THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 3 Session of 2017

INTRODUCED BY BROOKS, LANGERHOLC, RESCHENTHALER, VULAKOVICH, DisANTO, FOLMER, SCARNATI, WHITE, STEFANO, ALLOWAY, RAFFERTY, HUTCHINSON, MARTIN, AUMENT, EICHELBERGER, BARTOLOTTA, WARD, VOGEL, YAW, WAGNER, ARGALL, BROWNE AND MENSCH,
FEBRUARY 2, 2017

REFERRED TO JUDICIARY, FEBRUARY 2, 2017

AN ACT

1. Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in abortion, further providing for definitions, for medical consultation and judgment and for the offense of abortion on unborn child of 24 or more weeks gestational age, providing for dismemberment abortion ban and further providing for reporting.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3203 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 3203. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Dismemberment abortion." The act of knowingly and purposefully causing the death of an unborn child by means of dismembering the unborn child and extracting the unborn child
one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors or similar instruments. The term does not include an abortion which is exclusively performed through suction curettage.

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Section 2. Sections 3204(b) and 3211 heading, (a) and (b) of Title 18 are amended to read:

§ 3204. Medical consultation and judgment.

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(b) Requirements.—Except in a medical emergency where there is insufficient time before the abortion is performed, the woman upon whom the abortion is to be performed shall have a private in-person medical consultation either with the physician who is to perform the abortion or with the referring physician. The consultation will be in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based on his best clinical judgment, the abortion is necessary.

* * *

§ 3211. Abortion on unborn child of [24] 20 or more weeks gestational age.

(a) Prohibition.—Except as provided in subsection (b), no person shall perform or induce an abortion upon another person when the gestational age of the unborn child is [24] 20 or more weeks.

(b) Exceptions.—

(1) It shall not be a violation of subsection (a) if an abortion is performed by a physician and that physician reasonably believes that it is necessary to prevent either the death of the pregnant woman or the substantial and
irreversible impairment of a major bodily function of the woman. No abortion shall be deemed authorized under this paragraph if performed on the basis of a claim or a diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible impairment of a major bodily function.

(2) It shall not be a violation of subsection (a) if the abortion is performed by a physician and that physician reasonably believes, after making a determination of the gestational age of the unborn child in compliance with section 3210 (relating to determination of gestational age), that the unborn child is less than 20 weeks gestational age.

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Section 3. Title 18 is amended by adding a section to read:

§ 3211.1. Dismemberment abortion ban.

(a) Prohibition before 20 weeks of gestational age.--An individual may not perform or attempt to perform a dismemberment abortion upon another individual when the gestational age of the unborn child is less than 20 weeks unless both of the following apply:

(1) The individual performing or attempting to perform the dismemberment abortion is a physician and certifies in writing that, based upon the physician's medical examination of the pregnant woman and the physician's medical judgment, the abortion is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman.

(2) The physician's judgment with respect to the necessity for the abortion has been concurred in by one other

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licensed physician who certifies in writing that, based
upon his or her separate personal medical examination of
the pregnant woman and his or her medical judgment, the
abortion is necessary to prevent either the death of the
pregnant woman or the substantial and irreversible
impairment of a major bodily function of the woman.
(b) Liability.--The following individuals shall not be
liable for performing or attempting to perform a dismemberment
abortion:
   (1) The female patient upon whom the dismemberment
abortion is performed or attempted to be performed.
   (2) A nurse, technician, secretary or receptionist who
is not a physician but is acting at the direction of a
physician.
   (3) A pharmacist or other individual who fills a
prescription or provides instruments or materials used in a
dismemberment abortion at the direction of or to a physician.
(c) Penalty.--An individual who violates subsection (a)
commits a felony of the third degree.

Section 4. Section 3214(a) of Title 18 is amended to read:
§ 3214. Reporting.
(a) General rule.--For the purpose of promotion of maternal
health and life by adding to the sum of medical and public
health knowledge through the compilation of relevant data, and
to promote the Commonwealth's interest in protection of the
unborn child, a report of each abortion performed shall be made
to the department on forms prescribed by it. The report forms
shall not identify the individual patient by name and shall
include the following information:
   (1) Identification of the physician who performed the
abortion, the concurring physician as required by section 3211(c)(2) (relating to abortion on unborn child of 20 or more weeks gestational age) or 3211.1(a)(2) (relating to dismemberment abortion ban), the second physician as required by section 3211(c)(5) or 3211.1(a)(2) and the facility where the abortion was performed and of the referring physician, agency or service, if any.

(2) The county and state in which the woman resides.

(3) The woman's age.

(4) The number of prior pregnancies and prior abortions of the woman.

(5) The gestational age of the unborn child at the time of the abortion.

(6) The type of procedure performed or prescribed and the date of the abortion.

(7) Pre-existing medical conditions of the woman which would complicate pregnancy, if any, and, if known, any medical complication which resulted from the abortion itself.

(8) The basis for the medical judgment of the physician who performed the abortion that the abortion was necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman, where an abortion has been performed pursuant to section 3211(b)(1) or 3211.1(a)(1).

(9) The weight of the aborted child for any abortion performed pursuant to section 3211(b)(1) or 3211.1(a)(1).

(10) Basis for any medical judgment that a medical emergency existed which excused the physician from compliance with any provision of this chapter.

(11) The information required to be reported under 20170SB0003PN0283.
section 3210(a) (relating to determination of gestational age).

(12) Whether the abortion was performed upon a married woman and, if so, whether notice to her spouse was given. If no notice to her spouse was given, the report shall also indicate the reason for failure to provide notice.

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Section 5. This act shall take effect in 60 days.