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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1130 Session of  
1987

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INTRODUCED BY MARKOSEK, BOOK, TRUMAN, J. TAYLOR, BLAUM, BOWLEY,  
GLADECK, ACOSTA, BURD, JADLOWIEC, SCHEETZ, MRKONIC, TRELLO,  
BATTISTO, KUKOVICH, GAMBLE, GEIST, JOHNSON, HERMAN, SHOWERS,  
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SAURMAN, FOX, McHALE, MELIO, D. W. SNYDER, WOGAN, SEMMEL,  
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E. Z. TAYLOR, MICHLOVIC, VEON, RICHARDSON, COLAFELLA, LANGTRY  
AND BELARDI, APRIL 22, 1987

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
NOVEMBER 24, 1987

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, limiting the defense of justification  
3 in certain cases; PROVIDING FOR DISTRICT ATTORNEYS' STANDING <—  
4 AND INTEREST IN PRISONER LITIGATION; adding provisions  
5 relating to the establishment and operation of the  
6 Pennsylvania Commission on Sentencing; REGULATING MATTERS <—  
7 RELATING TO THE PERFORMANCE AND FUNDING OF ABORTIONS, THE  
8 PROTECTION OF WOMEN WHO UNDERGO ABORTION AND THEIR SPOUSES,  
9 AND THE PROTECTION OF CHILDREN SUBJECT TO ABORTION;  
10 increasing the penalties for false reports to law enforcement  
11 authorities; making an editorial change; and making repeals.

12 The General Assembly of the Commonwealth of Pennsylvania

13 hereby enacts as follows:

14 Section 1. Section 509 of Title 18 of the Pennsylvania

15 Consolidated Statutes is amended to read:

16 § 509. Use of force by persons with special responsibility for  
17 care, discipline or safety of others.

1     (a) General rule.--The use of force upon or toward the  
2 person of another is justifiable if:

3           (1) The actor is the parent or guardian or other person  
4 similarly responsible for the general care and supervision of  
5 a minor or a person acting at the request of such parent,  
6 guardian or other responsible person and:

7           (i) the force is used for the purpose of  
8 safeguarding or promoting the welfare of the minor,  
9 including the preventing or punishment of his misconduct;  
10 and

11           (ii) the force used is not designed to cause or  
12 known to create a substantial risk of causing death,  
13 serious bodily injury, disfigurement, extreme pain or  
14 mental distress or gross degradation.

15           (2) The actor is a teacher or person otherwise entrusted  
16 with the care or supervision for a special purpose of a minor  
17 and:

18           (i) the actor believes that the force used is  
19 necessary to further such special purpose, including the  
20 maintenance of reasonable discipline in a school, class  
21 or other group, and that the use of such force is  
22 consistent with the welfare of the minor; and

23           (ii) the degree of force, if it had been used by the  
24 parent or guardian of the minor, would not be  
25 unjustifiable under [subparagraph (1)(ii) of this  
26 section] paragraph (1)(ii).

27           (3) The actor is the guardian or other person similarly  
28 responsible for the general care and supervision of an  
29 incompetent, mentally ill or mentally retarded person; and:

30           (i) the force is [used] necessary for the purpose of

1           safeguarding or promoting the welfare of the incompetent,  
2           mentally ill or mentally retarded person, including the  
3           prevention of his misconduct[, or, when such incompetent  
4           person is in a hospital or other institution for his care  
5           and custody, for the maintenance of reasonable discipline  
6           in such institution]; and

7           (ii) the force used is not designed to cause or  
8           known to create a substantial risk of causing death,  
9           [serious] bodily injury, disfigurement, [extreme or  
10           unnecessary] pain, mental distress, or humiliation beyond  
11           that justifiable under subparagraph (i).

12           (4) The actor is a doctor or other therapist or a person  
13           assisting him at his direction; and:

14           (i) the force is used for the purpose of  
15           administering a recognized form of treatment not  
16           prohibited by law of this Commonwealth which the actor  
17           believes to be adapted to promoting the physical or  
18           mental health of the patient; and

19           (ii) the treatment is administered with the consent  
20           of the patient, or, if the patient is a minor or an  
21           incompetent person with the consent of his parent or  
22           guardian or other person legally competent to consent in  
23           his behalf, or the treatment is administered in an  
24           emergency when the actor believes that no one competent  
25           to consent can be consulted and that a reasonable person,  
26           wishing to safeguard the welfare of the patient, would  
27           consent.

28           (5) The actor is a warden or other authorized official  
29           of a correctional institution; and:

30           (i) he believes that the force used is necessary for

1 the purpose of enforcing the lawful rules or procedures  
2 of the institution, unless his belief in the lawfulness  
3 of the rule or procedure sought to be enforced is  
4 erroneous and his error is due to ignorance or mistake as  
5 to the provisions of this title, any other provision of  
6 the criminal law or the law governing the administration  
7 of the institution;

8 (ii) the nature or degree of force used is not  
9 forbidden by law; and

10 (iii) if deadly force is used, its use is otherwise  
11 justifiable under this chapter.

12 (6) The actor is a person responsible for the safety of  
13 a vessel or an aircraft or a person acting at his direction;  
14 and:

15 (i) he believes that the force used is necessary to  
16 prevent interference with the operation of the vessel or  
17 aircraft or obstruction of the execution of a lawful  
18 order, unless his belief in the lawfulness of the order  
19 is erroneous and his error is due to ignorance or mistake  
20 as to the law defining his authority; and

21 (ii) if deadly force is used, its use is otherwise  
22 justifiable under this chapter.

23 (7) The actor is a person who is authorized or required  
24 by law to maintain order or decorum in a vehicle, train or  
25 other carrier or in a place where others are assembled; and:

26 (i) he believes that the force used is necessary for  
27 such purpose; and

28 (ii) the force used is not designed to cause death,  
29 or known to create a substantial risk of causing death,  
30 bodily injury, or extreme mental distress.



1 1384. Adoption of guidelines for sentencing.

2 1385. Publication of guidelines for sentencing.

3 1386. Severability of subchapter.

4 § 1381. Pennsylvania Commission on Sentencing.

5 (a) General rule.--The Pennsylvania Commission on Sentencing  
6 shall be established as an agency of the General Assembly and  
7 shall consist of 11 persons selected as provided in this  
8 subchapter.

9 (b) Seal.--The Pennsylvania Commission on Sentencing shall  
10 have a seal engraved with its name and such other inscription as  
11 may be specified by regulation of the commission.

12 § 1382. Composition of commission.

13 (a) General rule.--The Pennsylvania Commission on Sentencing  
14 shall consist of:

15 (1) Two members of the House of Representatives selected  
16 by the Speaker of the House of Representatives, no more than  
17 one of whom shall be of the same political party.

18 (2) Two members of the Senate selected by the President  
19 pro tempore of the Senate, no more than one of whom shall be  
20 of the same political party.

21 (3) Four judges of courts of record selected by the  
22 Chief Justice of Pennsylvania.

23 (4) Three persons appointed by the Governor, who shall  
24 be, respectively:

25 (i) A district attorney.

26 (ii) A defense attorney.

27 (iii) Either a professor of law or a criminologist.

28 (b) Terms of office.--The members of the commission shall  
29 serve for terms of two years and until a successor has been  
30 selected and qualified. A vacancy on the commission shall be

1 filled for the balance of the term.

2 (c) Chairman and executive director.--The commission shall  
3 select a chairman from its members and an executive director.

4 The chairman shall:

5 (1) Preside at meetings of the commission.

6 (2) Direct the preparation of requests for  
7 appropriations for the commission and the use of funds made  
8 available to the commission.

9 (d) Meetings and quorum.--

10 (1) The commission shall meet at least four times a year  
11 and not less than semiannually to establish its general  
12 policies and rules.

13 (2) The commission shall be deemed an "agency" within  
14 the meaning of and shall be subject to the provisions of the  
15 act of July 3, 1986 (P.L.388, No.84), known as the Sunshine  
16 Act.

17 (3) Seven commissioners shall constitute a quorum for  
18 the purpose of adopting proposed initial and initial and  
19 subsequent guidelines. A majority of commissioners shall  
20 constitute a quorum for all other purposes.

21 (4) Minutes of meetings shall be kept by the executive  
22 director and filed at the executive office of the commission.

23 (e) Records of action.--Except as otherwise provided by  
24 statute, the commission shall maintain and make available for  
25 public inspection a record of the final vote of each member on  
26 any action taken by it.

27 (f) Expenses.--Each commissioner shall be entitled to  
28 reimbursement for his accountable expenses incurred while  
29 engaged in the business of the commission.

30 § 1383. Powers and duties.

1 (a) General rule.--The commission, pursuant to rules and  
2 regulations, shall have the power to:

3 (1) Establish general policies and promulgate such rules  
4 and regulations for the commission as are necessary to carry  
5 out the purposes of this subchapter and 42 Pa.C.S. Ch. 97  
6 (relating to sentencing).

7 (2) Utilize, with their consent, the services,  
8 equipment, personnel, information and facilities of Federal,  
9 State, local and private agencies and instrumentalities with  
10 or without reimbursement therefor.

11 (3) Enter into and perform such contracts, leases,  
12 cooperative agreements and other transactions as may be  
13 necessary in the conduct of the functions of the commission,  
14 with any public agency or with any person, firm, association,  
15 corporation, educational institution or nonprofit  
16 organization.

17 (4) Request such information, data and reports from any  
18 officer or agency of the Commonwealth government as the  
19 commission may from time to time require and as may be  
20 produced consistent with other law.

21 (5) Arrange with the head of any government unit for the  
22 performance by the government unit of any function of the  
23 commission, with or without reimbursement.

24 (6) Issue invitations requesting the attendance and  
25 testimony of witnesses and the production of any evidence  
26 that relates directly to a matter with respect to which the  
27 commission or any member thereof is empowered to make a  
28 determination under this subchapter.

29 (7) Establish a research and development program within  
30 the commission for the purpose of:

1 (i) Serving as a clearinghouse and information  
2 center for the collection, preparation and dissemination  
3 of information on Commonwealth sentencing practices.

4 (ii) Assisting and serving in a consulting capacity  
5 to State courts, departments and agencies in the  
6 development, maintenance and coordination of sound  
7 sentencing practices.

8 (8) Collect systematically the data obtained from  
9 studies, research and the empirical experience of public and  
10 private agencies concerning the sentencing processes.

11 (9) Publish data concerning the sentencing processes.

12 (10) Collect systematically and disseminate information  
13 concerning sentences actually imposed.

14 (11) Collect systematically and disseminate information  
15 regarding effectiveness of sentences imposed.

16 (12) Make recommendations to the General Assembly  
17 concerning modification or enactment of sentencing and  
18 correctional statutes which the commission finds to be  
19 necessary and advisable to carry out an effective, humane and  
20 rational sentencing policy.

21 (13) Establish a plan and timetable to collect and  
22 disseminate information relating to incapacitation,  
23 recidivism, deterrence and overall effectiveness of sentences  
24 imposed.

25 (14) Establish a program to systematically monitor  
26 compliance with the guidelines and with mandatory sentencing  
27 laws by:

28 (i) Promulgating forms which document the  
29 application of the guidelines or mandatory sentencing  
30 laws, or both.

