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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2304 Session of  
2024

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INTRODUCED BY HOWARD, VENKAT, KINKEAD, STURLA, KINSEY,  
SCHLOSSBERG, SHUSTERMAN, DONAHUE, SANCHEZ, HILL-EVANS,  
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MAYES, WAXMAN, ROZZI, ISAACSON, OTTEN, KENYATTA, HANBIDGE,  
SIEGEL, BRIGGS AND T. DAVIS, MAY 20, 2024

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REFERRED TO COMMITTEE ON JUDICIARY, MAY 20, 2024

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AN ACT

1 Amending Titles 18 (Crimes and Offenses), 35 (Health and Safety)  
2 and 40 (Insurance) of the Pennsylvania Consolidated Statutes,  
3 in provisions relating to abortion, repealing provisions  
4 relating to short title of chapter and to legislative intent,  
5 further providing for definitions, repealing provisions  
6 relating to medical consultation and judgment, to informed  
7 consent, to parental consent, to abortion facilities, to  
8 printed information, to Commonwealth interference prohibited,  
9 to spousal notice, to determination of gestational age, to  
10 abortion on unborn child of 24 or more weeks gestational age,  
11 to infanticide, to prohibited acts and to reporting, further  
12 providing for publicly owned facilities, public officials and  
13 public funds and for fetal experimentation and repealing  
14 provisions relating to civil penalties, to criminal  
15 penalties, to State Board of Medicine and State Board of  
16 Osteopathic Medicine and to construction; providing for  
17 reproductive rights; repealing provisions relating to  
18 compliance with Federal health care legislation as to  
19 regulation of insurers and related persons generally;  
20 imposing penalties; and making an editorial change.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 Section 1. Chapter 32 heading of Title 18 of the  
24 Pennsylvania Consolidated Statutes is amended to read:

25 CHAPTER 32

1 [ABORTION]

2 REPRODUCTIVE OFFENSES

3 Section 2. Sections 3201 and 3202 of Title 18 are repealed:

4 [§ 3201. Short title of chapter.

5 This chapter shall be known and may be cited as the "Abortion  
6 Control Act."

7 § 3202. Legislative intent.

8 (a) Rights and interests.--It is the intention of the  
9 General Assembly of the Commonwealth of Pennsylvania to protect  
10 hereby the life and health of the woman subject to abortion and  
11 to protect the life and health of the child subject to abortion.  
12 It is the further intention of the General Assembly to foster  
13 the development of standards of professional conduct in a  
14 critical area of medical practice, to provide for development of  
15 statistical data and to protect the right of the minor woman  
16 voluntarily to decide to submit to abortion or to carry her  
17 child to term. The General Assembly finds as fact that the  
18 rights and interests furthered by this chapter are not secure in  
19 the context in which abortion is presently performed.

20 (b) Conclusions.--Reliable and convincing evidence has  
21 compelled the General Assembly to conclude and the General  
22 Assembly does hereby solemnly declare and find that:

23 (1) Many women now seek or are encouraged to undergo  
24 abortions without full knowledge of the development of the  
25 unborn child or of alternatives to abortion.

26 (2) The gestational age at which viability of an unborn  
27 child occurs has been lowering substantially and steadily as  
28 advances in neonatal medical care continue to be made.

29 (3) A significant number of late-term abortions result  
30 in live births, or in delivery of children who could survive

1 if measures were taken to bring about breathing. Some  
2 physicians have been allowing these children to die or have  
3 been failing to induce breathing.

4 (4) Because the Commonwealth places a supreme value upon  
5 protecting human life, it is necessary that those physicians  
6 which it permits to practice medicine be held to precise  
7 standards of care in cases where their actions do or may  
8 result in the death of an unborn child.

9 (5) A reasonable waiting period, as contained in this  
10 chapter, is critical to the assurance that a woman elect to  
11 undergo an abortion procedure only after having the fullest  
12 opportunity to give her informed consent thereto.

13 (c) Construction.--In every relevant civil or criminal  
14 proceeding in which it is possible to do so without violating  
15 the Federal Constitution, the common and statutory law of  
16 Pennsylvania shall be construed so as to extend to the unborn  
17 the equal protection of the laws and to further the public  
18 policy of this Commonwealth encouraging childbirth over  
19 abortion.

20 (d) Right of conscience.--It is the further public policy of  
21 the Commonwealth of Pennsylvania to respect and protect the  
22 right of conscience of all persons who refuse to obtain,  
23 receive, subsidize, accept or provide abortions including those  
24 persons who are engaged in the delivery of medical services and  
25 medical care whether acting individually, corporately or in  
26 association with other persons; and to prohibit all forms of  
27 discrimination, disqualification, coercion, disability or  
28 imposition of liability or financial burden upon such persons or  
29 entities by reason of their refusing to act contrary to their  
30 conscience or conscientious convictions in refusing to obtain,

1 receive, subsidize, accept or provide abortions.]

2 Section 3. Section 3203 of Title 18 is amended to read:

3 § 3203. Definitions.

4 The following words and phrases when used in this chapter  
5 shall have, unless the context clearly indicates otherwise, the  
6 meanings given to them in this section:

7 "Abortion." [The use of any means to terminate the  
8 clinically diagnosable pregnancy of a woman with knowledge that  
9 the termination by those means will, with reasonable likelihood,  
10 cause the death of the unborn child except that, for the  
11 purposes of this chapter, abortion shall not mean the use of an  
12 intrauterine device or birth control pill to inhibit or prevent  
13 ovulation, fertilization or the implantation of a fertilized  
14 ovum within the uterus.] A medical treatment that is intended to  
15 terminate a diagnosable intrauterine pregnancy for a purpose  
16 other than to produce a live birth. The term does not include:

17 (1) medical treatment to remove a dead fetus or embryo  
18 whose death was the result of a spontaneous abortion; or  
19 (2) the use or prescription of a drug or device that  
20 prevents pregnancy.

21 "Born alive." When used with regard to a human being, means  
22 that the human being was completely expelled or extracted from  
23 her or his mother and after such separation breathed or showed  
24 evidence of any of the following: beating of the heart,  
25 pulsation of the umbilical cord, definite movement of voluntary  
26 muscles or any brain-wave activity.

27 ["Complication." Includes but is not limited to hemorrhage,  
28 infection, uterine perforation, cervical laceration and retained  
29 products. The department may further define complication.

30 "Conscience." A sincerely held set of moral convictions

1 arising from belief in and relation to a deity or which, though  
2 not so derived, obtains from a place in the life of its  
3 possessor parallel to that filled by a deity among adherents to  
4 religious faiths.]

5 "Department." The Department of Health of the Commonwealth  
6 of Pennsylvania.

7 ["Facility" or "medical facility." Any public or private  
8 hospital, clinic, center, medical school, medical training  
9 institution, health care facility, physician's office,  
10 infirmary, dispensary, ambulatory surgical treatment center or  
11 other institution or location wherein medical care is provided  
12 to any person.]

13 "Fertilization" and "conception." Each term shall mean the  
14 fusion of a human spermatozoon with a human ovum.

15 ["First trimester." The first 12 weeks of gestation.

16 "Gestational age." The age of the unborn child as calculated  
17 from the first day of the last menstrual period of the pregnant  
18 woman.

19 "Hospital." An institution licensed pursuant to the  
20 provisions of the law of this Commonwealth.

21 "In vitro fertilization." The purposeful fertilization of a  
22 human ovum outside the body of a living human female.

23 "Medical emergency." That condition which, on the basis of  
24 the physician's good faith clinical judgment, so complicates the  
25 medical condition of a pregnant woman as to necessitate the  
26 immediate abortion of her pregnancy to avert her death or for  
27 which a delay will create serious risk of substantial and  
28 irreversible impairment of major bodily function.

29 "Medical personnel." Any nurse, nurse's aide, medical school  
30 student, professional or any other person who furnishes, or

1 assists in the furnishing of, medical care.

2 "Physician." Any person licensed to practice medicine in  
3 this Commonwealth. The term includes medical doctors and doctors  
4 of osteopathy.

5 "Pregnancy" and "pregnant." Each term shall mean that female  
6 reproductive condition of having a developing fetus in the body  
7 and commences with fertilization.

8 "Probable gestational age of the unborn child." What, in the  
9 judgment of the attending physician, will with reasonable  
10 probability be the gestational age of the unborn child at the  
11 time the abortion is planned to be performed.]

12 "Unborn child" and "fetus." [Each term shall mean an  
13 individual organism of the species homo sapiens from  
14 fertilization until live birth.] A fertilized human embryo or  
15 fetus developing after implantation in a human uterus until  
16 birth.

17 ["Viability." That stage of fetal development when, in the  
18 judgment of the physician based on the particular facts of the  
19 case before him and in light of the most advanced medical  
20 technology and information available to him, there is a  
21 reasonable likelihood of sustained survival of the unborn child  
22 outside the body of his or her mother, with or without  
23 artificial support.]

24 Section 4. Sections 3204, 3205, 3206, 3207, 3208, 3208.1,  
25 3209, 3210, 3211, 3212, 3213 and 3214 of Title 18 are repealed:

26 [§ 3204. Medical consultation and judgment.

27 (a) Abortion prohibited; exceptions.--No abortion shall be  
28 performed except by a physician after either:

29 (1) he determines that, in his best clinical judgment,  
30 the abortion is necessary; or

1           (2) he receives what he reasonably believes to be a  
2 written statement signed by another physician, hereinafter  
3 called the "referring physician," certifying that in this  
4 referring physician's best clinical judgment the abortion is  
5 necessary.

6           (b) Requirements.--Except in a medical emergency where there  
7 is insufficient time before the abortion is performed, the woman  
8 upon whom the abortion is to be performed shall have a private  
9 medical consultation either with the physician who is to perform  
10 the abortion or with the referring physician. The consultation  
11 will be in a place, at a time and of a duration reasonably  
12 sufficient to enable the physician to determine whether, based  
13 on his best clinical judgment, the abortion is necessary.

14           (c) Factors.--In determining in accordance with subsection  
15 (a) or (b) whether an abortion is necessary, a physician's best  
16 clinical judgment may be exercised in the light of all factors  
17 (physical, emotional, psychological, familial and the woman's  
18 age) relevant to the well-being of the woman. No abortion which  
19 is sought solely because of the sex of the unborn child shall be  
20 deemed a necessary abortion.

21           (d) Penalty.--Any person who intentionally, knowingly or  
22 recklessly violates the provisions of this section commits a  
23 felony of the third degree, and any physician who violates the  
24 provisions of this section is guilty of "unprofessional conduct"  
25 and his license for the practice of medicine and surgery shall  
26 be subject to suspension or revocation in accordance with  
27 procedures provided under the act of October 5, 1978 (P.L.1109,  
28 No.261), known as the Osteopathic Medical Practice Act, the act  
29 of December 20, 1985 (P.L.457, No.112), known as the Medical  
30 Practice Act of 1985, or their successor acts.

1 § 3205. Informed consent.

2 (a) General rule.--No abortion shall be performed or induced  
3 except with the voluntary and informed consent of the woman upon  
4 whom the abortion is to be performed or induced. Except in the  
5 case of a medical emergency, consent to an abortion is voluntary  
6 and informed if and only if:

7 (1) At least 24 hours prior to the abortion, the  
8 physician who is to perform the abortion or the referring  
9 physician has orally informed the woman of:

10 (i) The nature of the proposed procedure or  
11 treatment and of those risks and alternatives to the  
12 procedure or treatment that a reasonable patient would  
13 consider material to the decision of whether or not to  
14 undergo the abortion.

15 (ii) The probable gestational age of the unborn  
16 child at the time the abortion is to be performed.

17 (iii) The medical risks associated with carrying her  
18 child to term.

19 (2) At least 24 hours prior to the abortion, the  
20 physician who is to perform the abortion or the referring  
21 physician, or a qualified physician assistant, health care  
22 practitioner, technician or social worker to whom the  
23 responsibility has been delegated by either physician, has  
24 informed the pregnant woman that:

25 (i) The department publishes printed materials which  
26 describe the unborn child and list agencies which offer  
27 alternatives to abortion and that she has a right to  
28 review the printed materials and that a copy will be  
29 provided to her free of charge if she chooses to review  
30 it.



