

By: Senator(s) White (29th), Johnson (19th), Hawks, Nunnelee To: Public Health and Welfare

## SENATE BILL NO. 2677

1  
2 AN ACT ENTITLED THE PROTECTION FROM HIGH RISK AND COERCIVE  
3 ABORTION ACT; TO PROVIDE DEFINITIONS; TO PROVIDE SCREENING  
4 REQUIREMENTS FOR ALL ABORTIONS EXCEPT IN THE CASE OF A MEDICAL  
5 EMERGENCY AND TO PRESCRIBE RISK FACTORS TO BE EVALUATED BY AN  
6 ABORTION PRACTITIONER; TO REQUIRE THE STATE DEPARTMENT OF HEALTH  
7 TO MAINTAIN AN ABORTION INFORMATION DEPOSITORY; TO REQUIRE THE  
8 STATE DEPARTMENT OF HEALTH TO ISSUE CERTAIN SUPPLEMENTARY  
9 DOCUMENTS FOR DISCLOSURE TO A PATIENT PRIOR TO ANY ABORTION  
10 PROCEDURE; TO REQUIRE ABORTION PROVIDERS TO REGISTER PROOF OF  
11 INSURANCE WITH THE STATE DEPARTMENT OF HEALTH; TO PRESCRIBE  
12 CRIMINAL PENALTIES FOR KNOWINGLY PERFORMING AN ABORTION WITHOUT  
13 CONSENT AND FOR ASSISTING IN A SELF-INDUCED ABORTION; TO PROVIDE  
14 CIVIL REMEDIES FOR THE FAILURE TO COMPLY WITH THE PROVISIONS OF  
15 THIS ACT; TO EXEMPT A MEDICAL EMERGENCY FROM THE REQUIREMENTS OF  
16 THIS ACT; TO PROVIDE FOR THE RIGHT OF INTERVENTION IN ANY  
17 CONSTITUTIONAL ACTION AGAINST THE ENFORCEMENT OF THIS ACT; AND FOR  
18 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE  
19 OF MISSISSIPPI:

20  
21 SECTION 1. **Short title.** This act may be cited as the  
22 "Protection From High Risk and Coercive Abortion Act."

23 SECTION 2. **Definitions.** The following words and phrases  
24 shall have the meanings ascribed in this section unless the  
25 context clearly indicates otherwise:

26 (a) "Abortion" means the use or prescription of any  
27 instrument, medicine, drug or any other substance or device to  
28 terminate the pregnancy of a woman known to be pregnant with an  
29 intention other than to increase the probability of a live birth,  
30 to preserve the life or health of the child after live birth or to  
31 remove a dead fetus.

32 (b) "Medical emergency" means that condition which, on  
33 the basis of the physician's best clinical judgment, so  
34 complicates a pregnancy as to necessitate an immediate abortion to  
35 avert the death of the mother or for which a twenty-four-hour

36 delay will create grave peril of immediate and irreversible loss  
37 of major bodily function.

38 (c) "Probable gestational age of the unborn child"  
39 means what, in the judgment of the attending physician, will with  
40 reasonable probability be the gestational age of the unborn child  
41 at the time the abortion is planned to be performed.

42 (d) "Abortion providers" means and includes the  
43 physician performing the abortion, and any individuals or  
44 corporations acting as agents of the physician who have contact  
45 with the patient and provide counseling, screening, referrals, or  
46 directly assist with the abortion procedure itself, and any  
47 corporation or owner or partner of a business or corporation that  
48 employs or contracts with the physician to perform abortions, and  
49 any physician, referral service, business, agency or corporation  
50 that makes referrals to abortion providers.

51 (e) "Risk factor" means any physical, psychological,  
52 behavioral or situational factor which may predispose an  
53 individual woman to experience, or increase the risk of an  
54 individual woman experiencing, one or more adverse emotional or  
55 physical reactions to the abortion, in either the short or long  
56 term, compared to a woman who does not possess this risk factor.

