

April 2, 2009

**H 1044. ABORTION—WOMAN'S RIGHT TO KNOW.** Filed 4/2/09. *TO REQUIRE A TWENTY-FOUR HOUR WAITING PERIOD AND THE INFORMED CONSENT OF A PREGNANT WOMAN BEFORE AN ABORTION MAY BE PERFORMED.*

Enacts new Article 11, *Woman's Right to Know Act*, of GS Chapter 90. Provides definitions of the following terms as used in this act: (1) abortion, (2) attempt to perform an abortion, (3) Department (Department of Health and Human Services), (4) medical emergency, (5) physician, (6) probable gestational age, (7) qualified person, (8) stable Internet web site, and (9) woman. Prohibits performing an abortion upon a woman in NC unless she gives her voluntary and informed consent.

*Voluntary and informed consent.* Prescribes a list of conditions that must be met, except in the case of a medical emergency, for a woman's consent to be considered voluntary and informed consent. Requires at least 24 hours prior to the abortion, the woman must be provided with oral information by phone or in person by the referring physician or the physician who is to perform the abortion as to (1) the particular medical risks associated with the abortion procedure, (2) the probable gestational age of the unborn child, and (3) the medical risks associated with carrying the child to term. Also requires that the woman be informed if the physician who is to perform the abortion does not have liability insurance for malpractice in performing or attempting to perform an abortion and if the physician has no local hospital admitting privileges. Does not require a physical examination or tests of the woman to gather this information, but the information must be communicated during a consultation, in person or by phone, during which the woman is able to ask questions of the doctor and the doctor is able to ask the questions of the woman. Provides that nothing in this section is to be construed to prevent providing the required information via a translator in a language that the patient understands.

Additional conditions required to meet the criteria of voluntary and informed consent include requiring the physician who is to perform the abortion, the referring physician, or a qualified person to inform the woman, by telephone or in person, at least 24 hours before the abortion: (1) of the possible availability of medical assistance benefits for prenatal care, childbirth, and neonatal care; (2) of the possible availability of public assistance programs under GS Chapter 108A; (3) that the father is liable to assist in the support of the child even if he has offered to pay for the abortion; and (4) of her right to withhold or withdraw her consent to the abortion at any time before or during the abortion without affecting her right to future care and without the loss of state or federally funded benefits to which she may otherwise be entitled. Also provides that the woman be informed that she has the right to review the printed materials described in proposed GS 90-21.73. (Directs the Department of Health and Human Services to publish information in English and in each language spoken by at least 2% of the state's population providing information as to public and private agencies and services available to assist a woman through pregnancy, childbirth and post-birth care and options such as adoption and to provide materials to inform the woman of the probable anatomical development of the unborn child at two week gestational increments from the time of conception until full term. Additionally requires this information to be posted on the state website established under proposed GS 90-21.74, which requires DHHS to develop and maintain a website for this purpose.)

Also requires that a woman be informed of her right to view the ultrasound image should her physician use ultrasound equipment in the performance of the abortion. Requires the woman to certify in writing, prior to the abortion, that she has received all of the required information and directs that a copy of this written certification be provided, prior to the abortion, to the physician who will perform the abortion or the qualified person. Provides that the required information is to be provided in such a manner as to protect the woman's privacy and maintain the confidentiality of her decision and provide her with an opportunity to ask questions. Provides that the woman is not required to pay any amount for the abortion procedure until the 24-hour waiting period has expired.

*In case of a medical emergency.* Provides that if an abortion is required due to a medical emergency, the physician is to inform the woman, prior to the abortion if possible, of the necessity and document in writing the medical indicators that support the conclusion that the abortion is a medical emergency.

*Informed consent for a minor.* Provides that if the woman upon whom the abortion is to be performed is an unemancipated minor, the voluntary written and informed consent required under proposed GS 90-21.72 must be obtained from the minor and the adult individual who gives consent under GS 90-21.7(a), unless a waiver order under GS 90-21.8(e) and (f) has been issued.

Provides for civil remedies allowing any person having an abortion, the father of any unborn child that was the subject of the abortion, and any person upon whom an abortion has been attempted to maintain an action for damages against the person who knowingly and recklessly performed an abortion in violation of this article. Provides criteria for the payment of attorneys' fees in such an action.

Directs DHHS to use available funds to cover the costs of implementing this act.

Includes severability provisions, providing that holding any part of the act to be invalid does not affect the validity of the other parts.

Effective December 1, 2009, and applies to claims for relief arising on or after that date.

**Intro. by Samuelson, Mobley.**

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