

HB90 INTRODUCED



1 HB90
2 I2TJW66-1
3 By Representative Givan
4 RFD: Judiciary
5 First Read: 06-Feb-24
6 PFD: 05-Feb-24



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SYNOPSIS:

Under existing law, abortion is prohibited except to prevent a serious health risk to the unborn child's mother.

This bill would authorize an abortion necessary to preserve the life of the unborn child's mother.

This bill would authorize an abortion if the pregnancy results from rape or incest.

This bill would require that, if an unborn child's father is convicted of rape or incest, he must pay for the abortion and related costs and undergo either a vasectomy or castration, as determined by the court.

This bill would authorize the mother of an unborn child who undergoes an abortion to preserve her life to petition the district court to require the unborn child's father to pay for all medical expenses related to the pregnancy and the abortion.

This bill would authorize a district court to adjudicate paternity if an alleged father who is required to pay expenses disputes paternity and would provide for jurisdiction.

This bill would also authorize the father of an unborn child who is required to pay expenses to petition the district court for relief, and would



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29 authorize the district court to grant relief on the
30 condition that the father undergoes a vasectomy.

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A BILL

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TO BE ENTITLED

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AN ACT

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37 Relating to abortion; to amend Sections 26-23H-3 and
38 26-23H-4, Code of Alabama 1975; to add Section 26-23H-4.1 to
39 the Code of Alabama 1975; to authorize an abortion to preserve
40 the life of the unborn child's mother or if a pregnancy
41 results from rape or incest; to require an unborn child's
42 father who is convicted of rape or incest to pay for any
43 associated abortion and undergo a vasectomy or castration; to
44 authorize a mother who undergoes an abortion to preserve her
45 life to petition the court to require the unborn child's
46 father to pay for all medical expenses related to the
47 pregnancy and the abortion; to provide the unborn child's
48 father may be granted relief if he undergoes a vasectomy; to
49 authorize a district court to adjudicate disputed paternity;
50 and to provide for jurisdiction.

51 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

52 Section 1. Sections 26-23H-3 and 26-23H-4, Code of
53 Alabama 1975, are amended to read as follows: FIX THIS

54 "§26-23H-3

55 As used in this chapter, the following terms ~~shall~~ have
56 the following meanings:



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57 (1) ABORTION. The use or prescription of any
58 instrument, medicine, drug, or any other substance or device
59 with the intent to terminate the pregnancy of a woman known to
60 be pregnant with knowledge that the termination by those means
61 will with reasonable likelihood cause the death of the unborn
62 child. The term does not include these activities if done with
63 the intent to save the life or preserve the health of an
64 unborn child, remove a dead unborn child, to deliver the
65 unborn child prematurely to ~~avoid a serious health risk to~~
66 preserve the health of the unborn child's mother, or to
67 preserve the health of her unborn child. The term does not
68 include a procedure or act to terminate the pregnancy of a
69 woman with an ectopic pregnancy, nor does it include the
70 procedure or act to terminate the pregnancy of a woman when
71 the unborn child has a lethal anomaly.

72 (2) ECTOPIC PREGNANCY. Any pregnancy resulting from
73 either a fertilized egg that has implanted or attached outside
74 the uterus or a fertilized egg implanted inside the cornu of
75 the uterus.

76 (3) LETHAL ANOMALY. A condition from which an unborn
77 child would die after birth or shortly thereafter or be
78 stillborn.

79 (4) MAN. A male human being, whether or not he has
80 reached the age of majority.

81 ~~(4)~~ (5) MEDICAL EMERGENCY. A condition which, in
82 reasonable medical judgment, so complicates the medical
83 condition of the pregnant woman that her pregnancy must be
84 terminated to avoid a serious health risk as defined in this



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85 chapter.

86 ~~(5)~~ (6) PHYSICIAN. A person licensed to practice
87 medicine and surgery or osteopathic medicine and surgery in
88 Alabama.

