 (4) she is free to withhold or withdraw her consent to the
10 abortion at any time before or during the abortion without affecting
11 her right to future care or treatment and without the loss of any
12 State or federally funded benefits to which she may otherwise be
13 entitled; and

14 (5) printed material which lists where free sonograms are given
15 is available to her.

16 c. The information described in subsections a. and b. of this
17 section is provided to the woman individually and in a private room
18 to protect her privacy and maintain the confidentiality of her
19 decision, and to ensure that the information focuses on her
20 individual circumstances and that she has an adequate opportunity
21 to ask questions.

22 d. At least 24 hours before the abortion, the woman is given a
23 copy of the printed materials described in section 5 of this act. If the
24 woman is unable to read the materials, they shall be read to her. If
25 the woman asks questions concerning any of the information or
26 materials provided to her pursuant to this section, answers shall be
27 provided to her in her own language.

28 e. The woman certifies in writing on a checklist form provided
29 by the department prior to the abortion that the information required
30 to be provided under subsections a., b. and d. of this section has
31 been provided to her. A physician who performs abortions shall
32 report the total number of written certifications received monthly to
33 the department. The department shall make the number of written
34 certifications received available to the public on an annual basis.

35 f. Prior to the performance of the abortion, the physician who is
36 to perform the abortion or a qualified person receives a copy of the
37 written certification required under subsection e. of this section.

38 g. The woman is not required to pay any amount for the abortion
39 procedure until the 24-hour reflection period has expired.

40

41 5. a. The department shall cause to be printed, in English and in
42 each language which is the primary language of 2% or more of the
43 population of this State, the following materials, in such a way as to
44 ensure that the information is easily comprehensible:

45 (1) geographically indexed materials that inform the woman
46 about public and private agencies and services available to assist a
47 woman through pregnancy, upon childbirth and while her child is
48 dependent, including, but not limited to, adoption agencies. The

1 materials shall include a comprehensive list of the agencies, a
2 description of the services they offer, and the telephone numbers
3 and addresses of the agencies, and shall inform the woman about
4 available medical assistance benefits for prenatal care, childbirth
5 and neonatal care.

6 The department shall ensure that the materials described in this
7 section are comprehensive and do not directly or indirectly
8 promote, exclude or discourage the use of any agency or service
9 described in the materials. The materials shall also contain a toll-
10 free 24-hour a day telephone number which may be called to obtain
11 orally such a list and description of agencies in the locality of the
12 caller and the services they offer.

13 The materials shall state that it is unlawful for any individual to
14 coerce a woman to undergo an abortion and that if a minor is denied
15 financial support by the minor's parent, guardian, or custodian due
16 to the minor's refusal to have an abortion performed, the minor shall
17 be deemed emancipated for the purposes of eligibility for public
18 assistance benefits;

19 (2) materials that include information on the support obligations
20 of the father of a child who is born alive, including, but not limited
21 to, the father's legal duty to support his child, which may include
22 child support payments and health insurance, and the fact that
23 paternity may be established by the father's signature on a birth
24 certificate or statement of paternity, or by court action;

25 (3) materials that inform the pregnant woman of the probable
26 anatomical and physiological characteristics of the unborn child at
27 two-week gestational increments from fertilization to full term,
28 including any relevant information on the possibility of the unborn
29 child's survival and pictures representing the development of an
30 unborn child at two-week gestational increments, provided that any
31 such pictures shall contain the dimensions of the unborn child and
32 shall be realistic and appropriate for the stage of pregnancy
33 depicted. The descriptions shall include information about brain and
34 heart function, and the presence of external members and internal
35 organs during the applicable stages of development. The materials
36 shall be objective, nonjudgmental, and designed to convey only
37 accurate scientific information about the unborn child at gestational
38 ages;

39 (4) materials which contain objective information describing the
40 methods of abortion procedures commonly employed, the medical
41 risks commonly associated with each procedure when medically
42 accurate, including, but not limited to, the risks of infection,
43 hemorrhage, danger to subsequent pregnancies, breast cancer, the
44 possible adverse psychological effects associated with an abortion
45 and the medical risks associated with carrying a child to term; and

46 (5) a checklist certification form to be used by the physician or
47 the physician's designee pursuant to subsection e. of section 4 of
48 this act.

1 b. The materials prepared pursuant to this section shall be
2 printed in a typeface large enough to be clearly legible and shall be
3 made available without cost from the department, upon request and
4 in appropriate quantities, to any person or facility.

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6 6. When a medical emergency compels the performance of an
7 abortion, the physician shall inform the woman, before the abortion
8 if possible, of the medical indications supporting the physician's
9 judgment that an abortion is necessary to avert her death.

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11 7. In addition to any remedies which are available under
12 common law or by statute, a physician who fails to comply with the
13 requirements of this act shall be subject to revocation of the
14 physician's professional license by the State Board of Medical
15 Examiners. No physician shall be guilty of violating this act for a
16 failure to comply with any requirement of this act in the case of a
17 medical emergency.

18
19 8. For the purpose of promoting maternal health and life by
20 adding to the sum of medical and public health knowledge through
21 the compilation of relevant data to promote the State's interest in
22 protecting human life and maternal health, a report of each abortion
23 performed shall be completed by the hospital or other facility in
24 which the abortion occurred, signed by the physician who
25 performed the abortion, and transmitted to the department within 15
26 days after the end of the month in which the abortion was
27 performed. The report forms shall not identify the individual patient
28 by name and shall include the following information:

29 a. the identity of the physician who performed the abortion and
30 the facility where the abortion was performed, as well as the
31 identity of the referring physician, agency or service, if any;

32 b. the state and county in which the woman resides;

33 c. the woman's age;

34 d. the number of prior pregnancies and abortions of the woman;

35 e. the probable gestational age of the unborn child;

36 f. the type of abortion procedure performed or prescribed and
37 the date of the abortion;

38 g. the pre-existing medical condition of the woman which would
39 complicate pregnancy, if any, and, if known, medical complications
40 which resulted from the abortion;

41 h. the length and weight of the aborted child for any abortion
42 performed pursuant to a medical emergency; and

43 i. the basis for any medical judgment that a medical emergency
44 existed which excused the physician from compliance with the
45 provisions of this act.

46 9. This act shall take effect on the 90th day after the date of
47 enactment, except that section 5 shall take effect immediately.