

SENATE BILL NO. 271

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATORS RAUSCHER, Tilton, Cronk, Myers

Introduced: 2/23/26

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to abortion; relating to civil enforcement of abortion laws; relating to**
2 **abortion after the detection of a fetal heartbeat; and amending Rules 3 and 82, Alaska**
3 **Rules of Civil Procedure, and Rule 508, Alaska Rules of Appellate Procedure."**

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 SHORT TITLE. This Act may be known as the Alaska Heartbeat Act.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 LEGISLATIVE FINDINGS. The legislature finds that, according to contemporary
11 medical research,

12 (1) fetal heartbeat has become a key medical predictor that an unborn child
13 will reach live birth;

14 (2) cardiac activity begins at a biologically identifiable moment in time,

1 normally when the fetal heart is formed in the gestational sac;

2 (3) the state has compelling interests from the outset of a woman's pregnancy
3 in protecting the health of the woman and the life of the unborn child; and

4 (4) to make an informed choice about whether to continue her pregnancy, a
5 woman has a compelling interest in knowing the likelihood of her unborn child surviving to
6 live birth based on the presence of cardiac activity.

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

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

9 (1) the abortion is performed by a physician licensed by the State
10 Medical Board under AS 08.64.200;

11 (2) the abortion is performed in a hospital or other facility approved for
12 the purpose by the Department of Health or a hospital operated by the federal
13 government or an agency of the federal government;

14 (3) before an abortion is knowingly performed or induced on a
15 pregnant, unmarried, unemancipated woman under 18 years of age, notice or consent
16 have been given as required under AS 18.16.020 or a court has authorized the minor to
17 proceed with the abortion without parental involvement under AS 18.16.030 and the
18 minor consents; for purposes of enforcing this paragraph, there is a rebuttable
19 presumption that a woman who is unmarried and under 18 years of age is
20 unemancipated;

21 (4) the woman is domiciled or physically present in the state for 30
22 days before the abortion; [AND]

23 (5) the applicable requirements of AS 18.16.060 have been satisfied;

24 **and**

25 **(6) the requirements of AS 18.16.100 and 18.16.110 have been**
26 **satisfied.**

27 * **Sec. 4.** AS 18.16.010(c) is amended to read:

28 (c) A person who knowingly violates a provision of this section, **other than**
29 **(a)(6) of this section,** upon conviction, is punishable by a fine of not more than
30 \$1,000, or by imprisonment for not more than five years, or by both.

31 * **Sec. 5.** AS 18.16.010(j) is amended to read:

1 (j) In an action under (h) of this section, there is a rebuttable presumption that
 2 an abortion was performed with the pregnant woman's informed consent if the person
 3 who performed the abortion submits into evidence a copy of the [WOMAN'S] written
 4 certification required under AS 18.16.060(b).

5 * **Sec. 6.** AS 18.16.060(b) is amended to read:

6 (b) Consent to an abortion is informed and voluntary when

7 **(1) the physician who is to perform the abortion** [WOMAN OR
 8 ANOTHER PERSON WHOSE CONSENT IS REQUIRED] certifies in writing that
 9 the physician [WHO IS TO PERFORM THE ABORTION], a member of the
 10 physician's staff who is a licensed health care provider, or the referring physician has
 11 verbally informed the woman or another person whose consent is required of the name
 12 of the physician who will perform the procedure and the gestational estimation of the
 13 pregnancy at the time the abortion is to be performed and has provided

14 **(A)** [EITHER (1)] the Internet information required to be
 15 maintained under AS 18.05.032; the physician or a member of the physician's
 16 staff who is a licensed health care provider shall provide a copy of the Internet
 17 information [IF A PERSON REQUESTS A WRITTEN COPY]; if a member
 18 of the physician's staff provides the information required under this paragraph,
 19 the member of the physician's staff shall offer the opportunity to consult with
 20 the physician;

21 **(B)** [OR (2)] information about the nature and risks of
 22 undergoing or not undergoing the proposed procedure that a reasonable patient
 23 would consider material to making a voluntary and informed decision of
 24 whether to undergo the procedure;

25 **(2) the physician who is to perform the abortion, or a member of**
 26 **the physician's staff who is a licensed health care provider, informs the woman of**
 27 **the particular medical risks associated with the procedure, including, when**
 28 **medically accurate,**

29 **(A) the risks of infection and hemorrhage;**

30 **(B) the potential danger to a subsequent pregnancy and of**
 31 **infertility;**

1 (C) the possibility of increased risk of breast cancer
 2 following a performed or induced abortion and the natural protective
 3 effect of a completed pregnancy in avoiding breast cancer; and

4 (D) the medical risks associated with carrying the child to
 5 term; and

6 (3) the woman is provided with the name of each person who
 7 provides or explains the information required by this subsection.

