

By: White (29th), Johnson (19th)

To: Public Health and
Welfare

SENATE BILL NO. 2691

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

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

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

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

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

34 delay will create grave peril of immediate and irreversible loss
35 of major bodily function.

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

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

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

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

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

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

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

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

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

74 (k) "Abortion practitioner" means the licensed
75 physician who induces an abortion.

76 (l) "Vulnerable person" means any person who is
77 submitting to an unwanted abortion due to pressure from others or
78 due to psychological instability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

188 (a) Proof of insurance certificates filed by abortion
189 providers.

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

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

194 (ii) Predisposing risk factors to post-abortion
195 sequelae;

196 (iii) Alternative management techniques for crisis
197 pregnancies;

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

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

203 abortion providers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

368 reasonably assumed to be accurate.

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

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

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

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

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

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

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

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

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

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

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

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

434 withholding the information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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