

1 IN THE SENATE

BY HACKNEY

2 CS SENATE BILL NO. 245

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the health and welfare of women
7 undergoing an abortion."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 11.15 is amended by adding new sections to read:

10 Sec. 11.15.350. WHEN ABORTION ALLOWED. (a) No abortion may be
11 performed before the end of the first trimester of pregnancy except

12 (1) by a physician in the exercise of his best clinical
13 medical judgment;

14 (2) after the woman certifies in writing her consent to the
15 abortion and that her consent is informed and freely given and is not
16 the result of coercion; and

17 (3) after written notice, when this is reasonably feasible, is
18 given by the physician performing the abortifacient act to the parents, if
19 living, or the custodian or legal guardian of the woman, if she is under
20 18 years of age and unmarried; or to the husband, if she is married.

21 (b) No abortion may be performed after the first trimester of
22 pregnancy except

23 (1) when the provisions of (a) of this section are satisfied;
24 and

25 (2) the abortion is performed in a hospital.

26 (c) When there is reasonable medical certainty that the unborn
27 child is viable, no abortion may be performed except

28 (1) when the provisions of (a) and (b) of this section are
29 satisfied; and

1 (2) only when necessary to preserve the life or health of the
2 mother, and the attending physician attests to this in writing.

3 Sec. 11.15.360. CONSENT REQUIREMENTS. The written consent re-
4 quired by sec. 350(a)(2) of this chapter shall state that the woman has
5 been informed of the following:

6 (1) the physical development and competency of the unborn
7 child at the time the abortion is to be performed, such as, but not
8 limited to, what the unborn child looks like, the ability of the unborn
9 child to move and swallow, and its physical characteristics;

10 (2) the general dangers of abortion, both physical and
11 psychological, including, but not limited to, the possibility of subse-
12 quent sterility, prematurity and mental damage in subsequent children,
13 guilt feelings, and other dangers;

14 (3) the particular dangers of the procedure to be used;

15 (4) The alternatives to abortion, including childbirth and
16 adoption.

17 Sec. 11.15.370. VIOLATIONS. (a) A person who is not a physician
18 and who provides, supplies or administers any medicine, drug or other
19 substance whatever to any woman or uses any instrument or other means
20 whatever upon any woman with intent to produce an abortion is guilty of
21 a felony.

22 (b) A person who sells any drug, medicine, instrument or other
23 substance which he knows to be an abortifacient and which is in fact an
abortifacient, unless upon prescription of a physician, is guilty of a
misdemeanor.

26 (c) Any practitioner of medicine, surgery, or nursing, or other
27 health personnel who wilfully and knowingly does or assists any action
28 made unlawful by secs. 350 - 430 of this chapter is subject to having
29 his license, application for license, or authority to practice his

1 profession as a physician, surgeon, or nurse in the State of Alaska
2 rejected or revoked by the appropriate state licensing board.

3 Sec. 11.15.380. PRESERVATION OF LIFE AND HEALTH OF UNBORN CHILD.

4 (a) A person who performs or induces an abortion when there is reason-
5 able medical certainty that the unborn child is viable shall exercise
6 that degree of professional skill, care and diligence to preserve the
7 life and health of the unborn child which the person would be required
8 to exercise in order to preserve the life and health of any unborn child
9 intended to be born and not aborted. A physician or person assisting in
10 the abortion who fails to take such measures to encourage or to sustain
11 the life of the child, and the death of the child results, is guilty of
12 manslaughter.

13 (b) Whoever, with intent to do so, takes the life of any child
14 aborted alive is guilty of murder of the second degree.

15 Sec. 11.15.390. EXPERIMENTATION PROHIBITED. No person may use any
16 child aborted alive for any type of scientific, research, laboratory or
17 other kind of experimentation except as necessary to protect or preserve
18 the life and health of the child aborted alive. A person who violates
19 this section is guilty of a misdemeanor.

20 Sec. 11.15.400. REPORTS. (a) Every health facility and physician
21 shall report each abortion to the department on forms provided by the
22 department. The purpose and function of these reports are the preserva-
23 tion of maternal health and life by adding to the sum of medical knowl-
24 edge through the compilation of relevant maternal health and life data
25 and to monitor all abortions performed to assure that they are done only
26 under and in accordance with the provisions of the law.

27 (b) The report form shall be completed by the hospital or other
28 licensed facility, signed by the attending physician, and transmitted to
29 the department not later than 10 days after the end of the month in

1 which the abortion was performed.

2 (c) Abortions performed after a gestation period of 20 completed
3 weeks shall be registered as provided in AS 18.50.240.

4 (d) All information obtained by a physician, hospital, clinic or
5 other health facility from a patient for the purpose of preparing re-
6 ports to the department under this section and reports received by the
7 department are confidential and shall be used only for statistical
8 purposes except where otherwise provided by law. However, these records
9 may be inspected and health data acquired by local, state, or national
10 public health officers.

11 (e) All medical records and other documents required to be kept
12 shall be maintained in the permanent files of the health facility in
13 which the abortion was performed for a period of seven years.

14 (f) A hospital, licensed facility, or physician who fails to sub-
15 mit a report to the department under the provisions of this section is
16 guilty of a misdemeanor. A physician or other person who fails to main-
17 tain the confidentiality of any records or reports required under this
18 section is guilty of a misdemeanor.

19 Sec. 11.15.410. WARD OF STATE. If before abortion the mother and,
20 if married, her husband has or have stated in writing that she does or
21 they do not wish to keep the child in the event that the abortion
22 results in a live birth, and this writing is not retracted before the
23 abortion, the child, if born alive, shall immediately become a ward of
24 the state under the jurisdiction of the juvenile court of the district
25 in which the abortion occurred. The attending physician shall immedi-
26 ately notify the department of the existence of the live-born infant.

27 Sec. 11.15.420. CONSCIENTIOUS OBJECTIONS TO ABORTION. No physi-
28 cian, hospital, clinic, surgical center, or employee of these may be
29 required against his or its objection declared in writing to perform,

1 permit or participate in an abortion, and the failure or refusal to do
2 so shall not be the basis for any civil, criminal, administrative or
3 disciplinary action, proceeding, penalty or punishment. If a request
4 for an abortion is denied, the patient shall be promptly notified.

5 Sec. 11.15.430. DEFINITIONS. For the purposes of secs. 350 - 430
6 of this chapter,

7 (1) "abortion" means the intentional termination of human
8 pregnancy for purposes other than delivery of a viable birth or removal
9 of a dead or dying unborn child;

10 (2) "department" means the Department of Health and Social
11 Services;

12 (3) "first trimester of pregnancy" means the first 12 weeks
13 of pregnancy;

14 (4) "hospital" means a facility licensed under AS 18.20.040;

15 (5) "physician" means any person licensed to practice medi-
16 cine in the State of Alaska by the State Medical Board under AS 08.64.-
17 230(a);

18 (6) "unborn child" means the offspring of human beings at any
19 stage of growth from the time of fertilization throughout pregnancy;

20 (7) "viable unborn child" means an unborn child which is
21 potentially able to live outside the mother's womb, although with arti-
22 ficial aid.

23 Sec. 11.15.440. SEVERABILITY. If any of the provisions of secs.
24 350 - 430 of this chapter or the application of them to any person or
25 circumstances is held invalid, the invalidity does not affect the pro-
26 visions or applications of these sections which can be given effect
27 without the invalid provisions or application, and to this end the pro-
28 visions of secs. 350 - 430 of this chapter are declared to be severable.

29 * Sec. 2. AS 11.15.060 is repealed.