

ASSEMBLY, No. 1270

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

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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 or for which
16 a delay will create serious risk of substantial and irreversible
17 impairment of a major bodily function.

18 "Physician" means any person licensed to practice medicine and
19 surgery in this State.

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

23 "Unborn child" means the offspring of a human being from
24 conception until birth.

25 "Woman" means a female person.

26

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

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

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

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

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

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

46 b. At least 24 hours before the abortion, the physician who is to
47 perform the abortion, the referring physician, a licensed health care
48 professional, or a licensed social worker designated by either

- 1 physician has informed the woman, orally and in person, that:
- 2 (1) medical assistance benefits may be available for prenatal
3 care, childbirth and neonatal care, and that more detailed
4 information on the availability of this assistance is contained in the
5 printed materials described in section 5 of this act;
- 6 (2) the father of the unborn child is liable to assist in the support
7 of the child, even if he has offered to pay for the abortion. In the
8 case of rape or incest, this information may be omitted;
- 9 (3) she has the right to review the printed materials described in
10 section 5 of this act;
- 11 (4) she is free to withhold or withdraw her consent to the
12 abortion at any time before or during the abortion without affecting
13 her right to future care or treatment and without the loss of any
14 State or federally funded benefits to which she may otherwise be
15 entitled; and
- 16 (5) printed material which lists where free sonograms are given
17 is available to her.
- 18 c. The information described in subsections a. and b. of this
19 section is provided to the woman individually and in a private room
20 to protect her privacy and maintain the confidentiality of her
21 decision, and to ensure that the information focuses on her
22 individual circumstances and that she has an adequate opportunity
23 to ask questions.
- 24 d. At least 24 hours before the abortion, the woman is given a
25 copy of the printed materials described in section 5 of this act. If the
26 woman is unable to read the materials, they shall be read to her. If
27 the woman asks questions concerning any of the information or
28 materials provided to her pursuant to this section, answers shall be
29 provided to her in her own language.
- 30 e. The woman certifies in writing on a checklist form provided
31 by the department prior to the abortion that the information required
32 to be provided under subsections a., b. and d. of this section has
33 been provided to her. A physician who performs abortions shall
34 report the total number of written certifications received monthly to
35 the department. The department shall make the number of written
36 certifications received available to the public on an annual basis.
- 37 f. Prior to the performance of the abortion, the physician who is
38 to perform the abortion or a qualified person receives a copy of the
39 written certification required under subsection e. of this section.
- 40 g. The woman is not required to pay any amount for the abortion
41 procedure until the 24-hour reflection period has expired.
- 42
- 43 5. a. The department shall cause to be printed, in English and
44 in each language which is the primary language of 2% or more of
45 the population of this State, the following materials, in such a way
46 as to ensure that the information is easily comprehensible:
- 47 (1) geographically indexed materials that inform the woman
48 about public and private agencies and services available to assist a

1 woman through pregnancy, upon childbirth and while her child is
2 dependent, including, but not limited to, adoption agencies. The
3 materials shall include a comprehensive list of the agencies, a
4 description of the services they offer, and the telephone numbers
5 and addresses of the agencies, and shall inform the woman about
6 available medical assistance benefits for prenatal care, childbirth
7 and neonatal care.

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

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

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

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

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

48 (5) a checklist certification form to be used by the physician or

1 the physician's designee pursuant to subsection e. of section 4 of
2 this act.

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

7
8 6. When a medical emergency compels the performance of an
9 abortion, the physician shall inform the woman, before the abortion
10 if possible, of the medical indications supporting the physician's
11 judgment that an abortion is necessary to avert her death, or for
12 which a delay will create serious risk of substantial and irreversible
13 impairment of a major bodily function.

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

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

33 a. the identity of the physician who performed the abortion and
34 the facility where the abortion was performed, as well as the
35 identity of the referring physician, agency or service, if any;

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

37 c. the woman's age;

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

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

40 f. the type of abortion procedure performed or prescribed and
41 the date of the abortion;

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

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

47 i. the basis for any medical judgment that a medical emergency
48 existed which excused the physician from compliance with the

1 provisions of this act.

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

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STATEMENT

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9 This bill provides that no abortion shall be performed except
10 with the voluntary and informed consent of the woman upon whom
11 the abortion is to be performed. The bill mandates the provision of
12 information about the abortion procedure and alternatives thereto as
13 stipulated in the bill, orally and in person, by a physician or other
14 person as designated in the bill, to a pregnant woman at least 24
15 hours prior to the performance of an abortion, except in the case of
16 a medical emergency. The information shall be accompanied by the
17 provision of printed materials which the Department of Health and
18 Senior Services (DHSS) is required to prepare and make publicly
19 available under this bill.

20 The bill also requires that a report of each abortion performed
21 shall be completed by the hospital or other facility in which the
22 abortion occurred, signed by the physician who performed the
23 abortion, and transmitted to DHSS within 15 days after the end of
24 the month in which the abortion was performed.

25 A physician who fails to comply with the provisions of this bill
26 is subject to revocation of the physician's license to practice
27 medicine by the State Board of Medical Examiners, except in the
28 case of a medical emergency which is defined in the bill as "any
29 condition which, on the basis of the physician's good faith clinical
30 judgment, so complicates the medical condition of the pregnant
31 woman as to necessitate the immediate abortion of her pregnancy to
32 avert her death or for which a delay will create serious risk of
33 substantial and irreversible impairment of a major bodily function."

34 The bill takes effect on the 90th day after the date of enactment,
35 except for section 5 which takes effect immediately and requires
36 DHSS to prepare printed materials to be made available without
37 cost to health care providers and facilities and members of the
38 general public.