

By: Representative Monsour (By Request)

To: Judiciary B

HOUSE BILL NO. 857

1 AN ACT TO CREATE THE MISSISSIPPI PAIN-CAPABLE UNBORN CHILD
2 PROTECTION ACT; TO PROVIDE LEGISLATIVE FINDINGS; TO DEFINE CERTAIN
3 TERMS; TO PROVIDE FOR THE DETERMINATION OF POST-FERTILIZATION AGE;
4 TO PROHIBIT THE ABORTION OF AN UNBORN CHILD OF TWENTY OR MORE
5 WEEKS; TO REQUIRE REPORTING; TO PROVIDE CRIMINAL PENALTIES FOR
6 VIOLATIONS OF THIS ACT; TO PROVIDE CIVIL REMEDIES; TO PROVIDE FOR
7 THE PROTECTION OF PRIVACY; TO CREATE THE PAIN-CAPABLE UNBORN CHILD
8 PROTECTION ACT LITIGATION FUND; AMEND SECTIONS 41-41-33, 41-41-53
9 AND 41-41-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR
10 RELATED PURPOSES.

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

12 **SECTION 1.** This Act may be cited as the "Mississippi
13 Pain-Capable Unborn Child Protection Act."

14 **SECTION 2.** The Legislature makes the following findings:

15 (a) Pain receptors (nociceptors) are present throughout
16 the unborn child's entire body and nerves link these receptors to
17 the brain's thalamus and subcortical plate by no later than twenty
18 (20) weeks.

19 (b) By eight (8) weeks after fertilization, the unborn
20 child reacts to touch. After twenty (20) weeks, the unborn child
21 reacts to stimuli that would be recognized as painful if applied
22 to an adult human, for example, by recoiling.

23 (c) In the unborn child, application of such painful
24 stimuli is associated with significant increases in stress
25 hormones known as the stress response.

26 (d) Subjection to such painful stimuli is associated
27 with long-term harmful neurodevelopmental effects, such as altered
28 pain sensitivity and, possibly, emotional, behavioral, and
29 learning disabilities later in life.



30 (e) For the purposes of surgery on unborn children,
31 fetal anesthesia is routinely administered and is associated with
32 a decrease in stress hormones compared to their level when painful
33 stimuli are applied without such anesthesia.

34 (f) The position, asserted by some medical experts,
35 that the unborn child is incapable of experiencing pain until a
36 point later in pregnancy than twenty (20) weeks after
37 fertilization predominately rests on the assumption that the
38 ability to experience pain depends on the cerebral cortex and
39 requires nerve connections between the thalamus and the cortex.
40 However, recent medical research and analysis, especially since
41 2007, provides strong evidence for the conclusion that a
42 functioning cortex is not necessary to experience pain.

43 (g) Substantial evidence indicates that children born
44 missing the bulk of the cerebral cortex, those with
45 hydranencephaly, nevertheless experience pain.

46 (h) In adults, stimulation or ablation of the cerebral
47 cortex does not alter pain perception, while stimulation or
48 ablation of the thalamus does.

49 (i) Substantial evidence indicates that structures used
50 for pain processing in early development differ from those of
51 adults, using different neural elements available at specific
52 times during development, such as the subcortical plate, to
53 fulfill the role of pain processing.

54 (j) The position, asserted by some medical experts,
55 that the unborn child remains in a coma-like sleep state that
56 precludes the unborn child experiencing pain is inconsistent with
57 the documented reaction of unborn children to painful stimuli and
58 with the experience of fetal surgeons who have found it necessary
59 to sedate the unborn child with anesthesia to prevent the unborn
60 child from thrashing about in reaction to invasive surgery.



61 (k) Consequently, there is substantial medical evidence
62 that an unborn child is capable of experiencing pain by twenty
63 (20) weeks after fertilization.

64 (l) It is the purpose of the state to assert a
65 compelling state interest in protecting the lives of unborn
66 children from the stage at which substantial medical evidence
67 indicates that they are capable of feeling pain.

