

# 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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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



## HB90 INTRODUCED

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

31

32

33 A BILL

34 TO BE ENTITLED

35 AN ACT

36

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:



## HB90 INTRODUCED

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



## HB90 INTRODUCED

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.~~



## HB90 INTRODUCED

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



## HB90 INTRODUCED

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



## HB90 INTRODUCED

169 excluded.

170 Section 3. This act shall become effective on October

171 1, 2024.