THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1077 Session of 2011

INTRODUCED BY RAPP, KULA, TURZAI, STERN, DENLINGER, CUTLER, ADOLPH, AUMENT, BAKER, BARBIN, BARRAR, BEAR, BENNINGHOFF, BLOOM, BOBACK, BOYD, BROOKS, R. BROWN, CALTAGIRONE, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, DAY, DiGIROLAMO, DUNBAR, ELLIS, EMRICK, EVANKOVICH, J. EVANS, EVERETT, FLECK, GABLER, GEIST, GIBBONS, GILLEN, GILLESPIE, GINGRICH, GODSHALL, GRELL, GROVE, HACKETT, HAHN, HARHART, HARKINS, HARRIS, HEFFLEY, HELM, HENNESSEY, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, KAUFFMAN, KAVULICH, F. KELLER, KILLION, KNOWLES, KOTIK, KRIEGER, LAWRENCE, LONGIETTI, MAHONEY, MAJOR, MALONEY, MARSHALL, MARSICO, MASSER, METCALFE, METZGAR, MICCARELLI, MICOZZIE, MILLARD, MOUL, MURT, MUSTIO, OBERLANDER, PAYNE, PEIFER, PERRY, PICKETT, PYLE, QUIGLEY, READSHAW, REED, REESE, REICHLEY, ROAE, ROCK, SACCONE, SANTONI, SAYLOR, SCAVELLO, CULVER, SCHRODER, SIMMONS, K. SMITH, S. H. SMITH, SONNEY, STEVENSON, SWANGER, TALLMAN, TAYLOR, THOMAS, TOBASH, TOEPEL, TOOHIL, TRUITT, VEREB, VULAKOVICH AND WATSON, OCTOBER 5, 2011

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 6, 2012

AN ACT

- Providing for ultrasound test requirements to determine
 gestational ages of unborn children; establishing the right
 to view ultrasound image and ultrasound video of unborn child
 and the right to observe or hear the fetal heartbeat;
 providing for powers and duties of the Department of Health
 and for duties of physicians performing abortions; requiring
 certain reports to be filed with the Department of Health;
 imposing administrative sanctions and criminal penalties; and
 providing for remedies.
- 10 The General Assembly of the Commonwealth of Pennsylvania
- 11 hereby enacts as follows:
- 12 Section 1. Short title.
- 13 This act shall be known and may be cited as the Women's

- 1 Right-to-Know Act.
- 2 Section 2. Findings.
- 3 The General Assembly finds and declares as follows:
- 4 (1) Many women are unaware of the state of development of their unborn child.
- 6 (2) An ultrasound test is a medical procedure commonly
 7 utilized during a woman's pregnancy to determine fetal
 8 gestational age, fetal measurements,; FETAL MEASUREMENTS; the
- 9 progress of fetal development; and fetal health, INCLUDING
- 10 THE PRESENCE OR ABSENCE OF A FETAL HEARTBEAT.
- 11 (3) The fetal heartbeat also provides useful information (4)

 12 on fetal health.
- 13 (4) AN ULTRASOUND TEST IS ALSO COMMONLY DONE PRIOR TO AN

 4 ABORTION TO DETERMINE GESTATIONAL AGE AND THE LOCATION OF THE

 PREGNANCY.
- 16 (4) AN ULTRASOUND CAN PROVIDE USEFUL INFORMATION

 17 REGARDING THE VIABILITY OF THE PREGNANCY AND THE RISK OF

 18 NATURAL MISCARRIAGE OR ECTOPIC PREGNANCY.
- 19 (5) The factual information provided by ultrasound 20 tests, including fetal heartbeat, is relevant to any decision 21 regarding a pregnancy and is relevant to the State's interest 22 in ensuring that informed consent is provided.
- 23 (5) (6) ACCORDING TO THE NATIONAL INSTITUTES OF HEALTH,
 24 AMONG WOMEN WHO KNOW THEY ARE PREGNANT, THE MISCARRIAGE RATE
 25 IS ABOUT 15-20%, WITH MOST OCCURRING DURING THE FIRST SEVEN
 26 WEEKS OF PREGNANCY.
- (7) ABSENT ACCURATE ULTRASOUND TESTING TO DETERMINE

