

Senate Bill 209

By: Senators Cable of the 27th, Beatty of the 47th and Starr of the 44th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to
2 consent for surgical or medical treatment, so as to provide a short title; to define certain
3 terms; to provide that prior to performing an abortion, a physician shall provide the pregnant
4 woman with certain information; to provide that the physician shall obtain the woman's
5 informed written consent; to provide for exceptions for incapacitated persons; to provide
6 procedures for transmitting such information; to provide for an exception for medical
7 emergencies; to provide for the preparation of certain written information and the
8 maintenance of an information telephone line; to provide for a penalty; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Informed Consent Medical Accountability
13 Act."

14 **SECTION 2.**

15 Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to consent for
16 surgical or medical treatment, is amended by inserting at the end thereof the following:

17 "31-9-8.

18 (a) 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;

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

4 (D) A statement of the probable gestational age of the fetus at the time the abortion is
5 to be performed; and

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

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

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

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

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

19 (2) 'Informed written consent' means the knowing and voluntary written consent to
20 abortion by a pregnant woman of any age, after she has been provided abortion
21 information as required by subsection (c) of this Code section, and without undue
22 inducement or any element of force, fraud, deceit, duress, or other form of constraint or
23 coercion by the physician who is to perform the abortion or his or her agent.

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

29 (b) Before performing any abortion, inducing any miscarriage, or terminating a pregnancy,
30 the physician shall provide abortion information to the pregnant woman as provided in
31 subsection (c) of this Code section and shall obtain the informed written consent of the
32 pregnant woman; provided, however, that if the woman has been adjudicated incapacitated
33 by any court of competent jurisdiction or if the physician knows or has good reason to
34 believe that such woman is incapacitated as adjudicated by a court of competent
35 jurisdiction, then only after such abortion information has been provided to and written
36 permission given by a parent, guardian, or other person standing in loco parentis to the
37 woman, may the physician perform the abortion or otherwise terminate the pregnancy.

1 (c) Any informed consent obtained without first providing abortion information as
2 provided in this subsection shall be void and of no effect. Abortion information shall be
3 provided by telephone or in person to the woman at least 24 hours before the abortion by
4 the physician who is to perform the abortion, by a referring physician, or by a licensed
5 professional or practical nurse working under the direct supervision of either the physician
6 who is to perform the abortion or the referring physician; provided, however, that the
7 abortion information may be provided instead by a licensed health care professional
8 working under the direct supervision of either the physician who is to perform the abortion
9 or the referring physician. Where the woman has advised that the pregnancy is the result
10 of a rape, the information in division (1)(E)(iii) of subsection (a) of this Code section may
11 be omitted. If the pregnant woman chooses to review the materials published by the
12 department that describe the fetus and list agencies that offer alternatives to abortion, such
13 materials shall be provided to her at least 24 hours before the abortion or mailed to her at
14 least 72 hours before the abortion by first class mail or, if the woman requests, by certified
15 mail, restricted delivery.

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

24 (e) 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 (f) On or before December 31, 2001, the department shall publish, in English and in each
27 language which is the primary language of 2 percent or more of the population of this state,
28 the following printed materials in such a way as to ensure that the information is easily
29 comprehensible:

30 (1) Geographically indexed materials designed to inform the woman of public and
31 private agencies and services available to assist a woman through pregnancy; upon
32 childbirth and while the child is dependent, including, but not limited to, information on
33 services relating to adoption; paternity establishment and child support enforcement;
34 child development; child rearing and stress management; and pediatric and maternal
35 health care. The materials shall include a comprehensive list of the names and telephone
36 numbers of the agencies or, at the option of the department, printed materials including

1 a toll-free, 24 hour telephone number which may be called to obtain, orally, such a list
2 and description of agencies in the locality of the caller and the services they offer;

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

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

18 (g) Any physician who fails to comply with the provisions of this Code section shall be
19 subject to a \$5,000.00 civil penalty."

20 SECTION 3.

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