1           (ii) Requiring the timely completion and submission  
2           of such forms to the commission.

3           (b) Annual reports.--The commission shall report annually to  
4 the General Assembly, the Administrative Office of Pennsylvania  
5 Courts and the Governor on the activities of the commission.

6           (c) Additional powers and duties.--The commission shall have  
7 such other powers and duties and shall perform such other  
8 functions as may be necessary to carry out the purposes of this  
9 subchapter or as may be provided under any other provision of  
10 law and may delegate to any commissioner or designated person  
11 such powers as may be appropriate other than the power to  
12 establish general policies, guidelines, rules and factors under  
13 subsection (a)(1).

14 § 1384. Adoption of guidelines for sentencing.

15           (a) General rule.--The commission shall adopt guidelines for  
16 sentencing within the limits established by law which shall be  
17 considered by the sentencing court in determining the  
18 appropriate sentence for defendants who plead guilty or nolo  
19 contendere to, or who were found guilty of, felonies and  
20 misdemeanors. The guidelines shall:

21           (1) Specify the range of sentences applicable to crimes  
22           of a given degree of gravity.

23           (2) Specify a range of sentences of increased severity  
24           for defendants previously convicted of or adjudicated  
25           delinquent for one or more misdemeanor or felony offenses  
26           committed prior to the current offense. For purposes of this  
27           section "previously convicted or adjudicated delinquent"  
28           shall include any finding of guilt or adjudication of  
29           delinquency whether or not sentence has been imposed or  
30           disposition ordered ~~prior to the commission of the current~~ <—

1 offense.

2 (3) Specify a range of sentences of increased severity  
3 for defendants who possessed a deadly weapon during the  
4 commission of the current conviction offense.

5 (4) Prescribe variations from the range of sentences  
6 applicable on account of aggravating or mitigating  
7 circumstances.

8 (b) Definition.--As used in this section the term  
9 "possessed" means on the defendant's person or within his  
10 immediate physical control.

11 § 1385. Publication of guidelines for sentencing.

12 (a) General rule.--The commission shall:

13 (1) Prior to adoption, publish in the Pennsylvania  
14 Bulletin all proposed sentencing guidelines and hold public  
15 hearings not earlier than 30 days and not later than 60 days  
16 thereafter to afford an opportunity for the following persons  
17 and organizations to testify:

18 (i) Pennsylvania District Attorneys Association.

19 (ii) Chiefs of Police Associations.

20 (iii) Fraternal Order of Police.

21 (iv) Public Defenders Organization.

22 (v) Law school faculty members.

23 (vi) State Board of Probation and Parole.

24 (vii) Bureau of Correction.

25 (viii) Pennsylvania Bar Association.

26 (ix) Pennsylvania Wardens Association.

27 (x) Pennsylvania Association on Probation, Parole  
28 and Corrections.

29 (xi) Pennsylvania Conference of State Trial Judges.

30 (xii) Any other interested person or organization.

1           (2) Publish in the Pennsylvania Bulletin sentencing  
2 guidelines as adopted by the commission.

3       (b) Rejection by General Assembly.--Subject to gubernatorial  
4 review pursuant to section 9 of Article III of the Constitution  
5 of Pennsylvania, the General Assembly may by concurrent  
6 resolution reject in their entirety any guidelines adopted by  
7 the commission within 90 days of their publication in the  
8 Pennsylvania Bulletin pursuant to subsection (a)(2).

9       (c) Effective date.--Sentencing guidelines adopted by the  
10 commission shall become effective 180 days after publication in  
11 the Pennsylvania Bulletin pursuant to subsection (a)(2) unless  
12 disapproved pursuant to subsection (b). If not disapproved, the  
13 commissioners shall conduct training and orientation for trial  
14 court judges prior to the effective date of the guidelines.

15 § 1386. Severability of subchapter.

16       The provisions of this subchapter are severable. If any  
17 provision of this subchapter or its application to any person or  
18 circumstance is held invalid, the invalidity shall not affect  
19 other provisions or applications of this subchapter which can be  
20 given effect without the invalid provision or application.

21       SECTION 4. THE DEFINITION OF "MEDICAL EMERGENCY" IN SECTION <—  
22 3203 OF TITLE 18 IS AMENDED AND THE SECTION IS AMENDED BY ADDING  
23 A DEFINITION TO READ:

24 § 3203. DEFINITIONS.

25       THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
26 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE  
27 MEANINGS GIVEN TO THEM IN THIS SECTION:

28       \* \* \*

29       "MEDICAL EMERGENCY." THAT CONDITION WHICH, ON THE BASIS OF  
30 THE PHYSICIAN'S [BEST] GOOD FAITH CLINICAL JUDGMENT, SO

1 COMPLICATES [A PREGNANCY] THE MEDICAL CONDITION OF A PREGNANT  
2 WOMAN AS TO NECESSITATE THE IMMEDIATE ABORTION OF [SAME] HER  
3 PREGNANCY TO AVERT [THE] HER DEATH [OF THE MOTHER] OR FOR WHICH  
4 A [24-HOUR] DELAY WILL CREATE [GRAVE PERIL] SERIOUS RISK OF  
5 [IMMEDIATE] SUBSTANTIAL AND IRREVERSIBLE [LOSS] IMPAIRMENT OF  
6 MAJOR BODILY FUNCTION.

7 \* \* \*

8 "PHYSICIAN." ANY PERSON LICENSED TO PRACTICE MEDICINE IN  
9 THIS COMMONWEALTH. THE TERM INCLUDES MEDICAL DOCTORS AND DOCTORS  
10 OF OSTEOPATHY.

11 \* \* \*

12 SECTION 5. SECTIONS 3204(D), 3205, 3206(A), (E), (F), (G),  
13 (H) AND (I), 3207(B), 3208, 3209, 3210(B) AND (C), 3211, 3213(C)  
14 AND 3214(A), (E), (F), (H) AND (I) OF TITLE 18 ARE AMENDED TO  
15 READ:

16 § 3204. MEDICAL CONSULTATION AND JUDGMENT.

17 \* \* \*

18 (D) PENALTY.--ANY PHYSICIAN WHO VIOLATES THE PROVISIONS OF  
19 THIS SECTION IS GUILTY OF "UNPROFESSIONAL CONDUCT" AND HIS  
20 LICENSE FOR THE PRACTICE OF MEDICINE AND SURGERY SHALL BE  
21 SUBJECT TO SUSPENSION OR REVOCATION IN ACCORDANCE WITH  
22 PROCEDURES PROVIDED UNDER THE ACT OF [JULY 20, 1974 (P.L.551,  
23 NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT OF 1974." ] OCTOBER  
24 5, 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL  
25 PRACTICE ACT, THE ACT OF DECEMBER 20, 1985 (P.L.457, NO.112),  
26 KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR THEIR SUCCESSOR  
27 ACTS.

28 § 3205. INFORMED CONSENT.

29 (A) GENERAL RULE.--NO ABORTION SHALL BE PERFORMED OR INDUCED  
30 EXCEPT WITH THE VOLUNTARY AND INFORMED CONSENT OF THE WOMAN UPON

1 WHOM THE ABORTION IS TO BE PERFORMED OR INDUCED. EXCEPT IN THE  
2 CASE OF A MEDICAL EMERGENCY, CONSENT TO AN ABORTION IS VOLUNTARY  
3 AND INFORMED IF AND ONLY IF[ :

4 (1) THE WOMAN IS PROVIDED, AT LEAST 24 HOURS BEFORE THE  
5 ABORTION, WITH THE FOLLOWING INFORMATION BY THE PHYSICIAN WHO  
6 IS TO PERFORM THE ABORTION OR BY THE REFERRING PHYSICIAN BUT  
7 NOT BY THE AGENT OR REPRESENTATIVE OF EITHER.

8 (I) THE NAME OF THE PHYSICIAN WHO WILL PERFORM THE  
9 ABORTION.

10 (II) THE FACT THAT THERE MAY BE DETRIMENTAL PHYSICAL  
11 AND PSYCHOLOGICAL EFFECTS WHICH ARE NOT ACCURATELY  
12 FORESEEABLE.

13 (III) THE PARTICULAR MEDICAL RISKS ASSOCIATED WITH  
14 THE PARTICULAR ABORTION PROCEDURE TO BE EMPLOYED  
15 INCLUDING, WHEN MEDICALLY ACCURATE, THE RISKS OF  
16 INFECTION, HEMORRHAGE, DANGER TO SUBSEQUENT PREGNANCIES  
17 AND INFERTILITY.

18 (IV) THE PROBABLE GESTATIONAL AGE OF THE UNBORN  
19 CHILD AT THE TIME THE ABORTION IS TO BE PERFORMED.

20 (V) THE MEDICAL RISKS ASSOCIATED WITH CARRYING HER  
21 CHILD TO TERM.

22 (2) THE WOMAN IS INFORMED, BY THE PHYSICIAN OR HIS  
23 AGENT, AT LEAST 24 HOURS BEFORE THE ABORTION:

24 (I) THE FACT THAT MEDICAL ASSISTANCE BENEFITS MAY BE  
25 AVAILABLE FOR PRENATAL CARE, CHILDBIRTH AND NEONATAL  
26 CARE.

27 (II) THE FACT THAT THE FATHER IS LIABLE TO ASSIST IN  
28 THE SUPPORT OF HER CHILD, EVEN IN INSTANCES WHERE THE  
29 FATHER HAS OFFERED TO PAY FOR THE ABORTION.

30 (III) THAT SHE HAS THE RIGHT TO REVIEW THE PRINTED

1 MATERIALS DESCRIBED IN SECTION 3208 (RELATING TO PRINTED  
2 INFORMATION). THE PHYSICIAN OR HIS AGENT SHALL ORALLY  
3 INFORM THE WOMAN THAT THE MATERIALS DESCRIBE THE UNBORN  
4 CHILD AND LIST AGENCIES WHICH OFFER ALTERNATIVES TO  
5 ABORTION. IF THE WOMAN CHOOSES TO VIEW THE MATERIALS,  
6 COPIES OF THEM SHALL BE FURNISHED TO HER. IF THE WOMAN IS  
7 UNABLE TO READ THE MATERIALS FURNISHED HER, THE MATERIALS  
8 SHALL BE READ TO HER. IF THE WOMAN SEEKS ANSWERS TO  
9 QUESTIONS CONCERNING ANY OF THE INFORMATION OR MATERIALS,  
10 ANSWERS SHALL BE PROVIDED HER IN HER OWN LANGUAGE.

11 (3) THE WOMAN CERTIFIES IN WRITING, PRIOR TO THE  
12 ABORTION, THAT THE INFORMATION DESCRIBED IN PARAGRAPHS (1)  
13 AND (2) HAS BEEN FURNISHED HER, AND THAT SHE HAS BEEN  
14 INFORMED OF HER OPPORTUNITY TO REVIEW THE INFORMATION  
15 REFERRED TO IN PARAGRAPH (2).