1 (ii) Medical assistance benefits may be available  
2 for prenatal care, childbirth and neonatal care, and that  
3 more detailed information on the availability of such  
4 assistance is contained in the printed materials  
5 published by the department.

6 (iii) The father of the unborn child is liable to  
7 assist in the support of her child, even in instances  
8 where he has offered to pay for the abortion. In the case  
9 of rape, this information may be omitted.

10 (3) A copy of the printed materials has been provided to  
11 the pregnant woman if she chooses to view these materials.

12 (4) The pregnant woman certifies in writing, prior to  
13 the abortion, that the information required to be provided  
14 under paragraphs (1), (2) and (3) has been provided.

15 (b) Emergency.--Where a medical emergency compels the  
16 performance of an abortion, the physician shall inform the  
17 woman, prior to the abortion if possible, of the medical  
18 indications supporting his judgment that an abortion is  
19 necessary to avert her death or to avert substantial and  
20 irreversible impairment of major bodily function.

21 (c) Penalty.--Any physician who violates the provisions of  
22 this section is guilty of "unprofessional conduct" and his  
23 license for the practice of medicine and surgery shall be  
24 subject to suspension or revocation in accordance with  
25 procedures provided under the act of October 5, 1978 (P.L.1109,  
26 No.261), known as the Osteopathic Medical Practice Act, the act  
27 of December 20, 1985 (P.L.457, No.112), known as the Medical  
28 Practice Act of 1985, or their successor acts. Any physician who  
29 performs or induces an abortion without first obtaining the  
30 certification required by subsection (a) (4) or with knowledge or

1 reason to know that the informed consent of the woman has not  
2 been obtained shall for the first offense be guilty of a summary  
3 offense and for each subsequent offense be guilty of a  
4 misdemeanor of the third degree. No physician shall be guilty of  
5 violating this section for failure to furnish the information  
6 required by subsection (a) if he or she can demonstrate, by a  
7 preponderance of the evidence, that he or she reasonably  
8 believed that furnishing the information would have resulted in  
9 a severely adverse effect on the physical or mental health of  
10 the patient.

11 (d) Limitation on civil liability.--Any physician who  
12 complies with the provisions of this section may not be held  
13 civilly liable to his patient for failure to obtain informed  
14 consent to the abortion within the meaning of that term as  
15 defined by the act of October 15, 1975 (P.L.390, No.111), known  
16 as the Health Care Services Malpractice Act.

17 § 3206. Parental consent.

18 (a) General rule.--Except in the case of a medical  
19 emergency, or except as provided in this section, if a pregnant  
20 woman is less than 18 years of age and not emancipated, or if  
21 she has been adjudged an incapacitated person under 20 Pa.C.S. §  
22 5511 (relating to petition and hearing; independent evaluation),  
23 a physician shall not perform an abortion upon her unless, in  
24 the case of a woman who is less than 18 years of age, he first  
25 obtains the informed consent both of the pregnant woman and of  
26 one of her parents; or, in the case of a woman who is an  
27 incapacitated person, he first obtains the informed consent of  
28 her guardian. In deciding whether to grant such consent, a  
29 pregnant woman's parent or guardian shall consider only their  
30 child's or ward's best interests. In the case of a pregnancy

1 that is the result of incest where the father is a party to the  
2 incestuous act, the pregnant woman need only obtain the consent  
3 of her mother.

4 (b) Unavailability of parent or guardian.--If both parents  
5 have died or are otherwise unavailable to the physician within a  
6 reasonable time and in a reasonable manner, consent of the  
7 pregnant woman's guardian or guardians shall be sufficient. If  
8 the pregnant woman's parents are divorced, consent of the parent  
9 having custody shall be sufficient. If neither any parent nor a  
10 legal guardian is available to the physician within a reasonable  
11 time and in a reasonable manner, consent of any adult person  
12 standing in loco parentis shall be sufficient.

13 (c) Petition to court for consent.--If both of the parents  
14 or guardians of the pregnant woman refuse to consent to the  
15 performance of an abortion or if she elects not to seek the  
16 consent of either of her parents or of her guardian, the court  
17 of common pleas of the judicial district in which the applicant  
18 resides or in which the abortion is sought shall, upon petition  
19 or motion, after an appropriate hearing, authorize a physician  
20 to perform the abortion if the court determines that the  
21 pregnant woman is mature and capable of giving informed consent  
22 to the proposed abortion, and has, in fact, given such consent.

23 (d) Court order.--If the court determines that the pregnant  
24 woman is not mature and capable of giving informed consent or if  
25 the pregnant woman does not claim to be mature and capable of  
26 giving informed consent, the court shall determine whether the  
27 performance of an abortion upon her would be in her best  
28 interests. If the court determines that the performance of an  
29 abortion would be in the best interests of the woman, it shall  
30 authorize a physician to perform the abortion.

1 (e) Representation in proceedings.--The pregnant woman may  
2 participate in proceedings in the court on her own behalf and  
3 the court may appoint a guardian ad litem to assist her. The  
4 court shall, however, advise her that she has a right to court  
5 appointed counsel, and shall provide her with such counsel  
6 unless she wishes to appear with private counsel or has  
7 knowingly and intelligently waived representation by counsel.

8 (f) Proceedings.--

9 (1) Court proceedings under this section shall be  
10 confidential and shall be given such precedence over other  
11 pending matters as will ensure that the court may reach a  
12 decision promptly and without delay in order to serve the  
13 best interests of the pregnant woman. In no case shall the  
14 court of common pleas fail to rule within three business days  
15 of the date of application. A court of common pleas which  
16 conducts proceedings under this section shall make in writing  
17 specific factual findings and legal conclusions supporting  
18 its decision and shall, upon the initial filing of the  
19 minor's petition for judicial authorization of an abortion,  
20 order a sealed record of the petition, pleadings,  
21 submissions, transcripts, exhibits, orders, evidence and any  
22 other written material to be maintained which shall include  
23 its own findings and conclusions.

24 (2) The application to the court of common pleas shall  
25 be accompanied by a non-notarized verification stating that  
26 the information therein is true and correct to the best of  
27 the applicant's knowledge, and the application shall set  
28 forth the following facts:

29 (i) The initials of the pregnant woman.

30 (ii) The age of the pregnant woman.

1 (iii) The names and addresses of each parent,  
2 guardian or, if the minor's parents are deceased and no  
3 guardian has been appointed, any other person standing in  
4 loco parentis to the minor.

5 (iv) That the pregnant woman has been fully informed  
6 of the risks and consequences of the abortion.

7 (v) Whether the pregnant woman is of sound mind and  
8 has sufficient intellectual capacity to consent to the  
9 abortion.

10 (vi) A prayer for relief asking the court to either  
11 grant the pregnant woman full capacity for the purpose of  
12 personal consent to the abortion, or to give judicial  
13 consent to the abortion under subsection (d) based upon a  
14 finding that the abortion is in the best interest of the  
15 pregnant woman.

16 (vii) That the pregnant woman is aware that any  
17 false statements made in the application are punishable  
18 by law.

19 (viii) The signature of the pregnant woman. Where  
20 necessary to serve the interest of justice, the orphans'  
21 court division, or, in Philadelphia, the family court  
22 division, shall refer the pregnant woman to the  
23 appropriate personnel for assistance in preparing the  
24 application.

25 (3) The name of the pregnant woman shall not be entered  
26 on any docket which is subject to public inspection. All  
27 persons shall be excluded from hearings under this section  
28 except the applicant and such other persons whose presence is  
29 specifically requested by the applicant or her guardian.

30 (4) At the hearing, the court shall hear evidence

1 relating to the emotional development, maturity, intellect  
2 and understanding of the pregnant woman, the fact and  
3 duration of her pregnancy, the nature, possible consequences  
4 and alternatives to the abortion and any other evidence that  
5 the court may find useful in determining whether the pregnant  
6 woman should be granted full capacity for the purpose of  
7 consenting to the abortion or whether the abortion is in the  
8 best interest of the pregnant woman. The court shall also  
9 notify the pregnant woman at the hearing that it must rule on  
10 her application within three business days of the date of its  
11 filing and that, should the court fail to rule in favor of  
12 her application within the allotted time, she has the right  
13 to appeal to the Superior Court.

14 (g) Coercion prohibited.--Except in a medical emergency, no  
15 parent, guardian or other person standing in loco parentis shall  
16 coerce a minor or incapacitated woman to undergo an abortion.  
17 Any minor or incapacitated woman who is threatened with such  
18 coercion may apply to a court of common pleas for relief. The  
19 court shall provide the minor or incapacitated woman with  
20 counsel, give the matter expedited consideration and grant such  
21 relief as may be necessary to prevent such coercion. Should a  
22 minor be denied the financial support of her parents by reason  
23 of her refusal to undergo abortion, she shall be considered  
24 emancipated for purposes of eligibility for assistance benefits.

25 (h) Regulation of proceedings.--No filing fees shall be  
26 required of any woman availing herself of the procedures  
27 provided by this section. An expedited confidential appeal shall  
28 be available to any pregnant woman whom the court fails to grant  
29 an order authorizing an abortion within the time specified in  
30 this section. Any court to which an appeal is taken under this

1 section shall give prompt and confidential attention thereto and  
2 shall rule thereon within five business days of the filing of  
3 the appeal. The Supreme Court of Pennsylvania may issue such  
4 rules as may further assure that the process provided in this  
5 section is conducted in such a manner as will ensure  
6 confidentiality and sufficient precedence over other pending  
7 matters to ensure promptness of disposition.

8 (i) Penalty.--Any person who performs an abortion upon a  
9 woman who is an unemancipated minor or incapacitated person to  
10 whom this section applies either with knowledge that she is a  
11 minor or incapacitated person to whom this section applies, or  
12 with reckless disregard or negligence as to whether she is a  
13 minor or incapacitated person to whom this section applies, and  
14 who intentionally, knowingly or recklessly fails to conform to  
15 any requirement of this section is guilty of "unprofessional  
16 conduct" and his license for the practice of medicine and  
17 surgery shall be suspended in accordance with procedures  
18 provided under the act of October 5, 1978 (P.L.1109, No.261),  
19 known as the Osteopathic Medical Practice Act, the act of  
20 December 20, 1985 (P.L.457, No.112), known as the Medical  
21 Practice Act of 1985, or their successor acts, for a period of  
22 at least three months. Failure to comply with the requirements  
23 of this section is prima facie evidence of failure to obtain  
24 informed consent and of interference with family relations in  
25 appropriate civil actions. The law of this Commonwealth shall  
26 not be construed to preclude the award of exemplary damages or  
27 damages for emotional distress even if unaccompanied by physical  
28 complications in any appropriate civil action relevant to  
29 violations of this section. Nothing in this section shall be  
30 construed to limit the common law rights of parents.

1 § 3207. Abortion facilities.

2 (a) Regulations.--The department shall have power to make  
3 rules and regulations pursuant to this chapter, with respect to  
4 performance of abortions and with respect to facilities in which  
5 abortions are performed, so as to protect the health and safety  
6 of women having abortions and of premature infants aborted  
7 alive. These rules and regulations shall include, but not be  
8 limited to, procedures, staff, equipment and laboratory testing  
9 requirements for all facilities offering abortion services.

10 (b) Reports.--Within 30 days after the effective date of  
11 this chapter, every facility at which abortions are performed  
12 shall file, and update immediately upon any change, a report  
13 with the department, containing the following information:

14 (1) Name and address of the facility.

15 (2) Name and address of any parent, subsidiary or  
16 affiliated organizations, corporations or associations.

17 (3) Name and address of any parent, subsidiary or  
18 affiliated organizations, corporations or associations having  
19 contemporaneous commonality of ownership, beneficial  
20 interest, directorship or officership with any other  
21 facility.