8 * **Sec. 7.** AS 18.16.090 is amended to read:

9 **Sec. 18.16.090. Definitions.** In AS 18.16.010 - 18.16.090 [THIS CHAPTER],

10 (1) "abortion" means the use or prescription of an instrument,
 11 medicine, drug, or other substance or device to terminate the pregnancy of a woman
 12 known to be pregnant, except that "abortion" does not include the termination of a
 13 pregnancy if done with the intent to

14 (A) save the life or preserve the health of the unborn child;

15 (B) deliver the unborn child prematurely to preserve the health
 16 of both the pregnant woman and the woman's child; or

17 (C) remove a dead unborn child;

18 (2) "unemancipated" means that a woman who is unmarried and under
 19 17 years of age has not done any of the following:

20 (A) entered the armed services of the United States;

21 (B) become employed and self-subsisting;

22 (C) been emancipated under AS 09.55.590; or

23 (D) otherwise become independent from the care and control of
 24 the woman's parent, guardian, or custodian.

25 * **Sec. 8.** AS 18.16 is amended by adding new sections to read:

26 **Article 2. Fetal Heartbeat; Additional Requirements.**

27 **Sec. 18.16.100. Determination of presence of fetal heartbeat required;**
 28 **record.** (a) Except as otherwise provided in AS 18.16.100 - 18.16.270, a physician
 29 may not knowingly perform or induce an abortion on a woman unless the physician
 30 has determined, in accordance with this section, whether the woman's unborn child has
 31 a detectable fetal heartbeat.

1 (b) In making a determination under (a) of this section, a physician shall use a
2 test that is

- 3 (1) consistent with standard medical practice; and
4 (2) appropriate for the estimated gestational age of the unborn child
5 and the condition of the woman and her pregnancy.

6 (c) A physician making a determination under (a) of this section shall record
7 in the woman's medical record

- 8 (1) the estimated gestational age of the unborn child;
9 (2) the method used to estimate the gestational age; and
10 (3) the test used for detecting a fetal heartbeat, the date and time the
11 test is performed, and the result of the test.

12 (d) In this section, "standard medical practice" means the degree of skill, care,
13 and diligence that a physician of ordinary judgment, learning, and skill would employ
14 in like circumstances.

15 **Sec. 18.16.110. Prohibited abortion of unborn child with detectable fetal**
16 **heartbeat; effect.** (a) Except as provided in AS 18.16.120 and 18.16.130, a physician
17 may not knowingly perform or induce an abortion on a woman if the physician detects
18 a fetal heartbeat for the unborn child or fails to perform a test in accordance with
19 AS 18.16.100 to detect a fetal heartbeat.

20 (b) A physician does not violate this section if the physician performs a test in
21 accordance with AS 18.16.100 to detect a fetal heartbeat and does not detect a fetal
22 heartbeat.

23 **Sec. 18.16.120. Exception for medical emergency; records.** (a)
24 AS 18.16.100 and 18.16.110 do not apply if a physician believes a medical emergency
25 exists that prevents compliance with those sections.

26 (b) A physician who performs or induces an abortion under circumstances
27 described in (a) of this section shall

- 28 (1) make written notations in the woman's medical record of
29 (A) the physician's belief that a medical emergency
30 necessitated the abortion; and
31 (B) the medical condition of the woman that prevented

1 compliance with AS 18.16.100 or 18.16.110; and

2 (2) maintain in the physician's practice records a copy of the notations
3 made under (1) of this subsection.

4 **Sec. 18.16.130. Exception for preemption and intergovernmental**
5 **immunity.** AS 18.16.100 and 18.16.110 do not apply to an abortion performed at the
6 behest of a federal agency, contractor, or employee that is carrying out duties under
7 federal law if a prohibition on the abortion would violate the doctrine of preemption or
8 doctrine of intergovernmental immunity.