 GESTATIONAL AGE, CONFIRM AN INTRAUTERINE PREGNANCY AND

 ESTABLISH THE PRESENCE OR ABSENCE OF CARDIAC ACTIVITY, AN

 ABORTION MAY BE PERFORMED ON A WOMAN WHO WOULD OTHERWISE

- 1 MISCARRY NATURALLY OR WHOSE PREGNANCY MAY BE AN ECTOPIC.
- 2 (8) Abortion is a medical procedure and, as such, it
- 3 requires the informed consent of the woman undergoing the
- 4 procedure.
- 5 (6) (9) A woman considering an abortion has the right to
- 6 receive complete and accurate information regarding the
- 7 development and health of her unborn child.
- 8 $\frac{(7)}{(10)}$ In recognition of the importance of a woman's
- 9 dignity in making an informed choice, the factual information
- 10 provided by an ultrasound test should be provided to a woman
- as an integral part of the informed consent necessary to
- 12 undergo an abortion.
- 13 Section 3. Definitions.
- 14 The following words and phrases when used in this act shall
- 15 have the meanings given to them in this section unless the
- 16 context clearly indicates otherwise:
- 17 "Abortion." The use of any means to terminate the clinically
- 18 diagnosable pregnancy of a woman with knowledge that the
- 19 termination by that means will, with reasonable likelihood,
- 20 cause the death of the unborn child.
- 21 "Auscultation." The act of listening for sounds made by
- 22 internal organs of the fetus, specifically for a fetal
- 23 heartbeat, utilizing an ultrasound transducer and fetal heart
- 24 rate monitor.
- 25 "Department." The Department of Health of the Commonwealth.
- 26 "DVD." A digital versatile disc.
- 27 "Digital versatile disc." A laser-encoded plastic medium
- 28 capable of storing a large amount of digital audio, video and
- 29 computer data.
- 30 "Fetus." An individual organism of the species homo sapiens

- 1 from fertilization until live birth.
- 2 "Gestational age." The age of an unborn child as calculated
- 3 from the first day of the last menstrual period of the pregnant
- 4 woman.
- 5 "HEALTH CARE PRACTITIONER." AN INDIVIDUAL WHO IS AUTHORIZED
- 6 TO PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,
- 7 PERMIT, CERTIFICATE OR REGISTRATION ISSUED BY A COMMONWEALTH
- 8 LICENSING AGENCY OR BOARD.
- 9 "Informed consent." The informed consent provided for under
- 10 18 Pa.C.S. § 3205 (relating to informed consent).
- "Medical emergency." As defined in 18 Pa.C.S. § 3203
- 12 (relating to definitions).
- 13 "Patient." A pregnant woman who is seeking to have an
- 14 abortion.
- 15 "Physician." A person licensed to practice medicine in this
- 16 Commonwealth. The term includes a medical doctor and a doctor of
- 17 osteopathy.
- 18 "Pregnancy." The female reproductive condition of having a
- 19 developing fetus in the body, which commences with
- 20 fertilization.
- 21 "Pregnant." Being in the state of pregnancy.
- "Ultrasound image." An image produced through the use of an
- 23 ultrasound machine which is of sufficient quality to be used in
- 24 determining gestational age.
- 25 "Unborn child." An individual organism of the species homo
- 26 sapiens from fertilization until live birth.
- 27 Section 4. Ultrasound test requirements.
- 28 (a) Test and waiting period. -- Except as set forth in section
- 29 10, all of the following apply:
- 30 (1) At least 24 hours before an abortion is to be

- 1 performed, an ultrasound test which produces an ultrasound
- 2 image shall be performed upon the patient by or for the
- 3 physician who is to perform the abortion or the referring
- 4 physician.
- 5 (2) The time period under paragraph (1) may run
- 6 concurrently with the waiting period under 18 Pa.C.S. §
- 7 3205(a) (relating to informed consent).
- 8 (b) List.--The physician who is to perform the abortion $\frac{\partial}{\partial r}$,
- 9 the referring physician OR A HEALTH CARE PRACTITIONER DESIGNATED
- 10 BY THE PHYSICIAN shall provide the patient with the list under
- 11 section 7(a)(3).
- 12 (c) Basis of determination. -- The ultrasound test shall be
- 13 used to make an accurate determination of gestational age of the
- 14 unborn child. Determination of gestational age shall be based
- 15 upon measurement of the unborn child in a manner consistent with
- 16 standard medical practice in the community in determining
- 17 gestational age. When only the gestational sac is visible during
- 18 an ultrasound test, gestational age may be based upon
- 19 measurement of the gestational sac.
- 20 (d) Documentation of measurements.--
- 21 (1) A print of the ultrasound image shall be made to
- document the measurements which have been taken to determine
- the gestational age of the unborn child.
- 24 (2) A copy of the print shall be maintained in the
- 25 patient's medical file at the facility where the abortion is
- 26 performed for the longer of:
- 27 (i) seven years; or
- 28 (ii) the extent required by applicable Federal or
- 29 State law.
- 30 (e) Individuals who may perform test. -- An ultrasound test