89 ~~(6) SERIOUS HEALTH RISK TO THE UNBORN CHILD'S MOTHER.~~
90 ~~In reasonable medical judgment, the child's mother has a~~
91 ~~condition that so complicates her medical condition that it~~
92 ~~necessitates the termination of her pregnancy to avert her~~
93 ~~death or to avert serious risk of substantial physical~~
94 ~~impairment of a major bodily function. This term does not~~
95 ~~include a condition based on a claim that the woman is~~
96 ~~suffering from an emotional condition or a mental illness~~
97 ~~which will cause her to engage in conduct that intends to~~
98 ~~result in her death or the death of her unborn child. However,~~
99 ~~the condition may exist if a second physician who is licensed~~
100 ~~in Alabama as a psychiatrist, with a minimum of three years of~~
101 ~~clinical experience, examines the woman and documents that the~~
102 ~~woman has a diagnosed serious mental illness and because of~~
103 ~~it, there is reasonable medical judgment that she will engage~~
104 ~~in conduct that could result in her death or the death of her~~
105 ~~unborn child. If the mental health diagnosis and likelihood of~~
106 ~~conduct is confirmed as provided in this chapter, and it is~~
107 ~~determined that a termination of her pregnancy is medically~~
108 ~~necessary to avoid the conduct, the termination may be~~
109 ~~performed and shall be only performed by a physician licensed~~
110 ~~in Alabama in a hospital as defined in the Alabama~~
111 ~~Administrative Code and to which he or she has admitting~~
112 ~~privileges.~~



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113 (7) UNBORN CHILD, CHILD, OR PERSON. A human being,
114 specifically including an unborn child in utero at any stage
115 of development, regardless of viability.

116 (8) WOMAN. A female human being, whether or not she has
117 reached the age of majority."

118 "§26-23H-4

119 (a) It shall be unlawful for any person to
120 intentionally perform or attempt to perform an abortion except
121 as provided for by subsection (b) or (c).

122 (b) An abortion shall be permitted if an attending
123 physician licensed in Alabama determines that an abortion is
124 necessary in order to ~~prevent a serious health risk to~~
125 preserve the health of the unborn child's mother. Except in
126 the case of a medical emergency as defined ~~herein~~ in this
127 section, the physician's determination shall be confirmed in
128 writing by a second physician licensed in Alabama. The
129 confirmation shall occur within 180 days after the abortion is
130 completed and shall be prima facie evidence for a permitted
131 abortion.

132 (c) (1) An abortion shall be permitted if the pregnancy
133 is the result of an act of rape or incest.

134 (2) If a man is convicted of rape or incest, the court
135 shall require him to: (i) pay for all medical expenses
136 associated with the resulting pregnancy and abortion; and (ii)
137 undergo either a vasectomy or castration."

138 Section 2. Section 26-23H-4.1 is added to the Code of
139 Alabama 1975, to read as follows:

140 §26-23H-4.1



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141 (a) If an abortion is necessary to preserve the health
142 of an unborn child's mother pursuant to Section 26-23H-4, the
143 mother of the unborn child may petition the district court to
144 require the unborn child's father to pay for all medical
145 expenses associated with the pregnancy and the abortion
146 including, but not limited to, expenses associated with any
147 complications resulting from the pregnancy.

148 (b) A father required to pay for expenses pursuant to
149 subsection (a) may petition the district court for relief from
150 those requirements, provided that the father agrees to undergo
151 a vasectomy. A man required to undergo a vasectomy under this
152 subsection must provide the court with documentation of the
153 vasectomy.

154 (c) If a man required to pay for expenses pursuant to
155 subsection (a) disputes that he is the father of the unborn
156 child in question, he may petition the district court to
157 adjudicate paternity. If the court determines that the man is
158 the biological father of the unborn child, he must either pay
159 the expenses required by subsection (a) or petition for a
160 grant of relief pursuant to subsection (b).

161 (d) (1) Appropriate venue for a proceeding under this
162 section is the county in which the unborn child's alleged
163 father resides or in which the unborn child's mother resides.

164 (2) Court proceedings under this section shall be given
165 such precedence over other pending matters as is necessary to
166 ensure that the court may reach a decision promptly, but in no
167 case shall the court fail to rule within 48 hours of the time
168 the petition is filed, Saturdays, Sundays, and legal holidays



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169 excluded.

170 Section 3. This act shall become effective on October

171 1, 2024.