16 (4) PRIOR TO THE PERFORMANCE OF THE ABORTION, THE  
17 PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION OR HIS  
18 AGENT RECEIVES A COPY OF THE WRITTEN CERTIFICATION PRESCRIBED  
19 BY PARAGRAPH (3)], PRIOR TO THE CONSENT HAVING BEEN GIVEN,  
20 THE PHYSICIAN WHO IS TO PERFORM THE ABORTION, OR THE  
21 REFERRING PHYSICIAN, HAS VERBALLY INFORMED THE WOMAN OF THE  
22 NATURE OF THE PROPOSED PROCEDURE OR TREATMENT AND OF THOSE  
23 RISKS AND ALTERNATIVES TO THE PROCEDURE OR TREATMENT THAT A  
24 REASONABLE PATIENT WOULD CONSIDER MATERIAL TO THE DECISION  
25 WHETHER OR NOT TO UNDERGO THE ABORTION, AND THE WOMAN  
26 CERTIFIES IN WRITING PRIOR TO THE ABORTION THAT SHE HAS BEEN  
27 PROVIDED SUCH INFORMATION.

28 (B) EMERGENCY.--WHERE A MEDICAL EMERGENCY COMPELS THE  
29 PERFORMANCE OF AN ABORTION, THE PHYSICIAN SHALL INFORM THE  
30 WOMAN, PRIOR TO THE ABORTION IF POSSIBLE, OF THE MEDICAL

1 INDICATIONS SUPPORTING HIS JUDGMENT THAT AN ABORTION IS  
2 NECESSARY TO AVERT HER DEATH OR TO AVERT SUBSTANTIAL AND  
3 IRREVERSIBLE IMPAIRMENT OF MAJOR BODILY FUNCTION.

4 (C) PENALTY.--ANY PHYSICIAN WHO VIOLATES THE PROVISIONS OF  
5 THIS SECTION IS GUILTY OF "UNPROFESSIONAL CONDUCT" AND HIS  
6 LICENSE FOR THE PRACTICE OF MEDICINE AND SURGERY SHALL BE  
7 SUBJECT TO SUSPENSION OR REVOCATION IN ACCORDANCE WITH  
8 PROCEDURES PROVIDED UNDER THE ACT OF [JULY 20, 1974 (P.L.551,  
9 NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT OF 1974." ANY OTHER  
10 PERSON OBLIGATED UNDER THIS CHAPTER TO GIVE INFORMATION RELATING  
11 TO INFORMED CONSENT TO A WOMAN BEFORE AN ABORTION IS PERFORMED,  
12 AND WHO FAILS TO GIVE SUCH INFORMATION, SHALL, FOR THE FIRST  
13 OFFENSE BE GUILTY OF A SUMMARY OFFENSE AND, FOR EACH SUBSEQUENT  
14 OFFENSE, BE GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE.]  
15 OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC  
16 MEDICAL PRACTICE ACT, THE ACT OF DECEMBER 20, 1985 (P.L.457,  
17 NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR THEIR  
18 SUCCESSOR ACTS. NO PHYSICIAN SHALL BE GUILTY OF "UNPROFESSIONAL  
19 CONDUCT" FOR FAILURE TO FURNISH THE INFORMATION REQUIRED BY  
20 SUBSECTION (A) IF HE OR SHE CAN DEMONSTRATE, BY A PREPONDERANCE  
21 OF THE EVIDENCE, THAT FURNISHING THE INFORMATION WOULD HAVE  
22 RESULTED IN A SEVERELY ADVERSE EFFECT ON THE PHYSICAL OR MENTAL  
23 HEALTH OF THE PATIENT.

24 (D) LIMITATION ON CIVIL LIABILITY.--ANY PHYSICIAN WHO  
25 COMPLIES WITH THE PROVISIONS OF THIS SECTION MAY NOT BE HELD  
26 CIVILLY LIABLE TO HIS PATIENT FOR FAILURE TO OBTAIN INFORMED  
27 CONSENT TO THE ABORTION WITHIN THE MEANING OF THAT TERM AS  
28 DEFINED BY THE ACT OF OCTOBER 15, 1975 (P.L.390, NO.111), KNOWN  
29 AS THE [ " ]HEALTH CARE SERVICES MALPRACTICE ACT.[ " ]

30 § 3206. PARENTAL CONSENT.

1 (A) GENERAL RULE.--EXCEPT IN THE CASE OF A MEDICAL  
2 EMERGENCY, OR EXCEPT AS PROVIDED IN THIS SECTION, IF A PREGNANT  
3 WOMAN IS LESS THAN 18 YEARS OF AGE AND NOT EMANCIPATED, OR IF  
4 SHE HAS BEEN ADJUDGED AN INCOMPETENT UNDER 20 PA.C.S. § 5511  
5 (RELATING TO PETITION AND HEARING; EXAMINATION BY COURT-  
6 APPOINTED PHYSICIAN), A PHYSICIAN SHALL NOT PERFORM AN ABORTION  
7 UPON HER UNLESS, IN THE CASE OF A WOMAN WHO IS LESS THAN 18  
8 YEARS OF AGE, HE FIRST OBTAINS THE INFORMED CONSENT BOTH OF THE  
9 PREGNANT WOMAN AND OF ONE OF HER PARENTS; OR, IN THE CASE OF A  
10 WOMAN WHO IS INCOMPETENT, HE FIRST OBTAINS THE INFORMED CONSENT  
11 OF HER GUARDIAN. IN DECIDING WHETHER TO GRANT SUCH CONSENT, A  
12 PREGNANT WOMAN'S PARENT OR GUARDIAN SHALL CONSIDER ONLY THEIR  
13 CHILD'S OR WARD'S BEST INTERESTS. [IN OBTAINING THE CONSENT OF  
14 THE WOMAN'S PARENT OR GUARDIAN, THE PHYSICIAN SHALL PROVIDE THEM  
15 THE INFORMATION AND MATERIALS SPECIFIED IN SECTION 3205  
16 (RELATING TO INFORMED CONSENT), AND SHALL FURTHER OBTAIN FROM  
17 THEM THE CERTIFICATION REQUIRED BY SECTION 3205(A)(3).] IN THE  
18 CASE OF A PREGNANCY THAT IS THE RESULT OF INCEST WHERE THE  
19 FATHER IS A PARTY TO THE INCESTUOUS ACT, THE PREGNANT WOMAN NEED  
20 ONLY OBTAIN THE CONSENT OF HER MOTHER.

21 \* \* \*

22 (E) REPRESENTATION IN PROCEEDINGS.--THE PREGNANT WOMAN MAY  
23 PARTICIPATE IN PROCEEDINGS IN THE COURT ON HER OWN BEHALF AND  
24 THE COURT MAY APPOINT A GUARDIAN AD LITEM [FOR] TO ASSIST HER.  
25 THE COURT SHALL, HOWEVER, ADVISE HER THAT SHE HAS A RIGHT TO  
26 COURT APPOINTED COUNSEL, AND SHALL[, UPON HER REQUEST,] PROVIDE  
27 HER WITH SUCH COUNSEL UNLESS SHE WISHES TO APPEAR WITH PRIVATE  
28 COUNSEL OR HAS KNOWINGLY AND INTELLIGENTLY WAIVED REPRESENTATION  
29 BY COUNSEL.

30 (F) PROCEEDINGS [CONFIDENTIAL].--

1           (1) COURT PROCEEDINGS UNDER THIS SECTION SHALL BE  
2 CONFIDENTIAL AND SHALL BE GIVEN SUCH PRECEDENCE OVER OTHER  
3 PENDING MATTERS AS WILL ENSURE THAT THE COURT MAY REACH A  
4 DECISION PROMPTLY AND WITHOUT DELAY IN ORDER TO SERVE THE  
5 BEST INTERESTS OF THE PREGNANT WOMAN[, BUT IN]. IN NO CASE  
6 SHALL THE COURT OF COMMON PLEAS FAIL TO RULE WITHIN THREE  
7 BUSINESS DAYS OF THE DATE OF APPLICATION. A COURT OF COMMON  
8 PLEAS WHICH CONDUCTS PROCEEDINGS UNDER THIS SECTION SHALL  
9 MAKE IN WRITING SPECIFIC FACTUAL FINDINGS AND LEGAL  
10 CONCLUSIONS SUPPORTING ITS DECISION AND SHALL ORDER A SEALED  
11 RECORD OF THE PLEADINGS, SUBMISSIONS, TRANSCRIPTS, EXHIBITS,  
12 ORDERS, EVIDENCE AND ANY OTHER WRITTEN MATERIAL TO BE  
13 MAINTAINED WHICH SHALL INCLUDE ITS OWN FINDINGS AND  
14 CONCLUSIONS.

15           (2) THE APPLICATION TO THE COURT OF COMMON PLEAS SHALL  
16 BE ACCOMPANIED BY A NON-NOTARIZED VERIFICATION STATING THAT  
17 THE INFORMATION THEREIN IS TRUE AND CORRECT TO THE BEST OF  
18 THE APPLICANT'S KNOWLEDGE, AND THE APPLICATION SHALL SET  
19 FORTH THE FOLLOWING FACTS:

20           (I) THE INITIALS OF THE PREGNANT WOMAN.

21           (II) THE AGE OF THE PREGNANT WOMAN.

22           (III) THE NAMES AND ADDRESSES OF EACH PARENT,  
23 GUARDIAN, OR, IF THE MINOR'S PARENTS ARE DECEASED AND NO  
24 GUARDIAN HAS BEEN APPOINTED, ANY OTHER PERSON STANDING IN  
25 LOCO PARENTIS TO THE MINOR.

26           (IV) THAT THE PREGNANT WOMAN HAS BEEN FULLY INFORMED  
27 OF THE RISKS AND CONSEQUENCES OF THE ABORTION.

28           (V) WHETHER THE PREGNANT WOMAN IS OF SOUND MIND AND  
29 HAS SUFFICIENT INTELLECTUAL CAPACITY TO CONSENT TO THE  
30 ABORTION.

1           (VI) A PRAYER FOR RELIEF ASKING THE COURT TO EITHER  
2           GRANT THE PREGNANT WOMAN FULL CAPACITY FOR THE PURPOSE OF  
3           PERSONAL CONSENT TO THE ABORTION, OR TO GIVE JUDICIAL  
4           CONSENT TO THE ABORTION UNDER SUBSECTION (D) BASED UPON A  
5           FINDING THAT THE ABORTION IS IN THE BEST INTEREST OF THE  
6           PREGNANT WOMAN.

7           (VII) THAT THE PREGNANT WOMAN IS AWARE THAT ANY  
8           FALSE STATEMENTS MADE IN THE APPLICATION ARE PUNISHABLE  
9           BY LAW.

10           (VIII) THE SIGNATURE OF THE PREGNANT WOMAN.  
11           WHERE NECESSARY TO SERVE THE INTEREST OF JUSTICE, THE  
12           ORPHANS' COURT DIVISION, OR, IN PHILADELPHIA, THE FAMILY  
13           COURT DIVISION, SHALL REFER THE PREGNANT WOMAN TO THE  
14           APPROPRIATE PERSONNEL FOR ASSISTANCE IN PREPARING THE  
15           APPLICATION.

16           (3) THE NAME OF THE PREGNANT WOMAN SHALL NOT BE ENTERED  
17           ON ANY DOCKET WHICH IS SUBJECT TO PUBLIC INSPECTION. ALL  
18           PERSONS SHALL BE EXCLUDED FROM HEARINGS UNDER THIS SECTION  
19           EXCEPT THE APPLICANT AND SUCH OTHER PERSONS WHOSE PRESENCE IS  
20           SPECIFICALLY REQUESTED BY THE APPLICANT OR HER GUARDIAN.

