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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 904 Session of  
2021

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INTRODUCED BY BOROWICZ, STRUZZI, SCHMITT, HAMM, COOK, KNOWLES,  
FEE, METCALFE, GREINER, OWLETT, ROTHMAN, TOPPER, JONES,  
SMITH, HICKERNELL, KAUFFMAN, DIAMOND, BERNSTINE, DUNBAR,  
PICKETT, MOUL, B. MILLER, RAPP, GLEIM, RYAN, ROWE, COX,  
ZIMMERMAN, MALONEY, KEEFER, MERCURI, WHEELAND, GILLEN AND  
HERSHEY, MARCH 15, 2021

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REFERRED TO COMMITTEE ON HEALTH, MARCH 15, 2021

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in abortion, further providing for  
3 legislative intent, providing for fetal heartbeat  
4 examination, further providing for medical consultation and  
5 judgment, for abortion on unborn child of 24 or more weeks  
6 gestational age and for reporting.

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

9 Section 1. Section 3202(b) of Title 18 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a paragraph to read:

11 § 3202. Legislative intent.

12 \* \* \*

13 (b) Conclusions.--Reliable and convincing evidence has  
14 compelled the General Assembly to conclude and the General  
15 Assembly does hereby solemnly declare and find that:

16 \* \* \*

17 (6) The following:

18 (i) Fetal heartbeat has become a key medical

1 predictor that an unborn individual will reach live  
2 birth.

3 (ii) Cardiac activity begins at a biologically  
4 identifiable moment in time, normally when the fetal  
5 heart is formed in the gestational sac.

6 (iii) In order to make an informed choice about  
7 whether to continue the pregnancy, a pregnant woman has a  
8 legitimate interest in knowing the likelihood of the  
9 fetus surviving to full-term birth based upon the  
10 presence of cardiac activity.

11 \* \* \*

12 Section 2. Title 18 is amended by adding a section to read:  
13 § 3203.1. Fetal heartbeat examination.

14 Before performing an abortion, a physician shall conduct a  
15 physical examination of the pregnant woman and her unborn child  
16 to determine if there is a fetal heartbeat present. The  
17 physician shall utilize the physician's best clinical judgment  
18 to determine whether or not a fetal heartbeat is present.

19 Section 3. Sections 3204(a), 3211 heading, (a) and (b) (2)  
20 and 3214(a) (1) of Title 18 are amended to read:

21 § 3204. Medical consultation and judgment.

22 (a) Abortion prohibited; exceptions.--No abortion shall be  
23 performed after a fetal heartbeat is detected. If there is no  
24 fetal heartbeat, no abortion shall be performed except by a  
25 physician after either:

26 (1) he determines that, in his best clinical judgment,  
27 the abortion is necessary; or

28 (2) he receives what he reasonably believes to be a  
29 written statement signed by another physician, hereinafter  
30 called the "referring physician," certifying that in this

1 referring physician's best clinical judgment the abortion is  
2 necessary.

3 \* \* \*

4 § 3211. Abortion on unborn child [of 24 or more weeks  
5 gestational age] after fetal heartbeat is detected.

6 (a) Prohibition.--Except as provided in subsection (b), no  
7 person shall perform or induce an abortion upon another person  
8 when the [gestational age of the unborn child is 24 or more  
9 weeks] unborn child has a detectable fetal heartbeat.

10 (b) Exceptions.--

11 \* \* \*

12 (2) It shall not be a violation of subsection (a) if the  
13 abortion is performed by a physician and that physician  
14 reasonably believes, after [making a determination of the  
15 gestational age of the unborn child] examining the pregnant  
16 woman in compliance with section 3210 (relating to  
17 determination of gestational age), that the unborn child [is  
18 less than 24 weeks gestational age] does not have a fetal  
19 heartbeat.

20 \* \* \*

21 § 3214. Reporting.

22 (a) General rule.--For the purpose of promotion of maternal  
23 health and life by adding to the sum of medical and public  
24 health knowledge through the compilation of relevant data, and  
25 to promote the Commonwealth's interest in protection of the  
26 unborn child, a report of each abortion performed shall be made  
27 to the department on forms prescribed by it. The report forms  
28 shall not identify the individual patient by name and shall  
29 include the following information:

30 (1) Identification of the physician who performed the

1       abortion, the concurring physician as required by section  
2       3211(c)(2) (relating to abortion on unborn child [of 24 or  
3       more weeks gestational age] after fetal heartbeat is  
4       detected), the second physician as required by section  
5       3211(c)(5) and the facility where the abortion was performed  
6       and of the referring physician, agency or service, if any.

7               \* \* \*

8       Section 4. This act shall take effect in 60 days.