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3 HOUSE HEALTH COMMITTEE SUBSTITUTE FOR HB52
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8 SYNOPSIS: Existing law requires abortion providers to
9 provide a woman seeking an abortion with
10 information regarding the abortion process, the
11 participating medical personnel, and the health
12 status of the unborn child prior to performing an
13 abortion. Existing law also allows a woman to
14 withdraw consent to an abortion before the abortion
15 is performed.

16 This bill would require abortion providers
17 to refund fees paid for an abortion.
18

19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 Relating to abortion; to amend Section 26-23A-3,
24 Code of Alabama 1975, to amend definitions; to amend Section
25 26-23A-4, Code of Alabama 1975, to require abortion providers
26 to inform women of their right to a refund of all fees paid;

1 to add new Section 26-23A-4.1, Code of Alabama 1975, to
2 provide a right to a refund of all fees paid.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 26-23A-3 and 26-23A-4, Code of
5 Alabama 1975, are amended to read as follows:

6 "§26-23A-3.

7 "For the purposes of this chapter, the following
8 terms have the following meanings:

9 "(1) ABORTION. The use or prescription of any
10 instrument, medicine, drug, or any other substance or device
11 with the intent to terminate the pregnancy of a woman known to
12 be pregnant. Such use or prescription is not an abortion if
13 done with the intent to save the life or preserve the health
14 of an unborn child, remove a dead unborn child, or to deliver
15 an unborn child prematurely in order to preserve the health of
16 both the mother (pregnant woman) and her unborn child.

17 "(2) CONCEPTION. The fusion of a human spermatozoon
18 with a human ovum.

19 "(3) EMANCIPATED MINOR. Any minor who is or has been
20 married or has by court order otherwise been legally freed
21 from the care, custody, and control of her parents.

22 "(4) GESTATIONAL AGE. The time that has elapsed
23 since the first day of the woman's last menstrual period.

24 "(5) MEDICAL EMERGENCY. That condition which, on the
25 basis of the physician's good faith clinical judgment, so
26 complicates the medical condition of a pregnant woman as to
27 necessitate the immediate abortion of her pregnancy to avert

1 her death or in which a delay will create serious risk of
2 substantial and irreversible impairment of a major bodily
3 function.

4 "(6) MINOR. Any person under the age of 18 years.

5 "(7) PHYSICIAN. Any person licensed to practice
6 medicine in this state. The term includes medical doctors and
7 doctors of osteopathy.

8 "(8) PREGNANT or PREGNANCY. The female reproductive
9 condition of having an unborn child in the mother's (woman's)
10 body.

11 "(9) QUALIFIED PERSON. An agent of the physician who
12 is a psychologist, licensed social worker, licensed
13 professional counselor, registered nurse, or physician, but
14 does not include a referring physician.

15 "(10) UNBORN CHILD. The offspring of any human
16 person from conception until birth.

17 "(11) VIABLE. That stage of fetal development when
18 the life of the unborn child may be continued indefinitely
19 outside the womb by natural or artificial life-supportive
20 systems.

21 "(12) WOMAN. Any female person.

22 "§26-23A-4.

23 "Except in the case of a medical emergency, no
24 abortion shall be performed or induced without the voluntary
25 and informed consent of the woman upon whom the abortion is to
26 be performed or induced. Except in the case of a medical

1 emergency, consent to an abortion is voluntary and informed if
2 and only if:

3 ~~"(a)(1)a.~~ At least 48 hours before the abortion, the
4 physician who is to perform the abortion, ~~the referring~~
5 ~~physician,~~ or a qualified person has informed and provided the
6 woman in person, or by return receipt certified mail
7 restricted delivery, and if by mail, again in person prior to
8 the abortion, ~~a~~ the following:

9 "1. A copy of the printed materials in Section
10 26-23A-5 which list agencies that offer assistance, adoption
11 agencies, development of the unborn child, methods and risks
12 of abortion and childbirth, father's obligations, and
13 alternatives to abortion; and-

14 "2. Notice of her rights under Section 26-23A-4.1,
15 to read as follows: "You have a right to a full refund of any
16 payments paid to the facility until you ingest or are
17 administered any type of anesthesia, controlled substance or
18 other medication, or until you exit the clinical area of the
19 facility with a medication for a medical abortion. If no
20 medication is to be administered or ingested for a surgical
21 procedure, you have a right to a refund until you enter the
22 clinical area of the facility in which the procedure is to be
23 performed. If fees have been paid in cash preceding the
24 procedure, you shall be refunded what is due at that time. If
25 the fees were paid by credit card preceding the procedure, a
26 credit card refund will be issued. If the fees were paid in
27 whole or in part by insurance, the fees shall be refunded

1 within a reasonable time pursuant to appropriate applicable
2 procedures."

