

By: Senator(s) Gandy

To: Public Health and
Welfare

SENATE BILL NO. 2138

1 AN ACT TO AMEND SECTIONS 41-41-33, 41-41-34 AND 41-41-53,
2 MISSISSIPPI CODE OF 1972, TO INCREASE THE MINIMUM WAITING PERIOD
3 BEFORE A WOMAN CAN HAVE AN ABORTION FROM 24 HOURS TO 72 HOURS; AND
4 FOR RELATED PURPOSES.

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

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

8 41-41-33. (1) No abortion shall be performed or induced
9 except with the voluntary and informed consent of the woman upon
10 whom the abortion is to be performed or induced. Except in the
11 case of a medical emergency, consent to an abortion is voluntary
12 and informed if and only if:

13 (a) The woman is told the following by the physician
14 who is to perform or induce the abortion or by the referring
15 physician, orally and in person, at least * * * seventy-two (72)
16 hours before the abortion:

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



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

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

25 (iv) The medical risks associated with carrying
26 her child to term.

27 (b) The woman is informed, by the physician or his
28 agent, orally and in person, at least * * * seventy-two (72) hours
29 before the abortion:

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

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

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

39 (iv) That she has the right to review the printed
40 materials described in Section 41-41-35(1) (a), (b) and (c). The
41 physician or his agent shall orally inform the woman that those
42 materials have been provided by the State of Mississippi and that
43 they describe the unborn child and list agencies that offer



44 alternatives to abortion. If the woman chooses to view those
45 materials, copies of them shall be furnished to her. The
46 physician or his agent may disassociate himself or themselves from
47 those materials, and may comment or refrain from comment on them
48 as he chooses. The physician or his agent shall provide the woman
49 with the printed materials described in Section 41-41-35(1)(d).

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

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

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

61 (3) If the provisions in subsection (1) of this section
62 requiring a seventy-two-hour waiting period for an abortion are
63 ever temporarily or permanently restrained or enjoined by judicial
64 order, then the waiting period for an abortion shall be
65 twenty-four (24) hours; provided, however, that if such temporary
66 or permanent restraining order or injunction is stayed or
67 dissolved, or otherwise ceases to have effect, the waiting period
68 for an abortion shall be seventy-two (72) hours.



69 **SECTION 2.** Section 41-41-34, Mississippi Code of 1972, is
70 amended as follows:

71 41-41-34. (1) Before the performance of an abortion, as
72 defined in Section 41-41-45, the physician who is to perform the
73 abortion, or a qualified person assisting the physician, shall:

74 (a) Perform fetal ultrasound imaging and auscultation
75 of fetal heart tone services on the patient undergoing the
76 abortion;

77 (b) Offer to provide the patient with an opportunity to
78 view the active ultrasound image of the unborn child and hear the
79 heartbeat of the unborn child if the heartbeat is audible at least
80 seventy-two (72) hours prior to the abortion;

81 (c) Offer to provide the patient with a physical
82 picture of the ultrasound image of the unborn child at least
83 seventy-two (72) hours prior to the abortion;

84 (d) Obtain the patient's signature on a certification
85 form stating that the patient has been given the opportunity, at
86 least seventy-two (72) hours prior to the abortion, to view the
87 active ultrasound image and hear the heartbeat of the unborn child
88 if the heartbeat is audible, and that she has been offered a
89 physical picture of the ultrasound image; and

90 (e) Retain a copy of the signed certification form in
91 the patient's medical record.

92 (2) The State Department of Health shall enforce the
93 requirements of this section.



94 (3) An ultrasound image must be of a quality consistent with
95 standard medical practice in the community, shall contain the
96 dimensions of the unborn child and shall accurately portray the
97 presence of external members and internal organs, if present or
98 viewable, of the unborn child.

99 **SECTION 3.** Section 41-41-53, Mississippi Code of 1972, is
100 amended as follows:

101 41-41-53. (1) Except as otherwise provided in subsections
102 (2) and (3) of this section, no person shall perform an abortion
103 upon an unemancipated minor unless he or his agent first obtains
104 the written consent of both parents or the legal guardian of the
105 minor, at least seventy-two (72) hours prior to the abortion.

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

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

114 (c) If the minor's pregnancy was caused by sexual
115 intercourse with the minor's natural father, adoptive father or
116 stepfather, then the written consent of the minor's mother shall
117 be sufficient.



118 (3) A minor who elects not to seek or does not obtain
119 consent from her parents or legal guardian under this section may
120 petition, on her own behalf or by next friend, the chancery court
121 in the county in which the minor resides or in the county in which
122 the abortion is to be performed for a waiver of the consent
123 requirement of this section pursuant to the procedures of Section
124 41-41-55.

125 **SECTION 4.** This act shall take effect and be in force from
126 and after July 1, 2015.