9 **Sec. 18.16.140. Limitations on public enforcement.** Notwithstanding any
10 other provision of law, the requirements of AS 18.16.100 and 18.16.110 shall be
11 enforced exclusively through the private civil actions described in AS 18.16.150.
12 Except as provided in AS 18.16.150, the state, a political subdivision of the state, a
13 district attorney, or an officer or employee of the state or a political subdivision of the
14 state may not enforce or threaten to enforce, directly or indirectly, a provision of
15 AS 18.16.100 or 18.16.110 against a person, and a violation of AS 18.16.100 or
16 18.16.110 may not be used to justify or trigger the enforcement of another law or
17 adverse consequence under another law.

18 **Sec. 18.16.150. Civil liability.** (a) A person, other than the state, a political
19 subdivision of the state, or an officer or employee of a state or a political subdivision
20 of the state, may bring a civil action against another person who

21 (1) performs or induces an abortion in violation of AS 18.16.100 -
22 18.16.270;

23 (2) knowingly engages in conduct that aids or abets the performance or
24 inducement of an abortion, including paying for or reimbursing the costs of an
25 abortion through insurance or otherwise, if the abortion is performed or induced in
26 violation of AS 18.16.100 - 18.16.270, regardless of whether the person knows or
27 should know that the abortion is performed or induced in violation of AS 18.16.100 -
28 18.16.270; or

29 (3) intends to engage in the conduct described in (1) or (2) of this
30 subsection.

31 (b) If a claimant prevails in an action brought under this section, the court

1 shall award

2 (1) injunctive relief sufficient to prevent the defendant from violating
3 AS 18.16.100 - 18.16.270 or engaging in acts that aid or abet the performance of
4 abortions performed in violation of AS 18.16.100 - 18.16.270;

5 (2) statutory damages in an amount of not less than \$10,000 for each
6 abortion that the defendant performed or induced in violation of AS 18.16.100 -
7 18.16.270 and for each abortion performed or induced in violation of AS 18.16.100 -
8 18.16.270 of which the defendant aided or abetted the performance or inducement;

9 (3) nominal and compensatory damages if the plaintiff has suffered
10 injury or harm, including loss of consortium and emotional distress, resulting from the
11 defendant's conduct; and

12 (4) costs and attorney fees.

13 (c) Notwithstanding (b) of this section, a court may not award relief under
14 (b)(2) or (4) of this section in response to a violation of (a)(1) or (2) of this section if
15 the defendant demonstrates that the defendant previously paid the full amount of
16 statutory damages awarded under (b)(2) of this section in a previous action for that
17 particular abortion performed or induced in violation of AS 18.16.100 - 18.16.270, or
18 for the particular conduct that aided or abetted the performance or inducement of an
19 abortion performed or induced in violation of AS 18.16.100 - 18.16.270.

20 (d) Notwithstanding any other provision of law, a person may not bring an
21 action under this section unless the action is commenced within six years after the
22 accrual of the cause of action.

23 (e) The following are not defenses to an action brought under this section:

24 (1) a defendant's ignorance or mistake of law;

25 (2) a defendant's belief that the requirements of AS 18.16.100 -
26 18.16.270 are or were unconstitutional;

27 (3) a defendant's reliance on a court decision that has been overruled
28 on appeal or by a subsequent court, even if that court decision had not been overruled
29 when the defendant engaged in conduct that violates AS 18.16.100 - 18.16.270;

30 (4) a defendant's reliance on a state or federal court decision that is not
31 binding on the court in which the action has been brought;

1 (5) nonmutual issue preclusion or nonmutual claim preclusion;
2 (6) the consent of the woman to the abortion; or
3 (7) any claim that the enforcement of AS 18.16.100 - 18.16.270 or the
4 imposition of civil liability against the defendant violates the constitutional rights of a
5 third party, except as provided in AS 18.16.160.

6 (f) This section may not be construed to impose liability for speech or conduct
7 protected by the First Amendment to the Constitution of the United States, as made
8 applicable to the states through the United States Supreme Court's interpretation of the
9 Fourteenth Amendment to the Constitution of the United States, or by art. I, sec. 5,
10 Constitution of the State of Alaska.

