

Senate Bill 77

By: Senators Unterman of the 45th, Hudgens of the 47th, Schaefer of the 50th, Goggans of the 7th, Shafer of the 48th and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to parental notification, so as to define and eliminate certain terms; to require certain types of identification to be presented in order for a physician to perform an abortion; to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against health and morals, so as to provide that all abortions must be performed in certain facilities; to provide for certain reports by physicians; to provide for certain forms; to provide for certain reports by the Department of Human Resources; to provide for penalties and remedies for failure to provide such reports; to provide for a short title; to provide for definitions; to require that a female give her informed consent prior to an abortion; to require that certain information be provided to or made available to a female prior to an abortion; to require a written acknowledgment of receipt of such information; to provide for the preparation and availability of certain information; to provide for procedures in a medical emergency; to provide for reporting; to provide criminal sanctions; to provide for civil actions, damages, and attorney's fees; to provide for anonymity of certain persons in civil actions; to provide for related matters; to provide for severability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to parental notification, is amended by striking Code Section 15-11-111, relating to definitions, and inserting in lieu thereof the following:

"15-11-111.

As used in this article, the term:

(1) 'Abortion' means the ~~intentional termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus~~ use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate

the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as a result of a spontaneous abortion.

(2) 'Proper identification' means any document issued by a governmental agency containing a description of the person, the person's photograph, or both, including, but not limited to, a driver's license, an identification card authorized under Code Sections 40-5-100 through 40-5-104 or similar identification card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the United States Immigration and Naturalization Service.

~~(2)~~(3) 'Unemancipated minor' means any person under the age of 18 who is not or has not been married or who is under the care, custody, and control of such person's parent or parents, guardian, ~~person standing in loco parentis~~, or the juvenile court of competent jurisdiction."

SECTION 2.

Said article is further amended by striking Code Section 15-11-112, relating to the notice of an abortion for an unemancipated minor, and inserting in lieu thereof the following:

"(a) No physician or other person shall perform an abortion upon an unemancipated minor under the age of 18 years unless:

(1)(A) The minor seeking an abortion shall ~~furnish a statement, signed~~ be accompanied by a parent; or guardian; ~~or person standing in loco parentis and such minor, stating who shall show proper identification and state that such parent, or guardian, or person standing in loco parentis is the lawful parent or guardian of such minor, or is the person standing in loco parentis of such minor, and that such parent, or guardian, or person standing in loco parentis has been notified that an abortion is to be performed on such minor; or~~

(B) The physician or an agent gives at least 24 hours' actual notice, in person or by telephone, to a parent; or guardian; ~~or person standing in loco parentis of the minor, of the pending abortion and the name and address of the place where the abortion is to be performed; provided, however, that, if the person so notified indicates that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not been previously informed and he or she clearly expresses that he or she does not wish to consult with the minor, then in either event the abortion may proceed immediately; or~~

(C) The physician or an agent gives written notice of the pending abortion and the address of the place where the abortion is to be performed, sent by regular mail, addressed to a parent; or guardian; ~~or person standing in loco parentis of the minor at~~

the usual place of abode of the parent; or guardian, ~~or person standing in loco parentis~~. Unless proof of delivery is otherwise sooner established, such notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be recorded by the physician or agent in the minor's file. The abortion may be performed 24 hours after the delivery of the notice; provided, however, that, if the person so notified ~~indicates~~ certifies in writing that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not been previously informed and he or she ~~clearly expresses~~ certifies in writing that he or she does not wish to consult with the minor, then in either event the abortion may proceed immediately; and

(2) The minor signs a consent form stating that she consents, freely and without coercion, to the abortion.

(b) If the unemancipated minor or the physician or an agent, as the case may be, elects not to comply with any one of the notification requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent; or legal guardian, ~~or person standing in loco parentis~~ of ~~such~~ the minor cannot be located, ~~such~~ the minor may petition, on ~~such~~ the minor's own behalf or by next friend, any juvenile court in the state for a waiver of such requirement pursuant to the procedures provided for in Code Section 15-11-114. ~~Such~~ The juvenile court shall assist the minor or next friend in preparing the petition and notices required pursuant to this Code section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-29."

SECTION 3.

