
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1318 Session of
1973

INTRODUCED BY DOUGHERTY, COPPERSMITH, MURRAY, EWING, SMITH AND
ORLANDO, NOVEMBER 27, 1973

AS REPORTED FROM COMMITTEE ON LAW AND JUSTICE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 24, 1974

AN ACT

1 Regulating abortions; providing requirements relating to
2 consent, and protection of premature infants aborted alive;
3 limiting the subsidizing of abortions; providing for the
4 powers and duties of the Department of Health; and
5 prescribing penalties.

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

8 Section 1. Short Title.--This act shall be known and may be
9 cited as the "Abortion Control Act."

10 Section 2. Definitions.--As used in this act:

11 "Department" means the Department of Health of the
12 Commonwealth of Pennsylvania.

13 "Facility" means a hospital, health care facility,
14 physician's office or other place in which an abortion is
15 performed.

16 "Informed consent" means a written statement, voluntarily
17 entered into by the person upon whom an abortion is to be
18 performed, whereby she specifically consents thereto. Such

1 consent shall be deemed to be an informed consent only if it
2 affirmatively appears in the written statement signed by the
3 person upon whom the abortion is to be performed ~~(i)~~ that she <—
4 has been advised (I) that there may be detrimental physical and <—
5 psychological effects which are not foreseeable, (ii) of
6 possible alternatives to abortion, including childbirth and
7 adoption, and (iii) of the medical procedures to be used. Such
8 statement shall be signed by the physician or by a counselor
9 authorized by him and shall also be made orally in readily
10 understandable terms in so far as practicable.

11 "Viable" means the capability of a fetus to live outside the
12 mother's womb albeit with artificial aid.

13 Section 3. Consent to Abortion; Limitations on Public
14 Officials.--(a) No abortion shall be performed upon any person
15 in the absence of informed consent thereto by such person.
16 Notwithstanding the foregoing provisions of this subsection, an
17 abortion may be performed on any person if, in the medical
18 judgment of a licensed physician, an abortion is immediately
19 necessary to preserve the life of the woman and the woman is
20 unable to give consent.

21 (b) No abortion shall be performed upon any person in the
22 absence of the written consent of (i) the spouse of such person
23 provided that the whereabouts of such spouse can be learned from
24 such person or from other readily available sources and he can
25 be notified and that the abortion is not certified by a licensed
26 physician to be necessary in order to preserve the life or
27 health of the mother, (ii) one parent or person in loco parentis
28 of such person if such person is under eighteen years of age and
29 unmarried, unless the abortion is certified by a licensed
30 physician as necessary in order to preserve the life of the

1 mother.

2 (c) No ~~court, judge,~~ executive officer, administrative <—
3 agency or public employee of the Commonwealth of Pennsylvania or
4 of any local governmental body shall have power to issue any
5 order requiring AN abortion or shall coerce any person to have <—
6 or not to have an abortion.

7 (d) No court, judge, executive officer, administrative
8 agency or public employee of the Commonwealth of Pennsylvania or
9 of any local governmental body shall withhold, reduce or
10 suspend, or threaten to withhold, reduce or suspend, any
11 benefits to which a person would otherwise be entitled on the
12 ground that such person chooses to have or not to have an
13 abortion.

14 (e) Whoever performs an abortion without consent as required
15 in subsections (a) and (b) of this section shall be guilty of a
16 misdemeanor of the first degree. Whoever orders an abortion in
17 violation of subsection (c) or who withholds, reduces or
18 suspends any benefits, or threatens to withhold, reduce or
19 suspend any benefits in violation of subsection (d) shall be
20 guilty of a misdemeanor in the first degree.

21 Section 4. Intentional Killing of Premature Infant Aborted
22 Alive.--Whoever, with intent to do so, shall intentionally and
23 wilfully take the life of a premature infant aborted alive,
24 shall be guilty of murder of the second degree.

25 Section 5. Protection of Life of Fetus.--(a) Every person
26 who performs or induces an abortion shall prior thereto have
27 made a determination based on his experience, judgment or
28 professional competence that the fetus is not viable, and if the
29 determination is that the fetus is viable or if there is
30 sufficient reason to believe that the fetus may be viable, shall

1 exercise that degree of professional skill, care and diligence
2 to preserve the life and health of the fetus which such person
3 would be required to exercise in order to preserve the life and
4 health of any fetus intended to be born and not aborted and the
5 abortion technique employed shall be that which would provide
6 the best opportunity for the fetus to be aborted alive so long
7 as a different technique would not be necessary in order to
8 preserve the life or health of the mother.

9 (b) No person shall use any premature infant aborted alive
10 for any type of scientific, research, laboratory, or other kind
11 of experimentation except as necessary to protect or preserve
12 the life and health of such premature infant aborted alive.

13 (c) The department shall make regulations to provide for the
14 humane disposition of dead fetuses.

