AN ACT TO PROHIBIT THE USE OF PUBLIC FUNDS FOR STEM CELL
RESEARCH, HUMAN CLONING, CHEMICAL ABORTION OR SURGICAL ABORTION;
TO AUTHORIZE AND DIRECT THE STATE BOARD OF HEALTH TO PROMULGATE
RULES RELATING TO THE USE OF PUBLIC FUNDS FOR AN ABORTION BASED
UPON A CLAIM OF RAPE OR INCEST AND TO PRESCRIBE REPORTING
REQUIREMENTS IN SUCH CASES; TO AMEND SECTION 97-3-3, MISSISSIPPI
CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Notwithstanding any other provision of law
to the contrary, no public funds made available to any
institution, board, commission, department, agency, official or
employee of the State of Mississippi, or of any local political
subdivision thereof, whether such funds are made available by the
government of the United States, the State of Mississippi or of a
local governmental subdivision, or from any other public source,
shall be used in any way for, to assist in, or to provide
facilities for: stem cell research which uses cells from human
embryos, human cloning, a chemical abortion or a surgical abortion
except when the abortion is medically necessary to prevent the
death of the mother.

(2) Notwithstanding any other provision of law to the
contrary, no public funds made available to any institution,
board, commission, department, agency, official or employee of the
State of Mississippi, or of any local political subdivision
thereof, whether such funds are made available by the government
of the United States, the State of Mississippi or a local
governmental subdivision, or from any other public source, shall
be used in any way for, to assist in, or to provide facilities
for: stem cell research which uses cells from human embryos,
human cloning, a chemical abortion or a surgical abortion except for any of the following:

(a) Whenever the abortion is necessary to save the life of the mother.

(b) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of rape and all of the requirements of subsection (6) are met.

(c) Whenever the abortion is being sought to terminate a pregnancy result from an alleged act of incest and all of the requirements of subsection (6) are met.

(3) The State Board of Health shall promulgate rules to insure that no funding of any abortion shall be made based upon a claim of rape or incest until the applicable requirements of subsection (6) have been complied with and written verification has been obtained from the physician performing the abortion and from the law enforcement official to whom the report is made, if applicable.

(4) Subsection (1) of this section shall be superseded and subsections (2), (3) and (6) shall become effective only when the circumstances in paragraph (a)(i) or in paragraph (b)(i) occur.

(a) (i) A decision or order of a court of competent jurisdiction is rendered declaring the provisions of subsection (1) unconstitutional, inconsistent with federal law, or otherwise unenforceable based on inconsistency with the Hyde Amendment, or enjoins the state or any of its officials from enforcing subsection (1) while at the same time accepting federal funds pursuant to Title XIX, as modified by the Hyde Amendment, and then only if, as and when a stay pending all appeals of the decision or order is denied, or, if a stay is granted, such stay expires or is no longer effective.

(ii) If such a decision or order is rendered, the state Attorney General, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a
stay pending all appeals of the decision or order and its reversal.

(b) (i) An order or decision of a court of competent jurisdiction is rendered affirming a finding of the administrator of the Health Care Financing Administration of the United States Department of Health and Human Services that subsection (1) fails to substantially comply with the Hyde Amendment or denying a stay of the funding of the administrator and then only if, as and when the state receives formal notification from the administrator that Medicaid funds, including, but not limited to, the federal percentage of Medicaid assistance payments pursuant to 42 USC 1396 et seq. allocated to the state from the United States government, will be withheld or terminated on a specified date.

(ii) If the administrator finds that the state is in noncompliance with the Hyde Amendment as it relates to funding certain abortions, the Governor, the Attorney General and the State Department of Health, on behalf of the state, shall vigorously and expeditiously pursue administrative and judicial remedies to obtain a stay of the funding and its reversal.

(iii) If such a decision or order is rendered by a court, the Attorney General, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay of the decision or order and to seek its reversal.

(5) If subsections 2, 3 and 6 become effective and subsequently the federal requirement for acceptance of Medicaid funds, that public funds be made available for abortions resulting from pregnancy due to rape or incest, is no longer applicable to the State of Mississippi, then on that same day, the provisions of subsections (2), (3) and (6) shall be superseded and the provisions of subsection (1) shall be effective to the fullest extent allowed by law.
(6) (a) Whenever an abortion is being sought to terminate a pregnancy resulting from an alleged act of rape, prior to the abortion all of the following requirements shall be met:

(i) The rape victim shall report the rape to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape.

(ii) The victim certifies that the pregnancy is the result of rape, which certificate shall be witnessed by the treating physician.

(b) Whenever an abortion is being sought to terminate a pregnancy resulting from an alleged act of incest, prior to the abortion all of the following requirements shall be met:

(i) The victim of incest shall report the act of incest to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion the victim was too physically or psychologically incapacitated to report the incest.

(ii) The victim certifies that the pregnancy is the result of incest, which certificate shall be witnessed by the treating physician.

(c) The failure of the victim to comply with paragraph (a) or (b) as applicable shall not subject the victim to penalties.

(d) Whenever an abortion is being sought to terminate a pregnancy resulting from an alleged act of rape or incest, the victim may receive spiritual counseling prior to the performance of the abortion.

SECTION 2. Section 97-3-3, Mississippi Code of 1972, is amended as follows:

97-3-3. (1) Any person willfully and knowingly causing, by means of any instrument, medicine, drug or other means whatever,
any woman pregnant with child to abort or miscarry, or attempts to
procure or produce an abortion or miscarriage shall be guilty of a
felony unless the same were done by a duly licensed, practicing
physician:
  (a) Where necessary for the preservation of the
mother's life;
  (b) Where pregnancy was caused by rape.
Said person shall, upon conviction, be imprisoned in the
State Penitentiary not less than one (1) year nor more than ten
years; provided, however, if the death of the mother results
therefrom, the person procuring, causing or attempting to procure
or cause the illegal abortion or miscarriage shall be guilty of
murder.
  (2) No act prohibited in subsection (1) of this section
shall be considered exempt under the provisions of subparagraph
(a) thereof unless performed upon the prior advice in writing, of
two (2) reputable licensed physicians.
  (3) The license of any physician or nurse shall be
automatically revoked upon conviction under the provisions of this
section.
  (4) Nothing in this section shall be construed as
conflicting with Section 41-41-73.
  (5) Nothing in this section shall be construed as
conflicting with Section 1 of Senate Bill No. 2747, 2002 Regular
Session.
SECTION 3. This act shall take effect and be in force from
and after July 1, 2002.