

By: Representatives Ward, Formby, Moore

To: Public Health and Human Services

HOUSE BILL NO. 632

1 AN ACT TO AMEND SECTIONS 41-41-53 AND 97-3-3, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT IT SHALL BE A FELONY TO TRANSPORT AN
3 UNEMANCIPATED MINOR TO ANOTHER STATE FOR AN ABORTION WITHOUT
4 PARENTAL CONSENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-41-53, Mississippi Code of 1972, is
7 amended as follows:

8 41-41-53. (1) Except as otherwise provided in subsections
9 (2) and (3) of this section, no person shall perform an abortion
10 upon an unemancipated minor or transport an unemancipated minor to
11 another state for an abortion unless he or his agent first obtains
12 the written consent of both parents or the legal guardian of the
13 minor.

14 (2) (a) If the minor's parents are divorced or otherwise
15 unmarried and living separate and apart, then the written consent
16 of the parent with primary custody, care and control of such minor
17 shall be sufficient.

18 (b) If the minor's parents are married and one (1)
19 parent is not available to the person performing the abortion in a
20 reasonable time and manner, then the written consent of the parent
21 who is available shall be sufficient.

22 (c) If the minor's pregnancy was caused by sexual
23 intercourse with the minor's natural father, adoptive father or
24 stepfather, then the written consent of the minor's mother shall
25 be sufficient.

26 (3) A minor who elects not to seek or does not obtain
27 consent from her parents or legal guardian under this section may
28 petition, on her own behalf or by next friend, the chancery court

29 in the county in which the minor resides or in the county in which
30 the abortion is to be performed for a waiver of the consent
31 requirement of this section pursuant to the procedures of Section
32 41-41-55.

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

35 97-3-3. (1) Any person wilfully and knowingly causing, by
36 means of any instrument, medicine, drug or other means whatever,
37 any woman pregnant with child to abort or miscarry, or attempts to
38 procure or produce an abortion or miscarriage, or transport an
39 unemancipated minor to another state for an abortion without
40 parental consent as provided in Section 41-41-53 shall be guilty
41 of a felony unless the same were done by a duly licensed,
42 practicing physician:

43 (a) Where necessary for the preservation of the
44 mother's life;

45 (b) Where pregnancy was caused by rape.

46 Said person shall, upon conviction, be imprisoned in the
47 State Penitentiary not less than one (1) year nor more than ten
48 (10) years; provided, however, if the death of the mother results
49 therefrom, the person procuring, causing or attempting to procure
50 or cause the illegal abortion or miscarriage shall be guilty of
51 murder.

52 (2) No act prohibited in subsection (1) of this section
53 shall be considered exempt under the provisions of subparagraph
54 (a) thereof unless performed upon the prior advice in writing, of
55 two (2) reputable licensed physicians.

56 (3) The license of any physician or nurse shall be
57 automatically revoked upon conviction under the provisions of this
58 section.

59 (4) Nothing in this section shall be construed as
60 conflicting with Section 41-41-73.

61 **SECTION 3.** This act shall take effect and be in force from
62 and after July 1, 2007.