57 (f) "High risk patient" means any patient for whom one  
58 or more risk factors exist.

59 (g) "Reasonable patient" means a patient who is capable  
60 of thoughtfully considering and weighing both technical and  
61 summary information to determine its relevancy to that patient's  
62 choices in order to arrive at a free and informed choice either to  
63 follow or reject a medical recommendation.

64 (h) "Risks" and "complications" means any physical and  
65 psychological sequelae which a reasonable patient, upon review of  
66 all the available information, is likely to consider to be either  
67 an established risk of abortion, a likely risk of abortion, or a  
68 possible risk of abortion.

69 (i) "Self-induced abortion" means any abortion or  
70 menstrual extraction attempted or completed by a woman on her own  
71 body.

72 (j) "Qualified person" means a licensed physician or an

73 agent of the abortion practitioner who is a licensed psychologist,  
74 licensed social worker, licensed professional counselor, or  
75 licensed registered nurse.

76 (k) "Abortion practitioner" shall mean the licensed  
77 physician who induces an abortion.

78 (l) "Vulnerable person" shall mean any person who is  
79 submitting to an unwanted abortion due to pressure from others or  
80 due to psychological instability.

81 SECTION 3. Screening requirements. (1) Except in the case  
82 of a medical emergency, no abortion shall be performed or induced  
83 without prior screening of the patient for risk factors, including  
84 screening for evidence of coercion of a vulnerable person. Risk  
85 factors shall include, but not be limited to, the following:  
86 gonorrhea or chlamydia infection; a family history of breast  
87 cancer; prior history of gestational trophoblastic tumor; history  
88 of caesarean section; a history of prior abortion; adolescence;  
89 feelings of being pressured to have the abortion; feelings of  
90 attachment to the unborn child; a history of prior psychological  
91 illness or emotional instability; lack of support from the partner  
92 or parents; strong religious convictions against abortion; a  
93 second- or third- trimester pregnancy; low expectations of coping  
94 well.

95 (2) Except in the case of a medical emergency, consent to  
96 abortion is free from unnecessary exposure to risks and coercion  
97 only if all of the following are true:

98 (a) Before the abortion practitioner recommends or  
99 performs an abortion, the abortion practitioner must insure that a  
100 qualified person has evaluated the woman to identify the presence  
101 of any known or suspected risk factors and informed her and the  
102 abortion practitioner, in writing, of the results of this  
103 evaluation. In the event that risk factors are identified:

104 (i) The woman shall be fully informed by a  
105 qualified person which risk factors exist, why these risk factors

106 may lead to adverse reactions, and a detailed explanation of what  
107 adverse reactions may occur. This explanation of relevant risks  
108 must be in greater detail than would normally be provided to a  
109 woman who does not have the risk factor, and it shall include  
110 quantifiable risk rates whenever relevant data exists. The woman  
111 shall be given the information in all the detail that a reasonable  
112 patient may find relevant to her decision, plus any additional  
113 information the individual patient may request.

114 (ii) The woman shall be counseled by a qualified  
115 person, to assist her to address and reduce, if possible, the risk  
116 factors which place her at increased risk of sequelae.

117 (iii) Prior to the high risk patient's consent to  
118 an abortion, the qualified person who has provided the screening  
119 and counseling shall provide a written statement to the patient  
120 and the abortion practitioner certifying, to the best of that  
121 person's knowledge, that the patient fully understands and  
122 appreciates the significance of the risk factors discussed and her  
123 increased exposure to the related adverse reactions. The risk  
124 factors and related reactions shall be listed in this certificate.

125 (b) Prior to the abortion practitioner's recommendation  
126 for an abortion, a qualified person has privately evaluated the  
127 woman to determine if she is a vulnerable person, and in  
128 particular if she is seeking an abortion under pressure to do so  
129 from other persons.