11 (g) Notwithstanding any other provision of law, the state, a political
12 subdivision of the state, a district attorney, or an officer or employee of the state or a
13 political subdivision of the state may not

14 (1) act in concert or participation with a person who brings an action
15 under this section;

16 (2) establish or attempt to establish an agency or fiduciary relationship
17 with a plaintiff who brings an action under this section;

18 (3) attempt to control or influence a plaintiff's decision to bring an
19 action under this section or the plaintiff's conduct of the litigation; or

20 (4) intervene in an action brought under this section.

21 (h) Subsection (g) of this section does not prohibit a person or entity described
22 in that subsection from filing an amicus curiae brief in an action brought under this
23 section, so long as that person or entity does not act in concert or participation with a
24 plaintiff bringing the action or violate any provision of that subsection.

25 (i) Notwithstanding any other provision of law, a court may not award costs or
26 attorney fees to a defendant who is sued under this section.

27 (j) Notwithstanding any other provision of law, a civil action may not be
28 brought under this section

29 (1) against a woman on whom an abortion was performed or induced
30 or attempted to be performed or induced in violation of this chapter or against a
31 woman who intends or seeks to abort her unborn child in violation of this chapter;

1 (2) against a person or entity that performs or attempts to perform, or
 2 aids or abets or attempts to aid or abet the performance of, an abortion at the behest of
 3 a federal agency, contractor, or employee that is carrying out duties under federal law
 4 if a prohibition on that abortion would violate the doctrine of preemption or doctrine
 5 of intergovernmental immunity;

6 (3) against a common carrier that transports a pregnant woman to an
 7 abortion provider if the common carrier is unaware that the woman intends to abort
 8 her unborn child; or

9 (4) by a person who impregnated a woman seeking an abortion
 10 through an act of rape, sexual assault, sexual abuse of a minor, or incest.

11 **Sec. 18.16.160. Civil liability: defenses.** (a) A defendant in an action brought
 12 under AS 18.16.150(a)(2) or (3) may assert an affirmative defense to liability if the
 13 defendant reasonably believed, after conducting a reasonable investigation, that the
 14 physician performing or inducing the abortion complied with or would comply with
 15 AS 18.16.100 - 18.16.270.

16 (b) The defendant has the burden of proving an affirmative defense under (a)
 17 of this section by a preponderance of the evidence.

18 (c) Nothing in AS 18.16.100 - 18.16.270 limits or precludes a defendant from
 19 asserting the defendant's personal constitutional rights as a defense to liability under
 20 AS 18.16.150, and a court may not award relief under AS 18.16.150 if the conduct for
 21 which the defendant has been sued was an exercise of a state or federal constitutional
 22 right that personally belongs to the defendant.

23 (d) Nothing in AS 18.16.100 - 18.16.270 limits or precludes a defendant from
 24 asserting the unconstitutionality of a provision of this chapter or another law of the
 25 state as a defense to liability under AS 18.16.150.

26 **Sec. 18.16.170. Civil liability: venue.** (a) A civil action brought under
 27 AS 18.16.150 may be brought in

28 (1) the judicial district in which all or a substantial part of the events or
 29 omissions giving rise to the claim occurred;

30 (2) the judicial district of residence of an individual defendant in the
 31 action at the time the cause of action accrued;

1 (3) the judicial district of the principal office in this state of a
2 defendant in the action that is not an individual; or

3 (4) the judicial district of residence of the claimant if the claimant is an
4 individual residing in this state.

5 (b) Notwithstanding any other provision of law, a civil action brought under
6 AS 18.16.150 in a venue listed in (a) of this section may not be transferred to a
7 different venue without the written consent of all parties.

8 **Sec. 18.16.180. Sovereign, governmental, and official immunity preserved.**

9 (a) Notwithstanding any other provision of law, the state shall have sovereign
10 immunity, each political subdivision of the state shall have governmental immunity,
11 and each officer and employee of the state or a political subdivision of the state shall
12 have official immunity and sovereign or governmental immunity, as applicable, in an
13 action, claim, counterclaim, or legal or equitable action that challenges the validity of
14 a provision or application of AS 18.16.100 - 18.16.270, on constitutional grounds or
15 otherwise, or that seeks to prevent or enjoin the state, a political subdivision of the
16 state, or an officer or employee of the state or a political subdivision of the state from
17 enforcing a provision or application of AS 18.16.100 - 18.16.270, unless that
18 immunity has been abrogated or preempted by federal law in a manner consistent with
19 the Constitution of the United States.