21           (4) AT THE HEARING, THE COURT SHALL HEAR EVIDENCE  
22           RELATING TO THE EMOTIONAL DEVELOPMENT, MATURITY, INTELLECT  
23           AND UNDERSTANDING OF THE PREGNANT WOMAN, THE FACT AND  
24           DURATION OF HER PREGNANCY, THE NATURE, POSSIBLE CONSEQUENCES  
25           AND ALTERNATIVES TO THE ABORTION AND ANY OTHER EVIDENCE THAT  
26           THE COURT MAY FIND USEFUL IN DETERMINING WHETHER THE PREGNANT  
27           WOMAN SHOULD BE GRANTED FULL CAPACITY FOR THE PURPOSE OF  
28           CONSENTING TO THE ABORTION OR WHETHER THE ABORTION IS IN THE  
29           BEST INTEREST OF THE PREGNANT WOMAN. THE COURT SHALL ALSO  
30           NOTIFY THE PREGNANT WOMAN AT THE HEARING THAT IT MUST RULE ON

1       HER APPLICATION WITHIN THREE BUSINESS DAYS OF THE DATE OF ITS  
2       FILING, AND THAT, SHOULD THE COURT FAIL TO RULE IN FAVOR OF  
3       HER APPLICATION WITHIN THE ALLOTTED TIME, SHE HAS THE RIGHT  
4       TO APPEAL TO THE SUPERIOR COURT.

5       (G) COERCION PROHIBITED.--EXCEPT IN A MEDICAL EMERGENCY, NO  
6 PARENT, GUARDIAN OR OTHER PERSON STANDING IN LOCO PARENTIS SHALL  
7 COERCE A MINOR OR INCOMPETENT WOMAN TO UNDERGO AN ABORTION. ANY  
8 MINOR OR INCOMPETENT WOMAN WHO IS THREATENED WITH SUCH COERCION  
9 MAY APPLY TO A COURT OF COMMON PLEAS FOR RELIEF. THE COURT SHALL  
10 PROVIDE THE MINOR OR INCOMPETENT WOMAN WITH COUNSEL, GIVE THE  
11 MATTER EXPEDITED CONSIDERATION AND GRANT SUCH RELIEF AS MAY BE  
12 NECESSARY TO PREVENT SUCH COERCION. SHOULD A MINOR BE DENIED THE  
13 FINANCIAL SUPPORT OF HER PARENTS BY REASON OF HER REFUSAL TO  
14 UNDERGO ABORTION, SHE SHALL BE CONSIDERED EMANCIPATED FOR  
15 PURPOSES OF ELIGIBILITY FOR ASSISTANCE BENEFITS.

16       (H) REGULATION OF PROCEEDINGS.--NO FILING FEES SHALL BE  
17 REQUIRED OF ANY WOMAN AVAILING HERSELF OF THE PROCEDURES  
18 PROVIDED BY THIS SECTION. AN EXPEDITED CONFIDENTIAL APPEAL SHALL  
19 BE AVAILABLE TO ANY PREGNANT WOMAN WHOM THE COURT [DENIES] FAILS  
20 TO GRANT AN ORDER AUTHORIZING AN ABORTION WITHIN THE TIME  
21 SPECIFIED IN THIS SECTION. ANY COURT TO WHICH AN APPEAL IS TAKEN  
22 UNDER THIS SECTION SHALL GIVE PROMPT AND CONFIDENTIAL ATTENTION  
23 THERE TO AND SHALL RULE THEREON WITHIN FIVE BUSINESS DAYS OF THE  
24 FILING OF THE APPEAL. THE SUPREME COURT OF PENNSYLVANIA [SHALL]  
25 MAY ISSUE [PROMPTLY] SUCH RULES AS MAY [BE NECESSARY TO] FURTHER  
26 ASSURE THAT THE PROCESS PROVIDED IN THIS SECTION IS CONDUCTED IN  
27 SUCH A MANNER AS WILL ENSURE CONFIDENTIALITY AND SUFFICIENT  
28 PRECEDENCE OVER OTHER PENDING MATTERS TO ENSURE PROMPTNESS OF  
29 DISPOSITION.

30       (I) PENALTY.--ANY PERSON WHO PERFORMS AN ABORTION UPON A

1 WOMAN WHO IS AN UNEMANCIPATED MINOR OR INCOMPETENT TO WHOM THIS  
2 SECTION APPLIES EITHER WITH KNOWLEDGE THAT SHE IS A MINOR OR  
3 INCOMPETENT TO WHOM THIS SECTION APPLIES, OR WITH RECKLESS  
4 DISREGARD OR NEGLIGENCE AS TO WHETHER SHE IS A MINOR OR  
5 INCOMPETENT TO WHOM THIS SECTION APPLIES, AND WHO INTENTIONALLY,  
6 KNOWINGLY OR RECKLESSLY FAILS TO CONFORM TO ANY REQUIREMENT OF  
7 THIS SECTION IS GUILTY OF "UNPROFESSIONAL CONDUCT" AND HIS  
8 LICENSE FOR THE PRACTICE OF MEDICINE AND SURGERY SHALL BE  
9 SUSPENDED IN ACCORDANCE WITH PROCEDURES PROVIDED UNDER THE ACT  
10 OF [JULY 20, 1974 (P.L.551, NO.190), KNOWN AS THE "MEDICAL  
11 PRACTICE ACT OF 1974,"] OCTOBER 5, 1978 (P.L.1109, NO.261),  
12 KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE ACT, THE ACT OF  
13 DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE MEDICAL  
14 PRACTICE ACT OF 1985, OR THEIR SUCCESSOR ACTS, FOR A PERIOD OF  
15 AT LEAST THREE MONTHS. FAILURE TO COMPLY WITH THE REQUIREMENTS  
16 OF THIS SECTION IS PRIMA FACIE EVIDENCE OF FAILURE TO OBTAIN  
17 INFORMED CONSENT AND OF INTERFERENCE WITH FAMILY RELATIONS IN  
18 APPROPRIATE CIVIL ACTIONS. THE LAW OF THIS COMMONWEALTH SHALL  
19 NOT BE CONSTRUED TO PRECLUDE THE AWARD OF EXEMPLARY DAMAGES OR  
20 DAMAGES FOR EMOTIONAL DISTRESS EVEN IF UNACCOMPANIED BY PHYSICAL  
21 COMPLICATIONS IN ANY APPROPRIATE CIVIL ACTION RELEVANT TO  
22 VIOLATIONS OF THIS SECTION. NOTHING IN THIS SECTION SHALL BE  
23 CONSTRUED TO LIMIT THE COMMON LAW RIGHTS OF PARENTS.

24 § 3207. ABORTION FACILITIES.

25 \* \* \*

26 (B) REPORTS.--WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF  
27 THIS CHAPTER, EVERY FACILITY AT WHICH ABORTIONS ARE PERFORMED  
28 SHALL FILE, AND UPDATE IMMEDIATELY UPON ANY CHANGE, A REPORT  
29 WITH THE DEPARTMENT, [WHICH SHALL BE OPEN TO PUBLIC INSPECTION  
30 AND COPYING,] CONTAINING THE FOLLOWING INFORMATION:

- 1 (1) NAME AND ADDRESS OF THE FACILITY.
- 2 (2) NAME AND ADDRESS OF ANY PARENT, SUBSIDIARY OR  
3 AFFILIATED ORGANIZATIONS, CORPORATIONS OR ASSOCIATIONS.
- 4 (3) NAME AND ADDRESS OF ANY PARENT, SUBSIDIARY OR  
5 AFFILIATED ORGANIZATIONS, CORPORATIONS OR ASSOCIATIONS HAVING  
6 CONTEMPORANEOUS COMMONALITY OF OWNERSHIP, BENEFICIAL  
7 INTEREST, DIRECTORSHIP OR OFFICERSHIP WITH ANY OTHER  
8 FACILITY.

9 THE INFORMATION CONTAINED IN THOSE REPORTS WHICH ARE FILED  
10 PURSUANT TO THIS SUBSECTION BY FACILITIES WHICH RECEIVE STATE  
11 APPROPRIATED FUNDS DURING THE 12-CALENDAR-MONTH PERIOD  
12 IMMEDIATELY PRECEDING A REQUEST TO INSPECT OR COPY SUCH REPORTS  
13 SHALL BE DEEMED PUBLIC INFORMATION. REPORTS FILED BY FACILITIES  
14 WHICH DO NOT RECEIVE STATE APPROPRIATED FUNDS SHALL ONLY BE  
15 AVAILABLE TO LAW ENFORCEMENT OFFICIALS, THE STATE BOARD OF  
16 MEDICINE AND THE STATE BOARD OF OSTEOPATHIC MEDICINE FOR USE IN  
17 THE PERFORMANCE OF THEIR OFFICIAL DUTIES. ANY FACILITY FAILING  
18 TO COMPLY WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE  
19 ASSESSED BY THE DEPARTMENT A FINE OF \$500 FOR EACH DAY IT IS IN  
20 VIOLATION HEREOF.

21 § 3208. PRINTED INFORMATION.

22 (A) GENERAL RULE.--THE DEPARTMENT SHALL CAUSE TO BE  
23 PUBLISHED IN ENGLISH, SPANISH AND VIETNAMESE, WITHIN 60 DAYS  
24 AFTER THIS CHAPTER BECOMES LAW, AND SHALL UPDATE ON AN ANNUAL  
25 BASIS, THE FOLLOWING EASILY COMPREHENSIBLE PRINTED MATERIALS:

26 (1) GEOGRAPHICALLY INDEXED MATERIALS DESIGNED TO INFORM  
27 THE WOMAN OF PUBLIC AND PRIVATE AGENCIES AND SERVICES  
28 AVAILABLE TO ASSIST A WOMAN THROUGH PREGNANCY, UPON  
29 CHILD BIRTH AND WHILE THE CHILD IS DEPENDENT, INCLUDING  
30 ADOPTION AGENCIES, WHICH SHALL INCLUDE A COMPREHENSIVE LIST

1 OF THE AGENCIES AVAILABLE, A DESCRIPTION OF THE SERVICES THEY  
2 OFFER AND A DESCRIPTION OF THE MANNER, INCLUDING TELEPHONE  
3 NUMBERS, IN WHICH THEY MIGHT BE CONTACTED, OR, AT THE OPTION  
4 OF THE DEPARTMENT, PRINTED MATERIALS INCLUDING A TOLL-FREE,  
5 24-HOUR A DAY TELEPHONE NUMBER WHICH MAY BE CALLED TO OBTAIN,  
6 ORALLY, SUCH A LIST AND DESCRIPTION OF AGENCIES IN THE  
7 LOCALITY OF THE CALLER AND OF THE SERVICES THEY OFFER. THE  
8 MATERIALS SHALL INCLUDE THE FOLLOWING STATEMENT:

9 "THERE ARE MANY PUBLIC AND PRIVATE AGENCIES WILLING  
10 AND ABLE TO HELP YOU TO CARRY YOUR CHILD TO TERM, AND TO  
11 ASSIST YOU AND YOUR CHILD AFTER YOUR CHILD IS BORN,  
12 WHETHER YOU CHOOSE TO KEEP YOUR CHILD OR TO PLACE HER OR  
13 HIM FOR ADOPTION. THE COMMONWEALTH OF PENNSYLVANIA  
14 STRONGLY URGES YOU TO CONTACT THEM BEFORE MAKING A FINAL  
15 DECISION ABOUT ABORTION. [THE LAW REQUIRES THAT YOUR  
16 PHYSICIAN OR HIS AGENT GIVE YOU THE OPPORTUNITY TO CALL  
17 AGENCIES LIKE THESE BEFORE YOU UNDERGO AN ABORTION.]"

