

By: Representative Gipson

To: Public Health and Human
Services

HOUSE BILL NO. 1292

1 AN ACT TO AMEND SECTIONS 41-41-31 AND 41-41-33, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE THAT AT LEAST 24 HOURS BEFORE AN ABORTION
3 IS PERFORMED, THE PHYSICIAN WHO IS TO PERFORM THE ABORTION SHALL
4 PERFORM A SONOGRAM ON THE WOMAN ON WHOM THE ABORTION IS TO BE
5 PERFORMED, DISPLAY THE SONOGRAM IMAGES IN A QUALITY CONSISTENT
6 WITH CURRENT MEDICAL PRACTICE IN A MANNER THAT THE WOMAN MAY VIEW
7 THEM, PROVIDE A VERBAL EXPLANATION OF THE RESULTS OF THE SONOGRAM
8 IMAGES, MAKE AUDIBLE THE HEART AUSCULTATION OF THE UNBORN CHILD
9 FOR THE WOMAN TO HEAR, AND PROVIDE A SIMULTANEOUS VERBAL
10 EXPLANATION OF THE HEART AUSCULTATION; TO PROVIDE THAT BEFORE
11 RECEIVING A SONOGRAM AND BEFORE THE ABORTION IS PERFORMED, THE
12 WOMAN MUST COMPLETE AND CERTIFY WITH HER SIGNATURE AN ELECTION
13 FORM STATING CERTAIN INFORMATION; TO PROVIDE THAT BEFORE THE
14 ABORTION IS PERFORMED, A COPY OF THE WOMAN'S SIGNED, WRITTEN
15 CERTIFICATION RECEIVED BY THE PHYSICIAN MUST BE PLACED IN THE
16 WOMAN'S MEDICAL RECORDS; TO PROVIDE THAT A WOMAN MAY CHOOSE NOT TO
17 VIEW THE SONOGRAM IMAGES REQUIRED TO BE PROVIDED TO AND REVIEWED
18 WITH HER AND MAY CHOOSE NOT TO HEAR THE HEART AUSCULTATION
19 REQUIRED TO BE PROVIDED TO AND REVIEWED WITH HER; TO PROVIDE THAT
20 A WOMAN MAY CHOOSE NOT TO RECEIVE THE VERBAL EXPLANATION OF THE
21 RESULTS OF THE SONOGRAM IMAGES IF THE WOMAN'S PREGNANCY IS A
22 RESULT OF A SEXUAL ASSAULT, INCEST OR OTHER VIOLATION OF
23 MISSISSIPPI LAW, THE WOMAN IS A MINOR AND OBTAINING AN ABORTION IN
24 ACCORDANCE WITH JUDICIAL WAIVER OF CONSENT PROCEDURES, OR THE
25 UNBORN CHILD HAS AN IRREVERSIBLE MEDICAL CONDITION OR ABNORMALITY;
26 TO PROVIDE THAT THE PHYSICIAN AND THE WOMAN ARE NOT SUBJECT TO A
27 PENALTY SOLELY BECAUSE THE WOMAN CHOOSES NOT TO VIEW SONOGRAM
28 IMAGES, HEAR THE HEART AUSCULTATION, OR RECEIVE THE VERBAL
29 EXPLANATION, IF WAIVED AS PROVIDED BY THIS SECTION; TO REPEAL
30 SECTION 41-41-34, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE
31 PERFORMANCE OF FETAL ULTRASOUND IMAGING AND AUSCULTATION OF FETAL
32 HEART TONE SERVICES BEFORE PERFORMING AN ABORTION AND PROVIDING
33 THE PATIENT WITH THE OPPORTUNITY TO VIEW THE ULTRASOUND IMAGE AND
34 HEAR THE HEARTBEAT; AND FOR RELATED PURPOSES.



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

36 **SECTION 1.** Section 41-41-31, Mississippi Code of 1972, is
37 amended as follows:

38 41-41-31. The following words and phrases shall have the
39 meanings ascribed in this section unless the context clearly
40 indicates otherwise:

41 (a) "Abortion" means the use or prescription of any
42 instrument, medicine, drug or any other substance or device to
43 terminate the pregnancy of a woman known to be pregnant with an
44 intention other than to increase the probability of a live birth,
45 to preserve the life or health of the child after live birth or to
46 remove a dead fetus.