Τ.	may only be performed by one of the following.
2	(1) A physician.
3	(2) An individual who meets all of the following:
4	(i) Regularly conducts ultrasound tests for medical
5	purposes.
6	(ii) Has documented evidence of satisfactory
7	completion of a course, including a period of direct
8	supervision, in the operation of ultrasound equipment.
9	(iii) Has documentary evidence of periodic
10	evaluation of proficiency IS A HEALTH CARE PRACTITIONER.
11	(f) Physician instructions When the physician who orders
12	the ultrasound test refers the patient to another facility, the
13	physician or a $\frac{1}{1}$ health care $\frac{1}{1}$ practitioner to
14	whom the physician has delegated responsibility shall, in a
15	face-to-face consultation, do all of the following:
16	(1) Personally furnish the patient with the following
17	materials to take to the person who will conduct that
18	ultrasound test:
19	(i) The ultrasound direction sheet prepared under
20	section 7(a)(4).
21	(ii) The statement to be signed by the patient after
22	her ultrasound test is completed.
23	(iii) The statement to be signed by the person
24	conducting the ultrasound test.
25	(2) Instruct the patient to furnish the information
26	under paragraph (1) to the individual who conducts the
27	ultrasound test.
28	(3) Advise the patient that, IF SHE WISHES TO MOVE
29	FORWARD WITH THE ARORTION she will need to take her

statement and the signed statement of the individual who

- 1 performed the ultrasound test to the physician who is to
- 2 perform the abortion OR THE HEALTH CARE PRACTITIONER TO WHOM
- 3 THAT PHYSICIAN HAS DELEGATED RESPONSIBILITY.
- 4 (g) Fees.--
- 5 (1) The amount charged for an ultrasound test must be 6 billed separately from the fee for an abortion.
- 7 (2) The fee for an abortion must be fully refundable if 8 the abortion does not occur.
- 9 (3) THE ULTRASOUND FEE MUST NOT BE DIFFERENT FOR
 10 PATIENTS WHO ELECT TO OBTAIN OR DECLINE AN ABORTION.
- 11 Section 5. Right to view ultrasound image and observe fetal

 12 heartbeat of unborn child.
- 13 (a) Individual performing ultrasound test.—The individual
 14 performing the ultrasound test required under section 4 shall do
 15 all of the following:
- 16 (1) Conduct the ultrasound test, including fetal
 17 heartbeat WHEN PRESENT AND DETECTABLE, in a manner which will
 18 enable accurate determination of the gestational age and
 19 development of the unborn child.
 - (2) Provide the patient with accurate answers to any questions she may have during the performance of the ultrasound. This paragraph includes the presence of external members EXTREMITIES, internal organs, AND cardiac activity and the expected norms for an unborn child of given size or gestational age.
- 26 (3) INFORM THE PATIENT OF AN ABNORMAL ULTRASOUND
 27 FINDING, INCLUDING THE PRESENCE OF A NONVIABLE PREGNANCY OR
 28 THE ABSENCE OF AN INTRAUTERINE PREGNANCY, AND PROVIDE
 29 INFORMATION AS TO THE STANDARD MEDICAL CARE FOR THE TREATMENT
 30 OF SUCH AN ABNORMALITY. IN A CASE SUBJECT TO THIS PARAGRAPH,