20 (b) Notwithstanding any other provision of law, a provision of state law may
21 not be construed to waive or abrogate an immunity described in this section unless the
22 provision expressly waives or abrogates immunity with specific reference to this
23 section.

24 (c) Notwithstanding any other provision of law, an attorney representing the
25 state, a political subdivision of the state, or an officer or employee of the state or a
26 political subdivision of the state may not waive an immunity described in this section
27 or take an action that would result in a waiver of that immunity.

28 (d) Notwithstanding any other provision of law, a court of this state does not
29 have jurisdiction to consider an action, claim, or counterclaim that seeks declaratory or
30 injunctive relief to prevent the state, a political subdivision of the state, an officer or
31 employee of the state or a political subdivision of the state, or another person from

1 enforcing a provision or application of AS 18.16.100 - 18.16.270 or from filing a civil
2 action under this chapter.

3 (e) Nothing in AS 18.16.100 - 18.16.270 may be construed to prevent a
4 defendant from asserting the invalidity or unconstitutionality of a provision or
5 application of this chapter or another law of the state as a defense to an action, claim,
6 or counterclaim brought against that litigant.

7 **Sec. 18.16.190. Award of attorney fees in actions challenging abortion**
8 **laws.** (a) Notwithstanding any other provision of law, a person, including an entity,
9 attorney, or law firm, that seeks declaratory or injunctive relief to prevent the state, a
10 political subdivision of the state, a governmental entity or public official in the state,
11 or another person in the state from enforcing a statute, ordinance, regulation, or other
12 type of law that regulates or restricts abortion or that limits taxpayer funding for
13 individuals or entities that perform or promote abortions, in a state or federal court, or
14 that represents a litigant seeking the relief in a state or federal court, is jointly and
15 severally liable to pay the costs and attorney fees of the prevailing party.

16 (b) For purposes of this section, a party is considered a prevailing party if a
17 state or federal court

18 (1) dismisses a claim or cause of action brought against the party by
19 the litigant that seeks the declaratory or injunctive relief described in (a) of this
20 section, regardless of the reason for the dismissal; or

21 (2) enters judgment in the party's favor on the claim or cause of action.

22 (c) Regardless of whether a prevailing party sought to recover costs or
23 attorney fees in the underlying action, a prevailing party under this section may not
24 bring an action to recover costs and attorney fees against a person, including an entity,
25 attorney, or law firm, that sought the declaratory or injunctive relief described in (a) of
26 this section unless the action is commenced within three years after the date on which

27 (1) a dismissal or judgment as described in (b) of this section becomes
28 final on the conclusion of appellate review; or

29 (2) the time for seeking appellate review expires.

30 (d) It is not a defense to an action brought under (c) of this section that

31 (1) a prevailing party under this section failed to seek recovery of costs

1 or attorney fees in the underlying action;

2 (2) the court in the underlying action declined to recognize or enforce
3 the requirements of this section; or

4 (3) the court in the underlying action held that a provision of this
5 section is invalid, unconstitutional, or preempted by federal law, notwithstanding the
6 doctrines of issue or claim preclusion.

7 **Sec. 18.16.200. Severability.** (a) In accordance with *Leavitt v. Jane L.*, 518
8 U.S. 137 (1996), in which, in the context of determining the severability of a state
9 statute regulating abortion, the United States Supreme Court held that an explicit
10 statement of legislative intent is controlling, it is the intent of the legislature that every
11 provision, section, subsection, sentence, clause, phrase, or word of AS 18.16.100 -
12 18.16.270 and every application of a provision of AS 18.16.100 - 18.16.270 to every
13 person, group of persons, or circumstance are severable from each other.

