

Senators Beatty of the 47th, Cable of the 27th, Seabaugh of the 28th, Shafer of the 48th and Lamutt of the 21st offered the following substitute to HB 360:

WITHDRAWN

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,
2 so as to provide for voluntary relinquishment of a newborn under certain circumstances; to
3 provide for a short title; to provide for legislative intent; to provide that a mother who leaves
4 a newborn child in the custody of an employee, agent, or staff member of a medical facility
5 in specified circumstances shall not be prosecuted for specified crimes because of such act;
6 to provide for duties of medical facilities accepting a newborn child for inpatient admission
7 and the Department of Human Resources; to provide for reimbursement for certain costs; to
8 provide for civil and criminal immunity for medical facilities and their employees; to define
9 certain terms; to provide that prior to performing an abortion, a physician shall provide the
10 pregnant woman with certain information; to provide that the physician shall obtain the
11 woman's informed written consent; to provide for exceptions for incapacitated persons; to
12 provide procedures for transmitting such information; to provide for an exception for
13 medical emergencies; to provide for the preparation of certain written information and the
14 maintenance of an information telephone line; to provide for a penalty; to provide an
15 effective date; to repeal conflicting laws; and for other purposes.

16 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

17 **SECTION 1.**

18 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
19 amended by adding two new chapters to be designated Chapter 10A and Chapter 10B to read
20 as follows:

"CHAPTER 10A

19-10A-1.

This chapter shall be known and may be cited as the 'Safe Place for Newborns Act of 2001.'

19-10A-2.

As used in this chapter, the term 'medical facility' shall mean any licensed general or specialized hospital, institutional infirmary, health center operated by a county board of health, or facility where human births occur on a regular and ongoing basis which is classified by the Department of Human Resources as a birthing center, but shall not mean physicians' or dentists' private offices.

19-10A-3.

It is the express purpose and intent of the General Assembly in enacting this chapter to prevent injuries to and deaths of newborn children that are caused by a mother who abandons the newborn.

19-10A-4.

A mother shall not be prosecuted for the crimes of cruelty to a child, Code Section 16-5-70; contributing to the delinquency, unruliness, or deprivation of a child, Code Section 16-12-1; or abandonment of a dependent child, Code Section 19-10-1, because of the act of leaving her newborn child in the physical custody of an employee, agent, or member of the staff of a medical facility who is on duty, whether there in a paid or volunteer position; provided that the newborn child is no more than one week old and the mother shows proof of her identity, if available, to the person with whom the newborn is left and provides her name and address.

19-10A-5.

The Department of Human Resources shall investigate and report to the General Assembly as to children left with a medical facility pursuant to Code Section 19-10A-4, including in such report the desirability and cost effectiveness of a dedicated toll-free telephone line for providing information to and answering questions from the public and employees and staff members of medical facilities concerning the acts and consequences thereof contemplated in Code Section 19-10A-4.

1 19-10A-6.

2 A medical facility which accepts for inpatient admission a child left pursuant to Code
3 Section 19-10A-4 shall be reimbursed by the Department of Human Resources for all
4 reasonable medical and other reasonable costs associated with the child prior to the child
5 being placed in the care of the department. A medical facility shall notify the Department
6 of Human Resources at such time as the child is left and at the time the child is medically
7 ready for discharge. Upon notification that the child is medically ready for discharge, the
8 Department of Human Resources shall take physical custody of the child within six hours.
9 The Department of Human Resources upon taking physical custody shall promptly bring
10 the child before the juvenile court as required by Code Section 15-11-47.

11 19-10A-7.

12 Medical facilities and their employees, agents, and staff members shall not be liable for
13 civil damages or subject to criminal prosecution for failure to discharge the duties provided
14 for in this chapter. The immunity provided in this chapter shall in no way be construed as
15 providing immunity for any acts of negligent treatment of the child taken into custody.

16 CHAPTER 10B

17 19-10B-1.

18 As used in this Code section, the term:

19 (1) 'Abortion information' means a communication including the following:

20 (A) A full, reasonable, and comprehensible medical explanation of the nature, benefits,
21 and risks of and alternatives to the proposed procedures or protocols to be followed in
22 the pregnant woman's particular case;

23 (B) An instruction that the woman may withdraw her consent at any time prior to the
24 performance of the procedure;

25 (C) An offer for the woman to speak with the physician who is to perform the abortion
26 so that he or she may answer any questions that the woman may have and provide
27 further information concerning the procedures and protocols;

28 (D) A statement of the probable gestational age of the fetus at the time the abortion is
29 to be performed;

30 (E) An offer to review the printed materials described in subsection (e) of this Code
31 section. This offer for the woman to review the material shall advise her that:

32 (i) The department publishes printed materials that describe the fetus and lists
33 agencies that offer alternatives to abortion;

1 (ii) Medical assistance benefits may be available for prenatal care, childbirth, and
2 neonatal care and that more detailed information on the availability of such assistance
3 is contained in the printed materials published by the department;

4 (iii) The father of the fetus is liable to assist in the support of her child, even in
5 instances where he has offered to pay for the abortion, that assistance in the collection
6 of such support is available, and that more detailed information on the availability of
7 such assistance is contained in the printed materials published by the department; and

8 (iv) She has the right to review the materials printed by the department and that
9 copies will be provided to her free of charge if she chooses to review them; and

10 (F) A synopsis of the provisions of Chapter 10A of this title, the 'Safe Place for
11 Newborns Act of 2001.'