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- 1 IF THE INDIVIDUAL PERFORMING THE ULTRASOUND IS NOT QUALIFIED 2 TO PROVIDE THE NECESSARY INFORMATION, THE PATIENT SHALL BE 3 REFERRED TO A PHYSICIAN WHO IS OUALIFIED TO INFORM THE PATIENT OF THE STANDARD MEDICAL CARE FOR THE TREATMENT OF THE 4 5 ABNORMALITY WITHIN 24 HOURS OF THE ULTRASOUND FINDING. 6 Inform the patient of her right to view the 7 ultrasound test in its entirety while that test is being 8 performed to determine gestational age. 9 Inform the patient of her right to observe the 10 fetal heartbeat and, if she exercises that right ALL OF THE 11 FOLLOWING: 12 WHETHER A HEARTBEAT WAS DETECTED UPON ULTRASOUND
- 13 EXAMINATION.
 - WHETHER THE DETECTION OR NONDETECTION OF A (II) HEARTBEAT IS NORMAL FOR THE DOCUMENTED GESTATIONAL AGE.
 - THE PATIENT'S RIGHT TO OBSERVE THE FETAL (III) HEARTBEAT, WHEN PRESENT AND DETECTABLE.
- 18 IF THE PATIENT EXERCISES THE RIGHT UNDER PARAGRAPH 19 (5) (III), make observable the live real-time heartbeat, when 20 present, for the patient to observe. If the auscultation is 21 performed, the patient must SHALL also be informed of her right to hear the fetal heartbeat, when present, in live real 22 23 time.
- 24 (5) (7) Position the screen so that the patient is able 25 to view the ultrasound test in its entirety, with a view of 26 her unborn child, while that test is being conducted to 27 determine gestational age. The patient is not required to 28 view the screen.
- 29 (6) (8) Provide two prints TO THE PATIENT, in separate 30 sealed envelopes, of the ultrasound image to be used to

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accurately determine gestational age. One print shall be

provided to the patient, and one print shall be provided to

the physician who is to perform the abortion.

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(7) (9) Sign and date a statement indicating the time of

(7) (9) Sign and date a statement indicating the time of day when the ultrasound test was performed. The statement must read AND WHICH READS SUBSTANTIALLY as follows:

I performed an ultrasound test including fetal heartbeat on (insert name of patient) on (insert date AND TIME) at (insert name of facility where ultrasound test was performed). At that time, the gestational age was determined to be (INSERT #) weeks and the heart rate was (not present or {INSERT #} beats per minute {mark one}). The ultrasound screen was positioned so that the patient would be able to view the screen in its entirety while the test was being performed. I informed her of her right to view the ultrasound screen in its entirety while the test was being performed (which she "accepted" or "refused" {mark one}). I provided her with a print TWO PRINTS of the ultrasound image that will be used to determine gestational age. I informed her of her right to observe or hear the fetal heartbeat because auscultation was performed (which she "accepted" or "refused" OR "NO HEARTBEAT WAS DETECTED" {mark one}). (Print and sign name of person performing ultrasound test and insert date of signature and the time of day the test was performed.) (8) (10) Maintain a copy of the statement under

paragraph (7) (9) in the patient's medical file at the facility where the abortion ULTRASOUND is performed, AND PROVIDE A SECOND COPY OF THAT STATEMENT TO THE PATIENT SO THAT SHE MAY PROVIDE IT TO THE PHYSICIAN WHO IS TO PERFORM

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- 1 THE ABORTION OR THE HEALTH CARE PRACTITIONER TO WHOM THAT
 2 PHYSICIAN HAS DELEGATED RESPONSIBILITY.
- 3 (9) Instruct (11) IF THE PATIENT WISHES TO CONTINUE 4
 WITH THE ABORTION, INSTRUCT the patient to:
- - (ii) take her statement, ONE OF THE PRINTS UNDER

 PARAGRAPH (8) and the signed and dated statement of the individual who performed the ultrasound test to the physician who will perform the abortion OR THE HEALTH

 CARE PRACTITIONER TO WHOM THE PHYSICIAN HAS DELEGATED

 RESPONSIBILITY.

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- (b) Written statement from patient. --
- 14 (1) Except as set forth in section 10, the patient must 15 sign a statement which reads SUBSTANTIALLY as follows:

16 I was OR WAS NOT (CIRCLE ONE) provided with an opportunity to view the ultrasound test in its entirety, 17 18 while that test was being performed. I was OR WAS NOT 19 (CIRCLE ONE) given a print TWO PRINTS of the ultrasound 20 image. I was OR WAS NOT (CIRCLE ONE) provided the 21 opportunity to observe the fetal heartbeat, IF PRESENT, 22 AND RECEIVE ANSWERS TO ANY QUESTIONS I HAD DURING THE 23 ULTRASOUND TEST. (Print and sign name of patient and 24 insert date of signature.)