68 (m) Mississippi's compelling state interest in
69 protecting the lives of unborn children from the stage at which
70 substantial medical evidence indicates that they are capable of
71 feeling pain is intended to be separate from and independent of
72 Mississippi's compelling state interest in protecting the lives of
73 unborn children from the stage of viability, and neither state
74 interest is intended to replace the other.

75 (n) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996),
76 in which in the context of determining the severability of a state
77 statute regulating abortion, the United States Supreme Court noted
78 that an explicit statement of legislative intent specifically made
79 applicable to a particular statute is of greater weight than a
80 general savings or severability clause; it is the intent of the
81 state that if any one or more provisions, sections, subsections,
82 sentences, clauses, phrases or words of this act or the
83 application thereof to any person or circumstance is found to be
84 unconstitutional, the same is hereby declared to be severable and
85 the balance of this act shall remain effective notwithstanding
86 such unconstitutionality. Moreover, the state declares that it
87 would have passed this act, and each provision, section,
88 subsection, sentence, clause, phrase or word thereof, irrespective
89 of the fact that any one or more provisions, sections,
90 subsections, sentences, clauses, phrases or words, or any of their
91 applications, were to be declared unconstitutional.

92 **SECTION 3.** For purposes of this Act:



93 (a) "Abortion" means the use or prescription of any
94 instrument, medicine, drug, or any other substance or device to
95 terminate the pregnancy of a woman known to be pregnant with an
96 intention other than to increase the probability of a live birth,
97 to preserve the life or health of the child after live birth, or
98 to remove a dead unborn child who died as the result of natural
99 causes in utero, accidental trauma, or a criminal assault on the
100 pregnant woman or her unborn child, and which causes the premature
101 termination of the pregnancy.

102 (b) "Attempt to perform or induce an abortion" means an
103 act, or an omission of a statutorily required act, that, under the
104 circumstances as the actor believes them to be, constitutes a
105 substantial step in a course of conduct planned to culminate in
106 the performance or induction of an abortion in this state in
107 violation of this act.

108 (c) "Department" means State Department of Health.

109 (d) "Fertilization" means the fusion of a human
110 spermatozoon with a human ovum.

111 (e) "Medical emergency" means a condition that, in
112 reasonable medical judgment, so complicates the medical condition
113 of the pregnant woman that it necessitates the immediate abortion
114 of her pregnancy without first determining postfertilization age
115 to avert her death or for which the delay necessary to determine
116 postfertilization age will create serious risk of substantial and
117 irreversible physical impairment of a major bodily function, not
118 including psychological or emotional conditions. No condition
119 shall be deemed a medical emergency if based on a claim or
120 diagnosis that the woman will engage in conduct which she intends
121 to result in her death or in substantial and irreversible physical
122 impairment of a major bodily function.

123 (f) "Physician" means any person licensed to practice
124 medicine and surgery or osteopathic medicine and surgery in this
125 state.



126 (g) "Post-fertilization age" means the age of the
127 unborn child as calculated from the fusion of a human spermatozoon
128 with a human ovum.

129 (h) "Probable post-fertilization age of the unborn
130 child" means what, in reasonable medical judgment, will with
131 reasonable probability be the post-fertilization age of the unborn
132 child at the time the abortion is planned to be performed or
133 induced.

134 (i) "Reasonable medical judgment" means a medical
135 judgment that would be made by a reasonably prudent physician,
136 knowledgeable about the case and the treatment possibilities with
137 respect to the medical conditions involved.

138 (j) "Unborn child" or "fetus" each mean an individual
139 organism of the species homo sapiens from fertilization until live
140 birth.

141 (k) "Woman" means a female human being whether or not
142 she has reached the age of majority.

143 **SECTION 4.** (1) Except in the case of a medical emergency,
144 no abortion shall be performed or induced or be attempted to be
145 performed or induced unless the physician performing or inducing
146 it has first made a determination of the probable
147 post-fertilization age of the unborn child or relied upon such a
148 determination made by another physician. In making such a
149 determination, the physician shall make such inquiries of the
150 woman and perform or cause to be performed such medical
151 examinations and tests as a reasonably prudent physician,
152 knowledgeable about the case and the medical conditions involved,
153 would consider necessary to perform in making an accurate
154 diagnosis with respect to post-fertilization age.