22 The information contained in those reports which are filed  
23 pursuant to this subsection by facilities which receive State-  
24 appropriated funds during the 12-calendar-month period  
25 immediately preceding a request to inspect or copy such reports  
26 shall be deemed public information. Reports filed by facilities  
27 which do not receive State-appropriated funds shall only be  
28 available to law enforcement officials, the State Board of  
29 Medicine and the State Board of Osteopathic Medicine for use in  
30 the performance of their official duties. Any facility failing



1 to comply with the provisions of this subsection shall be  
2 assessed by the department a fine of \$500 for each day it is in  
3 violation hereof.

4 § 3208. Printed information.

5 (a) General rule.--The department shall cause to be  
6 published in English, Spanish and Vietnamese, within 60 days  
7 after this chapter becomes law, and shall update on an annual  
8 basis, the following easily comprehensible printed materials:

9 (1) Geographically indexed materials designed to inform  
10 the woman of public and private agencies and services  
11 available to assist a woman through pregnancy, upon  
12 childbirth and while the child is dependent, including  
13 adoption agencies, which shall include a comprehensive list  
14 of the agencies available, a description of the services they  
15 offer and a description of the manner, including telephone  
16 numbers, in which they might be contacted, or, at the option  
17 of the department, printed materials including a toll-free,  
18 24-hour a day telephone number which may be called to obtain,  
19 orally, such a list and description of agencies in the  
20 locality of the caller and of the services they offer. The  
21 materials shall provide information on the availability of  
22 medical assistance benefits for prenatal care, childbirth and  
23 neonatal care, and state that it is unlawful for any  
24 individual to coerce a woman to undergo abortion, that any  
25 physician who performs an abortion upon a woman without  
26 obtaining her informed consent or without according her a  
27 private medical consultation may be liable to her for damages  
28 in a civil action at law, that the father of a child is  
29 liable to assist in the support of that child, even in  
30 instances where the father has offered to pay for an abortion

1 and that the law permits adoptive parents to pay costs of  
2 prenatal care, childbirth and neonatal care.

3 (2) Materials designed to inform the woman of the  
4 probable anatomical and physiological characteristics of the  
5 unborn child at two-week gestational increments from  
6 fertilization to full term, including pictures representing  
7 the development of unborn children at two-week gestational  
8 increments, and any relevant information on the possibility  
9 of the unborn child's survival; provided that any such  
10 pictures or drawings must contain the dimensions of the fetus  
11 and must be realistic and appropriate for the woman's stage  
12 of pregnancy. The materials shall be objective, nonjudgmental  
13 and designed to convey only accurate scientific information  
14 about the unborn child at the various gestational ages. The  
15 material shall also contain objective information describing  
16 the methods of abortion procedures commonly employed, the  
17 medical risks commonly associated with each such procedure,  
18 the possible detrimental psychological effects of abortion  
19 and the medical risks commonly associated with each such  
20 procedure and the medical risks commonly associated with  
21 carrying a child to term.

22 (b) Format.--The materials shall be printed in a typeface  
23 large enough to be clearly legible.

24 (c) Free distribution.--The materials required under this  
25 section shall be available at no cost from the department upon  
26 request and in appropriate number to any person, facility or  
27 hospital.

28 § 3208.1. Commonwealth interference prohibited.

29 The Commonwealth shall not interfere with the use of  
30 medically appropriate methods of contraception or the manner in

1 which medically appropriate methods of contraception are  
2 provided.

3 § 3209. Spousal notice.

4 (a) Spousal notice required.--In order to further the  
5 Commonwealth's interest in promoting the integrity of the  
6 marital relationship and to protect a spouse's interests in  
7 having children within marriage and in protecting the prenatal  
8 life of that spouse's child, no physician shall perform an  
9 abortion on a married woman, except as provided in subsections  
10 (b) and (c), unless he or she has received a signed statement,  
11 which need not be notarized, from the woman upon whom the  
12 abortion is to be performed, that she has notified her spouse  
13 that she is about to undergo an abortion. The statement shall  
14 bear a notice that any false statement made therein is  
15 punishable by law.

16 (b) Exceptions.--The statement certifying that the notice  
17 required by subsection (a) has been given need not be furnished  
18 where the woman provides the physician a signed statement  
19 certifying at least one of the following:

20 (1) Her spouse is not the father of the child.

21 (2) Her spouse, after diligent effort, could not be  
22 located.

23 (3) The pregnancy is a result of spousal sexual assault  
24 as described in section 3128 (relating to spousal sexual  
25 assault), which has been reported to a law enforcement agency  
26 having the requisite jurisdiction.

27 (4) The woman has reason to believe that the furnishing  
28 of notice to her spouse is likely to result in the infliction  
29 of bodily injury upon her by her spouse or by another  
30 individual.

1 Such statement need not be notarized, but shall bear a notice  
2 that any false statements made therein are punishable by law.

3 (c) Medical emergency.--The requirements of subsection (a)  
4 shall not apply in case of a medical emergency.

5 (d) Forms.--The department shall cause to be published forms  
6 which may be utilized for purposes of providing the signed  
7 statements required by subsections (a) and (b). The department  
8 shall distribute an adequate supply of such forms to all  
9 abortion facilities in this Commonwealth.

10 (e) Penalty; civil action.--Any physician who violates the  
11 provisions of this section is guilty of "unprofessional  
12 conduct," and his or her license for the practice of medicine  
13 and surgery shall be subject to suspension or revocation in  
14 accordance with procedures provided under the act of October 5,  
15 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
16 Practice Act, the act of December 20, 1985 (P.L.457, No.112),  
17 known as the Medical Practice Act of 1985, or their successor  
18 acts. In addition, any physician who knowingly violates the  
19 provisions of this section shall be civilly liable to the spouse  
20 who is the father of the aborted child for any damages caused  
21 thereby and for punitive damages in the amount of \$5,000, and  
22 the court shall award a prevailing plaintiff a reasonable  
23 attorney fee as part of costs.

24 § 3210. Determination of gestational age.

25 (a) Requirement.--Except in the case of a medical emergency  
26 which prevents compliance with this section, no abortion shall  
27 be performed or induced unless the referring physician or the  
28 physician performing or inducing it has first made a  
29 determination of the probable gestational age of the unborn  
30 child. In making such determination, the physician shall make

1 such inquiries of the patient and perform or cause to be  
2 performed such medical examinations and tests as a prudent  
3 physician would consider necessary to make or perform in making  
4 an accurate diagnosis with respect to gestational age. The  
5 physician who performs or induces the abortion shall report the  
6 type of inquiries made and the type of examinations and tests  
7 utilized to determine the gestational age of the unborn child  
8 and the basis for the diagnosis with respect to gestational age  
9 on forms provided by the department.

10 (b) Penalty.--Failure of any physician to conform to any  
11 requirement of this section constitutes "unprofessional conduct"  
12 within the meaning of the act of October 5, 1978 (P.L.1109,  
13 No.261), known as the Osteopathic Medical Practice Act, the act  
14 of December 20, 1985 (P.L.457, No.112), known as the Medical  
15 Practice Act of 1985, or their successor acts. Upon a finding by  
16 the State Board of Medicine or the State Board of Osteopathic  
17 Medicine that any physician has failed to conform to any  
18 requirement of this section, the board shall not fail to suspend  
19 that physician's license for a period of at least three months.  
20 Intentional, knowing or reckless falsification of any report  
21 required under this section is a misdemeanor of the third  
22 degree.

23 § 3211. Abortion on unborn child of 24 or more weeks  
24 gestational age.

25 (a) Prohibition.--Except as provided in subsection (b), no  
26 person shall perform or induce an abortion upon another person  
27 when the gestational age of the unborn child is 24 or more  
28 weeks.

29 (b) Exceptions.--

30 (1) It shall not be a violation of subsection (a) if an

1 abortion is performed by a physician and that physician  
2 reasonably believes that it is necessary to prevent either  
3 the death of the pregnant woman or the substantial and  
4 irreversible impairment of a major bodily function of the  
5 woman. No abortion shall be deemed authorized under this  
6 paragraph if performed on the basis of a claim or a diagnosis  
7 that the woman will engage in conduct which would result in  
8 her death or in substantial and irreversible impairment of a  
9 major bodily function.

10 (2) It shall not be a violation of subsection (a) if the  
11 abortion is performed by a physician and that physician  
12 reasonably believes, after making a determination of the  
13 gestational age of the unborn child in compliance with  
14 section 3210 (relating to determination of gestational age),  
15 that the unborn child is less than 24 weeks gestational age.

16 (c) Abortion regulated.--Except in the case of a medical  
17 emergency which, in the reasonable medical judgment of the  
18 physician performing the abortion, prevents compliance with a  
19 particular requirement of this subsection, no abortion which is  
20 authorized under subsection (b)(1) shall be performed unless  
21 each of the following conditions is met:

22 (1) The physician performing the abortion certifies in  
23 writing that, based upon his medical examination of the  
24 pregnant woman and his medical judgment, the abortion is  
25 necessary to prevent either the death of the pregnant woman  
26 or the substantial and irreversible impairment of a major  
27 bodily function of the woman.

28 (2) Such physician's judgment with respect to the  
29 necessity for the abortion has been concurred in by one other  
30 licensed physician who certifies in writing that, based upon

1 his or her separate personal medical examination of the  
2 pregnant woman and his or her medical judgment, the abortion  
3 is necessary to prevent either the death of the pregnant  
4 woman or the substantial and irreversible impairment of a  
5 major bodily function of the woman.

6 (3) The abortion is performed in a hospital.

7 (4) The physician terminates the pregnancy in a manner  
8 which provides the best opportunity for the unborn child to  
9 survive, unless the physician determines, in his or her good  
10 faith medical judgment, that termination of the pregnancy in  
11 that manner poses a significantly greater risk either of the  
12 death of the pregnant woman or the substantial and  
13 irreversible impairment of a major bodily function of the  
14 woman than would other available methods.

15 (5) The physician performing the abortion arranges for  
16 the attendance, in the same room in which the abortion is to  
17 be completed, of a second physician who shall take control of  
18 the child immediately after complete extraction from the  
19 mother and shall provide immediate medical care for the  
20 child, taking all reasonable steps necessary to preserve the  
21 child's life and health.

22 (d) Penalty.--Any person who violates subsection (a) commits  
23 a felony of the third degree. Any person who violates subsection  
24 (c) commits a misdemeanor of the second degree for the first  
25 offense and a misdemeanor of the first degree for subsequent  
26 offenses.

27 § 3212. Infanticide.

28 (a) Status of fetus.--The law of this Commonwealth shall not  
29 be construed to imply that any human being born alive in the  
30 course of or as a result of an abortion or pregnancy

1 termination, no matter what may be that human being's chance of  
2 survival, is not a person under the Constitution and laws of  
3 this Commonwealth.

4 (b) Care required.--All physicians and licensed medical  
5 personnel attending a child who is born alive during the course  
6 of an abortion or premature delivery, or after being carried to  
7 term, shall provide such child that type and degree of care and  
8 treatment which, in the good faith judgment of the physician, is  
9 commonly and customarily provided to any other person under  
10 similar conditions and circumstances. Any individual who  
11 intentionally, knowingly or recklessly violates the provisions  
12 of this subsection commits a felony of the third degree.

13 (c) Obligation of physician.--Whenever the physician or any  
14 other person is prevented by lack of parental or guardian  
15 consent from fulfilling his obligations under subsection (b), he  
16 shall nonetheless fulfill said obligations and immediately  
17 notify the juvenile court of the facts of the case. The juvenile  
18 court shall immediately institute an inquiry and, if it finds  
19 that the lack of parental or guardian consent is preventing  
20 treatment required under subsection (b), it shall immediately  
21 grant injunctive relief to require such treatment.

22 § 3213. Prohibited acts.

23 (a) Payment for abortion.--Except in the case of a pregnancy  
24 which is not yet clinically diagnosable, any person who intends  
25 to perform or induce abortion shall, before accepting payment  
26 therefor, make or obtain a determination that the woman is  
27 pregnant. Any person who intentionally or knowingly accepts such  
28 a payment without first making or obtaining such a determination  
29 commits a misdemeanor of the second degree. Any person who makes  
30 such a determination erroneously either knowing that it is



1 erroneous or with reckless disregard or negligence as to whether  
2 it is erroneous, and who either:

3 (1) thereupon or thereafter intentionally relies upon  
4 that determination in soliciting or obtaining any such  
5 payment; or

6 (2) intentionally conveys that determination to any  
7 person or persons with knowledge that, or with reckless  
8 disregard as to whether, that determination will be relied  
9 upon in any solicitation or obtaining of any such payment;  
10 commits a misdemeanor of the second degree.