130 (i) Evaluation of the woman to identify if she may  
131 be a vulnerable person shall include investigation of her moral  
132 views about abortion and any possible emotional attachment which  
133 she may have developed with her unborn child. If she describes a  
134 negative moral view toward abortion, or an emotional attachment to  
135 her unborn child, or otherwise indicates that the abortion is  
136 unwanted, is her "only choice," or is being sought to satisfy some  
137 other person's desires which are contrary to her own, the  
138 presumption shall exist that she is a vulnerable person.

139                   (ii) This evaluation of the woman shall be done  
140 individually, in a private room in the absence of third parties,  
141 such as parents, spouse or others to protect her privacy and  
142 increase her opportunity to express herself freely.

143                   (iii) If a woman is identified as a vulnerable  
144 person she must be informed of this evaluation, and continue to  
145 receive nondirective counseling by a qualified person or be  
146 referred to counselors at other sources of assistance or  
147 counseling that may be deemed appropriate by the qualified person  
148 until she is able to make a fully free decision, either to have an  
149 abortion or to carry the pregnancy to term, with respect to her  
150 own views, needs and desires.

151                   (iv) If upon evaluation the qualified person  
152 concludes that the woman seeking an abortion may be a vulnerable  
153 person seeking abortion against her own self interests because of  
154 pressure or coercion from a third party, the qualified person  
155 shall assist her in finding resources to mitigate the pressure or  
156 protect her from the coercion. This assistance may include with  
157 the consent of the woman, and shall include at the request of the  
158 woman, disclosure of information to the pressuring parties as to  
159 the negative impact a coerced abortion may have on a vulnerable  
160 person and referrals for intervention aid in the form of family  
161 counseling, marital counseling, legal aid, or other appropriate  
162 measures.

163                   (v) If, after having received said additional  
164 counseling and interventive assistance on her behalf, the patient  
165 identified as a vulnerable person persists in her request for an  
166 induced abortion, and if the qualified person has made the  
167 reasonable judgment that the patient has freely and voluntarily  
168 decided to continue her request for an abortion in accordance with  
169 her own autonomous views, needs and desires, the qualified person  
170 shall provide a written statement to the abortion practitioner  
171 certifying to the best of that qualified person's knowledge that

172 the patient's request for an abortion is freely and voluntarily  
173 made and is consistent with the patient's own autonomous views,  
174 needs and desires. No abortion may be performed upon a person  
175 previously identified as a vulnerable person in the absence of  
176 this certification by a qualified person that the patient's  
177 request for an abortion is freely made and is consistent with the  
178 patient's own autonomous views, needs and desires.

179 (3) Whenever the patient seeking abortion is under eighteen  
180 (18) years of age, a qualified person shall interview the woman to  
181 determine if her pregnancy is the result of a criminal act,  
182 including acts of incest, rape or statutory rape. If the  
183 qualified person determines that a criminal act was or is likely  
184 to have occurred, written notice will be given to the abortion  
185 practitioner, the proper law enforcement officials, and the child  
186 protection authorities.

187 **SECTION 4. Abortion Information Depository.** (1) The State  
188 Department of Health shall maintain receipt-date stamped files  
189 containing the following:

190 (a) Proof of insurance certificates filed by abortion  
191 providers.

192 (b) At least one (1) copy of each edition of any  
193 document submitted by any individual, organization or other entity  
194 regarding:

195 (i) Known or claimed adverse effects of abortion;

196 (ii) Predisposing risk factors to post-abortion  
197 sequelae;

198 (iii) Alternative management techniques for crisis  
199 pregnancies;

200 (iv) Reports of monetary awards and settlements in  
201 civil actions against abortion providers which shall be used as a  
202 basis for the determination of adequate proof of insurance;

203 (v) Any other information which would be relevant  
204 to a reasonable patient or to the standard of care offered by

205 abortion providers.

206 (2) The State Department of Health shall maintain an index  
207 of the documents placed into the Abortion Information Depository,  
208 including the date of submission.

209 (3) All the documents described in this section shall be  
210 available for public inspection during normal business hours.

211 (4) Copies of any document filed in the Abortion Information  
212 Depository shall be made available to the public at actual cost  
213 and in accordance with copyright laws.

