

Original sponsor: Hackney

Offered: 5/2/77
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR 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 abortion."

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

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

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

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

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

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

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

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

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

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

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

29 (2) only when necessary to preserve the life or health of the

1 mother, and the attending physician attests to this in writing.

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

5 (1) the estimated physical development and competency of the
6 unborn child at the time the abortion is to be performed;

7 (2) the general dangers of abortion and childbirth, both
8 physical and psychological, including, but not limited to, the possi-
9 bility of subsequent sterility, prematurity and mental damage in subse-
10 quent children, guilt feelings, and other dangers;

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

12 (4) the alternatives to abortion, including childbirth and
13 adoption.

14 Sec. 11.15.370. VIOLATIONS. (a) A person who is not a physician
15 or working under the direct supervision of a physician and who provides,
16 supplies or administers any medicine, drug or other substance whatever
17 to any woman or uses any instrument or other means whatever upon any
18 woman with intent to produce an abortion is guilty of a felony.

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

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

24 (a) A person who performs or induces an abortion when there is reason-
25 able medical certainty that the unborn child is viable shall exercise
26 that degree of professional skill, care and diligence to preserve the
27 life and health of the unborn child which the person would be required
28 to exercise in order to preserve the life and health of any unborn child
29 intended to be born and not aborted. A physician or person assisting in

1 the abortion who fails to take such measures to encourage or to sustain
2 the life of the child, and the death of the child results, is guilty of
3 manslaughter.

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

6 Sec. 11.15.390. EXPERIMENTATION PROHIBITED. No person may use any
7 child aborted alive for any type of scientific, research, laboratory or
8 other kind of experimentation except as necessary to protect or preserve
9 the life and health of the child aborted alive. A person who violates
10 this section is guilty of a felony.

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

18 (b) The report form shall be completed by the hospital or other
19 licensed facility, signed by the attending physician, and transmitted to
20 the department not later than 10 days after the end of the month in
21 which the abortion was performed.

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

24 (d) All information obtained by a physician, hospital, clinic or
25 other health facility from a patient for the purpose of preparing re-
26 ports to the department under this section and reports received by the
27 department are confidential and shall be used only for statistical
28 purposes except where otherwise provided by law. However, these records
29 may be inspected and health data acquired by local, state, or national

1 public health officers.

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

5 (f) A hospital, licensed facility, or physician who fails to sub-
6 mit a report to the department under the provisions of this section is
7 guilty of a misdemeanor. A physician or other person who fails to main-
8 tain the confidentiality of any records or reports required under this
9 section is guilty of a misdemeanor.

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

18 Sec. 11.15.420. CONSCIENTIOUS OBJECTIONS TO ABORTION. No physi-
19 cian, hospital, clinic, surgical center, or employee of these may be
20 required against his or its objection declared in writing to perform,
21 permit or participate in an abortion, and the failure or refusal to do
22 so shall not be the basis for any civil, criminal, administrative or
23 disciplinary action, proceeding, penalty or punishment. If a request
24 for an abortion is denied, the patient shall be promptly notified.

25 Sec. 11.15.430. DEFINITIONS. For the purposes of secs. 350 - 430
26 of this chapter,

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

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

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

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

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

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

(7) "viable unborn child" means an unborn child which is potentially able to live outside the mother's womb, although with artificial aid.

* Sec. 2. AS 11.15.060 is repealed.