47 (b) "Medical emergency" means that condition which, on
48 the basis of the physician's best clinical judgment, so
49 complicates a pregnancy as to necessitate an immediate abortion to
50 avert the death of the mother or for which a twenty-four-hour
51 delay will create grave peril of immediate and irreversible loss
52 of major bodily function.

53 (c) "Probable gestational age of the unborn child"
54 means what, in the judgment of the attending physician, will with
55 reasonable probability be the gestational age of the unborn child
56 at the time the abortion is planned to be performed or induced.

57 (d) "Sonogram" means the use of ultrasonic waves for
58 diagnostic or therapeutic purposes, specifically to monitor an
59 unborn child.



60 **SECTION 2.** Section 41-41-33, Mississippi Code of 1972, is
61 amended as follows:

62 41-41-33. (1) No abortion shall be performed or induced
63 except with the voluntary and informed consent of the woman upon
64 whom the abortion is to be performed or induced. Except in the
65 case of a medical emergency, consent to an abortion is voluntary
66 and informed if and only if:

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

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

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

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

79 (iv) The medical risks associated with carrying
80 her child to term.

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



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

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

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

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

104 (c) Before any sedative or anesthesia is administered
105 to the woman and at least twenty-four (24) hours before the
106 abortion is performed or induced, or at least two (2) hours before
107 the abortion is performed or induced if the woman waives this
108 requirement by certifying that she currently lives one hundred



109 (100) miles or more from the nearest abortion facility licensed
110 under Section 41-75-1 et seq. or a facility that performs more
111 than fifty (50) abortions in any twelve-month period:

112 (i) The physician who is to perform or induce the
113 abortion or an agent of the physician who is also a sonographer
114 certified by a national registry of medical sonographers performs
115 a sonogram on the woman on whom the abortion is to be performed or
116 induced. The sonogram image must be of a quality consistent with
117 standard medical practice in the community, shall contain the
118 dimensions of the unborn child and shall accurately portray the
119 presence of external members and internal organs, if present or
120 viewable, of the unborn child;

121 (ii) The physician who is to perform or induce the
122 abortion displays the sonogram images in a quality consistent with
123 current medical practice in a manner that the woman may view them;

124 (iii) The physician who is to perform or induce
125 the abortion provides, in a manner understandable to a layperson,
126 a verbal explanation of the results of the sonogram images,
127 including a medical description of the dimensions of the unborn
128 child, the presence of cardiac activity, and the presence of
129 external members and internal organs; and

130 (iv) The physician who is to perform or induce the
131 abortion or an agent of the physician who is also a sonographer
132 certified by a national registry of medical sonographers makes
133 audible the heart auscultation of the unborn child for the woman



134 to hear, if present, in a quality consistent with current medical
135 practice and provides, in a manner understandable to a layperson,
136 a simultaneous verbal explanation of the heart auscultation;

137 (d) Before receiving a sonogram as required under
138 paragraph (c)(i) of this subsection and before the abortion is
139 performed or induced and before any sedative or anesthesia is
140 administered, the woman completes and certifies with her signature
141 an election form that states as follows:

142 "ABORTION AND SONOGRAM ELECTION

143 (1) The information described in Section 41-41-33(1)(a) and
144 (b), Mississippi Code of 1972, has been provided and explained to
145 me, and I have been informed of my opportunity to review the
146 printed materials referred to in Section 41-41-33(1)(b)(iv),
147 Mississippi Code of 1972.

148 (2) I understand the nature and consequences of an abortion.

149 (3) Mississippi law requires that I receive a sonogram
150 before receiving an abortion.

151 (4) I understand that I have the option to view the sonogram
152 images of the unborn child.

153 (5) I understand that I have the option to hear the
154 heartbeat of the unborn child.