- (2) The statement must be in bold print of at least tenpoint type and the paper containing such statement must only include material which is necessary to carry out the purpose of this subsection.
- 29 (3) A copy of the statement, signed and dated by the 30 patient and with the patient's name printed on it, shall be

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1	maintained in the patient's medical file at the facility
2	where the abortion is performed.
3	(C) PATIENT OBLIGATIONS
4	(1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE PATIENT
5	MUST PROVIDE TO THE PHYSICIAN WHO IS TO PERFORM THE ABORTION
6	OR THE HEALTH CARE PRACTITIONER TO WHOM THAT PHYSICIAN HAS
7	DELEGATED RESPONSIBILITY:
8	(I) ONE OF THE PRINTS UNDER SUBSECTION (A)(8);
9	(II) THE STATEMENT UNDER SUBSECTION (A) (9) AND (10);
10	AND
11	(III) THE STATEMENT UNDER SUBSECTION (B) (1).
12	(2) PARAGRAPH (1) SHALL NOT APPLY TO THE PATIENT IF:
13	(I) SHE DETERMINES AFTER THE ULTRASOUND TEST TO
14	CONTINUE HER PREGNANCY;
15	(II) HER PREGNANCY IS DEEMED TO BE NONVIABLE; OR
16	(III) THERE IS NO EVIDENCE OF AN INTRAUTERINE
17	PREGNANCY.
18	Section 6. Ultrasound video.
19	(a) Scope This section applies if the abortion is not
20	performed within 14 days of the performance of the ultrasound
21	test under section 4.
22	(b) Physician duties.
23	(1) The physician who performs the abortion shall, in
24	person, do all of the following:
25	(i) Inform the patient of the probable gestational
26	age of the unborn child at the time the abortion is
27	performed.
28	(ii) Record the fetal heart rate and note if the
29	heart rate is within a normal range for the estimated-
30	gestational age.

Τ.	(III) Offer the patient an opportunity to view an
2	ultrasound video which accurately depicts an unborn child
3	at the stage in pregnancy when her abortion is performed.
4	(2) The duties under paragraph (1) are discharged by
5	providing the patient with:
6	(i) an opportunity to view, on site, an appropriate
7	ultrasound video approved by the department; or
8	(ii) the DVD or viewable electronic medium under
9	section 7(a)(5).
10	(B) PHYSICIAN DUTIES THE PHYSICIAN WHO PERFORMS THE
11	ABORTION SHALL, IN PERSON, DO ALL OF THE FOLLOWING:
12	(1) INFORM THE PATIENT OF THE GESTATIONAL AGE OF THE
13	UNBORN CHILD AT THE TIME THE ABORTION IS PERFORMED.
14	(2) RECORD THE FETAL HEART RATE AND NOTE IF THE HEART
15	RATE IS WITHIN A NORMAL RANGE FOR THE GESTATIONAL AGE.
16	(3) OFFER THE PATIENT AN OPPORTUNITY TO VIEW AN
17	ULTRASOUND VIDEO APPROVED BY THE DEPARTMENT WHICH ACCURATELY
18	DEPICTS AN UNBORN CHILD AT THE STAGE IN PREGNANCY WHEN HER
19	ABORTION IS PERFORMED.
20	(c) Written statement
21	(1) The patient must sign a statement which reads
22	SUBSTANTIALLY as follows:
23	I was OR WAS NOT (CIRCLE ONE) informed of the probable
24	gestational age of my unborn child at the time ON THE DAY
25	the abortion was performed. I was OR WAS NOT (CIRCLE ONE)
26	provided an opportunity to view an ultrasound video
27	approved and provided by the Department of Health. (Print
28	and sign name of pregnant woman and insert date of
29	signature.)
30	(2) The physician who performs the abortion shall

1 personally provide the patient with the information required

2 by this section and shall sign a statement which reads

3 SUBSTANTIALLY as follows:

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Prior to performing an abortion on (insert name of pregnant woman) at (insert name of facility), I personally informed her of the probable gestational age

of her unborn child and I provided her with an

opportunity to view an ultrasound video and observe or

9 hear a fetal heartbeat which accurately depicted an

10 unborn child at the same stage of pregnancy when the

abortion was performed and she (insert "accepted" or

"declined") this opportunity. (Print and sign name of

physician and insert date of signature.)

- 14 (d) Documentation. -- A copy of the signed and dated
- 15 statements required under subsection (c) shall be maintained in
- 16 the patient's medical file at the facility where the abortion is
- 17 performed.