214 **SECTION 5. Supplementary document for disclosure.** (1) The  
215 State Department of Health shall cause printed materials to be  
216 published in English within ninety (90) days after this act  
217 becomes law, and shall update them on an annual basis. These  
218 supplementary materials shall include the following information in  
219 easily comprehensible form: On the front cover shall be printed  
220 in large type "YOUR CHOICE - YOUR RIGHTS" followed by "IMPORTANT  
221 DOCUMENT - READ AND KEEP IN YOUR PERMANENT RECORDS." A space on  
222 the front cover shall be provided for clearly typing or imprinting  
223 the name of the physician and the facility or hospital at which  
224 the procedure is performed.

225 (2) The text of this supplementary document shall include,  
226 but not be limited to, the following statements arranged in an  
227 easily understandable format:

228 "Only a physician who possesses adequate insurance  
229 coverage to protect your interests may perform an abortion."

230 "It is your physician's duty to ensure that your consent  
231 is freely and voluntarily given. In the event that you may  
232 feel pressured into undergoing an unwanted abortion by other  
233 persons or circumstances, it is the duty of your physician to  
234 assist you in identifying these pressures and, if possible,  
235 reducing them."

236 "It is your physician's duty to ensure that an abortion  
237 is likely to be safe and beneficial in your unique case. You

238 have the option of following his recommendation regarding an  
239 abortion. You also have a legal right to be fully informed  
240 of the nature of abortion, of any physical or psychological  
241 risks which may be associated with abortion, and of  
242 alternative ways of coping with your crisis. This  
243 information is your right, and it must be given to you so  
244 that your final decision to accept or reject your doctor's  
245 recommendation is a fully informed one."

246 "It is your physician's duty to screen you for physical  
247 or emotional factors which place you at risk of suffering  
248 negative reactions after the abortion. It is also the  
249 physician's duty to ensure that you are given and understand  
250 information about all the physical and psychological  
251 complications which may be associated with abortion. You  
252 should be told about potential after-effects about which  
253 there may still be uncertainty. This uncertainty may involve  
254 how often these complications occur. Or there may be  
255 uncertainty about whether these problems actually result from  
256 abortion or from some other cause. In cases where a reported  
257 risk has not been firmly established, you may ask your  
258 physician to help you to examine the evidence for and against  
259 these possible risks and make your decision accordingly."

260 "After examining your case, including your unique  
261 situation and health needs, your physician should make a  
262 recommendation. This may be a recommendation for abortion,  
263 or it may be a recommendation to use other ways to solve your  
264 present problems. Your physician has the right and the duty  
265 to refuse to perform an abortion that in your case may be  
266 dangerous or contra-indicated."

267 "If you are a patient who is at risk of abortion-related  
268 complications, abortion may not be the best medical  
269 recommendation. If your reasons for seeking an abortion are  
270 mainly social or economic, your needs may be best served by



271 social or economic help. Your physician should discuss  
272 nonsurgical ways of dealing with the social or economic  
273 problems which have turned your pregnancy into a crisis.  
274 Such alternatives may include referral for family counseling,  
275 marital counseling, legal counseling, financial aid, job  
276 relocation services, career or education counseling services,  
277 adoption counseling, or residency in a maternity home. Many  
278 of these alternatives are available at no cost."

279 "Your physician may recommend a nonabortion alternative  
280 especially if you are feeling pressured to seek an abortion  
281 because it is your 'only choice.' These pressures may be  
282 coming from emotional, social, financial, career or family  
283 problems. In such cases, an abortion may only make your  
284 problems worse, especially if you would otherwise wish to  
285 continue this pregnancy. If this is the case, your physician  
286 should refer you to private or public agencies which can help  
287 you to deal with these problems. These referral agencies may  
288 have resources to help you sort through and cope with these  
289 people or circumstances which are making you feel pressured  
290 into undergoing an unwanted abortion. Only after these  
291 pressures are addressed can a decision to abort be properly  
292 made. Otherwise, your choice may not truly be a free one."

