

115TH CONGRESS
2D SESSION

H. R. 4844

To ensure that women seeking an abortion receive an ultrasound and the opportunity to review the ultrasound before giving informed consent to receive an abortion.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 2018

Mr. DUNCAN of South Carolina (for himself, Mr. ROE of Tennessee, Mr. PEARCE, Mr. JONES, Mr. RUSSELL, Mr. LONG, Mr. NORMAN, Mr. CULBERSON, Mr. FLORES, Mr. LATA, Mr. JODY B. HICE of Georgia, Mr. BUCK, Mr. BIGGS, Mr. KELLY of Mississippi, and Mr. PERRY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure that women seeking an abortion receive an ultrasound and the opportunity to review the ultrasound before giving informed consent to receive an abortion.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ultrasound Informed
5 Consent Act”.

1 **SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE**
2 **ACT.**

3 The Public Health Service Act (42 U.S.C. 201 et
4 seq.) is amended by adding at the end the following:

5 **“TITLE XXXIV—INFORMED**
6 **CONSENT**

7 **“SEC. 3401. DEFINITIONS.**

8 “In this title:

9 “(1) ABORTION.—The term ‘abortion’ means
10 the intentional use or prescription of any instru-
11 ment, medicine, drug, substance, device, or method
12 to terminate the life of an unborn child, or to termi-
13 nate the pregnancy of a woman known to be preg-
14 nant, with an intention other than—

15 “(A) to produce a live birth and preserve
16 the life and health of the child after live birth;
17 or

18 “(B) to remove an ectopic pregnancy, or to
19 remove a dead unborn child who died as the re-
20 sult of a spontaneous abortion, accidental trau-
21 ma, or a criminal assault on the pregnant fe-
22 male or her unborn child.

23 “(2) ABORTION PROVIDER.—The term ‘abortion
24 provider’ means any person legally qualified to per-
25 form an abortion under applicable Federal and State
26 laws.

1 “(3) UNBORN CHILD.—The term ‘unborn child’
2 means a member of the species homo sapiens, at any
3 stage of development prior to birth.

4 “(4) UNEMANCIPATED MINOR.—The term
5 ‘unemancipated minor’ means a minor who is sub-
6 ject to the control, authority, and supervision of his
7 or her parent or guardian, as determined under
8 State law.

9 “(5) WOMAN.—The term ‘woman’ means a fe-
10 male human being whether or not she has reached
11 the age of majority.”.

12 **SEC. 3. REQUIREMENT OF INFORMED CONSENT.**

13 “(a) REQUIREMENT OF COMPLIANCE BY PRO-
14 VIDERS.—Any abortion provider in or affecting interstate
15 or foreign commerce, who knowingly performs any abor-
16 tion, shall comply with the requirements of this title.

17 “(b) PERFORMANCE AND REVIEW OF
18 ULTRASOUND.—Prior to a woman giving informed con-
19 sent to having any part of an abortion performed, the
20 abortion provider who is to perform the abortion, or an
21 agent under the supervision of the provider, shall—

22 “(1) perform an obstetric ultrasound on the
23 pregnant woman;

24 “(2) provide a simultaneous explanation of
25 what the ultrasound is depicting;

1 “(3) display the ultrasound images so that the
2 pregnant woman may view them; and

3 “(4) provide a complete medical description of
4 the ultrasound images, which shall include all of the
5 following: the dimensions of the embryo or fetus,
6 cardiac activity if present and visible, and the pres-
7 ence of external members and internal organs if
8 present and viewable.

9 “(c) ABILITY TO TURN EYES AWAY.—Nothing in
10 this section shall be construed to prevent a pregnant
11 woman from turning her eyes away from the ultrasound
12 images required to be displayed and described to her. Nei-
13 ther the abortion provider nor the pregnant woman shall
14 be subject to any penalty under this title if the pregnant
15 woman declines to look at the displayed ultrasound im-
16 ages.”.

17 **SEC. 4. EXCEPTION FOR MEDICAL EMERGENCIES.**

18 “(a) EXCEPTION.—The provisions of section 3402
19 shall not apply to an abortion provider if the abortion is
20 necessary to save the life of a mother whose life is endan-
21 gered by a physical disorder, physical illness, or physical
22 injury, including a life-endangering physical condition
23 caused by or arising from the pregnancy itself.

24 “(b) CERTIFICATION.—Upon a determination by an
25 abortion provider under subsection (a) that an abortion

1 is necessary to save the life of a mother, such provider
2 shall include in the medical file of the pregnant woman
3 a truthful and accurate certification of the specific medical
4 circumstances that support such determination.”.

5 **SEC. 5. PENALTIES FOR FAILURE TO COMPLY.**

6 “(a) CIVIL PENALTIES.—

7 “(1) IN GENERAL.—The Attorney General may
8 commence a civil action in Federal court under this
9 section against any abortion provider who knowingly
10 commits an act constituting a violation of this title
11 for a penalty in an amount not to exceed—

12 “(A) \$100,000 for each such violation that
13 is adjudicated in the first proceeding against
14 such provider under this title; and

15 “(B) \$250,000 for each violation of this
16 title that is adjudicated in a subsequent pro-
17 ceeding against such provider under this title.

18 “(2) NOTIFICATION.—Upon the assessment of
19 a civil penalty under paragraph (1), the Attorney
20 General shall notify the appropriate State medical li-
21 censing authority.

22 “(b) PRIVATE RIGHT OF ACTION.—A woman upon
23 whom an abortion has been performed in violation of this
24 title may commence a civil action against the abortion pro-
25 vider for any violation of this title for actual and punitive

1 damages. For purposes of the preceding sentence, actual
2 damages are objectively verifiable money damages for all
3 injuries.”.

4 **SEC. 6. PREEMPTION.**

5 Nothing in this Act or the amendments made by this
6 Act shall be construed to preempt any provision of State
7 law to the extent that such State law establishes, imple-
8 ments, or continues in effect disclosure requirements re-
9 garding abortion or penalties for failure to comply with
10 such requirements that are more extensive than those pro-
11 vided under the amendment made by this Act.

12 **SEC. 7. SEVERABILITY.**

13 If any provision of this Act, or any application there-
14 of, is found to be unconstitutional, the remainder of this
15 Act and any application thereof shall not be affected by
16 such finding.

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