18 THE MATERIALS SHALL STATE THAT MEDICAL ASSISTANCE BENEFITS  
19 MAY BE AVAILABLE FOR PRENATAL CARE, CHILDBIRTH AND NEONATAL  
20 CARE, THAT IT IS UNLAWFUL FOR ANY INDIVIDUAL TO COERCE A  
21 WOMAN TO UNDERGO ABORTION, THAT ANY PHYSICIAN WHO PERFORMS AN  
22 ABORTION UPON A WOMAN WITHOUT OBTAINING HER INFORMED CONSENT  
23 OR WITHOUT ACCORDING HER A PRIVATE MEDICAL CONSULTATION MAY  
24 BE LIABLE TO HER FOR DAMAGES IN A CIVIL ACTION AT LAW, AND  
25 THAT THE FATHER OF A CHILD IS LIABLE TO ASSIST IN THE SUPPORT  
26 OF THAT CHILD, EVEN IN INSTANCES WHERE THE FATHER HAS OFFERED  
27 TO PAY FOR AN ABORTION.

28 (2) MATERIALS DESIGNED TO INFORM THE WOMAN OF THE  
29 PROBABLE ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE  
30 UNBORN CHILD AT TWO-WEEK GESTATIONAL INCREMENTS FROM

1 FERTILIZATION TO FULL TERM, INCLUDING ANY RELEVANT  
2 INFORMATION ON THE POSSIBILITY OF THE UNBORN CHILD'S  
3 SURVIVAL. THE MATERIALS SHALL BE OBJECTIVE, NONJUDGMENTAL AND  
4 DESIGNED TO CONVEY ONLY ACCURATE SCIENTIFIC INFORMATION ABOUT  
5 THE UNBORN CHILD AT THE VARIOUS GESTATIONAL AGES. THE  
6 MATERIALS SHALL ALSO CONTAIN OBJECTIVE INFORMATION DESCRIBING  
7 THE METHODS OF ABORTION PROCEDURES COMMONLY EMPLOYED, THE  
8 MEDICAL RISKS COMMONLY ASSOCIATED WITH EACH SUCH PROCEDURE,  
9 THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL EFFECTS OF ABORTION  
10 AND THE MEDICAL RISKS COMMONLY ASSOCIATED WITH CARRYING A  
11 CHILD TO TERM.

12 (B) FORMAT.--THE MATERIALS SHALL BE PRINTED IN A TYPEFACE  
13 LARGE ENOUGH TO BE CLEARLY LEGIBLE.

14 (C) FREE DISTRIBUTION.--THE MATERIALS REQUIRED UNDER THIS  
15 SECTION SHALL BE AVAILABLE AT NO COST FROM THE DEPARTMENT UPON  
16 REQUEST AND IN APPROPRIATE NUMBER TO ANY PERSON, FACILITY OR  
17 HOSPITAL.

18 § 3209. [ABORTION AFTER FIRST TRIMESTER] PATERNAL NOTICE.

19 [ALL ABORTIONS SUBSEQUENT TO THE FIRST TRIMESTER OF PREGNANCY  
20 SHALL BE PERFORMED, INDUCED AND COMPLETED IN A HOSPITAL. EXCEPT  
21 IN CASES OF GOOD FAITH JUDGMENT THAT A MEDICAL EMERGENCY EXISTS,  
22 ANY PHYSICIAN WHO PERFORMS SUCH AN ABORTION IN A PLACE OTHER  
23 THAN A HOSPITAL IS GUILTY OF "UNPROFESSIONAL CONDUCT" AND HIS  
24 LICENSE FOR THE PRACTICE OF MEDICINE AND SURGERY SHALL BE  
25 SUBJECT TO SUSPENSION OR REVOCATION IN ACCORDANCE WITH  
26 PROCEDURES PROVIDED UNDER THE ACT OF JULY 20, 1974 (P.L.551,  
27 NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT OF 1974." ]

28 (A) PATERNAL NOTICE REQUIRED.--EXCEPT AS PROVIDED IN  
29 SUBSECTIONS (B) AND (C), NO PHYSICIAN SHALL PERFORM AN ABORTION  
30 UNLESS HE HAS RECEIVED A NON-NOTARIZED, SIGNED STATEMENT, FROM

1 THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED, THAT SHE  
2 HAS NOTIFIED THE FATHER OF THE UNBORN CHILD THAT SHE IS ABOUT TO  
3 UNDERGO AN ABORTION. THE STATEMENT SHALL BEAR A NOTICE THAT ANY  
4 FALSE STATEMENT MADE THEREIN IS PUNISHABLE BY LAW.

5 (B) EXCEPTIONS.--THE NOTICE REQUIRED BY SUBSECTION (A) NEED  
6 NOT BE FURNISHED WHERE THE WOMAN PROVIDES THE PHYSICIAN A NON-  
7 NOTARIZED, SIGNED STATEMENT CONTAINING AT LEAST ONE OF THE  
8 FOLLOWING:

9 (1) THE IDENTITY OF THE FATHER IS NOT KNOWN.

10 (2) THE FATHER, AFTER DILIGENT EFFORT, COULD NOT BE  
11 LOCATED.

12 (3) THE PREGNANCY IS A RESULT OF RAPE WHICH HAS BEEN  
13 REPORTED TO A LAW ENFORCEMENT AGENCY.

14 (4) THE PREGNANCY IS A RESULT OF INCEST WHICH HAS BEEN  
15 REPORTED TO A LAW ENFORCEMENT AGENCY OR, WHERE APPROPRIATE,  
16 TO A COUNTY CHILD PROTECTIVE SERVICE AGENCY.

17 (5) THE WOMAN HAS DEMONSTRATED TO A COURT OF COMMON  
18 PLEAS THAT THE FURNISHING OF NOTICE TO THE FATHER OF THE  
19 CHILD IS LIKELY TO PLACE HER IN DANGER OF BEING PHYSICALLY  
20 HARMED BY THE FATHER OR BY ANOTHER INDIVIDUAL. UPON ANY  
21 APPLICATION BY A WOMAN FOR A DECLARATION REQUIRED BY THIS  
22 PARAGRAPH, THE COURT SHALL OBSERVE ALL OF THE REQUIREMENTS  
23 UNDER SECTION 3206(A) THROUGH (F) (RELATING TO PARENTAL  
24 CONSENT) RESPECTING REPRESENTATION, AND ASSURING CONFIDENTIAL  
25 AND EXPEDITIOUS TREATMENT, INsofar AS SAID REQUIREMENTS ARE  
26 NOT INCONSISTENT HEREWITH.

27 THE STATEMENT SHALL BEAR THE NOTICE THAT ANY FALSE STATEMENTS  
28 MADE THEREIN ARE PUNISHABLE BY LAW.

29 (C) MEDICAL EMERGENCY.--THE PROVISIONS OF SUBSECTION (A)  
30 SHALL NOT APPLY IN CASE OF A MEDICAL EMERGENCY.

1        (D) PENALTY; CIVIL ACTION.--ANY PHYSICIAN WHO VIOLATES THE  
2 PROVISIONS OF THIS SECTION IS GUILTY OF "UNPROFESSIONAL  
3 CONDUCT," AND HIS LICENSE FOR THE PRACTICE OF MEDICINE AND  
4 SURGERY SHALL BE SUBJECT TO SUSPENSION OR REVOCATION IN  
5 ACCORDANCE WITH PROCEDURES PROVIDED UNDER THE ACT OF OCTOBER 5,  
6 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL  
7 PRACTICE ACT, THE ACT OF DECEMBER 20, 1985 (P.L.457, NO.112),  
8 KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR THEIR SUCCESSOR  
9 ACTS. IN ADDITION, ANY PHYSICIAN WHO KNOWINGLY VIOLATES THE  
10 PROVISIONS OF THIS SECTION SHALL BE CIVILLY LIABLE TO THE FATHER  
11 OF THE UNBORN CHILD FOR ANY DAMAGES CAUSED THEREBY AND FOR  
12 PUNITIVE DAMAGES IN THE AMOUNT OF \$5,000.

13 § 3210. ABORTION AFTER VIABILITY.

14 \* \* \*

15        (B) DEGREE OF CARE.--[EVERY] EXCEPT IN THE CASE OF A MEDICAL  
16 EMERGENCY, EVERY PERSON WHO PERFORMS OR INDUCES AN ABORTION  
17 AFTER HE HAS DETERMINED AN UNBORN CHILD [HAS BEEN DETERMINED] TO  
18 BE VIABLE SHALL EXERCISE THAT DEGREE OF PROFESSIONAL SKILL, CARE  
19 AND DILIGENCE WHICH [SUCH PERSON] WOULD REASONABLY BE [REQUIRED  
20 TO EXERCISE] NECESSARY IN ORDER TO PRESERVE THE LIFE AND HEALTH  
21 OF ANY UNBORN CHILD INTENDED TO BE BORN AND NOT ABORTED, AND THE  
22 ABORTION TECHNIQUE EMPLOYED SHALL BE THAT WHICH WOULD PROVIDE  
23 THE BEST OPPORTUNITY FOR THE UNBORN CHILD TO BE [ABORTED]  
24 DELIVERED ALIVE UNLESS, IN THE GOOD FAITH JUDGMENT OF THE  
25 PHYSICIAN, THAT METHOD OR TECHNIQUE WOULD PRESENT A  
26 [SIGNIFICANTLY] GREATER MEDICAL RISK TO THE LIFE OR HEALTH OF  
27 THE PREGNANT WOMAN THAN WOULD ANOTHER AVAILABLE METHOD OR  
28 TECHNIQUE [AND THE]. THE PHYSICIAN [REPORTS] SHALL REPORT THE  
29 BASIS FOR HIS JUDGMENT PURSUANT TO SECTION 3214(A) (RELATING TO  
30 REPORTING). THE POTENTIAL PSYCHOLOGICAL OR EMOTIONAL IMPACT ON

1 THE MOTHER OF THE UNBORN CHILD'S SURVIVAL SHALL NOT BE DEEMED A  
2 MEDICAL RISK TO THE MOTHER. ANY PERSON WHO INTENTIONALLY,  
3 KNOWINGLY OR RECKLESSLY VIOLATES THE PROVISIONS OF THIS  
4 SUBSECTION COMMITS A FELONY OF THE THIRD DEGREE.