155 (2) Failure by any physician to conform to any requirement
156 of this section constitutes "unprofessional conduct."

157 **SECTION 5.** (1) No person shall perform or induce or attempt
158 to perform or induce an abortion upon a woman when it has been



159 determined, by the physician performing or inducing or attempting
160 to perform or induce the abortion or by another physician upon
161 whose determination that physician relies, that the probable
162 post-fertilization age of the woman's unborn child is twenty (20)
163 or more weeks, unless, in reasonable medical judgment, she has a
164 condition which so complicates her medical condition as to
165 necessitate the abortion of her pregnancy to avert her death or to
166 avert serious risk of substantial and irreversible physical
167 impairment of a major bodily function, not including psychological
168 or emotional conditions. No such greater risk shall be deemed to
169 exist if it is based on a claim or diagnosis that the woman will
170 engage in conduct which she intends to result in her death or in
171 substantial and irreversible physical impairment of a major-bodily
172 function.

173 (2) When an abortion upon a woman whose unborn child has
174 been determined to have a probable post-fertilization age of
175 twenty (20) or more weeks is not prohibited by subsection (1) of
176 this section, the physician shall terminate the pregnancy in the
177 manner which, in reasonable medical judgment, provides the best
178 opportunity for the unborn child to survive, unless, in reasonable
179 medical judgment, termination of the pregnancy in that manner
180 would pose a greater risk either of the death of the pregnant
181 woman or of the substantial and irreversible physical impairment
182 of a major bodily function, not including psychological or
183 emotional conditions, of the woman than would other available
184 methods. No such greater risk shall be deemed to exist if it is
185 based on a claim or diagnosis that the woman will engage in
186 conduct which she intends to result in her death or in substantial
187 and irreversible physical impairment of a major bodily function.

188 **SECTION 6.** (1) Any physician who performs or induces or
189 attempts to perform or induce an abortion shall report to the
190 department, on a schedule and in accordance with forms and



191 regulations adopted and promulgated by the department, that
192 include:

193 (a) Postfertilization age:

194 (i) If a determination of probable
195 postfertilization age was made, whether ultrasound was employed in
196 making the determination, and the week of probable
197 postfertilization age determined.

198 (ii) If a determination of probable
199 postfertilization age was not made, the basis of the determination
200 that a medical emergency existed.

201 (b) Method of abortion; which of the following was
202 employed:

203 (i) Medication abortion (such as, but not limited
204 to, mifepristone/misoprostol or methotrexate/misoprostol);

205 (ii) Manual vacuum aspiration;

206 (iii) Electrical vacuum aspiration;

207 (iv) Dilation and evacuation;

208 (v) Combined induction abortion and dilation and
209 evacuation;

210 (vi) Induction abortion with prostaglandins;

211 (vii) Induction abortion with intra-amniotic
212 instillation (such as, but not limited to, saline or urea);

213 (viii) Induction abortion, other;

214 (ix) Intact dilation and extraction
215 (partial-birth); or

216 (x) Method not listed (specify).

217 (c) Whether an intra-fetal injection was used in an
218 attempt to induce fetal demise (such as, but not limited to,
219 intra-fetal potassium chloride or digoxin).

220 (d) Age and race of the patient.

221 (e) If the probable post-fertilization age was
222 determined to be twenty (20) or more weeks, the basis of the
223 determination that the pregnant woman had a condition which so



224 complicated her medical condition as to necessitate the abortion
225 of her pregnancy to avert her death or to avert serious risk of
226 substantial and irreversible physical impairment of a major bodily
227 function, not including psychological or emotional conditions.

228 (f) If the probable post-fertilization age was
229 determined to be twenty (20) or more weeks, whether or not the
230 method of abortion used was one that, in reasonable medical
231 judgment, provided the best opportunity for the unborn child to
232 survive and, if such a method was not used, the basis of the
233 determination that termination of the pregnancy in that manner
234 would pose a greater risk either of the death of the pregnant
235 woman or of the substantial and irreversible physical impairment
236 of a major bodily function, not including psychological or
237 emotional conditions, of the woman than would other available
238 methods.