293 (3) This supplementary document shall include under the  
294 title "CHARACTERISTICS WHICH MAY PLACE YOU AT HIGHER RISK" a  
295 listing of risk factors reported in peer review medical,  
296 psychological and other academic journals.

297 (4) These supplementary materials shall be prepared and  
298 regularly updated by the State Department of Health to satisfy the  
299 interests of a reasonable patient.

300 (5) The supplementary materials shall be printed in a  
301 typeface large enough to be clearly legible.

302 (6) Before the abortion practitioner recommends or performs  
303 an abortion, each woman seeking an abortion must be given a copy

304 of this supplementary document by a qualified person except in  
305 those instances described in Section 8(5)(f)(ii).

306 (7) Violation of Section 5(6) is itself injurious and a  
307 violation of the individual's civil rights, and shall be  
308 compensated by an award of not less than Fifty Thousand Dollars  
309 (\$50,000.00) and not more than Two Million Dollars  
310 (\$2,000,000.00).

311 SECTION 6. Insurance requirements. (1) All abortion  
312 providers shall register proof of insurance with the State  
313 Department of Health. Said insurance coverage must cover  
314 liability for all requirements and provisions of this act in an  
315 amount of not less than the larger of One Million Dollars  
316 (\$1,000,000.00) or one-third (1/3) of the largest reported court  
317 order award for abortion-related injuries registered with the  
318 State Department of Health.

319 (2) Physicians performing abortions must register proof of  
320 insurance with the State Department of Health. Said insurance  
321 coverage must cover liability for all requirements and provisions  
322 of this act in an amount of not less than the larger of Three  
323 Million Dollars (\$3,000,000.00) or two-thirds (2/3) of the largest  
324 reported court ordered award or settlement for abortion-related  
325 injuries registered with the State Department of Health.

326 SECTION 7. Criminal penalties. (1) Except in the case of a  
327 medical emergency, no physician shall knowingly perform an  
328 abortion on a woman who has not consented to the abortion, who has  
329 revoked her consent, or who has consented under the coercion or  
330 duress of another person. Said person shall, upon conviction, be  
331 imprisoned in the state penitentiary not less than one (1) year  
332 nor more than ten (10) years.

333 (2) Any person who encourages or assists a woman in a  
334 self-induced abortion is guilty of a felony. Said person shall,  
335 upon conviction, be imprisoned in the state penitentiary not less  
336 than one (1) year nor more than ten (10) years.

337 (3) Any person who sells or distributes materials or drugs  
338 with the intent that they be used for a criminal or self-induced  
339 abortion is guilty of a felony. Said person shall, upon  
340 conviction, be imprisoned in the state penitentiary not less than  
341 one (1) year nor more than ten (10) years.

342 SECTION 8. Civil remedies. (1) In addition to whatever  
343 remedies are available under the common or statutory laws of this  
344 state, the failure to comply with the requirements of this act  
345 shall provide a basis for the following:

346 (a) A civil action under statutes or in common law  
347 relating to malpractice, negligence, fraud, extortion, battery,  
348 violation of conscience, and a violation of the individual's civil  
349 rights. Any intentional violation of this act shall be admissible  
350 in a civil suit as prima facie evidence of a failure to obtain a  
351 voluntary and informed consent.

352 (b) Recovery of the woman for the death of her unborn  
353 child under the Wrongful Death Act, whether or not the unborn  
354 child was viable at the time of the abortion and whether or not  
355 the child was born alive.

356 (2) Any action for civil remedies based on a failure to  
357 comply with the requirements of this act must be brought within  
358 four (4) years after the date at which the woman becomes, or  
359 should have been, aware that the abortion was the probable or  
360 contributory cause of a physical or emotional complication and has  
361 recovered from any psychological complication, including shame,  
362 which may impede the patient's ability adequately to pursue a  
363 civil remedy.

364 (3) Notwithstanding the provisions of subsection (2) of this  
365 section, in the case of a woman who has died, any action under  
366 this act shall be brought within four (4) years of her death.