14 (b) If an application of a provision of AS 18.16.100 - 18.16.270 to a person,
15 group of persons, or circumstance is found by a court to be invalid, preempted, or
16 unconstitutional, or to impose an undue burden on a woman or group of women
17 seeking an abortion, the remaining applications of that provision to all other persons
18 and circumstances shall be severed and preserved, and shall remain in effect. All
19 constitutionally valid applications of the provisions of AS 18.16.100 - 18.16.270, and
20 every application of those provisions that can be enforced without imposing an undue
21 burden on women seeking an abortion, shall be severed from any application that a
22 court finds to be invalid, preempted, or unconstitutional, or to impose an undue burden
23 on women seeking an abortion, and the valid applications shall remain in force, as it is
24 the legislature's intent and priority that every valid application be allowed to stand
25 alone. Even if a reviewing court finds a provision of AS 18.16.100 - 18.16.270 to
26 impose an undue burden in a large or substantial fraction of relevant cases, the
27 applications that do not present an undue burden shall be severed from the remaining
28 applications, shall remain in force, and shall be treated as if the legislature had enacted
29 a statute limited to the persons, group of persons, or circumstances for which the
30 statute's application does not impose an undue burden.

31 (c) The legislature declares that it would have enacted AS 18.16.100 -

1 18.16.270, and each provision, section, subsection, sentence, clause, phrase, and word,
2 and all constitutional applications of the provisions of AS 18.16.100 - 18.16.270,
3 regardless of whether any provision, section, subsection, sentence, clause, phrase,
4 word, or application of AS 18.16.100 - 18.16.270 were declared invalid, preempted, or
5 unconstitutional or to impose an undue burden.

6 (d) If a provision of AS 18.16.100 - 18.16.270 is found by a court to be
7 unconstitutionally vague, any application of that provision that does not present
8 constitutional vagueness problems shall be severed and remain in force, consistent
9 with the severability requirements of (a) - (c) of this section.

10 (e) A court may not decline to enforce the severability requirements of (a) -
11 (d) of this section on the grounds that severance would rewrite the statute or involve
12 the court in legislative or lawmaking activity. A court that declines to enforce or
13 enjoins a state official from enforcing a statutory provision does not rewrite a statute,
14 as the statute continues to contain the same words as before the court's decision. A
15 judicial injunction or declaration of unconstitutionality

16 (1) is nothing more than an edict prohibiting enforcement that may
17 subsequently be vacated by a later court if the later court has a different understanding
18 of the requirements of the Constitution of the State of Alaska or the Constitution of the
19 United States;

20 (2) is not a formal amendment of the language in a statute; and

21 (3) no more rewrites a statute than a decision by the executive not to
22 enforce a duly enacted statute in a limited and defined set of circumstances.

23 (f) If a state or federal court disregards the severability requirements of (a) -
24 (e) of this section and declares or finds a provision of AS 18.16.100 - 18.16.270
25 facially unconstitutional, when there are discrete applications of that provision that can
26 be enforced against a person, a group of persons, or circumstances without violating
27 federal law, the Constitution of the State of Alaska, or the Constitution of the United
28 States, or imposing an undue burden on women seeking an abortion, that provision
29 shall be interpreted, as a matter of state law, as if the legislature had enacted a
30 provision limited to the person, group of persons, or circumstances for which the
31 provision's application will not violate federal law, the Constitution of the State of

1 Alaska, or the Constitution of the United States, or impose an undue burden on women
2 seeking an abortion, and every court shall adopt this saving construction of that
3 provision until the court ruling that pronounced the provision facially unconstitutional
4 is vacated or overruled.

5 **Sec. 18.16.210. Department enforcement.** The department shall enforce
6 AS 18.16.220 - 18.16.250.

7 **Sec. 18.16.220. Required documentation.** (a) If an abortion is performed or
8 induced on a woman because of a medical emergency, the physician who performs or
9 induces the abortion shall execute a written document that certifies the abortion is
10 necessary because of a medical emergency and specifies the woman's medical
11 condition requiring the abortion and the medical rationale for the physician's
12 conclusion that the abortion is necessary to address the medical condition.

13 (b) A physician who executes a document under (a) of this section shall
14 (1) place the document in the woman's medical record; and
15 (2) maintain a copy of the document in the physician's practice
16 records.

17 (c) For an abortion other than an abortion described in (a) of this section, a
18 physician who performs or induces an abortion on a woman shall execute a written
19 document that specifies that maternal health is not a purpose of the abortion and
20 maintain a copy of the document in the physician's practice records.

