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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 888 Session of  
2015

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INTRODUCED BY BROOKS, SCARNATI, ALLOWAY, HUTCHINSON,  
EICHELBERGER, AUMENT, FOLMER, VULAKOVICH, ARGALL,  
RESCHENTHALER, BARTOLOTTA, RAFFERTY, WARD, WHITE, YAW,  
STEFANO, WAGNER, MENSCH, SMUCKER AND VOGEL, JUNE 6, 2016

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REFERRED TO JUDICIARY, JUNE 6, 2016

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AN ACT

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

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

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

11 § 3203. Definitions.

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

15 \* \* \*

16 "Dismemberment abortion." The act of knowingly and  
17 purposefully causing the death of an unborn child by means of  
18 dismembering the unborn child and extracting the unborn child  
19 one piece at a time from the uterus through the use of clamps,

1 grasping forceps, tongs, scissors or similar instruments. The  
2 term does not include an abortion which is exclusively performed  
3 through suction curettage.

4 \* \* \*

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

7 § 3204. Medical consultation and judgment.

8 \* \* \*

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

18 \* \* \*

19 § 3211. Abortion on unborn child of [24] 20 or more weeks  
20 gestational age.

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

25 (b) Exceptions.--

26 (1) It shall not be a violation of subsection (a) if an  
27 abortion is performed by a physician and that physician  
28 reasonably believes that it is necessary to prevent either  
29 the death of the pregnant woman or the substantial and  
30 irreversible impairment of a major bodily function of the

1 woman. No abortion shall be deemed authorized under this  
2 paragraph if performed on the basis of a claim or a diagnosis  
3 that the woman will engage in conduct which would result in  
4 her death or in substantial and irreversible impairment of a  
5 major bodily function.

6 (2) It shall not be a violation of subsection (a) if the  
7 abortion is performed by a physician and that physician  
8 reasonably believes, after making a determination of the  
9 gestational age of the unborn child in compliance with  
10 section 3210 (relating to determination of gestational age),  
11 that the unborn child is less than [24] 20 weeks gestational  
12 age.

13 \* \* \*

14 Section 3. Title 18 is amended by adding a section to read:  
15 § 3211.1. Dismemberment abortion ban.

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

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

28 (2) The physician's judgment with respect to the  
29 necessity for the abortion has been concurred in by one other  
30 licensed physician who certifies in writing that, based

1 upon his or her separate personal medical examination of  
2 the pregnant woman and his or her medical judgment, the  
3 abortion is necessary to prevent either the death of the  
4 pregnant woman or the substantial and irreversible  
5 impairment of a major bodily function of the woman.

6 (b) Liability.--The following individuals shall not be  
7 liable for performing or attempting to perform a dismemberment  
8 abortion:

9 (1) The female patient upon whom the dismemberment  
10 abortion is performed or attempted to be performed.

11 (2) A nurse, technician, secretary or receptionist who  
12 is not a physician but is acting at the direction of a  
13 physician.

14 (3) A pharmacist or other individual who fills a  
15 prescription or provides instruments or materials used in a  
16 dismemberment abortion at the direction of or to a physician.

17 (c) Penalty.--An individual who violates subsection (a)  
18 commits a felony of the third degree.

19 Section 4. Section 3214(a) of Title 18 is amended to read:

20 § 3214. Reporting.

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

29 (1) Identification of the physician who performed the  
30 abortion, the concurring physician as required by section

1 3211(c)(2) (relating to abortion on unborn child of [24] 20  
2 or more weeks gestational age) or 3211.1(a)(2) (relating to  
3 dismemberment abortion ban), the second physician as required  
4 by section 3211(c)(5) or 3211.1(a)(2) and the facility where  
5 the abortion was performed and of the referring physician,  
6 agency or service, if any.

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

8 (3) The woman's age.

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

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

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

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

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

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

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

29 (11) The information required to be reported under  
30 section 3210(a) (relating to determination of gestational

1 age).

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

6 \* \* \*

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