367 (4) No abortion provider shall be held liable for any claim  
368 of injury based on the premise that too much information was  
369 provided to the patient, provided said information was accurate or

370 reasonably assumed to be accurate.

371 (5) In a civil action involving this act:

372 (a) The jury may request a copy of this legislation, or  
373 shall be presented with a copy of this legislation upon the demand  
374 of counsel for either party.

375 (b) In determining liability, the absence of voluntary  
376 and fully informed consent shall create the presumption that the  
377 plaintiff would not have undertaken the recommended abortion.  
378 This burden can be overcome by a preponderance of evidence showing  
379 that the woman would have acceded to the recommendation even if  
380 the information had been disclosed.

381 (c) In allowing the testimony of expert witnesses, the  
382 technical-medical aspect of induced abortion shall be a separate  
383 issue from the screening, counseling, disclosure and  
384 recommendation process.

385 (i) With regard to proper procedures for  
386 screening, counseling and the recommendation of alternative forms  
387 of crisis resolution, the testimony of physicians or persons who  
388 care for women in crisis pregnancies shall be allowed as expert  
389 testimony.

390 (ii) With regard to the technical-medical process  
391 used for the induced abortion, the testimony of any physician  
392 skilled in D&C, D&E, evacuation techniques, instillation,  
393 prescription of labor inducing drugs, or other medical procedures  
394 such as would be employed following a miscarriage, wherein said  
395 procedures or techniques are substantially similar to the method  
396 employed for the induced abortion at issue, shall be allowed as  
397 expert testimony. The testimony of a board certified  
398 obstetrician-gynecologist shall normally be allowed as expert  
399 testimony.

400 (d) It shall be conclusively presumed that the abortion  
401 provider has, or should have had, knowledge of all information  
402 regarding potential risks, predisposing risk factors, and crisis

403 pregnancy management alternatives that was deposited in the State  
404 Department of Health Abortion Information Depository three (3)  
405 months prior to the date of the abortion at issue. The abortion  
406 provider shall not be presumed to have knowledge of information  
407 that was not in the Abortion Information Depository three (3)  
408 months prior to the abortion, but that presumption can be rebutted  
409 by the preponderance of evidence that the abortion provider had or  
410 should have had knowledge of additional information.

411 (e) Any abortion provider that makes referrals to an  
412 abortion practitioner whose practice is inside or outside this  
413 state shall be fully responsible for ensuring that all provisions  
414 of this act, in particular those relating to screening, disclosure  
415 and voluntary consent, are satisfied. In the absence of adequate  
416 screening, full disclosure and voluntary consent, the referring  
417 abortion provider shall be liable for all injuries sustained.

418 (f) It shall be an affirmative defense to allegations  
419 of inadequate disclosure or of a failure to provide all  
420 information that a reasonable patient may find relevant to a  
421 decision to forego a recommended abortion that the defendants  
422 omitted the contested information because:

423 (i) Statistically validated surveys of the general  
424 population of women of reproductive age conducted within three (3)  
425 years before or after the contested abortion demonstrate that less  
426 than five percent (5%) of women would consider the information in  
427 question to be relevant to an abortion decision; or

428 (ii) In the expert opinion of a psychiatrist who  
429 examined the patient prior to the abortion, disclosure of the  
430 contested information would most likely have been the immediate  
431 and direct cause of a severely adverse effect on the physical or  
432 mental health of the patient. The risk that providing the  
433 information may have caused the patient to choose to refuse the  
434 abortion and would subsequently suffer adverse reactions as a  
435 result of that birth shall not be deemed sufficient grounds for

436 withholding the information.

437           (g) The failure to record an accurate medical and  
438 psychosocial history of the patient in making the recommendation  
439 to abort shall be presumptive evidence of gross negligence. The  
440 burden of proving by a preponderance of evidence the adequacy of  
441 the medical and psychosocial history shall fall upon the abortion  
442 provider.

