

**CS FOR SENATE BILL NO. 30(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 5/6/03**

**Referred: Finance**

**Sponsor(s): SENATORS DYSON, Green, Taylor, Ogan, Cowdery, Seekins, Wagoner**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to information and services available to pregnant women and other**  
2 **persons; and ensuring informed consent before an abortion may be performed, except in**  
3 **cases of medical emergency."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 LEGISLATIVE FINDINGS. The legislature finds that

8 (1) duties of the state include regulating medical practice and fostering the  
9 development of standards of professional conduct in a critical area of practice;

10 (2) the state is interested in protecting the life and health of pregnant women;

11 (3) women have a right to know the medical risks associated with their  
12 reproductive options;

13 (4) the creation of an unbiased, scientific information site on the Internet that  
14 sufficiently describes reproductive options and their potential consequences will protect,

1 inform, and promote a woman's free and private choices between permanent and life-affecting  
2 alternatives;

3 (5) the creation of an unbiased, scientific information site on the Internet that  
4 sufficiently describes reproductive options and their potential consequences will reduce costly  
5 and undue litigation, will promote judicial economy and resources, and will provide  
6 physicians with a clear understanding of what constitutes informed consent for abortion by  
7 providing immunity to physicians who use the information from the Internet site;

8 (6) considerable testimony has been received at legislative hearings during the  
9 last three years indicating that women have obtained abortions in Alaska without considering  
10 sufficient information.

11 \* **Sec. 2.** AS 18.05 is amended by adding a new section to read:

12 **Sec. 18.05.032. Information relating to pregnancy and pregnancy**  
13 **alternatives.** (a) The department shall maintain on the Internet, in printable form,  
14 standard information that

15 (1) contains geographically indexed material designed to inform a  
16 person of public and private agencies and services that are available to assist a  
17 pregnant woman with the woman's reproductive choices; the department should  
18 include information about at least the following types of agencies and services:

19 (A) agencies and services designed to assist a woman through  
20 pregnancy, including adoption agencies and counseling services; and

21 (B) clinics and facilities that provide abortion options and  
22 counseling and post-abortion counseling and services;

23 (2) includes a comprehensive regional directory of the agencies and  
24 clinics identified by the department under (1) of this subsection, a description of the  
25 services they offer, and the manner in which the agencies and clinics may be  
26 contacted, including telephone numbers;

27 (3) provides information concerning eligibility to obtain medical  
28 assistance benefits for prenatal care, childbirth, and neonatal care, as well as  
29 information concerning eligibility to obtain medical assistance benefits for abortion  
30 services;

31 (4) states that informed and voluntary consent is required under

1 AS 18.16.060 for an abortion;

2 (5) states that the father of a child is liable to assist in the support of  
3 the child even in instances where the father has offered to pay for an abortion, and that  
4 the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal  
5 care;

6 (6) describes the fetal development of a typical unborn child at two-  
7 week gestational increments from fertilization to full-term, including photographs  
8 depicting the anatomical characteristics of a typical unborn child at two-week  
9 gestational increments, and relevant information about the possibility of an unborn  
10 child's survival at the various gestational ages; the fetal dimensions in the photographs  
11 must be accurately represented and shall be realistic and appropriate for the gestational  
12 age of an unborn child; the information must be objective, nonjudgmental, and  
13 designed to convey only accurate scientific information about unborn children at  
14 various gestational ages;

15 (7) contains objective, unbiased information that describes the methods  
16 of abortion procedures and treatments commonly employed and the medical risks and  
17 possible complications commonly associated with each procedure and treatment, as  
18 well as the possible psychological effects that have been associated with having an  
19 abortion;

20 (8) contains objective, unbiased information describing the possible  
21 medical risks and complications commonly associated with pregnancy and childbirth,  
22 as well as the possible psychological effects that have been associated with carrying an  
23 unborn child to term.

24 (b) The information required under (a) of this section must be written in easily  
25 comprehensible language and must be displayed in a typeface that is large enough to  
26 be clearly legible.

27 (c) In this section,

28 (1) "fertilization" means the fusion of a human spermatozoon with a  
29 human ovum;

30 (2) "gestational age" means the age of the unborn child as calculated  
31 from the first day of the last menstrual period of a pregnant woman;

1 (3) "informed consent" means consent that would be considered  
2 voluntary and informed under AS 18.16.060(b);

3 (4) "unborn child" means the offspring of a human being in utero at  
4 various stages of biological development.