239 (2) Reports required by subsection (1) of this section shall
240 not contain the name or the address of the patient whose pregnancy
241 was terminated, nor shall the report contain any other information
242 identifying the patient, except that each report shall contain a
243 unique medical record identifying number, to enable matching the
244 report to the patient's medical records. Such reports shall be
245 maintained in strict confidence by the department, shall not be
246 available for public inspection, and shall not be made available
247 except:

248 (a) To the Attorney General or a district attorney with
249 appropriate jurisdiction pursuant to a criminal investigation;

250 (b) To the Attorney General or a district attorney
251 pursuant to a civil investigation of the grounds for an action
252 under subsection (2) of Section 8 of this act; or

253 (c) Pursuant to court order in an action under Section 8
254 of this act.

255 (3) By June 30 of each year the department shall issue a
256 public report providing statistics for the previous calendar year



257 compiled from all of the reports covering that year submitted in
258 accordance with this section for each of the items listed in
259 subsection (1) of this section. Each such report shall also
260 provide the statistics for all previous calendar years during
261 which this section was in effect, adjusted to reflect any
262 additional information from late or corrected reports. The
263 Department shall take care to ensure that none of the information
264 included in the public reports could reasonably lead to the
265 identification of any pregnant woman upon whom an abortion was
266 performed, induced, or attempted.

267 (4) Any physician who fails to submit a report by the end of
268 thirty (30) days following the due date shall be subject to a late
269 fee of One Thousand Dollars (\$1,000.00) for each additional
270 thirty-day period or portion of a thirty-day period the report is
271 overdue. Any physician required to report in accordance with this
272 act who has not submitted a report, or has submitted only an
273 incomplete report, more than six (6) months following the due
274 date, may, in an action brought by the department, be directed by
275 a court of competent jurisdiction to submit a complete report
276 within a period stated by court order or be subject to civil
277 contempt. Intentional or reckless failure by any physician to
278 conform to any requirement of this section, other than late filing
279 of a report, constitutes "unprofessional conduct." Intentional or
280 reckless failure by any physician to submit a complete report in
281 accordance with a court order constitutes "unprofessional
282 conduct." Intentional or reckless falsification of any report
283 required under this section is a misdemeanor punishable by a fine
284 of up to One Thousand Dollars (\$1,000.00) or imprisonment in the
285 county jail for up to one (1) year, or both.

286 (5) Within ninety (90) days of the effective date of this
287 act, the Department of Health shall adopt and promulgate forms and
288 regulations to assist in compliance with this section. Subsection
289 (1) of this section shall take effect so as to require reports



290 regarding all abortions performed or induced on and after the
291 first day of the first calendar month following the effective date
292 of such rules.

293 **SECTION 7.** Any person who intentionally or recklessly
294 performs or induces or attempts to perform or induce an abortion
295 in violation of this act shall be guilty of a felony punishable by
296 a fine of up to Five Thousand Dollars (\$5,000.00) or imprisonment
297 in the custody of the Department of Corrections for up to five (5)
298 years, or both. No penalty may be assessed against the woman upon
299 whom the abortion is performed or induced or attempted to be
300 performed or induced.

301 **SECTION 8.** (1) Any woman upon whom an abortion has been
302 performed or induced in violation of this act, or the father of
303 the unborn child who was the subject of such an abortion, may
304 maintain an action against the person who performed or induced the
305 abortion in intentional or reckless violation of this act for
306 actual and punitive damages. Any woman upon whom an abortion has
307 been attempted in violation of this act may maintain an action
308 against the person who attempted to perform or induce the abortion
309 in an intentional or reckless violation of this act for actual and
310 punitive damages.