11 (b) Referral fee.--The payment or receipt of a referral fee  
12 in connection with the performance of an abortion is a  
13 misdemeanor of the first degree. For purposes of this section,  
14 "referral fee" means the transfer of anything of value between a  
15 physician who performs an abortion or an operator or employee of  
16 a clinic at which an abortion is performed and the person who  
17 advised the woman receiving the abortion to use the services of  
18 that physician or clinic.

19 (c) Regulations.--The department shall issue regulations to  
20 assure that prior to the performance of any abortion, including  
21 abortions performed in the first trimester of pregnancy, the  
22 maternal Rh status shall be determined and that anti-Rh  
23 sensitization prophylaxis shall be provided to each patient at  
24 risk of sensitization unless the patient refuses to accept the  
25 treatment. Except when there exists a medical emergency or, in  
26 the judgment of the physician, there exists no possibility of Rh  
27 sensitization, the intentional, knowing, or reckless failure to  
28 conform to the regulations issued pursuant to this subsection  
29 constitutes "unprofessional conduct" and his license for the  
30 practice of medicine and surgery shall be subject to suspension

1 or revocation in accordance with procedures provided under the  
2 act of October 5, 1978 (P.L.1109, No.261), known as the  
3 Osteopathic Medical Practice Act, the act of December 20, 1985  
4 (P.L.457, No.112), known as the Medical Practice Act of 1985, or  
5 their successor acts.

6 (d) Participation in abortion.--Except for a facility  
7 devoted exclusively to the performance of abortions, no medical  
8 personnel or medical facility, nor any employee, agent or  
9 student thereof, shall be required against his or its conscience  
10 to aid, abet or facilitate performance of an abortion or  
11 dispensing of an abortifacient and failure or refusal to do so  
12 shall not be a basis for any civil, criminal, administrative or  
13 disciplinary action, penalty or proceeding, nor may it be the  
14 basis for refusing to hire or admit anyone. Nothing herein shall  
15 be construed to limit the provisions of the act of October 27,  
16 1955 (P.L.744, No.222), known as the "Pennsylvania Human  
17 Relations Act." Any person who knowingly violates the provisions  
18 of this subsection shall be civilly liable to the person thereby  
19 injured and, in addition, shall be liable to that person for  
20 punitive damages in the amount of \$5,000.

21 (e) In vitro fertilization.--All persons conducting, or  
22 experimenting in, in vitro fertilization shall file quarterly  
23 reports with the department, which shall be available for public  
24 inspection and copying, containing the following information:

25 (1) Names of all persons conducting or assisting in the  
26 fertilization or experimentation process.

27 (2) Locations where the fertilization or experimentation  
28 is conducted.

29 (3) Name and address of any person, facility, agency or  
30 organization sponsoring the fertilization or experimentation

1 except that names of any persons who are donors or recipients  
2 of sperm or eggs shall not be disclosed.

3 (4) Number of eggs fertilized.

4 (5) Number of fertilized eggs destroyed or discarded.

5 (6) Number of women implanted with a fertilized egg.

6 Any person required under this subsection to file a report, keep  
7 records or supply information, who willfully fails to file such  
8 report, keep records or supply such information or who submits a  
9 false report shall be assessed a fine by the department in the  
10 amount of \$50 for each day in which that person is in violation  
11 hereof.

12 (f) Notice.--

13 (1) Except for a facility devoted exclusively to the  
14 performance of abortions, every facility performing abortions  
15 shall prominently post a notice, not less than eight and one-  
16 half inches by eleven inches in size, entitled "Right of  
17 Conscience," for the exclusive purpose of informing medical  
18 personnel, employees, agents and students of such facilities  
19 of their rights under subsection (d) and under section 5.2 of  
20 the Pennsylvania Human Relations Act. The facility shall post  
21 the notice required by this subsection in a location or  
22 locations where notices to employees, medical personnel and  
23 students are normally posted or, if notices are not normally  
24 posted, in a location or locations where the notice required  
25 by this subsection is likely to be seen by medical personnel,  
26 employees or students of the facility. The department shall  
27 prescribe a model notice which may be used by any facility,  
28 and any facility which utilizes the model notice or  
29 substantially similar language shall be deemed in compliance  
30 with this subsection.

1           (2) The department shall have the authority to assess a  
2 civil penalty of up to \$5,000 against any facility for each  
3 violation of this subsection, giving due consideration to the  
4 appropriateness of the penalty with respect to the size of  
5 the facility, the gravity of the violation, the good faith of  
6 the facility and the history of previous violations. Civil  
7 penalties due under this subsection shall be paid to the  
8 department for deposit in the State Treasury and may be  
9 collected by the department in the appropriate court of  
10 common pleas. The department shall send a copy of its model  
11 notice to every facility which files a report under section  
12 3207(b) (relating to abortion facilities). Failure to receive  
13 a notice shall not be a defense to any civil action brought  
14 pursuant to this subsection.

15 § 3214. Reporting.

16           (a) General rule.--For the purpose of promotion of maternal  
17 health and life by adding to the sum of medical and public  
18 health knowledge through the compilation of relevant data, and  
19 to promote the Commonwealth's interest in protection of the  
20 unborn child, a report of each abortion performed shall be made  
21 to the department on forms prescribed by it. The report forms  
22 shall not identify the individual patient by name and shall  
23 include the following information:

24           (1) Identification of the physician who performed the  
25 abortion, the concurring physician as required by section  
26 3211(c)(2) (relating to abortion on unborn child of 24 or  
27 more weeks gestational age), the second physician as required  
28 by section 3211(c)(5) and the facility where the abortion was  
29 performed and of the referring physician, agency or service,  
30 if any.

1 (2) The county and state in which the woman resides.

2 (3) The woman's age.

3 (4) The number of prior pregnancies and prior abortions  
4 of the woman.

5 (5) The gestational age of the unborn child at the time  
6 of the abortion.

7 (6) The type of procedure performed or prescribed and  
8 the date of the abortion.

9 (7) Pre-existing medical conditions of the woman which  
10 would complicate pregnancy, if any, and, if known, any  
11 medical complication which resulted from the abortion itself.

12 (8) The basis for the medical judgment of the physician  
13 who performed the abortion that the abortion was necessary to  
14 prevent either the death of the pregnant woman or the  
15 substantial and irreversible impairment of a major bodily  
16 function of the woman, where an abortion has been performed  
17 pursuant to section 3211(b) (1).

18 (9) The weight of the aborted child for any abortion  
19 performed pursuant to section 3211(b) (1).

20 (10) Basis for any medical judgment that a medical  
21 emergency existed which excused the physician from compliance  
22 with any provision of this chapter.

23 (11) The information required to be reported under  
24 section 3210(a) (relating to determination of gestational  
25 age).

26 (12) Whether the abortion was performed upon a married  
27 woman and, if so, whether notice to her spouse was given. If  
28 no notice to her spouse was given, the report shall also  
29 indicate the reason for failure to provide notice.

30 (b) Completion of report.--The reports shall be completed by

1 the hospital or other licensed facility, signed by the physician  
2 who performed the abortion and transmitted to the department  
3 within 15 days after each reporting month.

4 (c) Pathological examinations.--When there is an abortion  
5 performed during the first trimester of pregnancy, the tissue  
6 that is removed shall be subjected to a gross or microscopic  
7 examination, as needed, by the physician or a qualified person  
8 designated by the physician to determine if a pregnancy existed  
9 and was terminated. If the examination indicates no fetal  
10 remains, that information shall immediately be made known to the  
11 physician and sent to the department within 15 days of the  
12 analysis. When there is an abortion performed after the first  
13 trimester of pregnancy where the physician has certified the  
14 unborn child is not viable, the dead unborn child and all tissue  
15 removed at the time of the abortion shall be submitted for  
16 tissue analysis to a board eligible or certified pathologist. If  
17 the report reveals evidence of viability or live birth, the  
18 pathologist shall report such findings to the department within  
19 15 days and a copy of the report shall also be sent to the  
20 physician performing the abortion. Intentional, knowing,  
21 reckless or negligent failure of the physician to submit such an  
22 unborn child or such tissue remains to such a pathologist for  
23 such a purpose, or intentional, knowing or reckless failure of  
24 the pathologist to report any evidence of live birth or  
25 viability to the department in the manner and within the time  
26 prescribed is a misdemeanor of the third degree.

27 (d) Form.--The department shall prescribe a form on which  
28 pathologists may report any evidence of absence of pregnancy,  
29 live birth or viability.

30 (e) Statistical reports; public availability of reports.--

1 (1) The department shall prepare a comprehensive annual  
2 statistical report for the General Assembly based upon the  
3 data gathered under subsections (a) and (h). Such report  
4 shall not lead to the disclosure of the identity of any  
5 person filing a report or about whom a report is filed, and  
6 shall be available for public inspection and copying.

7 (2) Reports filed pursuant to subsection (a) or (h)  
8 shall not be deemed public records within the meaning of that  
9 term as defined by the act of June 21, 1957 (P.L.390,  
10 No.212), referred to as the Right-to-Know Law, and shall  
11 remain confidential, except that disclosure may be made to  
12 law enforcement officials upon an order of a court of common  
13 pleas after application showing good cause therefor. The  
14 court may condition disclosure of the information upon any  
15 appropriate safeguards it may impose.

16 (3) Original copies of all reports filed under  
17 subsections (a), (f) and (h) shall be available to the State  
18 Board of Medicine and the State Board of Osteopathic Medicine  
19 for use in the performance of their official duties.

20 (4) Any person who willfully discloses any information  
21 obtained from reports filed pursuant to subsection (a) or  
22 (h), other than that disclosure authorized under paragraph  
23 (1), (2) or (3) hereof or as otherwise authorized by law,  
24 shall commit a misdemeanor of the third degree.

25 (f) Report by facility.--Every facility in which an abortion  
26 is performed within this Commonwealth during any quarter year  
27 shall file with the department a report showing the total number  
28 of abortions performed within the hospital or other facility  
29 during that quarter year. This report shall also show the total  
30 abortions performed in each trimester of pregnancy. Any report

1 shall be available for public inspection and copying only if the  
2 facility receives State-appropriated funds within the 12-  
3 calendar-month period immediately preceding the filing of the  
4 report. These reports shall be submitted on a form prescribed by  
5 the department which will enable a facility to indicate whether  
6 or not it is receiving State-appropriated funds. If the facility  
7 indicates on the form that it is not receiving State-  
8 appropriated funds, the department shall regard its report as  
9 confidential unless it receives other evidence which causes it  
10 to conclude that the facility receives State-appropriated funds.

11 (g) Report of maternal death.--After 30 days' public notice,  
12 the department shall henceforth require that all reports of  
13 maternal deaths occurring within the Commonwealth arising from  
14 pregnancy, childbirth or intentional abortion in every case  
15 state the cause of death, the duration of the woman's pregnancy  
16 when her death occurred and whether or not the woman was under  
17 the care of a physician during her pregnancy prior to her death  
18 and shall issue such regulations as are necessary to assure that  
19 such information is reported, conducting its own investigation  
20 if necessary in order to ascertain such data. A woman shall be  
21 deemed to have been under the care of a physician prior to her  
22 death for the purpose of this chapter when she had either been  
23 examined or treated by a physician, not including any  
24 examination or treatment in connection with emergency care for  
25 complications of her pregnancy or complications of her abortion,  
26 preceding the woman's death at any time which is both 21 or more  
27 days after the time she became pregnant and within 60 days prior  
28 to her death. Known incidents of maternal mortality of  
29 nonresident women arising from induced abortion performed in  
30 this Commonwealth shall be included as incidents of maternal



1 mortality arising from induced abortions. Incidents of maternal  
2 mortality arising from continued pregnancy or childbirth and  
3 occurring after induced abortion has been attempted but not  
4 completed, including deaths occurring after induced abortion has  
5 been attempted but not completed as the result of ectopic  
6 pregnancy, shall be included as incidents of maternal mortality  
7 arising from induced abortion. The department shall annually  
8 compile a statistical report for the General Assembly based upon  
9 the data gathered under this subsection, and all such  
10 statistical reports shall be available for public inspection and  
11 copying.