443           (h) The failure to provide adequate guarantees for the  
444 delivery of post-procedural evaluation, treatment and counseling  
445 shall be presumptive evidence of gross negligence. The burden of  
446 proving the adequacy of the post-procedural evaluation, treatment  
447 and counseling shall fall upon the abortion provider.

448           (i) The determination of whether any particular  
449 information contained in documents deposited in the Abortion  
450 Information Depository was credible and should have been used by  
451 the abortion providers for the proper screening of risk factors,  
452 or for proper disclosure of information to the woman in all the  
453 detail that a reasonable patient may find relevant to her  
454 decision, is a question of fact to be answered by the jury.

455           (j) The determination of whether the information  
456 regarding risks was given to the woman in all the detail that a  
457 reasonable patient may find relevant to her decision is a question  
458 of fact to be answered by the jury.

459           (6) In addition to whatever remedies are available under the  
460 common or statutory laws of this state, a woman who attempted or  
461 completed a self-abortion, or her survivors, will have a cause of  
462 action against any person, agency or corporation which provided,  
463 distributed or sold medical advice to her with the intent to  
464 assist or encourage her in performing a self-induced abortion.  
465 Upon establishing as a finding of fact or by a preponderance of  
466 evidence that a defendant provided, distributed or sold medical  
467 advice with the intent to assist others to perform illegal or  
468 self-induced abortions, plaintiff shall be awarded not less than

469 Four Hundred Thousand Dollars (\$400,000.00) for reckless  
470 endangerment. Proof of injury shall not be required to recover an  
471 award for reckless endangerment under this statute.

472 (7) In addition to whatever remedies are available under the  
473 common or statutory laws of this state; in the event that an  
474 abortion is attempted or completed by a person who is not a  
475 licensed physician, the woman upon whom the abortion was attempted  
476 or completed, or her survivors, will have a cause of action  
477 against said person and any individual, agency, corporation or  
478 referral service who referred her to said person. Upon  
479 establishing by the preponderance of evidence that said person was  
480 not a licensed physician and attempted or completed an abortion on  
481 the woman, the plaintiff shall be awarded not less than Eight  
482 Hundred Thousand Dollars (\$800,000.00) for reckless endangerment.

483 Liability for referral may only be imposed after the further  
484 proof, by a preponderance of the evidence, that the referring  
485 party intended, knew or recklessly disregarded the possibility  
486 that the person to whom the referral was made would attempt or  
487 complete an abortion upon the woman. Proof of injury shall not be  
488 required to recover an award for reckless endangerment under this  
489 statute.

490 SECTION 9. **Emergency.** If a medical emergency compels the  
491 performance of an abortion, the abortion practitioner shall inform  
492 the woman, before the abortion if possible, of the medical  
493 indications supporting his or her judgment that an abortion is  
494 necessary to avert her death or to avert substantial and  
495 irreversible impairment of a major bodily function. In such an  
496 event, the requirements of this act shall not apply.

497 SECTION 10. **Severability.** If any provisions of this act or  
498 its application to any person or circumstance is held invalid, the  
499 invalidity of that provision or application does not affect other  
500 provisions or applications of the act that can be given effect  
501 without the invalid provisions or application.

502        SECTION 11.    **Construction.**    (1) Nothing in this act shall be  
503 construed as creating or recognizing a right to abortion.

504        (2) It is not the intention of this law to make lawful an  
505 abortion that is currently unlawful.

506        SECTION 12.    **Right of intervention.**    The Legislature, by  
507 joint resolution, may appoint one (1) of its members who sponsored  
508 or co-sponsored this act in his official capacity to intervene as  
509 a matter of right in any case in which the constitutionality of  
510 this law is challenged.

511        SECTION 13.    **Effective date.**    (1) This act shall take effect  
512 and be in force ninety (90) days after becoming law.

513        (2) In the event that any portion of this act is enjoined  
514 and subsequently upheld, the running of the statute of limitations  
515 for filing civil suit under the provisions of this statute shall  
516 be tolled during the pendency of the injunction and for four (4)  
517 years thereafter.