

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to feticide, so as to define certain terms; to provide that any person seeking to have
3 an abortion performed shall first file a petition in the superior court; to provide that the court
4 shall appoint a guardian ad litem; to provide for a jury trial; to provide that the court shall
5 balance the rights of the fetus against the rights of the person seeking to have an abortion
6 performed; to provide that no abortion shall take place unless ordered by the court; to provide
7 for an expedited appeal; to provide for penalties; to provide for automatic repeal; to provide
8 for related matters; to provide an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Article 6 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
12 feticide, is amended by inserting at the end thereof the following:

13 "16-5-81.

14 (a) As used in this Code section, the term:

15 (1) 'Abortion' means the intentional termination of human pregnancy with an intention
16 other than to produce a live birth or to remove a dead fetus.

17 (2) 'Death warrant' means an order of a superior court providing that an execution may
18 proceed.

19 (3) 'Execution' means an abortion.

20 (b) No physician shall perform an execution in this state without first obtaining a death
21 warrant as provided in this Code section.

22 (c) Any person seeking to have an execution performed shall first file a petition in the
23 superior court in the county of the petitioner's residence. Upon the filing of such petition,
24 the court shall appoint a guardian ad litem to protect the rights of the fetus. The guardian
25 ad litem shall be authorized to demand a jury trial to determine the rights of the fetus.
26

1 Within 30 days after the filing of such petition, the court shall hold a trial for the purpose
 2 of balancing the fetus' right to live against the rights of the person seeking to have the
 3 execution performed. If the finder of fact determines that the fetus' right to live is superior,
 4 the execution shall not be performed and the fetus shall be permitted to continue through
 5 the stage of birth. If the finder of fact determines that the rights of the person seeking to
 6 have the execution performed are superior to the right of the fetus to live, the court shall
 7 sign a death warrant.

8 (d) If the matter is tried before the court as finder of fact, the court shall issue written and
 9 specific factual findings and legal conclusions supporting its decision and shall order that
 10 a record of the evidence be maintained. The court shall render its decision within 24 hours
 11 of the conclusion of the hearing, and a certified copy of the same shall be furnished
 12 immediately to the parties.

13 (e) An expedited appeal of the final order shall be available. The appellate courts are
 14 authorized and requested to issue promptly such rules as are necessary to ensure the
 15 expeditious disposition of procedures provided by this Code section.

16 (f) No filing fees shall be required of any party who uses the procedures provided by this
 17 Code section.

18 (g) Any physician performing an execution without the issuance of a death warrant shall
 19 be guilty of a felony and, upon conviction, shall be sentenced to incarceration of not more
 20 than five years. The license of any physician indicted for an alleged violation of this Code
 21 section shall be suspended until resolution of the matter. The license of any physician
 22 convicted of a violation of this Code section shall be permanently revoked. The provisions
 23 of this Code section shall be in addition to any other provisions relating to the killing of a
 24 fetus or a person."

25 SECTION 2.

26 This Act shall be automatically repealed on the day following the day the United States
 27 Supreme Court issues a decision expressly declaring the overturn of Roe v. Wade, 410 U.S.
 28 113 (1973).

29 SECTION 3.

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

32 SECTION 4.

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