12 (h) Report of complications.--Every physician who is called  
13 upon to provide medical care or treatment to a woman who is in  
14 need of medical care because of a complication or complications  
15 resulting, in the good faith judgment of the physician, from  
16 having undergone an abortion or attempted abortion shall prepare  
17 a report thereof and file the report with the department within  
18 30 days of the date of his first examination of the woman, which  
19 report shall be on forms prescribed by the department, which  
20 forms shall contain the following information, as received, and  
21 such other information except the name of the patient as the  
22 department may from time to time require:

23 (1) Age of patient.

24 (2) Number of pregnancies patient may have had prior to  
25 the abortion.

26 (3) Number and type of abortions patient may have had  
27 prior to this abortion.

28 (4) Name and address of the facility where the abortion  
29 was performed.

30 (5) Gestational age of the unborn child at the time of

1 the abortion, if known.

2 (6) Type of abortion performed, if known.

3 (7) Nature of complication or complications.

4 (8) Medical treatment given.

5 (9) The nature and extent, if known, of any permanent  
6 condition caused by the complication.

7 (i) Penalties.--

8 (1) Any person required under this section to file a  
9 report, keep any records or supply any information, who  
10 willfully fails to file such report, keep such records or  
11 supply such information at the time or times required by law  
12 or regulation is guilty of "unprofessional conduct" and his  
13 license for the practice of medicine and surgery shall be  
14 subject to suspension or revocation in accordance with  
15 procedures provided under the act of October 5, 1978  
16 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
17 Act, the act of December 20, 1985 (P.L.457, No.112), known as  
18 the Medical Practice Act of 1985, or their successor acts.

19 (2) Any person who willfully delivers or discloses to  
20 the department any report, record or information known by him  
21 to be false commits a misdemeanor of the first degree.

22 (3) In addition to the above penalties, any person,  
23 organization or facility who willfully violates any of the  
24 provisions of this section requiring reporting shall upon  
25 conviction thereof:

26 (i) For the first time, have its license suspended  
27 for a period of six months.

28 (ii) For the second time, have its license suspended  
29 for a period of one year.

30 (iii) For the third time, have its license revoked.]

1 Section 5. Sections 3215 and 3216 of Title 18 are amended to  
2 read:

3 § 3215. [~~Publicly owned facilities; public officials and public~~  
4 ~~funds~~] Public officials.

5 [(a) Limitations.--No hospital, clinic or other health  
6 facility owned or operated by the Commonwealth, a county, a city  
7 or other governmental entity (except the government of the  
8 United States, another state or a foreign nation) shall:

9 (1) Provide, induce, perform or permit its facilities to  
10 be used for the provision, inducement or performance of any  
11 abortion except where necessary to avert the death of the  
12 woman or where necessary to terminate pregnancies initiated  
13 by acts of rape or incest if reported in accordance with  
14 requirements set forth in subsection (c).

15 (2) Lease or sell or permit the subleasing of its  
16 facilities or property to any physician or health facility  
17 for use in the provision, inducement or performance of  
18 abortion, except abortion necessary to avert the death of the  
19 woman or to terminate pregnancies initiated by acts of rape  
20 or incest if reported in accordance with requirements set  
21 forth in subsection (c).

22 (3) Enter into any contract with any physician or health  
23 facility under the terms of which such physician or health  
24 facility agrees to provide, induce or perform abortions,  
25 except abortion necessary to avert the death of the woman or  
26 to terminate pregnancies initiated by acts of rape or incest  
27 if reported in accordance with requirements set forth in  
28 subsection (c).

29 (b) Permitted treatment.--Nothing in subsection (a) shall be  
30 construed to preclude any hospital, clinic or other health

1 facility from providing treatment for post-abortion  
2 complications.

3 (c) Public funds.--No Commonwealth funds and no Federal  
4 funds which are appropriated by the Commonwealth shall be  
5 expended by any State or local government agency for the  
6 performance of abortion, except:

7 (1) When abortion is necessary to avert the death of the  
8 mother on certification by a physician. When such physician  
9 will perform the abortion or has a pecuniary or proprietary  
10 interest in the abortion there shall be a separate  
11 certification from a physician who has no such interest.

12 (2) When abortion is performed in the case of pregnancy  
13 caused by rape which, prior to the performance of the  
14 abortion, has been reported, together with the identity of  
15 the offender, if known, to a law enforcement agency having  
16 the requisite jurisdiction and has been personally reported  
17 by the victim.

18 (3) When abortion is performed in the case of pregnancy  
19 caused by incest which, prior to the performance of the  
20 abortion, has been personally reported by the victim to a law  
21 enforcement agency having the requisite jurisdiction, or, in  
22 the case of a minor, to the county child protective service  
23 agency and the other party to the incestuous act has been  
24 named in such report.

25 (d) Health plans.--No health plan for employees, funded with  
26 any Commonwealth funds, shall include coverage for abortion,  
27 except under the same conditions and requirements as provided in  
28 subsection (c). The prohibition contained herein shall not apply  
29 to health plans for which abortion coverage has been expressly  
30 bargained for in any collective bargaining agreement presently

1 in effect, but shall be construed to preclude such coverage with  
2 respect to any future agreement.

3 (e) Insurance policies.--All insurers who make available  
4 health care and disability insurance policies in this  
5 Commonwealth shall make available such policies which contain an  
6 express exclusion of coverage for abortion services not  
7 necessary to avert the death of the woman or to terminate  
8 pregnancies caused by rape or incest.]

9 (f) [Public officers; ordering abortions] Prohibition.--  
10 Except in the case of a medical emergency, [no] a court, judge,  
11 executive officer, administrative agency or public employee of  
12 the Commonwealth or of any local governmental body [shall have  
13 power to] may not:

14 (1) issue any order requiring an abortion without the  
15 express voluntary consent of the [woman] pregnant individual  
16 upon whom the abortion is to be performed; or [shall coerce  
17 any person to have]

18 (2) coerce a pregnant individual to undergo or forgo an  
19 abortion.

20 (g) Public officers; limiting benefits prohibited.--[No] A  
21 court, judge, executive officer, administrative agency or public  
22 employee of the Commonwealth or of any local governmental body  
23 [shall] may not withhold, reduce or suspend or threaten to  
24 withhold, reduce or suspend [any benefits] a benefit to which a  
25 [person] pregnant individual would otherwise be entitled on the  
26 ground that [such person chooses not to have] the pregnant  
27 individual chooses to undergo or forgo an abortion.

28 (h) Penalty.--[Whoever] An individual who orders an abortion  
29 in violation of subsection (f) or withholds, reduces or suspends  
30 [any benefits] a benefit or threatens to withhold, reduce or

1 suspend [any benefits] a benefit in violation of subsection (g)  
2 commits a misdemeanor of the first degree.

3 [(i) Public funds for legal services.--No Federal or State  
4 funds which are appropriated by the Commonwealth for the  
5 provision of legal services by private agencies, and no public  
6 funds generated by collection of interest on lawyer's trust  
7 accounts, as authorized by statute previously or subsequently  
8 enacted, may be used, directly or indirectly, to:

9 (1) Advocate the freedom to choose abortion or the  
10 prohibition of abortion.

11 (2) Provide legal assistance with respect to any  
12 proceeding or litigation which seeks to procure or prevent  
13 any abortion or to procure or prevent public funding for any  
14 abortion.

15 (3) Provide legal assistance with respect to any  
16 proceeding or litigation which seeks to compel or prevent the  
17 performance or assistance in the performance of any abortion,  
18 or the provision of facilities for the performance of any  
19 abortion.

20 Nothing in this subsection shall be construed to require or  
21 prevent the expenditure of funds pursuant to a court order  
22 awarding fees for attorney's services under the Civil Rights  
23 Attorney's Fees Awards Act of 1976 (Public law 94-559, 90 Stat.  
24 2641), nor shall this subsection be construed to prevent the use  
25 of public funds to provide court appointed counsel in any  
26 proceeding authorized under section 3206 (relating to parental  
27 consent).

28 (j) Required statements.--No Commonwealth agency shall make  
29 any payment from Federal or State funds appropriated by the  
30 Commonwealth for the performance of any abortion pursuant to

1 subsection (c) (2) or (3) unless the Commonwealth agency first:

2 (1) receives from the physician or facility seeking  
3 payment a statement signed by the physician performing the  
4 abortion stating that, prior to performing the abortion, he  
5 obtained a non-notarized, signed statement from the pregnant  
6 woman stating that she was a victim of rape or incest, as the  
7 case may be, and that she reported the crime, including the  
8 identity of the offender, if known, to a law enforcement  
9 agency having the requisite jurisdiction or, in the case of  
10 incest where a pregnant minor is the victim, to the county  
11 child protective service agency and stating the name of the  
12 law enforcement agency or child protective service agency to  
13 which the report was made and the date such report was made;

14 (2) receives from the physician or facility seeking  
15 payment, the signed statement of the pregnant woman which is  
16 described in paragraph (1). The statement shall bear the  
17 notice that any false statements made therein are punishable  
18 by law and shall state that the pregnant woman is aware that  
19 false reports to law enforcement authorities are punishable  
20 by law; and

21 (3) verifies with the law enforcement agency or child  
22 protective service agency named in the statement of the  
23 pregnant woman whether a report of rape or incest was filed  
24 with the agency in accordance with the statement.

25 The Commonwealth agency shall report any evidence of false  
26 statements, of false reports to law enforcement authorities or  
27 of fraud in the procurement or attempted procurement of any  
28 payment from Federal or State funds appropriated by the  
29 Commonwealth pursuant to this section to the district attorney  
30 of appropriate jurisdiction and, where appropriate, to the

1 Attorney General.]

2 § 3216. Fetal experimentation.

3 (a) [Unborn or live child] Offense defined.--Any person who  
4 knowingly performs any type of nontherapeutic experimentation or  
5 nontherapeutic medical procedure (except an abortion as defined  
6 in [this chapter] 35 Pa.C.S. § 9103 (relating to definitions)  
7 upon any [unborn child] pregnancy as defined in 35 Pa.C.S. §  
8 9103, or upon any child born alive during the course of an  
9 abortion, commits a felony of the third degree. "Nontherapeutic"  
10 means that which is not intended to preserve the life or health  
11 of the [child] pregnancy or patient upon whom it is performed.

12 (b) Dead child.--The following standards govern the  
13 procurement and use of any fetal tissue or organ which is used  
14 in animal or human transplantation, research or experimentation:

15 (1) No fetal tissue or organs may be procured or used  
16 without the written consent of the mother. No consideration  
17 of any kind for such consent may be offered or given.  
18 Further, if the tissue or organs are being derived from  
19 abortion, such consent shall be valid only if obtained after  
20 the decision to abort has been made.

21 (2) [No person who provides the information required by  
22 section 3205 (relating to informed consent) shall employ the  
23 possibility of the use of aborted fetal tissue or organs as  
24 an inducement to a pregnant woman to undergo abortion except  
25 that payment for reasonable expenses occasioned by the actual  
26 retrieval, storage, preparation and transportation of the  
27 tissues is permitted.] No qualified clinician as defined in  
28 35 Pa.C.S. § 9103 shall employ the possibility of the use of  
29 aborted fetal tissue or organs as an inducement to the  
30 patient to undergo abortion except that payment for



1 reasonable expenses occasioned by the actual retrieval,  
2 storage, preparation and transportation of the tissues is  
3 permitted.

4 (3) No remuneration, compensation or other consideration  
5 may be paid to any person or organization in connection with  
6 the procurement of fetal tissue or organs.

7 (4) All persons who participate in the procurement, use  
8 or transplantation of fetal tissue or organs, including the  
9 recipients of such tissue or organs, shall be informed as to  
10 whether the particular tissue or organ involved was procured  
11 as a result of either:

- 12 (i) stillbirth;
- 13 (ii) miscarriage;
- 14 (iii) ectopic pregnancy;
- 15 (iv) abortion; or
- 16 (v) any other means.