311 (2) A cause of action for injunctive relief against any
312 person who has intentionally or recklessly violated this act may
313 be maintained by the woman upon whom an abortion was performed or
314 induced or attempted to be performed or induced in violation of
315 this act; by any person who is the spouse, parent, sibling or
316 guardian of, or a current or former licensed health care provider
317 of, the woman upon whom an abortion has been performed or induced
318 or attempted to be performed or induced in violation of this act;
319 by a county attorney with appropriate jurisdiction; or by the
320 Attorney General. The injunction shall prevent the abortion
321 provider from performing or inducing or attempting to perform or
322 induce further abortions in violation of this act in this state.



323 (3) If judgment is rendered in favor of the plaintiff in an
324 action described in this section, the court shall also render
325 judgment for a reasonable attorney's fee in favor of the plaintiff
326 against the defendant.

327 (4) If judgment is rendered in favor of the defendant and
328 the court finds that the plaintiff's suit was frivolous and
329 brought in bad faith, the court shall also render judgment for a
330 reasonable attorney's fee in favor of the defendant against the
331 plaintiff.

332 (5) No damages or attorney's fee may be assessed against the
333 woman upon whom an abortion was performed or induced or attempted
334 to be performed or induced except in accordance with subsection
335 (4) of this section.

336 **SECTION 9.** In every civil or criminal proceeding or action
337 brought under this act, the court shall rule whether the anonymity
338 of any woman upon whom an abortion has been performed or induced
339 or attempted to be performed or induced shall be preserved from
340 public disclosure if she does not give her consent to such
341 disclosure. The court, upon motion or sua sponte, shall make such
342 a ruling and, upon determining that her anonymity should be
343 preserved, shall issue orders to the parties, witnesses, and
344 counsel and shall direct the sealing of the record and exclusion
345 of individuals from courtrooms or hearing rooms to the extent
346 necessary to safeguard her identity from public disclosure. Each
347 such order shall be accompanied by specific written findings
348 explaining why the anonymity of the woman should be preserved from
349 public disclosure, why the order is essential to that end, how the
350 order is narrowly tailored to serve that interest, and why no
351 reasonable less restrictive alternative exists. In the absence of
352 written consent of the woman upon whom an abortion has been
353 performed or induced or attempted to be performed or induced,
354 anyone, other than a public official, who brings an action under
355 subsections (1) or (2) of Section 8 shall do so under a pseudonym.



356 This section may not be construed to conceal the identity of the
357 plaintiff or of witnesses from the defendant or from attorneys for
358 the defendant.

359 **SECTION 10.** (1) There is created in the state treasury a
360 special fund known as the Pain-Capable Unborn Child Protection Act
361 Litigation Fund for the purpose of providing funds to pay for any
362 costs and expenses incurred by the Attorney General in relation to
363 actions surrounding defense of this law.

364 (2) The fund shall be maintained by the Department of
365 Health.

366 (3) The fund shall consist of: (a) appropriations made to
367 the account by the Legislature; (b) any donations, gifts, or
368 grants made to the account.

369 (4) The fund shall retain the interest income derived from
370 the monies credited to the fund and any monies remaining in the
371 fund at the end of a fiscal year shall remain in the fund.

372 **SECTION 11.** This act shall not be construed to repeal,
373 expand or modify, by implication or otherwise, any other provision
374 of law or any otherwise applicable provision of law regulating or
375 restricting abortion. An abortion that complies with this act but
376 violates the provisions of any other provision of law or any
377 otherwise applicable provision of law shall be deemed unlawful as
378 provided in such provision. An abortion that complies with the
379 provisions of any other provision of law or any otherwise
380 applicable provision of law regulating or restricting abortion but
381 violates this act shall be governed by such other provision of
382 law. If some or all of the provisions of this act are ever
383 temporarily or permanently restrained or enjoined by judicial
384 order, all other provisions of law regulating or restricting
385 abortion shall be enforced as though such restrained or enjoined
386 provisions had not been adopted; provided, however, that whenever
387 such temporary or permanent restraining order of injunction is



388 stayed or dissolved, or otherwise ceases to have effect, such
389 provisions shall have full force and effect.