155 (6) I understand that I am required by law to hear an
156 explanation of the sonogram images unless I certify in writing to
157 one of the following:



158 I am pregnant as a result of a sexual assault, incest or
159 other violation of the Mississippi law that has been reported to
160 law enforcement authorities or that has not been reported because
161 I reasonably believe that doing so would put me at risk of
162 retaliation resulting in serious bodily injury.

163 I am a minor and obtaining an abortion in accordance with
164 judicial waiver of consent procedures under Sections 41-41-51
165 through 41-41-63, Mississippi Code of 1972.

166 My unborn child has an irreversible medical condition or
167 abnormality, as identified by reliable diagnostic procedures and
168 documented in my medical file.

169 (7) I am making this election of my own free will and
170 without coercion.

171 (8) For a woman who lives 100 miles or more from the nearest
172 abortion provider that is a facility licensed under Section
173 41-75-1 et seq., Mississippi Code of 1972, or a facility that
174 performs more than 50 abortions in any 12-month period only:

175 I certify that, because I currently live 100 miles or more
176 from the nearest abortion provider that is a facility licensed
177 under Section 41-75-1 et seq., Mississippi Code of 1972, or a
178 facility that performs more than 50 abortions in any 12-month
179 period, I waive the requirement to wait 24 hours after the
180 sonogram is performed before receiving the abortion procedure. My
181 place of residence is: _____ .



182 Signature _____ Date _____ " .

183 (* * *e) Before the abortion is performed or induced,
184 the physician who is to perform or induce the abortion receives a
185 copy of the written certification prescribed by paragraph (d) of
186 this subsection.

187 (2) (a) Before the abortion is performed or induced, a copy
188 of the signed, written certification received by the physician
189 under subsection (1) (e) of this section must be placed in the
190 woman's medical records.

191 (b) A copy of the signed, written certification
192 required under subsection (1) (d) and (e) of this section shall be
193 retained by the facility where the abortion is performed or
194 induced until:

195 (i) The seventh anniversary of the date it is
196 signed; or

197 (ii) If the woman is a minor, the later of:

198 1. The seventh anniversary of the date it is
199 signed; or

200 2. The woman's twenty-first birthday.

201 (3) (a) A woman may choose not to view the sonogram images
202 required to be provided to and reviewed with the woman under
203 subsection (1) (d) of this section.

204 (b) A woman may choose not to hear the heart
205 auscultation required to be provided to and reviewed with the
206 woman under subsection (1) (d) of this section.



207 (c) A woman may choose not to receive the verbal
208 explanation of the results of the sonogram images under subsection
209 (1)(d)(iii) if:

210 (i) The woman's pregnancy is a result of a sexual
211 assault, incest or other violation of Mississippi law that has
212 been reported to law enforcement authorities or that has not been
213 reported because she has a reason that she declines to reveal
214 because she reasonably believes that to do so would put her at
215 risk of retaliation resulting in serious bodily injury;

216 (ii) The woman is a minor and obtaining an
217 abortion in accordance with the judicial waiver of consent
218 procedures under Sections 41-41-51 through 41-41-63; or

219 (iii) The unborn child has an irreversible medical
220 condition or abnormality, as previously identified by reliable
221 diagnostic procedures and documented in the woman's medical file.

222 (d) The physician and the woman are not subject to a
223 penalty under Sections 41-41-31 through 41-41-35 solely because
224 the woman chooses not to view sonogram images, hear the heart
225 auscultation, or receive the verbal explanation, if waived as
226 provided by this section.

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

230 **SECTION 3.** Section 41-41-34, Mississippi Code of 1972, which
231 requires the performance of fetal ultrasound imaging and



232 auscultation of fetal heart tone services before performing an
233 abortion and providing the patient with the opportunity to view
234 the ultrasound image and hear the heartbeat, is repealed.

235 **SECTION 4.** If any provision of this act is found to be
236 unconstitutional, the provision is severable, and the other
237 provisions of this act remain effective. Nothing in this act may
238 be construed to repeal, by implication or otherwise, any provision
239 not explicitly repealed.

240 **SECTION 5.** This act shall take effect and be in force from
241 and after July 1, 2013.