5 (C) SECOND PHYSICIAN.--[ANY] EXCEPT IN THE CASE OF A MEDICAL  
6 EMERGENCY, ANY PERSON WHO INTENDS TO PERFORM AN ABORTION AFTER  
7 HE HAS DETERMINED AN UNBORN CHILD TO BE VIABLE, THE METHOD  
8 CHOSEN FOR WHICH ABORTION, IN HIS GOOD FAITH JUDGMENT, DOES NOT  
9 PRECLUDE THE POSSIBILITY OF THE CHILD SURVIVING THE ABORTION,  
10 SHALL ARRANGE FOR THE ATTENDANCE, IN THE SAME ROOM IN WHICH THE  
11 ABORTION IS TO BE COMPLETED, OF A SECOND PHYSICIAN. IMMEDIATELY  
12 AFTER THE COMPLETE EXPULSION OR EXTRACTION OF THE CHILD, THE  
13 SECOND PHYSICIAN SHALL TAKE CONTROL OF THE CHILD AND SHALL  
14 PROVIDE IMMEDIATE MEDICAL CARE FOR THE CHILD, TAKING ALL  
15 REASONABLE STEPS NECESSARY, IN HIS JUDGMENT, TO PRESERVE THE  
16 CHILD'S LIFE AND HEALTH. ANY PERSON WHO INTENTIONALLY, KNOWINGLY  
17 OR RECKLESSLY VIOLATES THE PROVISIONS OF THIS SUBSECTION COMMITS  
18 A FELONY OF THE THIRD DEGREE.

19 § 3211. VIABILITY.

20 (A) DETERMINATION OF VIABILITY.--[PRIOR] EXCEPT IN THE CASE  
21 OF A MEDICAL EMERGENCY, PRIOR TO PERFORMING ANY ABORTION UPON A  
22 WOMAN SUBSEQUENT TO HER FIRST [TRIMESTER] 19 WEEKS OF PREGNANCY,  
23 THE PHYSICIAN SHALL DETERMINE WHETHER, IN HIS GOOD FAITH  
24 JUDGMENT, THE CHILD IS VIABLE. WHEN [A] THE PHYSICIAN HAS  
25 DETERMINED THAT A CHILD IS VIABLE, HE SHALL, PURSUANT TO SECTION  
26 3214(A) (RELATING TO REPORTING), REPORT THE BASIS FOR HIS  
27 DETERMINATION THAT THE ABORTION IS NECESSARY TO PRESERVE  
28 MATERNAL LIFE OR HEALTH. WHEN [A] THE PHYSICIAN HAS DETERMINED  
29 THAT A CHILD IS NOT VIABLE AFTER THE FIRST 19 WEEKS OF  
30 PREGNANCY, HE SHALL REPORT THE BASIS FOR SUCH DETERMINATION

1 PURSUANT TO SECTION 3214(A).

2 (B) UNPROFESSIONAL CONDUCT.--FAILURE OF ANY PHYSICIAN TO  
3 CONFORM TO ANY REQUIREMENT OF THIS SECTION CONSTITUTES  
4 "UNPROFESSIONAL CONDUCT" WITHIN THE MEANING OF THE ACT OF [JULY  
5 20, 1974 (P.L.551, NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT  
6 OF 1974." ] OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE  
7 OSTEOPATHIC MEDICAL PRACTICE ACT, THE ACT OF DECEMBER 20, 1985  
8 (P.L.457, NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR  
9 THEIR SUCCESSOR ACTS. UPON A FINDING BY THE STATE BOARD OF  
10 [MEDICAL EDUCATION AND LICENSURE] MEDICINE OR THE STATE BOARD OF  
11 OSTEOPATHIC MEDICINE THAT ANY PHYSICIAN HAS FAILED TO CONFORM TO  
12 ANY REQUIREMENT OF THIS SECTION, THE BOARD SHALL NOT FAIL TO  
13 SUSPEND THAT PHYSICIAN'S LICENSE FOR A PERIOD OF AT LEAST THREE  
14 MONTHS. INTENTIONAL, KNOWING OR RECKLESS FALSIFICATION OF ANY  
15 REPORT REQUIRED UNDER THIS SECTION IS A MISDEMEANOR OF THE THIRD  
16 DEGREE.

17 § 3213. PROHIBITED ACTS.

18 \* \* \*

19 (C) REGULATIONS.--THE DEPARTMENT SHALL ISSUE REGULATIONS TO  
20 ASSURE THAT PRIOR TO THE PERFORMANCE OF ANY ABORTION, INCLUDING  
21 ABORTIONS PERFORMED IN THE FIRST TRIMESTER OF PREGNANCY, THE  
22 MATERNAL RH STATUS SHALL BE DETERMINED AND THAT ANTI-RH  
23 SENSITIZATION PROPHYLAXIS SHALL BE PROVIDED TO EACH PATIENT AT  
24 RISK OF SENSITIZATION UNLESS THE PATIENT REFUSES TO ACCEPT THE  
25 TREATMENT. EXCEPT WHEN THERE EXISTS A MEDICAL EMERGENCY OR, IN  
26 THE JUDGMENT OF THE PHYSICIAN, THERE EXISTS NO POSSIBILITY OF RH  
27 SENSITIZATION, THE INTENTIONAL, KNOWING, OR RECKLESS FAILURE TO  
28 CONFORM TO THE REGULATIONS ISSUED PURSUANT TO THIS SUBSECTION  
29 CONSTITUTES "UNPROFESSIONAL CONDUCT" AND HIS LICENSE FOR THE  
30 PRACTICE OF MEDICINE AND SURGERY SHALL BE SUBJECT TO SUSPENSION

1 OR REVOCATION IN ACCORDANCE WITH PROCEDURES PROVIDED UNDER THE  
2 ACT OF [JULY 20, 1974 (P.L.551, NO.190), KNOWN AS THE "MEDICAL  
3 PRACTICE ACT OF 1974." ] OCTOBER 5, 1978 (P.L.1109, NO.261),  
4 KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE ACT, THE ACT OF  
5 DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE MEDICAL  
6 PRACTICE ACT OF 1985, OR THEIR SUCCESSOR ACTS.

7 \* \* \*

8 § 3214. REPORTING.

9 (A) GENERAL RULE.--A REPORT OF EACH ABORTION PERFORMED SHALL  
10 BE MADE TO THE DEPARTMENT ON FORMS PRESCRIBED BY IT. THE REPORT  
11 FORMS SHALL NOT IDENTIFY THE INDIVIDUAL PATIENT BY NAME AND  
12 SHALL INCLUDE THE FOLLOWING INFORMATION:

13 (1) IDENTIFICATION OF THE PHYSICIAN WHO PERFORMED THE  
14 ABORTION AND THE FACILITY WHERE THE ABORTION WAS PERFORMED  
15 AND OF THE REFERRING PHYSICIAN, AGENCY OR SERVICE, IF ANY.

16 (2) THE [POLITICAL SUBDIVISION] COUNTY AND STATE IN  
17 WHICH THE WOMAN RESIDES.

18 (3) THE WOMAN'S AGE[, RACE] AND MARITAL STATUS.

19 (4) THE NUMBER OF PRIOR PREGNANCIES.

20 (5) THE DATE OF THE WOMAN'S LAST MENSTRUAL PERIOD AND  
21 THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD.

22 (6) THE TYPE OF PROCEDURE PERFORMED OR PRESCRIBED AND  
23 THE DATE OF THE ABORTION.

24 (7) COMPLICATIONS, IF ANY, INCLUDING BUT NOT LIMITED TO,  
25 RUBELLA DISEASE, HYDATID MOLE, ENDOCERVICAL POLYP AND  
26 MALIGNANCIES.

27 (8) THE INFORMATION REQUIRED TO BE REPORTED UNDER  
28 SECTION 3211(A) (RELATING TO VIABILITY).

29 (9) THE LENGTH AND WEIGHT OF THE ABORTED UNBORN CHILD  
30 WHEN MEASURABLE.

1 (10) BASIS FOR ANY MEDICAL JUDGMENT THAT A MEDICAL  
2 EMERGENCY EXISTED AS REQUIRED BY ANY PART OF THIS CHAPTER.

3 (11) THE DATE OF THE MEDICAL CONSULTATION REQUIRED BY  
4 SECTION 3204(B) (RELATING TO MEDICAL CONSULTATION AND  
5 JUDGMENT).

6 (12) THE DATE ON WHICH ANY DETERMINATION OF PREGNANCY  
7 WAS MADE.

8 (13) THE INFORMATION REQUIRED TO BE REPORTED UNDER  
9 SECTION 3210(B) (RELATING TO ABORTION AFTER VIABILITY).

10 (14) WHETHER THE ABORTION WAS PAID FOR BY THE PATIENT,  
11 BY MEDICAL ASSISTANCE, OR BY MEDICAL INSURANCE COVERAGE.

12 \* \* \*

13 (E) STATISTICAL REPORTS; PUBLIC AVAILABILITY OF REPORTS.--

14 (1) THE DEPARTMENT SHALL PREPARE [AN] A COMPREHENSIVE  
15 ANNUAL STATISTICAL REPORT FOR THE GENERAL ASSEMBLY BASED UPON  
16 THE DATA GATHERED UNDER [SUBSECTION] SUBSECTIONS (A) AND (H).  
17 SUCH REPORT SHALL NOT LEAD TO THE DISCLOSURE OF THE IDENTITY  
18 OF ANY PERSON FILING A REPORT OR ABOUT WHOM A REPORT IS  
19 FILED, AND SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND  
20 COPYING.

21 (2) REPORTS FILED PURSUANT TO SUBSECTION (A) OR (H)  
22 SHALL NOT BE DEEMED PUBLIC RECORDS WITHIN THE MEANING OF THAT  
23 TERM AS DEFINED BY THE ACT OF JUNE 21, 1957 (P.L.390,  
24 NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW, [BUT] AND  
25 SHALL NOT BE MADE AVAILABLE FOR PUBLIC INSPECTION AND COPYING  
26 [WITHIN 15 DAYS OF RECEIPT IN A FORM WHICH WILL NOT LEAD TO  
27 THE DISCLOSURE OF THE IDENTITY OF ANY PERSON FILING A REPORT.  
28 ON THOSE REPORTS AVAILABLE FOR PUBLIC INSPECTION AND COPYING,  
29 THE DEPARTMENT SHALL SUBSTITUTE FOR THE NAME OF ANY PHYSICIAN  
30 WHICH APPEARS ON THE REPORT, A UNIQUE IDENTIFYING NUMBER. THE

1 IDENTITY OF THE PHYSICIAN SHALL CONSTITUTE A CONFIDENTIAL  
2 RECORD OF THE DEPARTMENT. THE DEPARTMENT MAY SET A REASONABLE  
3 PER COPY FEE TO COVER THE COST OF MAKING ANY COPIES  
4 AUTHORIZED HEREUNDER].

5 (3) ORIGINAL COPIES OF ALL REPORTS FILED UNDER  
6 [SUBSECTION (A)] SUBSECTIONS (A), (F) AND (H) SHALL BE  
7 AVAILABLE TO THE STATE BOARD OF [MEDICAL EDUCATION AND  
8 LICENSURE] MEDICINE, THE STATE BOARD OF OSTEOPATHIC MEDICINE,  
9 AND TO LAW ENFORCEMENT OFFICIALS, FOR USE IN THE PERFORMANCE  
10 OF THEIR OFFICIAL DUTIES.

11 (4) ANY PERSON WHO WILLFULLY DISCLOSES ANY INFORMATION  
12 OBTAINED FROM REPORTS FILED PURSUANT TO SUBSECTION (A) OR  
13 (H), OTHER THAN THAT DISCLOSURE AUTHORIZED UNDER PARAGRAPH  
14 (1), (2) OR (3) HEREOF OR AS OTHERWISE AUTHORIZED BY LAW,  
15 SHALL COMMIT A MISDEMEANOR OF THE THIRD DEGREE.

