

House Amendments to Senate Bill No. 2391

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

22 **SECTION 1.** Section 41-41-55, Mississippi Code of 1972, is
23 amended as follows:

24 41-41-55. (1) The requirements and procedures under
25 Sections 41-41-51 through 41-41-63 shall apply and are available
26 to minors whether or not they are residents of this state.

27 (2) The minor may participate in proceedings in the court on
28 her own behalf. The court shall advise her that she has a right
29 to court-appointed counsel and shall provide her with such counsel
30 upon her request or if she is not already adequately represented.

31 (3) Court proceedings under this section shall be
32 confidential and anonymous and shall be given such precedence over
33 other pending matters as is necessary to insure that the court may
34 reach a decision promptly, but in no case shall the court fail to
35 rule within seventy-two (72) hours of the time the application is
36 filed. If for any reason the court fails to rule within
37 seventy-two (72) hours of the time the application is filed, the
38 minor may proceed as if the consent requirement of Section
39 41-41-53 has been waived.

40 (4) Consent shall be waived if the court finds by clear and
41 convincing evidence either:

42 (a) That the minor is mature and well-informed enough
43 to make the abortion decision on her own; or

44 (b) That performance of the abortion would be in the
45 best interests of the minor.

46 (5) A court that conducts proceedings under this section
47 shall issue written and specific factual findings and legal

48 conclusions supporting its decision and shall order that a
49 confidential record of the evidence be maintained.

50 (6) An expedited confidential and anonymous appeal shall be
51 available to any minor to whom the court denies a waiver of
52 consent. The Mississippi Supreme Court shall issue promptly such
53 rules and regulations as are necessary to insure that proceedings
54 under Sections 41-41-51 through 41-41-63 are handled in an
55 expeditious, confidential and anonymous manner.

56 (7) No filing fees shall be required of any minor who avails
57 herself of the procedures provided by this section.

58 **SECTION 2.** (1) As used in this section, the term "abortion"
59 means the use or prescription of any instrument, medicine, drug or
60 any other substance or device to terminate the pregnancy of a
61 woman known to be pregnant with an intention other than to
62 increase the probability of a live birth, to preserve the life or
63 health of the child after live birth or to remove a dead fetus.

64 (2) No abortion shall be performed or induced in the State
65 of Mississippi, except in the case where necessary for the
66 preservation of the mother's life or where the pregnancy was
67 caused by rape.

68 (3) For the purposes of this act, rape shall be an exception
69 to the prohibition for an abortion only if a formal charge of rape
70 has been filed with an appropriate law enforcement official.

71 (4) Any person, except the pregnant woman, who purposefully,
72 knowingly or recklessly performs or attempts to perform or induce
73 an abortion in the State of Mississippi, except in the case where
74 necessary for the preservation of the mother's life or where the
75 pregnancy was caused by rape, upon conviction, shall be punished
76 by imprisonment in the custody of the Department of Corrections
77 for not less than one (1) year nor more than ten (10) years.

78 **SECTION 3.** The provisions of this section shall be codified
79 as Section 41-41-34, Mississippi Code of 1972:

80 **41-41-34.** (1) Before the performance of an abortion, as
81 defined in Section 2 of this act, the physician who is to perform

82 the abortion, or a qualified person assisting the physician,
83 shall:

84 (a) Perform fetal ultrasound imaging and auscultation
85 of fetal heart tone services on the patient undergoing the
86 abortion;

87 (b) Offer to provide the patient with an opportunity to
88 view the active ultrasound image of the unborn child and hear the
89 heartbeat of the unborn child if the heartbeat is audible;

90 (c) Offer to provide the patient with a physical
91 picture of the ultrasound image of the unborn child;

92 (d) Obtain the patient's signature on a certification
93 form stating that the patient has been given the opportunity to
94 view the active ultrasound image and hear the heartbeat of the
95 unborn child if the heartbeat is audible, and that she has been
96 offered a physical picture of the ultrasound image; and

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

99 (2) The State Department of Health shall enforce the
100 requirements of this section.

101 (3) An ultrasound image must be of a quality consistent with
102 standard medical practice in the community, shall contain the
103 dimensions of the unborn child and shall accurately portray the
104 presence of external members and internal organs, if present or
105 viewable, of the unborn child.