390 **SECTION 12.** Section 41-41-33, Mississippi Code of 1972, is
391 amended as follows:

392 41-41-33. (1) Except as otherwise provided in House Bill
393 No. _____, 2012 Regular Session, no abortion shall be performed or
394 induced except with the voluntary and informed consent of the
395 woman upon whom the abortion is to be performed or induced.
396 Except in the case of a medical emergency, consent to an abortion
397 is voluntary and informed if and only if:

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

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

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

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

410 (iv) The medical risks associated with carrying
411 her child to term.

412 (b) The woman is informed, by the physician or his
413 agent, orally and in person, at least twenty-four (24) hours
414 before the abortion:

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

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



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

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

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

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

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

446 **SECTION 13.** Section 41-41-53, Mississippi Code of 1972, is
447 amended as follows:

448 41-41-53. (1) Except as otherwise provided in House Bill
449 No. _____, 2012 Regular Session and in subsections (2) and (3) of
450 this section, no person shall perform an abortion upon an
451 unemancipated minor unless he or his agent first obtains the



452 written consent of both parents or the legal guardian of the
453 minor.

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

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

462 (c) If the minor's pregnancy was caused by sexual
463 intercourse with the minor's natural father, adoptive father or
464 stepfather, then the written consent of the minor's mother shall
465 be sufficient.

466 (3) A minor who elects not to seek or does not obtain
467 consent from her parents or legal guardian under this section may
468 petition, on her own behalf or by next friend, the chancery court
469 in the county in which the minor resides or in the county in which
470 the abortion is to be performed for a waiver of the consent
471 requirement of this section pursuant to the procedures of Section
472 41-41-55.

473 **SECTION 14.** Section 41-41-77, Mississippi Code of 1972, is
474 amended as follows:

475 41-41-77. (1) A physician shall file a written report with
476 the State Department of Health regarding each patient who comes
477 under the physician's professional care and requires medical
478 treatment or suffers death that the attending physician has a
479 reasonable basis to believe is a primary, secondary, or tertiary
480 result of an induced abortion.

481 (2) These reports shall be submitted within thirty (30) days
482 of the discharge or death of the patient treated for the
483 complication.



484 (3) The department shall summarize aggregate data from the
485 reports required under this section for purposes of inclusion into
486 the annual Vital Statistics Report.

487 (4) The department shall develop and distribute or make
488 available online in a downloadable format a standardized form for
489 the report required under this section.

490 (5) The department shall communicate this reporting
491 requirement to all medical professional organizations, licensed
492 physicians, hospitals, emergency rooms, abortion facilities,
493 Department of Health clinics and ambulatory surgical facilities
494 operating in the state.

495 (6) The department shall destroy each individual report
496 required by this section and each copy of the report after
497 retaining the report for five (5) years after the date the report
498 is received.

499 (7) The report required under this section shall not contain
500 the name of the woman, common identifiers such as her social
501 security number or motor vehicle operator's license number or
502 other information or identifiers that would make it possible to
503 identify in any manner or under any circumstances an individual
504 who has obtained or seeks to obtain an abortion. A state agency
505 shall not compare data in an electronic or other information
506 system file with data in another electronic or other information
507 system that would result in identifying in any manner or under any
508 circumstances an individual obtaining or seeking to obtain an
509 abortion. Statistical information that may reveal the identity of
510 a woman obtaining or seeking to obtain an abortion shall not be
511 maintained.

512 (8) The department or an employee of the department shall
513 not disclose to a person or entity outside the department the
514 reports or the contents of the reports required under this section
515 in a manner or fashion as to permit the person or entity to whom



516 the report is disclosed to identify in any way the person who is
517 the subject of the report.

518 (9) Disclosure of confidential identifying information in
519 violation of this section shall constitute a felony which, upon
520 conviction, shall be punished by imprisonment in the State
521 Penitentiary for not more than three (3) years, or a fine of not
522 more than Five Thousand Dollars (\$5,000.00), or both.

523 (10) Physicians shall comply with the reporting requirements
524 of House Bill No. , 2012 Regular Session.

525 **SECTION 15.** This act shall take effect and be in force from
526 and after July 1, 2012.