5 \* **Sec. 3.** AS 18.16.010(a) is amended to read:

6 (a) An abortion may not be performed in this state unless

7 (1) the abortion is performed by a physician or surgeon licensed by the  
8 State Medical Board under AS 08.64.200;

9 (2) the abortion is performed in a hospital or other facility approved for  
10 the purpose by the Department of Health and Social Services or a hospital operated by  
11 the federal government or an agency of the federal government;

12 (3) before an abortion is knowingly performed or induced on an  
13 unmarried, unemancipated woman under 17 years of age, consent has been given as  
14 required under AS 18.16.020 or a court has authorized the minor to consent to the  
15 abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this  
16 paragraph, there is a rebuttable presumption that a woman who is unmarried and under  
17 17 years of age is unemancipated; [AND]

18 (4) the woman is domiciled or physically present in the state for 30  
19 days before the abortion; **and**

20 **(5) the applicable requirements of AS 18.16.060 have been**  
21 **satisfied.**

22 \* **Sec. 4.** AS 18.16.010 is amended by adding a new subsection to read:

23 (h) A person who performs or induces an abortion in violation of (a)(5) of this  
24 section is civilly liable to the pregnant woman for compensatory and punitive damages  
25 except that a person is immune from liability, for purposes of an action for damages  
26 under this subsection for failure to comply with AS 18.16.060(b)(1)(C), if the person  
27 demonstrates by a preponderance of the evidence that the person gave to the woman a  
28 written copy of the material maintained on the Internet under AS 18.05.032 before the  
29 abortion was performed or induced. In a civil action under this subsection, there is a  
30 rebuttable presumption that an abortion was performed without the pregnant woman's  
31 informed consent if the physician who performed the abortion does not submit into

1 evidence the copy of the woman's written certification required to be retained in the  
2 patient's files under AS 18.16.060(b)(3).

3 \* **Sec. 5.** AS 18.16 is amended by adding a new section to read:

4 **Sec. 18.16.060. Informed consent requirements.** (a) Except in the case of a  
5 medical emergency, a person may not knowingly perform or induce an abortion  
6 without the voluntary and informed consent of

7 (1) a woman on whom an abortion is to be performed or induced;

8 (2) the parent, guardian, or custodian of a pregnant, unemancipated  
9 minor if required under AS 18.16.020; or

10 (3) a pregnant, unemancipated minor if authorized by a court under  
11 AS 18.60.030.

12 (b) Consent to an abortion is voluntary and informed when all of the following  
13 conditions have been met:

14 (1) at least 24 hours before the abortion procedure, the physician who  
15 is to perform the abortion or the referring physician has orally informed the woman or  
16 another person whose consent is required of the

17 (A) name of the physician who will perform the procedure;

18 (B) gestational estimation of the pregnancy at the time the  
19 abortion is to be performed;

20 (C) nature and risks of undergoing or not undergoing the  
21 proposed procedure that a reasonable patient would consider material to  
22 making a voluntary and informed decision of whether to undergo the  
23 procedure; and

24 (D) availability of the information required to be maintained on  
25 the Internet under AS 18.05.032; if the person requests a written copy of the  
26 Internet information, the physician shall provide it;

27 (2) before the abortion, the woman or another person whose consent is  
28 required certifies in writing that the information required to be given under (1) of this  
29 subsection has been provided; and

30 (3) the physician who is to perform the abortion or a representative of  
31 the physician receives a copy of the written certificate required under (2) of this

1 subsection and retains a copy in the patient's file.

2 (c) The information required in (b)(1) of this section shall be provided  
3 individually and in a private setting to protect privacy, maintain the confidentiality of  
4 the decision, ensure that the information focuses on the individual circumstances, and  
5 ensure an adequate opportunity to ask questions.

6 (d) In this section, "medical emergency" means a condition that, on the basis  
7 of a physician's good faith clinical judgment, so complicates the medical condition of  
8 a pregnant woman that

9 (1) the immediate termination of the woman's pregnancy is necessary  
10 to avert the woman's death; or

11 (2) a delay in providing an abortion will create serious risk of  
12 substantial and irreversible impairment of a major bodily function of the woman.

13 \* **Sec. 6.** AS 18.50.245(e) is amended to read:

14 (e) The state registrar shall adopt regulations to implement this section. The  
15 regulations that establish the information that will be required in a report of an induced  
16 termination of pregnancy must require information substantially similar to the  
17 information required under the United States Standard Report of Induced Termination  
18 of Pregnancy, as published by the National Center for Health Statistics, Centers for  
19 Disease Control and Prevention, United States Department of Health and Human  
20 Services, in April 1998, as part of DHHS Publication No. (PHS) 98-1117. **The report**  
21 **must also include, if known, whether the patient requested and received a written**  
22 **copy of the information required to be maintained on the Internet under**  
23 **AS 18.05.032.**

24 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 SEVERABILITY. Under AS 01.10.030, the provisions of this Act are severable.