106 **SECTION 4.** At such time as the Attorney General of
107 Mississippi determines that the United States Supreme Court has
108 overruled the decision of Roe v. Wade, 410 U.S. 113 (1973), and
109 that as a result, it is reasonably probable that Section 2 of this
110 act would be upheld by the court as constitutional, the Attorney
111 General shall publish his determination of that fact in the
112 administrative bulletin published by the Secretary of State as
113 provided in Section 25-43-2.101, Mississippi Code of 1972.

114 **SECTION 5.** (1) If any provision of this act is found to be
115 unconstitutional, the provision is severable; and the other

116 provisions of this act remain effective, except as provided in
117 other sections of this act.

118 (2) Nothing in this act may be construed to repeal, by
119 implication or otherwise, any provision not explicitly repealed.

120 (3) If any provision of this act is ever declared
121 unconstitutional or its enforcement temporarily or permanently
122 restricted or enjoined by judicial order, the provisions of
123 Sections 41-41-31 through 41-41-91, Mississippi Code of 1972,
124 shall be enforced. However, if such temporary or permanent
125 restraining order or injunction is subsequently stayed or
126 dissolved or such declaration vacated or any similar court order
127 otherwise ceases to have effect, all provisions of this act that
128 are not declared unconstitutional or whose enforcement is not
129 restrained shall have full force and effect.

130 (4) Nothing in the provisions of Sections 41-41-31 through
131 41-41-91, Mississippi Code of 1972, shall be construed to permit
132 any action that is prohibited by Senate Bill No. 2391, 2007
133 Regular Session, and to the extent that any provision of Sections
134 41-41-31 through 41-41-91, Mississippi Code of 1972, would be so
135 construed, then the provisions of Senate Bill No. 2391, 2007
136 Regular Session, shall take precedence.

137 **SECTION 6.** Sections 1, 3, 4 and 5 of this act shall take
138 effect from and after July 1, 2007. Section 2 of this act shall
139 take effect and be in force from and after ten (10) days following
140 the date of publication by the Attorney General of Mississippi in
141 the administrative bulletin published by the Secretary of State as
142 provided in Section 25-43-2.101, Mississippi Code of 1972, that
143 the Attorney General has determined that the United States Supreme
144 Court has overruled the decision of Roe v. Wade, 410 U.S. 113
145 (1973), and that it is reasonably probable that Section 2 of this
146 act would be upheld by the court as constitutional.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-41-55, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF A COURT GRANTS A WAIVER OF PARENTAL CONSENT TO

3 A MINOR SEEKING AN ABORTION, THE COURT SHALL MAKE CERTAIN REQUIRED
4 FINDINGS BY CLEAR AND CONVINCING EVIDENCE; TO PROHIBIT ABORTIONS
5 IN THE STATE OF MISSISSIPPI, EXCEPT IN CASES WHERE NECESSARY FOR
6 THE PRESERVATION OF THE MOTHER'S LIFE OR WHERE THE PREGNANCY WAS
7 CAUSED BY RAPE; TO PROVIDE THAT THIS PROHIBITION SHALL BECOME
8 EFFECTIVE ONLY UPON A DETERMINATION BY THE STATE ATTORNEY GENERAL
9 THAT THE UNITED STATES SUPREME COURT HAS OVERRULED THE DECISION OF
10 ROE V. WADE, WHICH HAS THE EFFECT OF HOLDING UNCONSTITUTIONAL ANY
11 STATE LAW THAT SEEKS TO CREATE SUCH A PROHIBITION; TO REQUIRE THAT
12 BEFORE THE PERFORMANCE OF AN ABORTION, THE PHYSICIAN SHALL PERFORM
13 FETAL ULTRASOUND IMAGING AND AUSCULTATION OF FETAL HEART TONE
14 SERVICES; TO REQUIRE THE PHYSICIAN TO OFFER THE PATIENT AN
15 OPPORTUNITY TO VIEW THE ULTRASOUND IMAGE AND LISTEN TO THE
16 HEARTBEAT OF THE UNBORN CHILD, IF THE HEARTBEAT IS AUDIBLE; TO
17 REQUIRE THE PATIENT TO SIGN A CERTIFICATION FORM STATING THAT SHE
18 HAS BEEN GIVEN THAT OPPORTUNITY; TO REQUIRE THE PHYSICIAN TO
19 RETAIN A COPY OF THE SIGNED CERTIFICATION FORM IN THE PATIENT'S
20 MEDICAL RECORD; AND FOR RELATED PURPOSES.

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Don Richardson
Clerk of the House of Representatives