15 (d) Any person who fails to make the determination provided
16 for in subsection (a) of this section, or who fails to exercise
17 the degree of professional skill, care and diligence or to
18 provide the abortion technique as provided for in subsection (a)
19 of this section, or who violates subsection (b) of this section,
20 shall be subject to such civil or criminal liability as would
21 pertain to him had the fetus been a child who was intended to be
22 born and not aborted.

23 Section 6. Control of Practice of Abortion.--(a) Every
24 person who intends to perform or induce an abortion shall first
25 have made a determination of the pregnancy of the person to be
26 aborted.

27 (b) No abortion shall be performed within the Commonwealth
28 of Pennsylvania during the stage of a pregnancy subsequent to
29 viability of the fetus except where necessary, in the judgment
30 of a licensed physician, to preserve the life or health of the

1 mother.

2 (c) No abortion shall be performed within the Commonwealth
3 of Pennsylvania except by a licensed physician and in a facility
4 approved to do so by the Department of Health in accordance with
5 its rules and regulations.

6 (d) Every facility in which an abortion is performed
7 ~~according to subsection (b) of this section~~ PURSUANT TO THIS ACT <—
8 within the Commonwealth of Pennsylvania shall currently make and
9 keep on file upon forms prescribed by the Department of Health a
10 verified statement signed by the person who performed the
11 abortion setting forth the following information with respect to
12 such abortion: the name, address and age of the woman upon whom
13 the abortion was performed; the date on which the abortion was
14 performed; the date upon which the determination of pregnancy as
15 required by this section was made: the name and address, if
16 known, of the spouse of the woman: the name and address, if
17 known, of the parent or person in loco parentis if the woman is
18 under eighteen years of age and unmarried; the approximate age,
19 in months, of the fetus; a full statement of those facts upon
20 which the person performing the abortion relied as establishing
21 that the abortion was necessary to preserve the life or health
22 of the mother. Affixed to such statement shall be a copy of each
23 of the documents showing consent to abortion as required by
24 section 3 of this act. All information and documents required by
25 this subsection shall be treated with confidentiality
26 customarily accorded to medical records.

27 (e) Every facility in which an abortion is performed within
28 the Commonwealth of Pennsylvania during any quarter year shall
29 file with the Department of Health a report showing the total
30 number of abortions performed within such hospital or other

1 facility during that quarter year. This report shall also show
2 the total abortions performed in each trimester of pregnancy.

3 (f) No physician, clinic or other person or agency shall
4 engage in solicitation or advertising having the purpose of
5 inviting, inducing or attracting members of the public to come
6 to such physician, clinic or other person or agency to have
7 abortions or to purchase abortifacients.

8 (g) No physician, clinic, facility or other person or agency
9 shall charge or receive any remuneration EITHER DIRECTLY OR
10 INDIRECTLY for the referral of a person to another physician,
11 clinic, facility or person for the purpose of obtaining an
12 abortion.

13 (h) Nothing contained in this subsection or in section 5 of
14 this act shall have the effect of repealing any part of the act
15 of June 29, 1953 (P.L.304, No.66), known as the "Vital
16 Statistics Law of 1953," Article I, § 101 et seq., or section
17 5.2 of the act of October 27, 1955 (P.L.744, No.222), as
18 amended, known as the "Pennsylvania Human Relations Act."

19 (i) Any person or agency who violates any of the provisions
20 of subsection (a), (b), (c) or (g) of this section is guilty of
21 a misdemeanor of the first degree and any person or agency who
22 violates any of the provisions of subsection (d), (e) or (f) of
23 this section is guilty of a misdemeanor of the third degree.

24 Section 7. Subsidizing of Abortions.--Since it is the public
25 policy of the Commonwealth not to use public funds to pay for
26 unneeded and unnecessary abortions, no abortion shall be
27 subsidized by any State or local governmental agency in the
28 absence of a certificate of a physician, filed with such body,
29 stating that such abortion is necessary in order to preserve the
30 life or health of the mother.

1 Nothing contained in this section shall be interpreted to
2 restrict or limit in any way, appropriations, made by the
3 Commonwealth or a local governmental agency to hospitals for
4 their maintenance and operation, or, for reimbursement to
5 hospitals for services performed.

6 Section 8. Regulations.--The Department of Health shall have
7 power to make rules and regulations pursuant to this act, with
8 respect to performance of abortions and with respect to
9 facilities in which abortions are performed, so as to protect
10 the health and safety of women having abortions and of premature
11 infants aborted alive. Said rules and regulations shall include,
12 but not be limited to procedures, staff, equipment, and
13 laboratory testing requirements for all facilities offering
14 abortion services.

15 Section 9. Severability.--If any provision of this act or
16 the application thereof to any person or circumstances is held
17 invalid, such invalidity shall not affect other provisions or
18 applications of the act which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this act are declared to be severable.

21 Section 10. Repeals.--Sections 718 and 719, act of June 24,
22 1939 (P.L.872, No.375), known as "The Penal Code," are repealed.

23 Section 11. Effective Date.--This act shall take effect in
24 thirty days.