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- 18 Section 7. Department.
- 19 (a) Duties. -- The department shall do all of the following to
- 20 implement this act:
- 21 (1) Obtain from physicians information necessary to
- 22 prepare the report COLLECT THE REPORTS required under section
- 23 9.
- 24 (2) Prepare WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS
- 25 PARAGRAPH, PREPARE forms for statements and reports required
- under this act and place the forms on a departmental Internet
- website.
- 28 (3) Prepare WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS
- 29 PARAGRAPH, PREPARE a geographically indexed list of health
- 30 care providers, facilities and clinics that perform

- ultrasounds which provide ultrasound images, including IN

 COMPLIANCE WITH THIS ACT, SEPARATELY LISTING those that offer

 ultrasound services free of charge. This paragraph requires

 contact information for each provider, facility or clinic,

 including telephone numbers and, if available, Internet

 website addresses.
 - (4) Prepare WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, PREPARE an ultrasound direction sheet which sets forth the requirements of section 5(a).
 - (5) Approve WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, APPROVE a DVD or other viewable electronic medium of ultrasound videos which it determines provides accurate and clear ultrasound video images of unborn children and audible fetal heartbeats in weekly stages, or as close to those stages as possible, for patients to view to learn what an unborn child's development will be like at the time of the scheduled abortion.
 - (6) Transmit a notice of approval under paragraph (5) to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.
 - (7) Submit an annual report to the Secretary of the Senate and the Chief Clerk of the House of Representatives by March 31 based upon the information obtained under this act for the preceding calendar year. The report shall be available for public inspection and copying. The report under this paragraph shall not contain information which discloses the identity of a patient. The report shall include the following information:
- 29 (i) The gestational ages of unborn children:
 30 (A) determined by ultrasound image under section

1	4; and
2	(B) set forth in categories beginning with those
3	at eight weeks and proceeding forward in two-week-
4	increments. CHILDREN DETERMINED BY ULTRASOUND, FOR
5	EACH ABORTION PERFORMED IN THIS COMMONWEALTH, LISTED
6	BY WEEK OF GESTATIONAL AGE AT THE TIME OF THE
7	ABORTION.
8	(ii) The number of instances when the ultrasound
9	test referred to under section 4 was performed at the
10	facility where the abortion was performed.
11	(iii) The number of instances when exemptions were
12	claimed under section $\frac{10(b)}{and(c)}$ 10, listed separately
13	by the type of exemption.
14	(b) Powers The department may promulgate regulations to
15	implement this act.
16	Section 8. Duties of physicians performing abortion and
17	abortion facilities.
18	(a) Prerequisites Except as set forth in section 10, an
19	abortion may not be performed unless all of the following $\frac{apply}{}$
20	CONDITIONS ARE MET:
21	(1) The physician performing the abortion possesses
22	CONFIRMS THAT THE PATIENT'S MEDICAL FILE CONTAINS a copy of: $lacktriangle$
23	(i) the print of the ultrasound image under section
24	5(a)(6) 5(A)(8);
25	(ii) the statement under section 5(b); and
26	STATEMENTS UNDER SECTION 5(A)(9) AND (B);
27	(iii) if applicable, the $rac{ ext{statement}}{ ext{statement}}$ STATEMENTS under
28	section 6(c); AND
29	(IV) WRITTEN DOCUMENTATION DEMONSTRATING THAT ALL
30	THE REQUIREMENTS OF PARAGRAPH (3) HAVE BEEN MET.