17 (5) No person who consents to the procurement or use of  
18 any fetal tissue or organ may designate the recipient of that  
19 tissue or organ, nor shall any other person or organization  
20 act to fulfill that designation.

21 (6) The department may assess a civil penalty upon any  
22 person who procures, sells or uses any fetal tissue or organs  
23 in violation of this section or the regulations issued  
24 thereunder. Such civil penalties may not exceed \$5,000 for  
25 each separate violation. In assessing such penalties, the  
26 department shall give due consideration to the gravity of the  
27 violation, the good faith of the violator and the history of  
28 previous violations. Civil penalties due under this paragraph  
29 shall be paid to the department for deposit in the State  
30 Treasury and may be enforced by the department in the

1 Commonwealth Court.

2 (c) Construction of section.--Nothing in this section shall  
3 be construed to condone or prohibit the performance of  
4 diagnostic tests while the unborn child is in utero or the  
5 performance of pathological examinations on an aborted [child]  
6 pregnancy. Nor shall anything in this section be construed to  
7 condone or prohibit the performance of in vitro fertilization  
8 and accompanying embryo transfer.

9 Section 6. Sections 3217, 3218, 3219 and 3220 of Title 18  
10 are repealed:

11 [§ 3217. Civil penalties.]

12 Any physician who knowingly violates any of the provisions of  
13 section 3204 (relating to medical consultation and judgment) or  
14 3205 (relating to informed consent) shall, in addition to any  
15 other penalty prescribed in this chapter, be civilly liable to  
16 his patient for any damages caused thereby and, in addition,  
17 shall be liable to his patient for punitive damages in the  
18 amount of \$5,000, and the court shall award a prevailing  
19 plaintiff a reasonable attorney fee as part of costs.

20 § 3218. Criminal penalties.

21 (a) Application of chapter.--Notwithstanding any other  
22 provision of this chapter, no criminal penalty shall apply to a  
23 woman who violates any provision of this chapter solely in order  
24 to perform or induce or attempt to perform or induce an abortion  
25 upon herself. Nor shall any woman who undergoes an abortion be  
26 found guilty of having committed an offense, liability for which  
27 is defined under section 306 (relating to liability for conduct  
28 of another; complicity) or Chapter 9 (relating to inchoate  
29 crimes), by reason of having undergone such abortion.

30 (b) False statement, etc.--A person commits a misdemeanor of

1 the second degree if, with intent to mislead a public servant in  
2 performing his official function under this chapter, such  
3 person:

4 (1) makes any written false statement which he does not  
5 believe to be true; or

6 (2) submits or invites reliance on any writing which he  
7 knows to be forged, altered or otherwise lacking in  
8 authenticity.

9 (c) Statements "under penalty".--A person commits a  
10 misdemeanor of the third degree if such person makes a written  
11 false statement which such person does not believe to be true on  
12 a statement submitted as required under this chapter, bearing  
13 notice to the effect that false statements made therein are  
14 punishable.

15 (d) Perjury provisions applicable.--Section 4902(c) through  
16 (f) (relating to perjury) apply to subsections (b) and (c).

17 § 3219. State Board of Medicine; State Board of Osteopathic  
18 Medicine.

19 (a) Enforcement.--It shall be the duty of the State Board of  
20 Medicine and the State Board of Osteopathic Medicine to  
21 vigorously enforce those provisions of this chapter, violation  
22 of which constitutes "unprofessional conduct" within the meaning  
23 of the act of October 5, 1978 (P.L.1109, No.261), known as the  
24 Osteopathic Medical Practice Act, the act of December 20, 1985  
25 (P.L.457, No.112), known as the Medical Practice Act of 1985, or  
26 their successor acts. Each board shall have the power to  
27 conduct, and its responsibilities shall include, systematic  
28 review of all reports filed under this chapter.

29 (b) Penalties.--Except as otherwise herein provided, upon a  
30 finding of "unprofessional conduct" under the provisions of this

1 chapter, the board shall, for the first such offense, prescribe  
2 such penalties as it deems appropriate; for the second such  
3 offense, suspend the license of the physician for at least 90  
4 days; and, for the third such offense, revoke the license of the  
5 physician.

6 (c) Reports.--The board shall prepare and submit an annual  
7 report of its enforcement efforts under this chapter to the  
8 General Assembly, which shall contain the following items:

- 9 (1) number of violations investigated, by section of  
10 this chapter;
- 11 (2) number of physicians complained against;
- 12 (3) number of physicians investigated;
- 13 (4) penalties imposed; and
- 14 (5) such other information as any committee of the  
15 General Assembly shall require.

16 Such reports shall be available for public inspection and  
17 copying.

18 § 3220. Construction.

19 (a) Referral to coroner.--The provisions of section 503(3)  
20 of the act of June 29, 1953 (P.L.304, No.66), known as the  
21 "Vital Statistics Law of 1953," shall not be construed to  
22 require referral to the coroner of cases of abortions performed  
23 in compliance with this chapter.

24 (b) Other laws unaffected.--Apart from the provisions of  
25 subsection (a) and section 3214 (relating to reporting) nothing  
26 in this chapter shall have the effect of modifying or repealing  
27 any part of the "Vital Statistics Law of 1953" or section 5.2 of  
28 the act of October 27, 1955 (P.L.744, No.222), known as the  
29 "Pennsylvania Human Relations Act."

30 (c) Required statement.--When any provision of this chapter

1 requires the furnishing or obtaining of a nonnotarized statement  
2 or verification, the furnishing or acceptance of a notarized  
3 statement or verification shall not be deemed a violation of  
4 that provision.]

5 Section 7. Title 35 is amended by adding a part to read:

6 PART VII

7 REPRODUCTIVE RIGHTS

8 Chapter

9 91. Reproductive Freedom

10 CHAPTER 91

11 REPRODUCTIVE FREEDOM

12 Sec.

13 9101. Short title of chapter.

14 9102. Legislative intent.

15 9103. Definitions.

16 9104. Abortion and assisted reproduction, generally.

17 9105. Reproductive coercion.

18 9106. Pregnant individuals who are incapacitated.

19 9107. Commonwealth interference prohibited.

20 9108. Determination of gestational age.

21 9109. Abortion of pregnancy of 24 or more weeks gestational  
22 age.

23 9110. Prohibited acts.

24 9111. Public officers and public money.

25 9112. State Boards of Medicine, Osteopathic Medicine and  
26 Nursing.

27 9113. Discrimination against providers.

28 9114. Telemedicine.

29 9115. Construction.

30 § 9101. Short title of chapter.

1 This chapter shall be known and may be cited as the  
2 Reproductive Freedom Act.

3 § 9102. Legislative intent.

4 (a) Rights and interests.--The General Assembly finds as  
5 follows:

6 (1) It is the intention of the General Assembly to:

7 (i) Ensure that all people have the freedom to chart  
8 the course of their own lives, including the fundamental  
9 decision as to whether or not to become a parent.

10 (ii) Protect this freedom by eliminating unnecessary  
11 and burdensome restrictions on the right to access  
12 abortion and extend legal protections to prevent any  
13 person from coercion to have or forgo an abortion.

14 (2) It is assumed that all people weighing reproductive  
15 decisions are aware of the longstanding debate regarding  
16 abortion and that any individual seeking an abortion is  
17 therefore making an informed decision.

18 (3) An abortion should be performed at the earliest  
19 opportunity by the method a patient and the patient's  
20 provider determine most appropriate and the Commonwealth  
21 should facilitate the ease of this activity.

22 (4) The rights and interests furthered by this chapter  
23 need to be codified and protected by law.

24 (b) Construction.--In relevant proceedings in which it is  
25 possible to do so without violating the Constitution of the  
26 United States, the common and statutory law of this Commonwealth  
27 shall be construed to extend to pregnant individuals the  
28 protection of their individual liberty, in keeping with the  
29 Commonwealth's public values of self-determination, freedom and  
30 tolerance.

1 (c) Right of conscience.--It is the public policy of the  
2 Commonwealth to:

3 (1) Respect and protect the right of conscience of all  
4 individuals who refuse to obtain, receive, accept or provide  
5 abortions, including persons who are generally engaged in the  
6 delivery of general medical services and medical care.

7 (2) Prohibit all forms of discrimination,  
8 disqualification, coercion, disability or imposition of  
9 liability or financial burden upon individuals by reason of  
10 their refusal to act contrary to their conscience or  
11 conscientious convictions by not obtaining, receiving,  
12 accepting or providing abortions.

13 § 9103. Definitions.

14 The following words and phrases when used in this chapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Abortion." A medical treatment intended to terminate a  
18 diagnosable intrauterine pregnancy for a purpose other than to  
19 produce a live birth. The term does not include:

20 (1) medical treatment to remove a dead fetus or embryo  
21 whose death was the result of a spontaneous abortion; or

22 (2) the use or prescription of a drug or device that  
23 prevents pregnancy.

24 "Assisted reproduction." A treatment or procedure that  
25 includes the handling of a human oocyte or embryo, including in  
26 vitro fertilization, gamete intrafallopian transfer, zygote  
27 intrafallopian transfer and any similar technology determined by  
28 regulation of the department.

29 "Coercive control." Behavior through which an individual  
30 knowingly gains power over another individual through any of the

1 following:

2 (1) Conduct that has, or is reasonably likely to have,  
3 any of the following effects:

4 (i) isolating the individual from friends, relatives  
5 or other sources of support;

6 (ii) depriving the individual of basic necessities;

7 (iii) controlling, regulating or monitoring the  
8 individual's movements, communications, daily behavior,  
9 finances, economic resources or access to services;

10 (iv) compelling the individual by force, threat or  
11 intimidation, including, but not limited to, threats  
12 based on actual or suspected immigration status, to  
13 either engage in conduct from which the individual has a  
14 right to abstain or abstain from conduct that the  
15 individual has a right to pursue;

16 (v) frequent name-calling, degradation and demeaning  
17 of the individual;

18 (vi) threatening to harm or kill the individual or a  
19 child or relative of the individual;

20 (vii) threatening to make public information or make  
21 reports to the police or to the authorities;

22 (viii) damaging property or household goods; or

23 (ix) forcing the person to take part in criminal  
24 activity or child abuse.

25 (2) Conduct that has, may have or is reasonably likely  
26 to have an effect specified under paragraph (1) on the other  
27 individual, even if the conduct is directed at a third party,  
28 including a child, relative, friend or a companion animal  
29 owned by or in the possession of the other individual.

30 "Companion animal." The term:



1           (1) Includes:

2           (i) A domestic or feral dog, domestic or feral cat,  
3           nonhuman primate, guinea pig, hamster, rabbit not raised  
4           for human food or fiber, exotic or native animal, reptile  
5           or exotic or native bird.

6           (ii) A feral animal or an animal under the care,  
7           custody or ownership of an individual.

8           (iii) An animal that is bought, sold, traded or  
9           bartered.

10          (2) Does not include an agricultural animal, game  
11          species or an animal regulated under Federal law such as a  
12          research animal.

13          "Complication." Any of the following:

14           (1) A hemorrhage, infection, uterine perforation,  
15           cervical laceration or retained product.

16           (2) Any other medical issue that may, in a qualified  
17           clinician's good faith medical judgment, result in:

18           (i) the death of a patient;

19           (ii) substantial impairment to the physical or  
20           mental health of a patient; or

21           (iii) the likelihood that a pregnancy will result in  
22           a stillbirth.

23          "Conscience." A sincerely held set of moral convictions  
24          fulfilling a role in the life of the possessor parallel to that  
25          filled by a deity among adherents to a religious faith.

26          "Course of conduct." A pattern of actions composed of more  
27          than one act over a period of time, however short, evidencing a  
28          continuity of conduct.

29          "Department." The Department of Health of the Commonwealth.

30          "Disciplinary action." An appropriate sanction for

1 unprofessional conduct as defined by the following laws for the  
2 respective qualified clinicians:

3 (1) Medical doctors, doctors of osteopathy and  
4 physician's assistants subject to the act of October 5, 1978  
5 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
6 Act, or the act of December 20, 1985 (P.L.457, No.112), known  
7 as the Medical Practice Act of 1985.

