

The Senate Health and Human Services Committee offered the following substitute to SB 23:

**LOST**

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 informed consent to medical treatment, so as to require and provide standards for informed  
3 consent to abortion procedures; to enact the "Woman's Right To Know Act"; to provide for  
4 matters required to be disclosed and for the manner of disclosure; to require a waiting period  
5 following disclosure; to prohibit acceptance of payment during the waiting period; to direct  
6 the Department of Human Resources to publish and distribute certain informational  
7 materials; to require transmittal of such materials; to require certification of informed  
8 consent; to provide for standards of professional conduct; to provide for intent and  
9 construction with other statutes; to provide for related matters; to make conforming  
10 amendments to existing law; to provide for an effective date and for applicability; to repeal  
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to informed consent  
15 to medical treatment, is amended by designating the existing text of the chapter as Article 1  
16 and by adding thereafter a new Article 2 to read as follows:

17 style="text-align:center">"ARTICLE 2

18 31-9-20.

19 This article shall be known and may be cited as the 'Woman's Right To Know Act.'

20 31-9-21.

21 No abortion shall be performed or induced without the voluntary and informed consent of  
22 the woman upon whom the abortion is to be performed or induced. Except in the case of  
23 a medical emergency, consent to an abortion is voluntary and informed only if:

1 (1) At least 24 hours before the abortion, the physician who is to perform the abortion  
2 has informed the woman in writing of:

3 (A) The name of the physician who will perform the abortion;

4 (B) A description of the proposed abortion method;

5 (C) A description of risks related to the proposed abortion method, including risks to  
6 the woman's reproductive health, and alternatives to the abortion that a reasonable  
7 patient would consider material to the decision of whether or not to undergo the  
8 abortion;

9 (D) The probable gestational age of the fetus at the time the abortion is to be  
10 performed;

11 (E) The probable anatomical and physiological characteristics of the fetus at the time  
12 the abortion is to be performed;

13 (F) The medical risks associated with carrying a fetus to term; and

14 (G) Any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely  
15 consequences of refusing such therapy, and the cost of the therapy;

16 (2) At least 24 hours before the abortion, the physician who is to perform the abortion  
17 or a qualified person has informed the woman in writing that:

18 (A) Medical assistance benefits may be available for prenatal care, childbirth, and  
19 neonatal care and that more detailed information on the availability of such assistance  
20 is contained in the printed materials given to her and described in this article;

21 (B) The printed materials required by this article describe the fetus and list agencies  
22 which offer alternatives to abortion with a special section listing adoption services;

23 (C) The father of the fetus is liable to assist in the support of her child, even in  
24 instances where he has offered to pay for the abortion, except that in the case of rape  
25 this information may be omitted; and

26 (D) The woman is free to withhold or withdraw her consent to the abortion at any time  
27 prior to invasion of the uterus without affecting her right to future care or treatment and  
28 without the loss of any state or federally funded benefits to which she might otherwise  
29 be entitled;

30 (3) Prior to the abortion procedure, prior to physical preparation for the abortion, and  
31 prior to the administration of medication for the abortion, the woman shall meet privately  
32 with the physician who is to perform the abortion and such person's staff to ensure that  
33 she has an adequate opportunity to ask questions of and obtain information from the  
34 physician concerning the abortion;

35 (4) At least 24 hours before the abortion, the woman is offered a copy of the printed  
36 materials required by this article. If the woman asks questions concerning any of the  
37 information or materials, answers shall be provided to her in her own language;

1 (5) The woman certifies in writing on a form provided by the department, prior to the  
2 abortion, that the information required to be provided under paragraphs (1), (2), and (4)  
3 of this Code section has been provided and that she has met with the physician who is to  
4 perform the abortion on an individual basis as provided under paragraph (3) of this Code  
5 section. All physicians who perform abortions shall report the total number of  
6 certifications received monthly to the department. The department shall make the  
7 number of certifications received available on an annual basis;

8 (6) Prior to the performance of the abortion, the physician who is to perform the abortion  
9 or the physician's agent receives a copy of the written certification prescribed by  
10 paragraph (5) of this Code section; and

11 (7) The woman is not required to pay any amount for the abortion procedure until the 24  
12 hour waiting period has expired.

13 31-9-22.

14 (a) The department shall cause to be published and distributed widely, no later than  
15 October 1, 2003, and shall update on an annual basis, the following easily comprehensible  
16 printed materials:

17 (1) Geographically indexed materials designed to inform the woman of public and  
18 private agencies and services available to assist a woman through pregnancy, upon  
19 childbirth, and while her child is dependent, including but not limited to adoption  
20 agencies. The materials shall include a comprehensive list of the agencies, a description  
21 of the services they offer, and the telephone numbers and addresses of the agencies and  
22 inform the woman about available medical assistance benefits for prenatal care,  
23 childbirth, and neonatal care and about the support obligations of the father of a child  
24 who is born alive. The department shall ensure that the materials described in this Code  
25 section are comprehensive and do not directly or indirectly promote, exclude, or  
26 discourage the use of any agency or service described in this paragraph. The materials  
27 shall also contain a toll-free, 24 hour a day telephone number which may be called to  
28 obtain, orally, such a list and description of agencies in the locality of the caller and of  
29 the services they offer. The materials shall state that it is unlawful for any individual to  
30 coerce a woman to undergo an abortion and that any physician who performs an abortion  
31 upon a woman without her informed consent may be liable to her for damages. The  
32 materials shall state that Georgia law permits adoptive parents to pay medical expenses  
33 directly related to the mother's pregnancy and hospitalization for the birth of the child  
34 and medical care for the child. The materials shall include the following statement:  
35 'Many public and private agencies exist to provide counseling and information on  
36 available services. You are strongly urged to seek their assistance to obtain guidance

1 during your pregnancy. In addition, you are encouraged to seek information on abortion  
2 services, alternatives to abortion, including adoption, and resources available to  
3 postpartum mothers. The law requires that your physician or the physician's agent  
4 provide the enclosed information.';

5 (2) Materials that inform the pregnant woman of the probable anatomical and  
6 physiological characteristics of the fetus at two-week gestational increments from  
7 fertilization to full term, including pictures or drawings representing the development of  
8 a fetus at two-week gestational increments, and any relevant information on the  
9 possibility of the fetus' survival. Any such pictures or drawings shall contain the  
10 dimensions of the fetus and shall be realistic. The materials shall be objective,  
11 nonjudgmental, and designed to convey only accurate scientific information about the  
12 fetus at the various gestational ages. The material shall also contain objective  
13 information describing the methods of abortion procedures commonly employed, the  
14 medical risks commonly associated with each such procedure, and the medical risks  
15 associated with carrying a fetus to term; and

16 (3) A certification form to be used by physicians or their agents under paragraph (5) of  
17 Code Section 31-9-21 which will list all the items of information which are to be given  
18 to women by physicians or their agents under this article.

19 (b) The materials required under this Code section shall be printed in a typeface large  
20 enough to be clearly legible. The materials shall be made available in both English and  
21 Spanish language versions.

22 (c) The materials required under this Code section shall be available at no cost from the  
23 department upon request and in appropriate number to any person, facility, or hospital.

24 31-9-23.

25 Where a medical emergency compels the performance of an abortion, the physician shall  
26 inform the woman, before the abortion if possible, of the medical indications supporting  
27 the physician's judgment that an abortion is necessary to preserve the life or health of the  
28 woman.

29 31-9-24.

30 Any physician who intentionally, knowingly, or recklessly fails to provide informed  
31 consent pursuant to this article is guilty of unprofessional conduct for purposes of Code  
32 Section 43-34-37, relating to disciplinary licensing sanctions against physicians.

1 31-9-25.

2 Any physician who complies with the provisions of this article shall not be held civilly  
3 liable to a patient for failure to obtain informed consent to the abortion.

4 31-9-26.

5 (a) Nothing in this article shall be construed as creating or recognizing a right to abortion.

6 (b) It is not the intention of this article to make lawful an abortion which would otherwise  
7 be unlawful."

## 8 SECTION 2.

9 Said chapter is further amended by striking Code Section 31-9-1, which provides a short title,  
10 and inserting in its place a new Code section to read as follows:

11 "31-9-1.

12 This ~~chapter~~ article shall be known and may be cited as the 'Georgia Medical Consent  
13 Law."

## 14 SECTION 3.

15 Said chapter is further amended by striking Code Section 31-9-4, relating to applicability of  
16 the informed consent law to certain patients, and inserting in its place a new Code section to  
17 read as follows:

18 "31-9-4.

19 This ~~chapter~~ article shall be applicable to the care and treatment of patients in facilities for  
20 the mentally ill as defined in paragraph (7) of Code Section 37-3-1."

## 21 SECTION 4.

22 Said chapter is further amended by striking Code Section 31-9-5, relating to applicability of  
23 the informed consent law to abortion and sterilization procedures, and inserting in its place  
24 a new Code section to read as follows:

25 "31-9-5.

26 This ~~chapter~~ article shall not apply in any manner whatsoever to abortion and sterilization  
27 procedures, which procedures shall ~~continue to~~ be governed by ~~existing~~ law independently  
28 of the terms and provisions of this ~~chapter~~ article."

## 29 SECTION 5.

30 Said chapter is further amended by striking subsections (a) and (d) of Code Section 31-9-6,  
31 relating to construction of the informed consent law, and inserting in their respective places  
32 new subsections to read as follows:



**SECTION 8.**

1  
2 This Act shall become effective January 1, 2004, and shall apply with respect to abortions  
3 performed on or after that date, except that: (1) the provisions of this Act relating to  
4 publication and distribution of materials by the Department of Human Resources shall  
5 become effective for administrative purposes on approval of this Act by the Governor or  
6 upon this Act's becoming law without such approval; and (2) such provisions relating to  
7 publication and distribution by the department shall become effective for all purposes on  
8 October 1, 2003.

**SECTION 9.**

9  
10 All laws and parts of laws in conflict with this Act are repealed.