1	(2) The physician performing the abortion, in person,	
2	informs the patient of the probable gestational age of the	_
3	unborn child.	
4	(3) THE PHYSICIAN PERFORMING THE ABORTION HAS INFORMED	_
5	THE PATIENT OF THE FOLLOWING:	
6	(I) WHETHER A HEARTBEAT WAS DETECTED UPON ULTRASOUND	
7	EXAMINATION, AND WHETHER THIS IS NORMAL FOR THE	
8	DOCUMENTED GESTATIONAL AGE.	
9	(II) IF A HEARTBEAT WAS DETECTED, THE NUMBER OF	
10	BEATS PER MINUTE THAT WAS RECORDED; AND WHETHER THIS IS	
11	NORMAL FOR THE DOCUMENTED GESTATIONAL AGE.	
12	(III) IF THE NUMBER OF BEATS PER MINUTE IS NOT	
13	NORMAL:	
14	(A) THE SIGNIFICANCE OF THIS FACT WITH RESPECT	
15	TO THE VIABILITY OF THE PREGNANCY; AND	
16	(B) ANY ALTERNATIVES TO ABORTION WHICH ARE	
17	WITHIN ACCEPTED MEDICAL STANDARDS OF CARE.	
18	(4) At least 24 hours have elapsed since the time when	
19	the ultrasound test required under section 4 was performed,	
20	as indicated in the statement required under section $\frac{5(b)}{}$	_
21	5(A)(9).	_
22	(b) Physician statementIf an exemption under section 10	
23	applies, the physician who performs the abortion shall sign and	
24	date the statement set forth below:	
25	The exemption set forth in section 10(insert "(a)", "(b)" or	_
26	"(c)" OR "(B)") applies to the abortion that I performed upon	_
27	(insert name of patient). I made this determination on the	
28	basis of the following: (insert medical factors dictating	_
29	application of exemption). (Print and sign physician's name	
30	and insert date of signature.)	

- 1 (c) Recordkeeping.--
- 2 (1) The physician statement required by subsection (b)
- 3 and OR the print of the ultrasound test UNDER SECTION 4(D) or
- 4 another method of storing the ultrasound image shall be
- 5 placed in the medical file of the patient at the facility
- 6 where the abortion is performed.
- 7 (2) The items under paragraph (1) shall be maintained
- 8 for the longer of:
- 9 (i) seven years; or
- 10 (ii) the extent required by applicable Federal or
- 11 State law.
- 12 Section 9. Reports by physicians.
- 13 (a) Duty of physicians to file. -- A physician who performs an
- 14 abortion OR AN AGENT DESIGNATED BY THAT PHYSICIAN shall file a
- 15 signed report with the department. The report shall not identify
- 16 the patient by name and shall include the following information
- 17 AS APPLICABLE:
- 18 (1) The name of the physician who caused ORDERED the
- 19 ultrasound test to be performed, the name of the person who
- 20 performed the ultrasound test and the facility where the
- 21 ultrasound test was performed.
- 22 (2) The date AND TIME the ultrasound test was performed.
- 23 (3) The name of the physician who performed the abortion
- and the facility where the abortion was performed.
- 25 (4) The date AND TIME the abortion was performed.
- 26 (5) The gestational age of the unborn child as
- determined by the ultrasound image required under section 4.
- 28 (6) Whether the patient declined the opportunity to:
- 29 (i) view the ultrasound image; or
- 30 (ii) observe or hear the fetal heartbeat.

- 1 (7) The basis for the medical judgment of the physician
- 2 that a medical emergency existed.
- 3 (8) The basis for the medical judgment of the physician
- 4 FACT that an exemption WAS CLAIMED under section 10(b)
- 5 applies.
- 6 (9) Whether section 6 applied to the patient and whether
- 7 she declined the opportunity to view the video.
- 8 (b) Filing deadline. -- Reports under this section shall be
- 9 filed with the department within 15 days after the end of the
- 10 month.
- 11 (c) Confidentiality.--Reports under this section may SHALL
- 12 not contain information which discloses the identity of a
- 13 patient.
- 14 Section 10. Exemptions.
- 15 (a) Medical emergencies. -- Sections 4, 5 and 8, 6 AND 8(A)
- 16 shall not apply if a medical emergency exists.
- 17 (b) Gestational age. Sections 4, 5 and 8 shall not apply
- 18 if, in the physician's reasonable medical opinion, the probable
- 19 gestational age of the unborn child is less than eight weeks.
- 20 (c) Rape or incest. -- Sections 4, 5 and 8, 6 AND 8(A) shall
- 21 not apply if the patient's pregnancy is the result of rape or
- 22 incest.
- 23 Section 11. Administrative sanctions.
- 24 A physician who knowingly violates this act shall be deemed
- 25 to have engaged in unprofessional conduct and shall be subject
- 26 to appropriate disciplinary action under:
- 27 (1) the act of October 5, 1978 (P.L.1109, No.261), known
- as the Osteopathic Medical Practice Act; or
- 29 (2) the act of December 20, 1985 (P.L.457, No.112),
- 30 known as the Medical Practice Act of 1985.