16 (F) REPORT BY FACILITY.--EVERY FACILITY IN WHICH AN ABORTION  
17 IS PERFORMED WITHIN THIS COMMONWEALTH DURING ANY QUARTER YEAR  
18 SHALL FILE WITH THE DEPARTMENT A REPORT SHOWING THE TOTAL NUMBER  
19 OF ABORTIONS PERFORMED WITHIN THE HOSPITAL OR OTHER FACILITY  
20 DURING THAT QUARTER YEAR. THIS REPORT SHALL ALSO SHOW THE TOTAL  
21 ABORTIONS PERFORMED IN EACH TRIMESTER OF PREGNANCY. [THESE  
22 REPORTS] ANY REPORT SHALL BE AVAILABLE FOR PUBLIC INSPECTION AND  
23 COPYING ONLY IF THE FACILITY RECEIVES STATE APPROPRIATED FUNDS  
24 WITHIN THE 12-CALENDAR-MONTH PERIOD IMMEDIATELY PRECEDING THE  
25 FILING OF THE REPORT. THESE REPORTS SHALL BE SUBMITTED ON A FORM  
26 PRESCRIBED BY THE DEPARTMENT WHICH WILL ENABLE A FACILITY TO  
27 INDICATE WHETHER OR NOT IT IS RECEIVING STATE APPROPRIATED  
28 FUNDS. IF THE FACILITY INDICATES ON THE FORM THAT IT IS NOT  
29 RECEIVING STATE APPROPRIATED FUNDS, THE DEPARTMENT SHALL REGARD  
30 ITS REPORT AS CONFIDENTIAL UNLESS IT RECEIVES OTHER EVIDENCE

1 WHICH CAUSES IT TO CONCLUDE THAT THE FACILITY RECEIVES STATE  
2 APPROPRIATED FUNDS.

3 \* \* \*

4 (H) REPORT OF COMPLICATIONS.--EVERY PHYSICIAN WHO IS CALLED  
5 UPON TO PROVIDE MEDICAL CARE OR TREATMENT TO A WOMAN WHO IS IN  
6 NEED OF MEDICAL CARE BECAUSE OF A COMPLICATION OR COMPLICATIONS  
7 RESULTING, IN THE GOOD FAITH JUDGMENT OF THE PHYSICIAN, FROM  
8 HAVING UNDERGONE AN ABORTION OR ATTEMPTED ABORTION SHALL PREPARE  
9 A REPORT THEREOF AND FILE THE REPORT WITH THE DEPARTMENT WITHIN  
10 30 DAYS OF THE DATE OF HIS FIRST EXAMINATION OF THE WOMAN, WHICH  
11 REPORT [SHALL BE OPEN TO PUBLIC INSPECTION AND COPYING AND]  
12 SHALL BE ON FORMS PRESCRIBED BY THE DEPARTMENT, WHICH FORMS  
13 SHALL CONTAIN THE FOLLOWING INFORMATION, AS RECEIVED, AND SUCH  
14 OTHER INFORMATION EXCEPT THE NAME OF THE PATIENT AS THE  
15 DEPARTMENT MAY FROM TIME TO TIME REQUIRE:

16 (1) AGE OF PATIENT.

17 (2) NUMBER OF PREGNANCIES PATIENT MAY HAVE HAD PRIOR TO  
18 THE ABORTION.

19 (3) NUMBER AND TYPE OF ABORTIONS PATIENT MAY HAVE HAD  
20 PRIOR TO THIS ABORTION.

21 (4) NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION  
22 WAS PERFORMED.

23 (5) GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME OF  
24 THE ABORTION, IF KNOWN.

25 (6) TYPE OF ABORTION PERFORMED, IF KNOWN.

26 (7) NATURE OF COMPLICATION OR COMPLICATIONS.

27 (8) MEDICAL TREATMENT GIVEN.

28 (9) THE NATURE AND EXTENT, IF KNOWN, OF ANY PERMANENT  
29 CONDITION CAUSED BY THE COMPLICATION.

30 (I) PENALTIES.--

1           (1) ANY PERSON REQUIRED UNDER THIS SECTION TO FILE A  
2 REPORT, KEEP ANY RECORDS OR SUPPLY ANY INFORMATION, WHO  
3 WILLFULLY FAILS TO FILE SUCH REPORT, KEEP SUCH RECORDS OR  
4 SUPPLY SUCH INFORMATION AT THE TIME OR TIMES REQUIRED BY LAW  
5 OR REGULATION IS GUILTY OF "UNPROFESSIONAL CONDUCT" AND HIS  
6 LICENSE FOR THE PRACTICE OF MEDICINE AND SURGERY SHALL BE  
7 SUBJECT TO SUSPENSION OR REVOCATION IN ACCORDANCE WITH  
8 PROCEDURES PROVIDED UNDER THE ACT OF [JULY 20, 1974 (P.L.551,  
9 NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT OF 1974."]  
10 OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC  
11 MEDICAL PRACTICE ACT, THE ACT OF DECEMBER 20, 1985 (P.L.457,  
12 NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR THEIR  
13 SUCCESSOR ACTS.

14           (2) ANY PERSON WHO WILLFULLY DELIVERS OR DISCLOSES TO  
15 THE DEPARTMENT ANY REPORT, RECORD OR INFORMATION KNOWN BY HIM  
16 TO BE FALSE COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

17           (3) IN ADDITION TO THE ABOVE PENALTIES, ANY PERSON,  
18 ORGANIZATION OR FACILITY WHO WILLFULLY VIOLATES ANY OF THE  
19 PROVISIONS OF THIS SECTION REQUIRING REPORTING SHALL UPON  
20 CONVICTION THEREOF:

21           (I) FOR THE FIRST TIME, HAVE ITS LICENSE SUSPENDED  
22 FOR A PERIOD OF SIX MONTHS.

23           (II) FOR THE SECOND TIME, HAVE ITS LICENSE SUSPENDED  
24 FOR A PERIOD OF ONE YEAR.

25           (III) FOR THE THIRD TIME, HAVE ITS LICENSE REVOKED.

26 SECTION 6. SECTION 3215(C) AND (E) OF TITLE 18 ARE AMENDED  
27 AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

28 § 3215. PUBLICLY OWNED FACILITIES; PUBLIC OFFICIALS AND PUBLIC  
29 FUNDS.

30 \* \* \*

1 (C) PUBLIC FUNDS.--NO COMMONWEALTH FUNDS AND NO FEDERAL  
2 FUNDS WHICH ARE APPROPRIATED BY THE COMMONWEALTH SHALL BE  
3 EXPENDED BY ANY STATE OR LOCAL GOVERNMENT AGENCY FOR THE  
4 PERFORMANCE OF ABORTION, EXCEPT:

5 (1) WHEN ABORTION IS NECESSARY TO AVERT THE DEATH OF THE  
6 MOTHER ON CERTIFICATION BY A PHYSICIAN. WHEN SUCH PHYSICIAN  
7 WILL PERFORM THE ABORTION OR HAS A PECUNIARY OR PROPRIETARY  
8 INTEREST IN THE ABORTION THERE SHALL BE A SEPARATE  
9 CERTIFICATION FROM A PHYSICIAN WHO HAS NO SUCH INTEREST.

10 (2) WHEN ABORTION IS PERFORMED IN THE CASE OF PREGNANCY  
11 CAUSED BY RAPE WHICH, PRIOR TO THE PERFORMANCE OF THE  
12 ABORTION, HAS BEEN REPORTED [WITHIN 72 HOURS OF THE RAPE],  
13 TOGETHER WITH THE IDENTITY OF THE OFFENDER, IF KNOWN, TO A  
14 LAW ENFORCEMENT AGENCY HAVING THE REQUISITE JURISDICTION AND  
15 HAS BEEN PERSONALLY REPORTED BY THE VICTIM [OR HER AGENT].

16 (3) WHEN ABORTION IS PERFORMED IN THE CASE OF PREGNANCY  
17 CAUSED BY INCEST WHICH, PRIOR TO THE PERFORMANCE OF THE  
18 ABORTION, HAS BEEN PERSONALLY REPORTED BY THE VICTIM TO A LAW  
19 ENFORCEMENT AGENCY HAVING THE REQUISITE JURISDICTION, OR, IN  
20 THE CASE OF A MINOR, TO THE COUNTY CHILD PROTECTIVE SERVICE  
21 AGENCY [WITHIN 72 HOURS FROM THE DATE WHEN THE FEMALE FIRST  
22 LEARNS SHE IS PREGNANT] AND [SHE HAS NAMED] THE OTHER PARTY  
23 TO THE INCESTUOUS ACT HAS BEEN NAMED IN SUCH REPORT. [SUCH  
24 INFORMATION SHALL BE TURNED OVER BY THE DEPARTMENT TO A LAW  
25 ENFORCEMENT AGENCY.]

26 \* \* \*

27 (E) INSURANCE POLICIES.--ALL INSURERS WHO MAKE AVAILABLE  
28 HEALTH CARE AND DISABILITY INSURANCE POLICIES IN THIS  
29 COMMONWEALTH SHALL MAKE AVAILABLE SUCH POLICIES WHICH CONTAIN AN  
30 EXPRESS EXCLUSION OF COVERAGE FOR ABORTION SERVICES NOT

1 NECESSARY TO AVERT THE DEATH OF THE WOMAN OR TO TERMINATE  
2 PREGNANCIES CAUSED BY RAPE OR INCEST. [ANY SUCH POLICY SHALL  
3 CONTAIN A PREMIUM WHICH IS LOWER THAN THAT WHICH IS CONTAINED IN  
4 POLICIES OFFERING ADDITIONAL ABORTION COVERAGE.]

5 \* \* \*

6 (I) PUBLIC FUNDS FOR LEGAL SERVICES.--NO COMMONWEALTH FUNDS  
7 OR FEDERAL FUNDS WHICH ARE APPROPRIATED BY THE COMMONWEALTH FOR  
8 THE PROVISION OF LEGAL SERVICES BY PRIVATE AGENCIES, AND NO  
9 FUNDS GENERATED BY COLLECTION OF INTEREST ON LAWYERS' TRUST  
10 ACCOUNTS, MAY BE USED, DIRECTLY OR INDIRECTLY, TO:

11 (1) ADVOCATE THE FREEDOM TO CHOOSE ABORTION OR THE  
12 PROHIBITION OF ABORTION.

13 (2) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY  
14 PROCEEDING OR LITIGATION WHICH SEEKS TO PROCURE OR PREVENT  
15 ANY ABORTION OR TO PROCURE OR PREVENT PUBLIC FUNDING FOR ANY  
16 ABORTION.

17 (3) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY  
18 PROCEEDING OR LITIGATION WHICH SEEKS TO COMPEL OR PREVENT THE  
19 PERFORMANCE OR ASSISTANCE IN THE PERFORMANCE OF ANY ABORTION,  
20 OR THE PROVISION OF FACILITIES FOR THE PERFORMANCE OF ANY  
21 ABORTION.