8 (2) Certified registered nurse practitioners subject to  
9 the act of May 22, 1951 (P.L.317, No.69), known as The  
10 Professional Nursing Law.

11 (3) Nurse-midwives subject to 49 Pa. Code Ch. 18 Subch.  
12 A (relating to licensure and regulation of midwife  
13 activities).

14 "Facility." A public or private hospital, clinic, center,  
15 medical school, medical training institution, health care  
16 facility, physician's office, infirmary, dispensary, ambulatory  
17 surgical center or other institution or location in which  
18 medical care is provided to an individual.

19 "Fertilization." The fusion of a human spermatozoon with a  
20 human ovum.

21 "Gestational age." The age of a pregnancy as calculated from  
22 the first day of the last known menstrual period.

23 "Hospital." An institution licensed under the laws of this  
24 Commonwealth.

25 "In vitro fertilization." The purposeful fertilization of a  
26 human ovum outside a living body.

27 "Medical emergency." A condition which, on the basis of a  
28 qualified clinician's good faith clinical judgment, complicates  
29 the medical condition of a pregnant individual as to necessitate  
30 the immediate termination of the subject pregnancy to either

1 avert the pregnant individual's death or for which a delay will  
2 create any of the following:

3 (1) A substantial risk of impairment of a bodily  
4 function.

5 (2) A substantial likelihood of stillbirth.

6 (3) A substantial risk of detriment to the mental health  
7 of the pregnant individual.

8 "Medical personnel." A nurse, nurse's aide, medical school  
9 student, professional or other individual who furnishes or  
10 assists in the furnishing of medical care.

11 "Physician." A medical doctor or doctor of osteopathy  
12 licensed to practice medicine in this Commonwealth.

13 "Pregnancy." As follows:

14 (1) The human reproductive process, beginning with the  
15 implantation of an embryo within an individual's uterus.

16 (2) A developing embryo or fetus that has undergone  
17 uterine implantation.

18 "Pregnant." Experiencing a pregnancy.

19 "Probable gestational age of the pregnancy." In the judgment  
20 of the attending qualified clinician to an abortion, what will  
21 be, with reasonable probability, the progress of the pregnancy  
22 at the time that the abortion is performed.

23 "Qualified clinician." Any of the following professionals  
24 who are eligible to perform abortions in this Commonwealth, in  
25 accordance with regulations as promulgated by the department:

26 (1) A physician.

27 (2) A certified registered nurse practitioner as defined  
28 in section 2(12) of The Professional Nursing Law.

29 (3) A physician assistant as defined in section 2 of the  
30 Osteopathic Medical Practice Act.

1           (4) A nurse-midwife under 49 Pa. Code Ch. 18 Subch. A.  
2           "Reproductive coercion." Any of the following:

3           (1) Attempted control over a person's decision to have  
4           or forgo an abortion through force, threat of force,  
5           intimidation or coercive control.

6           (2) Deliberately interfering with contraception use or  
7           access to reproductive health information.

8   § 9104. Abortion and assisted reproduction, generally.

9           (a) General rule.--The department may promulgate regulations  
10          as necessary to ensure that abortion and assisted reproduction  
11          are appropriately regulated within this Commonwealth.

12          Regulations under this section shall ensure the safety of the  
13          procedure, that access to procedures is not infringed by  
14          government actors unless the restriction is narrowly tailored to  
15          address compelling government interest and that privacy is  
16          maintained. The regulations may include, but are not limited to,  
17          provisions relating to:

18                  (1) Facilities in which abortions and assisted  
19                  reproduction are performed.

20                  (2) Levels of certification necessary to perform  
21                  different procedures.

22                  (3) Medically useful or necessary related reporting  
23                  requirements for qualified clinicians.

24           (b) Certain regulations prohibited.--

25                  (1) Except as specifically provided in this chapter, no  
26                  regulation promulgated by the department pertaining to  
27                  abortion or assisted reproduction procedures may exceed  
28                  reasonable regulations that would be imposed on any other  
29                  similar procedure, area of practice, facility or  
30                  practitioner.

1           (2) An attempt to impose a greater regulatory burden  
2 upon abortion or assisted reproduction procedures, providers  
3 or facilities because of their involvement in abortion or  
4 assisted reproduction is prohibited and subject to civil  
5 remedy as described in section 9113(b) (relating to  
6 discrimination against providers).

7 § 9105. Reproductive coercion.

8           (a) General rule.--Reproductive coercion is prohibited.

9           (b) Cause of action.--A victim of reproductive coercion,  
10 whether attempted or successful, may bring a civil action  
11 against a person that engaged in the reproductive coercion. The  
12 action may be brought in the court of common pleas of the county  
13 where the victim resides or where the attempted or completed  
14 reproductive coercion occurred.

15           (c) Damages.--In an action brought under subsection (b), the  
16 court may award the following forms of relief:

17           (1) Compensatory damages, including reasonable attorney  
18 fees.

19           (2) Punitive damages.

20           (3) Injunctive relief as the court finds appropriate.

21 § 9106. Pregnant individuals who are incapacitated.

22           (a) Consent.--

23           (1) Notwithstanding any other provision of law, except  
24 in the case of a medical emergency or as otherwise provided  
25 in this section, if a pregnant individual has been adjudged  
26 an incapacitated person under 20 Pa.C.S. § 5511 (relating to  
27 petition and hearing; independent evaluation), a qualified  
28 clinician may not perform an abortion upon the pregnant  
29 individual unless the qualified clinician first obtains the  
30 informed consent of the pregnant individual or, if the

1 pregnant individual is incapable of providing informed  
2 consent, the pregnant individual's guardian of the person.

3 (2) In deciding whether to grant consent to the abortion  
4 under paragraph (1), the pregnant individual's guardian of  
5 the person shall only consider the pregnant individual's best  
6 interests.

7 (b) Petition and order.--

8 (1) If the pregnant individual's guardian of the person  
9 refuses to consent under subsection (a) or makes a decision  
10 regarding the abortion that conflicts with the judgment of  
11 the pregnant individual and the pregnant individual is  
12 capable of making a decision regarding the abortion, the  
13 court of common pleas of the judicial district in which the  
14 pregnant individual resides or in which the abortion is  
15 sought shall, upon petition or motion, after an appropriate  
16 hearing, issue an order regarding the abortion.

17 (2) If the court determines that the pregnant individual  
18 is capable of giving informed consent to the proposed  
19 abortion and has, in fact, given informed consent, the court  
20 shall authorize a qualified clinician to perform the  
21 abortion.

22 (3) If the court determines that the pregnant individual  
23 is not capable of giving informed consent or does not claim  
24 to be capable of giving informed consent, the court shall  
25 determine whether the performance of an abortion upon the  
26 pregnant individual is in the pregnant individual's best  
27 interests. If the court determines that the performance of an  
28 abortion is in the best interests of the pregnant individual,  
29 the court shall authorize a qualified clinician to perform  
30 the abortion.

1 (c) Representation in proceedings.--

2 (1) The pregnant individual may participate in  
3 proceedings under subsection (b) on the individual's own  
4 behalf.

5 (2) The court may appoint a guardian ad litem to assist  
6 the pregnant individual.

7 (3) The court shall:

8 (i) Advise the pregnant individual that the  
9 individual has a right to court-appointed counsel.

10 (ii) Provide the pregnant individual with court-  
11 appointed counsel unless the individual wishes to appear  
12 with private counsel or has knowingly and intelligently  
13 waived representation by counsel.

14 (d) Proceedings.--The following apply to court proceedings  
15 for a pregnant individual described under subsection (a) (1):

16 (1) The court proceedings shall be confidential and  
17 shall be given precedence over other pending matters as will  
18 ensure that the court reaches a decision promptly and without  
19 delay in order to serve the best interests of the pregnant  
20 individual.

21 (2) The court of common pleas must rule within three  
22 business days of the date of application under this section.

23 (3) A court of common pleas that conducts proceedings  
24 under this section shall make in writing specific factual  
25 findings and legal conclusions supporting the court of common  
26 pleas' decision and shall, upon the initial filing of the  
27 pregnant individual's petition for judicial authorization of  
28 an abortion, order a sealed record of the petition,  
29 pleadings, submissions, transcripts, exhibits, orders,  
30 evidence and other written material to be maintained,

1 including the court's findings and conclusions.

2 (4) The application to the court of common pleas shall  
3 be accompanied by a nonnotarized verification stating that  
4 the information in the application is true and correct to the  
5 best of the knowledge of the pregnant individual or the  
6 individual's guardian of the person.

7 (5) The application to the court of common pleas shall  
8 specify the following:

9 (i) The initials of the pregnant individual.

10 (ii) The age of the pregnant individual.

11 (iii) The name and address of the pregnant  
12 individual's guardian of the person.

13 (iv) A statement as to whether the pregnant  
14 individual has been fully informed of the risks and  
15 consequences of the abortion.

16 (v) A statement as to whether the pregnant  
17 individual is of sound mind and has sufficient  
18 intellectual capacity to consent to the abortion.

19 (vi) A request for relief asking the court to either  
20 grant the pregnant individual full capacity for the  
21 purpose of personal consent to the abortion or give  
22 judicial consent to the abortion under this section based  
23 upon a finding that the abortion is in the best interests  
24 of the individual.

25 (vii) A statement that the pregnant individual is  
26 aware that false statements made in the application are  
27 punishable by law.

28 (viii) The signature of the pregnant individual or  
29 the individual's guardian of the person.

30 (6) If necessary to serve the interest of justice, the



1 orphans' court division or, in Philadelphia, the family court  
2 division, shall refer the pregnant individual or individual's  
3 guardian of the person, to the appropriate personnel for  
4 assistance in preparing the application.

5 (7) The following provisions apply to proceedings under  
6 this section:

7 (i) The name of the pregnant individual shall not be  
8 entered on a docket that is subject to public inspection.

9 (ii) All individuals shall be excluded from hearings  
10 under this section except:

11 (A) The individual who is making the application  
12 to the court or is the subject of the application to  
13 the court.

14 (B) The pregnant individual's guardian of the  
15 person.

16 (C) Any other individual whose presence is  
17 specifically requested by the individual or the  
18 individual's guardian of the person.

19 (8) At a hearing under this section, the court shall  
20 hear evidence relating to:

21 (i) The emotional development, maturity, intellect  
22 and understanding of the individual.

23 (ii) The fact and duration of the individual's  
24 pregnancy.

25 (iii) The nature of, possible consequences of and  
26 alternatives to the abortion.

27 (iv) Other matters the court may find useful in  
28 determining whether the pregnant individual should be  
29 granted full capacity for the purpose of consenting to  
30 the abortion or whether the abortion is in the best

1 interests of the individual.

2 (9) The court shall notify the individual at a hearing  
3 under this section that the court must rule on the  
4 individual's application within three business days of the  
5 date of the filing of the application and that, if the court  
6 fails to rule in favor of the individual's application within  
7 the three-day period, the individual has the right to appeal  
8 to the Superior Court.

9 (e) Reproductive coercion and incapacitated individuals.--  
10 The court shall provide the pregnant individual under this  
11 subsection with counsel, expedite the matter and grant relief as  
12 may be necessary to prevent reproductive coercion.

13 (f) Filing fees.--Filing fees may not be imposed on  
14 individuals availing themselves of the procedures provided by  
15 this section.

16 (g) Penalty.--

17 (1) A person is guilty of an offense under this section  
18 if the person:

19 (i) Performs an abortion upon a pregnant individual  
20 who is incapacitated:

21 (A) with knowledge that the pregnant individual  
22 is an incapacitated individual to whom this section  
23 applies; or

24 (B) with reckless disregard or negligence as to  
25 whether the pregnant individual is an incapacitated  
26 individual to whom this section applies.

27 (ii) Intentionally, knowingly or recklessly fails to  
28 conform to a requirement of this section.