- 1 Section 12. Criminal penalties.
- 2 (a) Specific violations.--
- 3 (1) A physician who knowingly violates section 4, 5, 6
- 4 or 8 and performs an abortion commits a misdemeanor of the
- 5 third degree.
- 6 (2) An individual who knowingly violates section 4
- 7 commits a misdemeanor of the third degree.
- 8 (3) An individual other than a patient who executes a
- 9 written statement required by this act with knowledge that
- 10 the statement is false commits a misdemeanor of the third
- degree.
- 12 (b) Disclosure of patient's identity.--
- 13 (1) Except as set forth in paragraph (2), all of the
- 14 following apply:
- 15 (i) A health care provider that learns of the
- 16 identity of a patient may not disclose the identity of
- 17 the patient.
- 18 (ii) A public employee or official that learns of
- the identity of a patient may not disclose the identity
- of the patient.
- 21 (2) Paragraph (1) does not apply if disclosure:
- 22 (i) is appropriate to carry out the purposes of this
- 23 act; or
- 24 (ii) is made with the consent of the patient.
- 25 (3) A person that knowingly violates this subsection
- commits a misdemeanor of the second degree.
- 27 Section 13. Civil remedies.
- 28 (a) Equity. -
- 29 (1) This subsection applies to any of the following that
- 30 knowingly performs an abortion in violation of this act:

1	(i) A physician.
2	(ii) A facility at which an abortion is performed.
3	(2) Any of the following may seek an injunction against
4	a person specified in paragraph (1):
5	(i) The woman who was a patient.
6	(ii) The district attorney in the county where an
7	abortion was performed.
8	(iii) The Attorney General.
9	(3) An injunction under this section shall prevent the
10	person from performing further abortions.
11	(b) LawIf a physician or health care provider performs an-
12	abortion in violation of this act, the physician or health care
13	provider shall be liable for actual damages as follows:
14	(1) Except as set forth in paragraph (2), to the
15	patient.
16	(2) To the parent or legal guardian of a patient who, at
17	the time of the abortion:
18	(i) is under 18 years of age and not emancipated; or
19	(ii) is incapacitated under 20 Pa.C.S. § 5512.1
20	(relating to determination of incapacity and appointment
21	of guardian).
22	(c) Attorney fees. The court shall award attorney fees as
23	follows:
24	(1) To a successful petitioner under subsection (a)(2).
25	(2) To a successful plaintiff under subsection (b).
26	(A) DAMAGESA HEALTH CARE PRACTITIONER WHO KNOWINGLY
27	PERFORMS AN ABORTION IN VIOLATION OF THIS ACT SHALL BE LIABLE TO
28	THE PATIENT FOR:
29	(1) DAMAGES CAUSED BY THE VIOLATION; AND
30	(2) PUNITIVE DAMAGES IN THE AMOUNT OF \$5,000.

- 1 (B) ATTORNEY FEES.--A PREVAILING PARTY UNDER SUBSECTION (A)
- 2 SHALL BE AWARDED ATTORNEY FEES.
- 3 (C) CUMULATIVE NATURE. -- CIVIL LIABILITY UNDER THIS SECTION
- 4 IS IN ADDITION TO:
- 5 (1) ADMINISTRATIVE SANCTIONS UNDER SECTION 11; AND
- 6 (2) CRIMINAL PENALTIES UNDER SECTION 12.
- 7 Section 14. Construction.
- 8 Nothing in this act shall be deemed to do any of the
- 9 following:
- 10 (1) Eliminate the application of the 24-hour waiting
- period under 18 Pa.C.S. § 3205 (relating to informed
- 12 consent).
- 13 (2) Limit or repeal any provision of 18 Pa.C.S. Ch. 32
- 14 (relating to abortion).
- 15 Section 48. Severability.
- 16 The provisions of this act are severable. If any provision of
- 17 this act or its application to any person or circumstance is
- 18 held invalid, the invalidity shall not affect other provisions
- 19 or applications of this act which can be given effect without
- 20 the invalid provision or application.
- 21 Section 49. Applicability.
- 22 The requirements of this act shall not be deemed inoperative
- 23 OPERATIVE prior to the preparation of forms by the department
- 24 under section 7(a)(2).
- 25 Section 50. Effective date.
- 26 This act shall take effect as follows:
- 27 (1) The following provisions shall take effect
- 28 immediately:
- 29 (i) Section 7.
- 30 (ii) Section 49.

- 1 (iii) This section.
- 2 (2) Section 6 shall take effect 30 days after the 3 publication of the notice under section 7(a)(6).
- 4 (3) The remainder of this act shall take effect in 90 days.