SENATE BILL NO. 2801

AN ACT TO AMEND SECTION 41-41-33, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT A WOMAN BE GIVEN THE OPPORTUNITY TO VIEW A SONOGRAM OR LISTEN TO THE HEARTBEAT OF HER UNBORN CHILD BEFORE CONSENTING TO AN ABORTION; TO AMEND SECTION 41-41-39, MISSISSIPPI CODE OF 1972, TO CLARIFY CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-41-33, Mississippi Code of 1972, is amended as follows:

41-41-33. (1) No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(a) The woman is told the following by the physician who is to perform or induce the abortion or by the referring physician, orally and in person, at least twenty-four (24) hours before the abortion:

(i) The name of the physician who will perform or induce the abortion;

(ii) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage and breast cancer, and the danger to subsequent pregnancies and infertility;

(iii) The probable gestational age of the unborn child at the time the abortion is to be performed or induced; and

(iv) The medical risks associated with carrying her child to term.
(b) The woman is informed, by the physician or his agent, orally and in person, at least twenty-four (24) hours before the abortion:

(i) That medical assistance benefits may be available for prenatal care, childbirth and neonatal care;

(ii) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion;

(iii) That there are available services provided by public and private agencies which provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices; and

(iv) That she has the right to review the printed materials described in Section 41-41-35(1)(a), (b) and (c). The physician or his agent shall orally inform the woman that those materials have been provided by the State of Mississippi and that they describe the unborn child and list agencies that offer alternatives to abortion. If the woman chooses to view those materials, copies of them shall be furnished to her. The physician or his agent may disassociate himself or themselves from those materials, and may comment or refrain from comment on them as he chooses. The physician or his agent shall provide the woman with the printed materials described in Section 41-41-35(1)(d).

(c) The woman certifies in writing before the abortion that the information described in paragraphs (a) and (b) of this section has been furnished to her, and that she has been informed of her opportunity to review the information referred to in subparagraph (iv) of paragraph (b) of this section.

(d) Before the abortion is performed or induced, the physician who is to perform or induce the abortion receives a copy of the written certification prescribed by this section.

(e) At least twenty-four (24) hours prior to the performance of an abortion, as defined in Section 41-41-31, a
physician or qualified person assisting the physician, shall perform fetal ultrasound imaging and auscultation of fetal heart tone services, provide the patient with an opportunity to view the active ultrasound image of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible, and offer to provide the patient with a physical picture of the ultrasound image of the unborn child. An ultrasound image must be of a quality consistent with standard medical practice in the community, shall contain the dimensions of the unborn child and shall accurately portray the presence of external members and internal organs, if present or viewable, of the unborn child. After performance of the services delineated in this paragraph (e), and at least twenty-four (24) hours prior to the performance of an abortion, a physician or qualified person assisting the physician shall obtain the patient's signature on a certification form stating that fetal ultrasound imaging and auscultation of fetal heart tone services have been performed, that the patient has been given the opportunity to view the active ultrasound image and hear the heartbeat of the unborn child if the heartbeat is audible, and that she has been offered a physical picture of the ultrasound image. Before the abortion is performed or induced, the physician who is to perform or induce the abortion shall receive a copy of the written certification prescribed by this paragraph (e). The physician shall retain a copy of the signed certification form in the patient's medical record. The State Department of Health shall enforce the provisions of this paragraph (e) at abortion facilities, as defined in Section 41-75-1.

(2) The State Department of Health shall enforce the provisions of Sections 41-41-31 through 41-41-39 at abortion facilities, as defined in Section 41-75-1.

SECTION 2. Section 41-41-39, Mississippi Code of 1972, is amended as follows:
41-41-39. Anyone who purposefully, knowingly or recklessly performs or attempts to perform or induce an abortion without complying with Sections 41-41-31 through 41-41-37, including the provisions of Section 41-41-33(1)(e), shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of One Thousand Dollars ($1,000.00), by imprisonment in the county jail for a period of time not to exceed six (6) months, or both such fine and imprisonment.

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