29 (2) A person who violates paragraph (1) is guilty of  
30 unprofessional conduct and the person's license for the

1 practice of medicine and surgery shall be suspended in  
2 accordance with procedures provided under the act of October  
3 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical  
4 Practice Act, or the act of December 20, 1985 (P.L.457,  
5 No.112), known as the Medical Practice Act of 1985, for a  
6 period of at least three months.

7 (3) Failure to comply with the requirements of this  
8 section is prima facie evidence of failure to obtain informed  
9 consent and of interference with the relationship between the  
10 pregnant individual and the individual's guardian of the  
11 person, which may be the subject of an appropriate civil  
12 action.

13 (4) The laws of this Commonwealth shall not be construed  
14 to preclude the award of exemplary damages or damages for  
15 emotional distress even if unaccompanied by physical  
16 complications in an appropriate civil action relevant to a  
17 violation of this section.

18 § 9107. Commonwealth interference prohibited.

19 (a) Methods of contraception.--The Commonwealth may not  
20 interfere with the use of medically appropriate methods of  
21 contraception or the manner in which medically appropriate  
22 methods of contraception are provided.

23 (b) Other interference.--Notwithstanding any other provision  
24 of this title or any other law or regulation, the Commonwealth  
25 may not interfere with the right of an individual to choose or  
26 obtain an abortion if:

27 (1) the individual's pregnancy has not progressed beyond  
28 24 weeks; or

29 (2) the individual's physician reasonably believes that  
30 an abortion at any point beyond 24 weeks of pregnancy is, in

1 the physician's good faith medical judgment, necessary to  
2 prevent:

3 (i) the death of the individual; or

4 (ii) substantial impairment of or risk to the  
5 physical or mental health of the individual.

6 § 9108. Determination of gestational age.

7 (a) Requirement.--

8 (1) Except in the case of a medical emergency that  
9 prevents compliance with this section, an abortion may not be  
10 performed or induced unless the referring qualified clinician  
11 or the qualified clinician performing or inducing the  
12 abortion has first made a determination of the probable  
13 gestational age of the pregnancy.

14 (2) In making the determination under paragraph (1), the  
15 qualified clinician shall make inquiries of the pregnant  
16 individual or perform or cause to be performed medical  
17 examinations and tests as a prudent qualified clinician would  
18 consider necessary to make or perform in making an accurate  
19 diagnosis with respect to gestational age.

20 (3) The qualified clinician who performs or induces the  
21 abortion shall report the type of inquiries made and the type  
22 of examinations and tests utilized to determine the  
23 gestational age of the pregnancy and the basis for the  
24 diagnosis with respect to gestational age on forms provided  
25 by the department.

26 (b) Penalties.--A qualified clinician who fails to conform  
27 to a requirement of this section is guilty of unprofessional  
28 conduct and may be subject to disciplinary action.

29 § 9109. Abortion of pregnancy of 24 or more weeks gestational  
30 age.

1 (a) Prohibition.--Except as provided in subsection (b), an  
2 individual may not perform or induce an abortion upon a pregnant  
3 individual when the gestational age of the pregnancy is 24 or  
4 more weeks.

5 (b) Exceptions.--A physician who performs or induces an  
6 abortion does not violate subsection (a) if the physician  
7 reasonably believes the abortion is, in the physician's good  
8 faith medical judgment, necessary to prevent:

9 (1) the death of the pregnant individual; or

10 (2) substantial impairment to the physical or mental  
11 health of the pregnant individual.

12 (c) Reporting.--A physician who performs or induces an  
13 abortion authorized under subsection (b) shall report the  
14 abortion to the department, on a form provided by the  
15 department. The report shall certify the medical basis informing  
16 the physician's judgment that the abortion was medically  
17 necessary and in compliance with subsection (b).

18 (d) Penalties.--An individual who violates subsection (a),  
19 (b) or (c) is guilty of unprofessional conduct and may be  
20 subject to disciplinary action.

21 § 9110. Prohibited acts.

22 (a) Participation in abortion.--

23 (1) Except as provided in paragraph (2), medical  
24 personnel or a facility and an employee, agent or student  
25 thereof, may not be required against the individual's or  
26 facility's conscience to aid, abet or facilitate the  
27 performance of an abortion or the dispensing of an  
28 abortifacient.

29 (2) A facility that is substantially and publicly  
30 dedicated to the performance or facilitation of abortion and

1 the facility's medical personnel, employees, agents and  
2 students are excluded from paragraph (1).

3 (3) Failure or refusal to comply with paragraph (1)  
4 shall not be a basis for:

5 (i) A civil, criminal, administrative or  
6 disciplinary action, penalty or proceeding.

7 (ii) Refusing to hire an individual for or admit an  
8 individual to the facility.

9 (4) An individual who knowingly violates this subsection  
10 shall be civilly liable to another individual injured by the  
11 violation and, in addition, shall be liable to the other  
12 individual for punitive damages in the amount of \$5,000.

13 (5) Nothing in this subsection shall be construed to:

14 (i) limit the provisions of the act of October 27,  
15 1955 (P.L.744, No.222), known as the Pennsylvania Human  
16 Relations Act; or

17 (ii) conflict with 42 U.S.C. § 1395dd (relating to  
18 examination and treatment for emergency medical  
19 conditions and women in labor).

20 (b) (Reserved).

21 § 9111. Public officers and public money.

22 (a) General rule.--Federal or State money appropriated by  
23 the Commonwealth for the provision of legal services performed  
24 by private agencies, and public money generated by collection of  
25 interest on lawyer's trust accounts as authorized by statute,  
26 may not be used to:

27 (1) advocate for the prohibition of abortion or the  
28 freedom to choose abortion; or

29 (2) provide legal assistance with respect to a  
30 proceeding or litigation that seeks to compel or prevent the

1 performance or assistance in the performance of an abortion.

2 (b) Construction.--Nothing in this section shall be  
3 construed to:

4 (1) require or prevent the expenditure of money pursuant  
5 to a court order awarding fees for attorney services under 42  
6 U.S.C. § 1988 (relating to proceedings in vindication of  
7 civil rights); or

8 (2) prevent the use of public money to provide court-  
9 appointed counsel in a proceeding authorized under this  
10 chapter.

11 § 9112. State Boards of Medicine, Osteopathic Medicine and  
12 Nursing.

13 (a) Enforcement.--The State Board of Medicine, the State  
14 Board of Osteopathic Medicine and the State Board of Nursing, or  
15 their successor agencies, shall enforce a violation of this  
16 chapter that constitutes unprofessional conduct within the  
17 meaning of the act of May 22, 1951 (P.L.317, No.69), known as  
18 The Professional Nursing Law, the act of October 5, 1978  
19 (P.L.1109, No.261), known as the Osteopathic Medical Practice  
20 Act, or the act of December 20, 1985 (P.L.457, No.112), known as  
21 the Medical Practice Act of 1985.

22 (b) Reports.--

23 (1) A board identified in subsection (a) shall prepare  
24 and submit to the department an annual report of the board's  
25 enforcement under this chapter.

26 (2) The annual report shall contain:

27 (i) The number of violations investigated, itemized  
28 by section of this chapter.

29 (ii) The number of qualified clinicians who are  
30 subjects of the complaints.

1           (iii) The number of qualified clinicians  
2           investigated.

3           (iv) The penalties imposed.

4           (v) Other information required by regulation of the  
5           department.

6           (3) The annual report shall be accessible for inspection  
7           and duplication in accordance with the act of February 14,  
8           2008 (P.L.6, No.3), known as the Right-to-Know Law.

9   § 9113. Discrimination against providers.

10       (a) Right of operation.--A facility or qualified clinician  
11       authorized to perform abortion services within this Commonwealth  
12       shall not be obstructed or denied the right to operate by a  
13       municipality or the department as a result of the abortion  
14       services offered by the facility or qualified clinician.

15       (b) Right to action.--An owner of a medical facility  
16       offering abortion services, or a qualified clinician offering  
17       abortion services, within this Commonwealth that is allegedly  
18       the subject of a violation of subsection (a) may bring a cause  
19       of action in a court of competent jurisdiction. The court may  
20       award the following relief:

21           (1) compensatory damages;

22           (2) punitive damages; or

23           (3) injunctive relief as the court finds appropriate.

24   § 9114. Telemedicine.

25       (a) Requirement.--

26           (1) A pregnant individual may meet with a qualified  
27       clinician electronically via telemedicine to satisfy the  
28       requirements of section 9108 (relating to determination of  
29       gestational age), as well as for a nonsurgical medical  
30       abortion in accordance with regulations promulgated by the



1 department.

2 (2) In making the determination of gestational age, the  
3 qualified clinician shall make inquiries of the patient  
4 necessary to determine an accurate diagnosis with respect to  
5 gestational age.

6 (b) Penalty.--A qualified clinician who fails to conform to  
7 a requirement of this section, or a regulation promulgated under  
8 this section, is guilty of unprofessional conduct and shall be  
9 subject to disciplinary action.

10 § 9115. Construction.

11 (a) Referral to coroner.--Section 503(3) of the act of June  
12 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of  
13 1953, shall not be construed to require referral to the coroner  
14 of a case of abortion performed in compliance with this chapter.

15 (b) Other laws unaffected.--Except as otherwise provided in  
16 subsection (a), nothing in this chapter shall have the effect of  
17 modifying or repealing any part of the Vital Statistics Law of  
18 1953 or section 5.2 of the act of October 27, 1955 (P.L.744,  
19 No.222), known as the Pennsylvania Human Relations Act.

20 (c) Required statement.--When a provision of this chapter  
21 requires the furnishing or obtaining of a nonnotarized statement  
22 or verification, the furnishing or acceptance of a notarized  
23 statement or verification shall not be deemed a violation of the  
24 provision.

25 Section 8. Chapter 33 of Title 40 is repealed:

26 [CHAPTER 33

27 COMPLIANCE WITH FEDERAL

28 HEALTH CARE LEGISLATION

29 Sec.

30 3301. Definitions.

1 3302. Opt-out for abortion.

2 § 3301. Definitions.

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Abortion." The term shall have the same meaning given to it  
7 in 18 Pa.C.S. § 3203 (relating to definitions).

8 "Complication." The term shall have the same meaning given  
9 to it in 18 Pa.C.S. § 3203 (relating to definitions).

10 "Health insurance exchange." The term shall mean an  
11 insurance system established to comply with section 1311(b) or  
12 1321(c) of the Patient Protection and Affordable Care Act  
13 (Public Law 111-148, 42 U.S.C. § 18031(b) or 18041(c)).

14 § 3302. Opt-out for abortion.

15 (a) Prohibition.--The Commonwealth of Pennsylvania hereby  
16 elects pursuant to the authority granted the states under  
17 section 1303(a) of the Patient Protection and Affordable Care  
18 Act (Public Law 111-148, 42 U.S.C. § 18023(a)) to prohibit  
19 certain abortion coverage in qualified health plans offered  
20 through the health insurance exchange under subsection (b).

21 (b) Included coverage prohibition.--No qualified health plan  
22 offered in this Commonwealth through the health insurance  
23 exchange shall include coverage for the performance of any  
24 abortion unless the reason the abortion is performed is one for  
25 which the expenditure of public funds would be permitted under  
26 18 Pa.C.S. § 3215(c) (relating to publicly owned facilities;  
27 public officials and public funds).

28 (c) Excluded coverage prohibited.--No qualified health plan  
29 offered in this Commonwealth through a health insurance exchange  
30 shall exclude coverage for:

1 (1) Treatment of any postabortion complication.

2 (2) Treatment of any miscarriage or any complication  
3 related to a miscarriage.

4 (d) Option.--Nothing in this section shall prohibit an  
5 individual from purchasing optional supplemental abortion  
6 coverage provided the individual pays a separate premium for the  
7 coverage and obtains the coverage outside of the health  
8 insurance exchange.]

9 Section 9. Nothing in 35 Pa.C.S. Ch. 91 shall be construed  
10 to prohibit contracts entered into, orders in effect or cases  
11 commenced prior to the effective date of this section.

12 Section 10. The addition of 35 Pa.C.S. Ch. 91 shall apply to  
13 contracts entered into, orders in effect and cases commenced on  
14 or after the effective date of this section.

15 Section 11. This act shall take effect in 60 days.