21 **Sec. 18.16.230. Sonogram required.** (a) Before a sedative or anesthesia is
22 administered to a woman and at least 24 hours before an abortion is performed or
23 induced, or at least two hours before the abortion is performed or induced if the
24 woman waives the 24-hour requirement under (b) of this section,

25 (1) the physician who is to perform or induce the abortion or an agent
26 of the physician who is a sonographer certified by a national registry of medical
27 sonographers shall perform a sonogram on the woman;

28 (2) the physician who is to perform or induce the abortion shall display
29 the sonogram images in a quality consistent with current medical practice and in a
30 manner that allows the woman to view the images;

31 (3) the physician who is to perform or induce the abortion shall

1 provide, in a manner understandable to a layperson, an oral explanation of the results
 2 of the sonogram, including a medical description of the dimensions of the embryo or
 3 fetus, the presence of cardiac activity, and the presence of external members and
 4 internal organs; and

5 (4) the physician who is to perform or induce the abortion or an agent
 6 of the physician who is a sonographer certified by a national registry of medical
 7 sonographers shall make audible during the sonogram the heart auscultation, if
 8 present, for the woman to hear, in a quality consistent with current medical practice,
 9 and shall provide, in a manner understandable to a layperson, a simultaneous oral
 10 explanation of the heart auscultation.

11 (b) A woman may waive the 24-hour requirement in (a) of this section by
 12 certifying that she currently lives 100 miles or more from the nearest abortion provider
 13 that is a facility licensed under state law or a facility that performs more than 50
 14 abortions in any 12-month period.

15 (c) Before receiving a sonogram under (a) of this section, before an abortion is
 16 performed or induced, and before any sedative or anesthesia is administered, a woman
 17 shall complete and certify with her signature an election form that states the following:

18 "Abortion and Sonogram Election

19 (1) The information and printed materials described in
 20 AS 18.16.060 have been provided and explained to me.

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

23 (3) I understand that state law requires that I receive a
 24 sonogram before receiving an abortion.

25 (4) I understand that I have the option to view the
 26 sonogram images.

27 (5) I understand that during the sonogram the fetal
 28 heartbeat must be made audible so that I can hear it.

29 (6) I am making this election of my own free will and
 30 without coercion.

31 (7) For a woman who lives 100 miles or more from the

1 nearest abortion provider that is a facility licensed under state law or a
 2 facility that performs more than 50 abortions in any 12-month period
 3 only:

4 I certify that, because I currently live 100 miles or more
 5 from the nearest abortion provider that is a facility licensed
 6 under state law or a facility that performs more than 50
 7 abortions in any 12-month period, I waive the requirement to
 8 wait 24 hours after the sonogram is performed before receiving
 9 the abortion procedure.

10 My place of residence is: _____.

11 _____
 12 Signature

Date."

13 (d) A physician may not perform or induce an abortion unless the physician
 14 has received a copy of the signed, written certification required by (c) of this section
 15 from the woman.

16 **Sec. 18.16.240. Physician reporting requirements.** (a) A physician who
 17 performs an abortion at an abortion facility shall complete and submit, not later than
 18 the 15th day of each month, a monthly report to the department on the abortions
 19 performed by the physician at the abortion facility. The report shall be submitted on a
 20 form provided by the department. A physician is not required to submit a report for a
 21 calendar month in which the physician did not perform an abortion.

22 (b) The report may not identify a patient or include any information that could
 23 lead to the identification of a patient.

24 (c) The report must indicate, for each abortion performed,

25 (1) whether the abortion facility at which the abortion was performed
 26 is licensed under AS 47;

27 (2) the patient's year of birth, race, marital status, and state and
 28 borough or county of residence;

29 (3) the type of abortion procedure performed;

30 (4) the date the abortion was performed;

31 (5) whether the patient survived the abortion and, if the patient did not

1 survive the abortion, the patient's cause of death;

2 (6) the estimated postfertilization age of the unborn child based on the
3 best medical judgment of the attending physician at the time of the procedure;

4 (7) the date, if known, of the first day of the patient's last menstrual
5 period;

6 (8) the number of previous live births of the patient;

7 (9) the number of previous induced abortions of the patient; and

8 (10) whether the abortion was performed or induced because of a
9 medical emergency and, if the abortion was performed or induced because of a
10 medical emergency, the medical condition of the patient that required the abortion.