22 NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO REQUIRE OR  
23 PREVENT THE EXPENDITURE OF FUNDS PURSUANT TO A COURT ORDER  
24 AWARDING FEES FOR ATTORNEY'S SERVICES UNDER THE CIVIL RIGHTS  
25 ATTORNEY'S FEES AWARDS ACT OF 1976 (PUBLIC LAW 94-559, 90 STAT.  
26 264).

27 (J) REQUIRED STATEMENTS.--NO COMMONWEALTH AGENCY SHALL MAKE  
28 ANY PAYMENT FROM COMMONWEALTH FUNDS OR ANY FEDERAL FUNDS  
29 APPROPRIATED BY THE COMMONWEALTH FOR THE PERFORMANCE OF ANY  
30 ABORTION PURSUANT TO SUBSECTION (C)(2) OR (3) UNLESS THE

1 COMMONWEALTH AGENCY FIRST:

2 (1) RECEIVES FROM THE PHYSICIAN OR FACILITY SEEKING  
3 PAYMENT A STATEMENT SIGNED BY THE PHYSICIAN PERFORMING THE  
4 ABORTION STATING THAT, PRIOR TO PERFORMING THE ABORTION, HE  
5 OBTAINED A NON-NOTARIZED, SIGNED STATEMENT FROM THE PREGNANT  
6 WOMAN STATING THAT SHE WAS A VICTIM OF RAPE OR INCEST, AS THE  
7 CASE MAY BE, AND THAT SHE REPORTED THE CRIME, INCLUDING THE  
8 IDENTITY OF THE OFFENDER, IF KNOWN, TO A LAW ENFORCEMENT  
9 AGENCY HAVING THE REQUISITE JURISDICTION OR, IN THE CASE OF  
10 INCEST WHERE A PREGNANT MINOR IS THE VICTIM, TO THE COUNTY  
11 CHILD PROTECTIVE SERVICE AGENCY AND STATING THE NAME OF THE  
12 LAW ENFORCEMENT AGENCY OR CHILD PROTECTIVE SERVICE AGENCY TO  
13 WHICH THE REPORT WAS MADE AND THE DATE SUCH REPORT WAS MADE;  
14 AND

15 (2) RECEIVES FROM THE PHYSICIAN OR FACILITY SEEKING  
16 PAYMENT, THE SIGNED STATEMENT OF THE PREGNANT WOMAN WHICH IS  
17 DESCRIBED IN PARAGRAPH (1). THE STATEMENT SHALL BEAR THE  
18 NOTICE THAT ANY FALSE STATEMENTS MADE THEREIN ARE PUNISHABLE  
19 BY LAW AND SHALL STATE THAT THE PREGNANT WOMAN IS AWARE THAT  
20 FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES ARE PUNISHABLE  
21 BY LAW; AND

22 (3) VERIFIES WITH THE LAW ENFORCEMENT AGENCY OR CHILD  
23 PROTECTIVE AGENCY NAMED IN THE STATEMENT OF THE PREGNANT  
24 WOMAN WHETHER A REPORT OF RAPE OR INCEST WAS FILED WITH THE  
25 AGENCY IN ACCORDANCE WITH THE STATEMENT.

26 THE COMMONWEALTH AGENCY SHALL REPORT ANY EVIDENCE OF FALSE  
27 STATEMENTS, OF FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES OR  
28 OF FRAUD IN THE PROCUREMENT OR ATTEMPTED PROCUREMENT OF ANY  
29 PAYMENT FROM COMMONWEALTH FUNDS OR FEDERAL FUNDS APPROPRIATED BY  
30 THE COMMONWEALTH PURSUANT TO THIS SECTION TO THE DISTRICT

1 ATTORNEY OF APPROPRIATE JURISDICTION AND, WHERE APPROPRIATE, TO  
2 THE ATTORNEY GENERAL.

3 SECTION 7. SECTIONS 3217, 3218 AND 3219 HEADING AND (A) OF  
4 TITLE 18 ARE AMENDED TO READ:

5 § 3217. CIVIL PENALTIES.

6 ANY PHYSICIAN WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF  
7 SECTION 3204 (RELATING TO MEDICAL CONSULTATION AND JUDGMENT) OR  
8 3205 (RELATING TO INFORMED CONSENT) SHALL, IN ADDITION TO ANY  
9 OTHER PENALTY PRESCRIBED IN THIS CHAPTER, BE CIVILLY LIABLE TO  
10 HIS PATIENT FOR ANY DAMAGES CAUSED THEREBY AND, IN ADDITION,  
11 SHALL BE LIABLE TO HIS PATIENT FOR PUNITIVE DAMAGES IN THE  
12 AMOUNT OF [\$1,000] \$5,000.

13 § 3218. CRIMINAL PENALTIES.

14 (A) APPLICATION OF CHAPTER.--NOTWITHSTANDING ANY OTHER  
15 PROVISION OF THIS CHAPTER, NO CRIMINAL PENALTY SHALL APPLY TO A  
16 WOMAN WHO VIOLATES ANY PROVISION OF THIS CHAPTER SOLELY IN ORDER  
17 TO PERFORM OR INDUCE OR ATTEMPT TO PERFORM OR INDUCE AN ABORTION  
18 UPON HERSELF.

19 (B) FALSE STATEMENT, ETC.--A PERSON COMMITS A MISDEMEANOR OF  
20 THE SECOND DEGREE IF, WITH INTENT TO MISLEAD A PUBLIC SERVANT IN  
21 PERFORMING HIS OFFICIAL FUNCTION UNDER THIS CHAPTER, SUCH  
22 PERSON:

23 (1) MAKES ANY WRITTEN FALSE STATEMENT WHICH HE DOES NOT  
24 BELIEVE TO BE TRUE; OR

25 (2) SUBMITS OR INVITES RELIANCE ON ANY WRITING WHICH HE  
26 KNOWS TO BE FORGED, ALTERED OR OTHERWISE LACKING IN  
27 AUTHENTICITY.

28 (C) STATEMENTS "UNDER PENALTY".--A PERSON COMMITS A  
29 MISDEMEANOR OF THE THIRD DEGREE IF SUCH PERSON MAKES A WRITTEN  
30 FALSE STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE ON

1 A STATEMENT SUBMITTED AS REQUIRED UNDER THIS CHAPTER, BEARING  
2 NOTICE TO THE EFFECT THAT FALSE STATEMENTS MADE THEREIN ARE  
3 PUNISHABLE.

4 (D) PERJURY PROVISIONS APPLICABLE.--SECTION 4902(C) THROUGH  
5 (F) (RELATING TO PERJURY) APPLY TO SUBSECTION (B) AND (C).

6 § 3219. STATE BOARD OF [MEDICAL EDUCATION AND LICENSURE]  
7 MEDICINE; STATE BOARD OF OSTEOPATHIC MEDICINE.

8 (A) ENFORCEMENT.--IT SHALL BE THE DUTY OF THE STATE BOARD OF  
9 [MEDICAL EDUCATION AND LICENSURE] MEDICINE AND THE STATE BOARD  
10 OF OSTEOPATHIC MEDICINE TO VIGOROUSLY ENFORCE THOSE PROVISIONS  
11 OF THIS CHAPTER, VIOLATION OF WHICH CONSTITUTES "UNPROFESSIONAL  
12 CONDUCT" WITHIN THE MEANING OF THE ACT OF [JULY 20, 1974  
13 (P.L.551, NO.190), KNOWN AS THE "MEDICAL PRACTICE ACT OF 1974."  
14 THE] OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE  
15 OSTEOPATHIC MEDICAL PRACTICE ACT, THE ACT OF DECEMBER 20, 1985  
16 (P.L.457, NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF 1985, OR  
17 THEIR SUCCESSOR ACTS. EACH BOARD SHALL HAVE THE POWER TO  
18 CONDUCT, AND ITS RESPONSIBILITIES SHALL INCLUDE, SYSTEMATIC  
19 REVIEW OF ALL REPORTS FILED UNDER THIS CHAPTER.

20 \* \* \*

21 Section 3 8. Section 4906 of Title 18 is amended to read: <—

22 § 4906. False reports to law enforcement authorities.

23 (a) Falsely incriminating another.--A person who knowingly  
24 gives false information to any law enforcement officer with  
25 intent to implicate another commits a misdemeanor of the [second  
26 degree] first degree.

27 (b) Fictitious reports.--A person commits a misdemeanor of  
28 the [third degree] first degree if he:

29 (1) reports to law enforcement authorities an offense or  
30 other incident within their concern knowing that it did not

1 occur; or

2 (2) pretends to furnish such authorities with  
3 information relating to an offense or incident when he knows  
4 he has no information relating to such offense or incident.

5 Section 4 9. Any sentencing guidelines adopted by the <—  
6 Pennsylvania Commission on Sentencing and disapproved by the  
7 General Assembly prior to the effective date of this act shall  
8 be deemed null and void upon the adoption of sentencing  
9 guidelines subsequent to the effective date of this act and  
10 pursuant to this section of this act. Notwithstanding the  
11 requirements set forth in 18 Pa.C.S. § 1385 (relating to  
12 publication of guidelines for sentencing), those guidelines next  
13 adopted by the commission shall be published in the Pennsylvania  
14 Bulletin within 20 days of the effective date of this act; and  
15 the General Assembly shall take any action permitted pursuant to  
16 18 Pa.C.S. § 1385(b) within 30 days from the date that the  
17 guidelines are published in the Pennsylvania Bulletin, and said  
18 guidelines shall become effective 30 days after publication in  
19 the Pennsylvania Bulletin unless disapproved pursuant to this  
20 section. The guidelines shall apply to all offenses committed on  
21 or after the effective date of the adopted guidelines.

22 SECTION 10. THE PROVISIONS OF THIS ACT SHALL BE SEVERABLE. <—  
23 IF ANY PROVISION OF THIS ACT, OR THE APPLICATION THEREOF TO ANY  
24 PERSON OR CIRCUMSTANCE, IS HELD INVALID, THE REMAINDER OF THIS  
25 ACT, AND THE APPLICATION OF ANY PROVISION HEREOF TO ANY OTHER  
26 PERSONS OR CIRCUMSTANCES, SHALL NOT BE AFFECTED THEREBY.

27 Section 5 11. The following acts and parts of acts are <—  
28 repealed:

29 42 Pa.C.S. Ch. 21 Subch. F (relating to Pennsylvania  
30 Commission on Sentencing).

1 As much of the second sentence of 42 Pa.C.S. 9721(b) as reads  
2 as follows: ". . . and taking effect pursuant to section 2155  
3 (relating to publication of guidelines for sentencing) . . ."

4 As much of the fourth sentence of 42 Pa.C.S. 9721(b) as reads  
5 as follows: ". . . pursuant to section 2154 (relating to  
6 adoption of guidelines for sentencing) and made effective  
7 pursuant to section 2155 . . ."

8 Section ~~6~~ 12. This act shall take effect as follows: <—

9 ~~(1) Section 3 (relating to section 4906) shall take~~ <—  
10 ~~effect in 60 days.~~

11 ~~(2) The remainder of this act shall take effect~~  
12 ~~immediately.~~

13 (1) THE AMENDMENTS TO CHAPTER 32 AND SECTION 4906 OF <—  
14 TITLE 18 SHALL TAKE EFFECT IN 60 DAYS.

15 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
16 IMMEDIATELY.