12 (2) 'Informed written consent' means the knowing and voluntary written consent to
13 abortion by a pregnant woman of any age, after she has been provided abortion
14 information as required by Code Section 19-10B-3, and without undue inducement or
15 any element of force, fraud, deceit, duress, or other form of constraint or coercion by the
16 physician who is to perform the abortion or his or her agent.

17 (3) 'Medical emergency' means any condition which, on the basis of the physician's
18 good faith clinical judgment, so complicates the medical condition of a pregnant woman
19 as to necessitate the immediate abortion of her pregnancy to avert her death or for which
20 a delay will create a serious risk of substantial and irreversible impairment of a major
21 bodily function.

22 19-10B-2.

23 Before performing any abortion, inducing any miscarriage, or terminating a pregnancy, the
24 physician shall provide abortion information to the pregnant woman as provided in Code
25 Section 19-10B-3 and shall obtain the informed written consent of the pregnant woman;
26 provided, however, that if the woman has been adjudicated incapacitated by any court of
27 competent jurisdiction or if the physician knows or has good reason to believe that such
28 woman is incapacitated as adjudicated by a court of competent jurisdiction, then only after
29 such abortion information has been provided to and written permission given by a parent,
30 guardian, or other person standing in loco parentis to the woman, may the physician
31 perform the abortion or otherwise terminate the pregnancy.

32 19-10B-3.

33 Any informed consent obtained without first providing abortion information as provided
34 in this chapter shall be void and of no effect. Abortion information shall be provided by

1 telephone or in person to the woman at least 24 hours before the abortion by the physician
2 who is to perform the abortion, by a referring physician, or by a licensed professional or
3 practical nurse working under the direct supervision of either the physician who is to
4 perform the abortion or the referring physician; provided, however, that the abortion
5 information may be provided instead by a licensed health care professional working under
6 the direct supervision of either the physician who is to perform the abortion or the referring
7 physician. Where the woman has advised that the pregnancy is the result of a rape, the
8 information in division (1)(E)(iii) of subsection (a) of this Code section may be omitted.
9 If the pregnant woman chooses to review the materials published by the department that
10 describe the fetus and list agencies that offer alternatives to abortion, such materials shall
11 be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours
12 before the abortion by first class mail or, if the woman requests, by certified mail,
13 restricted delivery.

14 19-10B-4.

15 The abortion information required by this Code section may be provided by telephone
16 without conducting a physical examination of or tests upon the woman, in which case the
17 information required to be provided may be based on facts supplied by the woman and
18 whatever other relevant information is reasonably available to the physician. If a physical
19 examination, tests, or the availability of other information to the physician or the nurse
20 subsequently indicates, in the medical judgment of the physician or the nurse, a revision
21 of the information previously supplied to the woman, that revised information may be
22 communicated to the woman at any time prior to the performance of the abortion.

23 19-10B-5.

24 The physician need not obtain the informed written consent of the woman when the
25 abortion is to be performed pursuant to a medical emergency.

26 19-10B-6.

27 On or before December 31, 2002, the department shall publish, in English and in each
28 language which is the primary language of 2 percent or more of the population of this state,
29 the following printed materials in such a way as to ensure that the information is easily
30 comprehensible:

- 31 (1) Geographically indexed materials designed to inform the woman of public and
32 private agencies and services available to assist a woman through pregnancy; upon
33 childbirth and while the child is dependent, including, but not limited to, information on

1 services relating to adoption; paternity establishment and child support enforcement;
 2 child development; child rearing and stress management; and pediatric and maternal
 3 health care. The materials shall include a comprehensive list of the names and telephone
 4 numbers of the agencies or, at the option of the department, printed materials including
 5 a toll-free, 24 hour telephone number which may be called to obtain, orally, such a list
 6 and description of agencies in the locality of the caller and the services they offer;

7 (2) Materials designed to inform the woman of the probable anatomical and
 8 physiological characteristics of the human fetus at two-week gestational increments from
 9 the time when a woman can be known to be pregnant to full term, including any relevant
 10 information on the possibility of the fetus's survival and pictures or drawings
 11 representing the development of the human fetus at two-week gestational increments.
 12 Such pictures or drawings shall contain the dimensions of the fetus and shall be realistic
 13 and appropriate for the stage of pregnancy depicted. The materials shall be objective,
 14 nonjudgmental, and designed to convey only accurate scientific information about the
 15 human fetus at the various gestational ages;

16 (3) Materials containing objective information describing the methods of abortion
 17 procedures commonly employed, the medical risks commonly associated with each such
 18 procedure, the possible detrimental psychological effects of abortion, and the medical
 19 risks commonly associated with carrying a child to term. The department shall make
 20 these materials available at each local health department and, upon request, to any person
 21 or entity in reasonable numbers and without cost to the requesting party; and

22 (4) A synopsis of the provisions of Chapter 10B of this title, the 'Safe Place for
 23 Newborns Act of 2001.'

24 19-10B-7.

25 Any physician who fails to comply with the provisions of this chapter shall be subject to
 26 a \$5,000.00 civil penalty."

27 **SECTION 3.**

28 This Act shall become effective upon its approval by the Governor or upon its becoming law
 29 without such approval.

30 **SECTION 4.**

31 All laws and parts of laws in conflict with this Act are repealed.