11 (d) Except as provided by another law to the contrary, all information and
12 records held by the department under AS 18.16.100 - 18.16.270 are confidential, are
13 not public records under AS 40.25.110 or 40.25.125, and may not be released or made
14 public upon subpoena or otherwise, except that release may be made

15 (1) with the consent of each person, patient, physician, and abortion
16 facility identified in the information released;

17 (2) for statistical purposes; information released under this paragraph
18 may not identify any person, patient, physician performing an abortion, or abortion
19 facility;

20 (3) to medical personnel, appropriate state agencies, or the district or
21 superior court to enforce AS 18.16.100 - 18.16.270; or

22 (4) to appropriate state licensing boards to enforce state licensing laws.

23 (e) A person who violates (b), (c), or (d) of this section is guilty of a Class A
24 misdemeanor.

25 (f) The department shall establish and maintain a secure electronic reporting
26 system for the submission of the reports required by this section. The department shall
27 adopt procedures to enforce this section.

28 **Sec. 18.16.250. Construction.** (a) AS 18.16.100 - 18.16.270 do not create or
29 recognize a right to abortion before a fetal heartbeat is detected.

30 (b) AS 18.16.100 - 18.16.270 may not be construed to

31 (1) authorize the initiation of a cause of action against or the

1 prosecution of a woman on whom an abortion is performed or induced or attempted to
2 be performed or induced in violation of this chapter;

3 (2) wholly or partly repeal, either expressly or by implication, any
4 other statute that regulates or prohibits abortion; or

5 (3) restrict a political subdivision of the state from regulating or
6 prohibiting abortion in a manner that is at least as stringent as the laws of the state.

7 **Sec. 18.16.260. Constitutional interpretation.** To protect human life, nothing
8 in art. I, sec. 22, of the Constitution of the State of Alaska may be construed to secure
9 or protect a right to an abortion or require the state to fund an abortion.

10 **Sec. 18.16.270. Definitions.** In AS 18.16.100 - 18.16.270,

11 (1) "abortion" has the meaning given in AS 18.16.090;

12 (2) "department" means the Department of Health;

13 (3) "fetal heartbeat" means cardiac activity or the steady and repetitive
14 rhythmic contraction of the fetal heart within the gestational sac;

15 (4) "gestational age" means the amount of time that has elapsed from
16 the first day of a woman's last menstrual period;

17 (5) "gestational sac" means the structure comprising the
18 extraembryonic membranes that envelop an unborn child and that is typically visible
19 by ultrasound after the fourth week of pregnancy;

20 (6) "physician" means an individual licensed under AS 08.64;

21 (7) "pregnancy" means the human female reproductive condition that

22 (A) begins with fertilization;

23 (B) occurs when the woman is carrying the developing human
24 offspring; and

25 (C) is calculated from the first day of a woman's last menstrual
26 period;

27 (8) "unborn child" means a human fetus or embryo in any stage of
28 gestation from fertilization until birth.

29 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 18.16.150(i) and 18.16.190,

1 enacted by sec. 8 of this Act, have the effect of changing Rule 82, Alaska Rules of Civil
2 Procedure, and Rule 508, Alaska Rules of Appellate Procedure, by limiting the court's
3 discretion in awarding costs and attorney fees in certain cases.

4 (b) AS 18.16.170(b), enacted by sec. 8 of this Act, has the effect of changing Rule 3,
5 Alaska Rules of Civil Procedure, by permitting a plaintiff to commence an action in any
6 judicial district and by preventing the court from granting a contested change of venue
7 motion.

8 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **CONDITIONAL EFFECT.** (a) AS 18.16.150(i) and 18.16.190, enacted by sec. 8 of
11 this Act, take effect only if sec. 9(a) of this Act receives the two-thirds majority vote of each
12 house required by art. IV, sec. 15, Constitution of the State of Alaska.

13 (b) AS 18.16.170(b), enacted by sec. 8 of this Act, takes effect only if sec. 9(b) of this
14 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
15 Constitution of the State of Alaska.