3 "b. Mailing of the materials in Section 26-23A-5 and
4 this section may be arranged by telephone.

5 "~~(b)~~ (2) Prior to an abortion, the physician who is
6 to perform the abortion, ~~the referring physician,~~ or a
7 qualified person has informed the woman in person:

8 "~~(1)~~ a. The name of the physician who will perform
9 the abortion in writing or a business card.

10 "~~(2)~~ b. The nature of the proposed abortion method
11 and associated risks and alternatives that a reasonable
12 patient would consider material to the decision of whether or
13 not to undergo the abortion.

14 "~~(3)~~ c. The probable gestational age of the unborn
15 child at the time the abortion is to be performed, and the
16 probable anatomical and physiological characteristics of the
17 unborn child at the time the abortion is to be performed. If
18 the unborn child is viable or has reached a gestational age of
19 more than 19 weeks, that:

20 "~~a.~~ 1. The unborn child may be able to survive
21 outside the womb.

22 "~~b.~~ 2. The woman has the right to request the
23 physician to use the method of abortion that is most likely to
24 preserve the life of the unborn child, provided such abortion
25 is not otherwise prohibited by law.

26 "~~c.~~ 3. If the unborn child is born alive, the
27 attending physician has the legal obligation to take all

1 reasonable steps necessary to maintain the life and health of
2 the child.

3 ~~"(4)~~d. The physician who is to perform the abortion
4 or the referring physician is required to perform an
5 ultrasound on the unborn child before the abortion. The woman
6 has a right to view the ultrasound before an abortion. The
7 woman shall complete a required form to acknowledge that she
8 either saw the ultrasound image of her unborn child or that
9 she was offered the opportunity and rejected it.

10 ~~"(5) She~~ e. That she has the right to view the
11 videotape and ultrasound of her unborn child as described in
12 Section 26-23A-6.

13 ~~"(6)~~f. Any need for anti-Rh immune globulin therapy,
14 and if she is Rh negative, the likely consequences of refusing
15 such therapy and the cost of the therapy.

16 ~~"(7) She~~ g. That she cannot be forced or required by
17 anyone to have an abortion. She is free to withhold or
18 withdraw her consent for an abortion without affecting her
19 right to future care or treatment and without the loss of any
20 state or federally funded benefits to which she might
21 otherwise be entitled.

22 ~~"(c)~~(3) The woman shall complete and sign a form
23 that she has received the information of ~~subsections (a) and~~
24 ~~(b)~~ subdivisions (1) and (2), and does provide her informed
25 consent for an abortion on her unborn child.

26 ~~"(d)~~(4) Prior to the performance of an abortion, the
27 physician who is to perform the abortion or his or her agent

1 shall receive the signed receipt of the certified mail dated
2 48 hours before the abortion, if mailed, and the signed forms
3 that she has received the information of ~~subsections (a) and~~
4 ~~(b)~~ subdivisions (1) and (2) before the abortion, had the
5 opportunity to view the video and the ultrasound of her unborn
6 child, and provided her informed consent for an abortion. The
7 abortion facility shall retain the signed receipt, signed
8 forms, and the ultrasound in the woman's medical file for the
9 time required by law, but not less than four years."

10 Section 2. Section 26-23A-4.1 is added to the Code
11 of Alabama 1975, to read as follows:

12 §26-23A-4.1.

13 A woman has a right to a full refund of any payments
14 paid to a facility until she ingests or is administered any
15 type of anesthesia, controlled substance, or other medication,
16 or exits the clinical area of a facility with a medication for
17 a medical abortion. If no medication is to be administered or
18 ingested for a surgical procedure, a woman has a right to a
19 refund until she enters the clinical area of the facility in
20 which the procedure is to be performed. If fees have been paid
21 in cash preceding the procedure, she shall be refunded what
22 she has paid. If the fees were paid by credit card preceding
23 the procedure, a credit card refund shall be issued. If the
24 fees were paid in whole or in part by insurance, the fees
25 shall be refunded within a reasonable time pursuant to
26 appropriate applicable procedures. Notwithstanding any other

1 law to the contrary, no physician shall be responsible for an
2 insurer's decision to refund under this chapter.

3 Section 3. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.