Said article is further amended by striking subsection (c) of Code Section 15-11-114, relating to the conduct of the hearing and appeal, and inserting in lieu thereof the following:

"(c) The notification requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section 15-11-112 shall be waived if the court finds either:

- (1) That the unemancipated minor is mature enough and well enough informed to make the abortion decision in consultation with her physician, independently of the wishes of such minor's parent; or guardian, ~~or person standing in loco parentis~~; or
- (2) That the notice to a parent or, if the minor is subject to guardianship, the legal guardian ~~or person standing in loco parentis~~ pursuant to Code Section 15-11-112 would not be in the best interests of the minor."

SECTION 4.

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against health and morals, is amended by striking subsection (b) of Code Section 16-12-141, relating

1 to when abortion is legal, and inserting in lieu thereof a new subsection (b) to read as
2 follows:

3 "(b) No abortion is authorized or shall be performed ~~after the first trimester~~ unless the
4 abortion is performed in a licensed hospital, in a licensed ambulatory surgical center, or in
5 a health facility licensed as an abortion facility by the Department of Human Resources."

6 SECTION 5.

7 Said chapter is further amended in Code Section 16-12-141.1, relating to disposal of aborted
8 fetuses and reports, by adding new subsections (c), (d), (e), (f), (g), (h), (i), and (j) to read as
9 follows:

10 "(c) Within 90 days after the effective date of this subsection, the Department of Human
11 Resources shall prepare a reporting form for physicians which shall include:

12 (1) The number of females whose parent or guardian was provided the notice required
13 in paragraph (1) of subsection (a) of Code Section 15-11-112 by the physician or such
14 physician's agent; of that number, the number of notices provided personally under
15 subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section 15-11-112 and the number of
16 notices provided by mail under subparagraph (a)(1)(C) of Code Section 15-11-112; and,
17 of each of those numbers, the number of females who, to the best of the reporting
18 physician's information and belief, went on to obtain the abortion;

19 (2) The number of females upon whom the physician performed an abortion without
20 providing to the parent or guardian of a minor the notice required by subsection (a) of
21 Code Section 15-11-112; of that number, the number who were emancipated minors; and
22 the number of females for which subsection (b) of Code Section 15-11-112 and Code
23 Section 15-11-116 were applicable;

24 (3) The number of abortions performed upon a female by the physician after receiving
25 judicial authorization to do so without parental notification; and

26 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with
27 respect to females for whom a guardian or conservator has been appointed.

28 (d) The Department of Human Resources shall ensure that copies of the reporting forms
29 described in subsection (c) of this Code section, together with a reprint of this Code
30 section, are provided:

31 (1) Within 120 days after the effective date of this subsection, to all physicians licensed
32 to practice in this state;

33 (2) To each physician who subsequently becomes newly licensed to practice medicine
34 in this state at the same time as official notification to that physician that the physician
35 is so licensed; and

1 (3) By December 1 of every year, other than the calendar year in which forms are
2 distributed in accordance with paragraph (1) of this subsection, to all physicians licensed
3 to practice in this state.

4 (e) By February 28 of each year following a calendar year in any part of which this
5 subsection was in effect, each physician who provided, or whose agent provided, the notice
6 described in subsection (a) of Code Section 15-11-112 and any physician who knowingly
7 performed an abortion upon a female or upon a female for whom a guardian or conservator
8 had been appointed because of a finding of incompetency during the previous calendar year
9 shall submit to the Department of Human Resources a copy of the form described in
10 subsection (c) of this Code section with the requested data entered accurately and
11 completely.

12 (f) Reports that are submitted more than 30 days following the due date shall be subject
13 to a late fee of \$500.00 for each additional 30 day period or portion of a 30 day period in
14 which they remain overdue. Any physician required to report in accordance with this Code
15 section who fails to submit a report, or submits only an incomplete report, for more than
16 one year following the due date, may, in an action brought by the Department of Human
17 Resources, be directed by a court of competent jurisdiction to submit a complete report
18 within a period stated by court order or be subject to sanctions for civil contempt.

19 (g) By June 30 of each year, the Department of Human Resources shall issue a public
20 report providing statistics for the previous calendar year compiled from all the reports
21 covering that year submitted in accordance with this Code section for each of the items
22 listed in subsection (c) of this Code section. The report shall also include statistics which
23 shall be obtained by the Administrative Office of the Courts giving the total number of
24 petitions or motions filed under subsection (b) of Code Section 15-11-112 and, of that
25 number, the number in which the court appointed a guardian ad litem, the number in which
26 the court appointed counsel, the number in which the judge issued an order authorizing an
27 abortion without notification, the number in which the judge denied such an order, and, of
28 the last, the number of denials from which an appeal was filed, the number of such appeals
29 that resulted in the denials being affirmed, and the number of such appeals that resulted in
30 reversals of such denials. Each report shall also provide the statistics for all previous
31 calendar years for which such a public statistical report was required to be issued, adjusted
32 to reflect any additional information from late or corrected reports. The Department of
33 Human Resources shall take care to ensure that none of the information included in the
34 public reports could reasonably lead to the identification of any individual female or of any
35 female for whom a guardian or conservator has been appointed.

36 (h) The Department of Human Resources may by regulation alter the dates established by
37 paragraph (3) of subsection (d) and subsections (e) and (g) of this Code section or

consolidate the forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements so long as reporting forms are sent to all licensed physicians in the state at least once every year and the report described in subsection (g) of this Code section is issued at least once each year.

(i) If the Department of Human Resources fails to issue the public report required by subsection (g) of this Code section, any group of ten or more citizens of this state may seek injunction relief or a writ of mandamus in a court of competent jurisdiction against the commissioner of the Department of Human Resources requiring that a complete report be issued within a period stated by court order. Failure to abide by such an injunction shall subject the commissioner to sanctions for civil contempt.

(j) If judgment is rendered in favor of the plaintiffs in any action described in this Code section, the court shall also render judgment for reasonable attorney's fees in favor of the plaintiffs against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiffs' suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney's fees in favor of the defendant against the plaintiffs."

SECTION 6.

Said chapter is further amended by adding immediately following Article 5 thereof a new article to read as follows:

"ARTICLE 5A

16-12-150.

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

16-12-151.

As used in this article, the term:

(1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of a spontaneous abortion.

(2) 'Attempt to perform an abortion' means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in this state in violation of this article.

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

(4) 'Physician' means a person licensed to practice medicine under Article 2 of Chapter 34 of Title 43.

(5) 'Probable gestational age of the unborn child' means what, in the judgment of the physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

(6) 'Qualified agent' means the agent of the physician who is a licensed psychologist, licensed social worker, licensed professional counselor, licensed physician's assistant, registered nurse, or physician.

(7) 'Secure Internet website' means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the commissioner of human resources.

(8) 'Unborn child' means a member of the species homo sapiens from fertilization until birth.

16-12-152.

No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(1) The female is told the following, by telephone or in person, by the physician who is to perform the abortion or by a referring physician, at least 24 hours before the abortion:

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

(B) The particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility;

(C) The probable gestational age of the unborn child at the time the abortion is to be performed; and

(D) The medical risks associated with carrying her child to term.

The information required by this paragraph may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied to the physician by the female and whatever other relevant information is reasonably available to the physician. Such information may not be provided by a tape recording but must be provided during a

1 consultation in which the physician is able to ask questions of the female and the female
2 is able to ask questions of the physician. If a physical examination, tests, or the
3 availability of other information to the physician subsequently indicates, in the medical
4 judgment of the physician, a revision of the information previously supplied to the
5 patient, that revised information may be communicated to the patient at any time prior
6 to the performance of the abortion. Nothing in this Code section may be construed to
7 preclude provision of required information in a language understood by the patient
8 through a translator;

9 (2) The female is informed, by telephone or in person, by the physician who is to
10 perform the abortion, by a referring physician, or by a qualified agent of either physician
11 at least 24 hours before the abortion:

12 (A) That medical assistance benefits may be available for prenatal care, childbirth, and
13 neonatal care;

14 (B) That the father is liable to assist in the support of her child, even in instances in
15 which the father has offered to pay for the abortion; and

16 (C) That she has the right to review the printed materials described in Code Section
17 16-12-153, that these materials are available on a state sponsored website, and what the
18 website address is. The physician or the physician's qualified agent shall orally inform
19 the female that materials have been provided by the State of Georgia and that they
20 describe the unborn child, list agencies that offer alternatives to abortion, and contain
21 information on fetal pain. If the female chooses to view the materials other than on the
22 website, they shall either be given to her at least 24 hours before the abortion or mailed
23 to her at least 72 hours before the abortion by certified mail, restricted delivery to
24 addressee, which means the postal employee can only deliver the mail to the addressee.

25 The information required by this paragraph may be provided by a tape recording if
26 provision is made to record or otherwise register specifically whether the female does or
27 does not choose to review the printed materials other than on the website;

28 (3) The female certifies in writing, prior to the abortion, that the information described
29 in paragraphs (1) and (2) of this Code section has been furnished her and that she has
30 been informed of her opportunity to review the information referred to in subparagraph
31 (C) of paragraph (2) of this Code section; and

32 (4) Prior to the performance of the abortion, the physician who is to perform the abortion
33 or the physician's qualified agent receives a copy of the written certification prescribed
34 by paragraph (3) of this Code section and retains it on file with the female's medical
35 record for at least three years following the date of receipt.

1 16-12-153.

2 (a) Within 90 days after this article first becomes effective, the Department of Human
3 Resources shall cause to be published in English and in each language which is the primary
4 language of 2 percent or more of the state's population and shall cause to be available on
5 the state website provided for in subsection (d) of this Code section the following printed
6 materials in such a way as to ensure that the information is easily comprehensible:

7 (1) Geographically indexed materials designed to inform the female of public and private
8 agencies and services available to assist a female through pregnancy, upon childbirth,
9 and while the child is dependent, including adoption agencies, which shall include a
10 comprehensive list of the agencies available, a description of the services they offer, and
11 a description of the manner, including telephone numbers, in which they might be
12 contacted or, at the option of such department, printed materials including a toll-free, 24
13 hour telephone number which may be called to obtain, orally or by a tape recorded
14 message tailored to the ZIP Code entered by the caller, such a list and description of
15 agencies in the locality of the caller and of the services they offer;

16 (2) Materials designed to inform the female of the probable anatomical and physiological
17 characteristics of the unborn child at two-week gestational increments from the time
18 when a female can be known to be pregnant to full term, including any relevant
19 information on the possibility of the unborn child's survival and pictures representing the
20 development of unborn children at two-week gestational increments, provided that any
21 such pictures must contain the dimensions of the fetus and must be realistic and
22 appropriate for the stage of pregnancy depicted. The materials shall be objective,
23 nonjudgmental, and designed to convey only accurate scientific information about the
24 unborn child at the various gestational ages. The material shall also contain objective
25 information describing the methods of abortion procedures commonly employed, the
26 medical risks commonly associated with each such procedure, the possible detrimental
27 psychological effects of abortion, and the medical risks commonly associated with
28 carrying a child to term; and

29 (3) Materials with the following statement concerning unborn children of 20 weeks' or
30 more gestational age:

31 'By 20 weeks' gestation, the unborn child has the physical structures necessary to
32 experience pain. There is evidence that by 20 weeks' gestation unborn children seek
33 to evade certain stimuli in a manner which in an infant or an adult would be interpreted
34 to be a response to pain. Anesthesia is routinely administered to unborn children who
35 are 20 weeks' gestational age or older who undergo prenatal surgery.'

36 The materials shall be objective, nonjudgmental, and designed to convey only accurate
37 scientific information about the human fetus at the various gestational ages.

(b) The materials referred to in subsection (a) of this Code section shall be printed in a typeface large enough to be clearly legible. The website provided for in subsection (d) of this Code section shall be maintained at a minimum resolution of 72 pixels per inch. All pictures appearing on the website shall be a minimum of 11 point type. All information and pictures shall be accessible with an industry standard browser, requiring no additional plug-ins.

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

(d) The Department of Human Resources shall develop and maintain a secure Internet website to provide the information described in this Code section. No information regarding who uses the website shall be collected or maintained. The Department of Human Resources shall monitor the website on a weekly basis to prevent and correct tampering.

16-12-154.

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a 24 hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.

16-12-155.

(a) Within 90 days after this article first becomes effective, the Department of Human Resources shall prepare a reporting form for physicians containing a reprint of this article and listing:

(1) The number of females to whom the physician provided the information described in paragraph (1) of Code Section 16-12-152; of that number, the number to whom such information was provided by telephone and the number to whom such information was provided in person; and of each of those numbers, the number to whom such information was provided by a referring physician and the number to whom such information was provided by a physician who is to perform the abortion;

(2) The number of females to whom the physician or a qualified agent of the physician provided the information described in paragraph (2) of Code Section 16-12-152; of that number, the number to whom such information was provided by telephone and the number to whom such information was provided in person; of each of those numbers, the number to whom such information was provided by a referring physician and the number

1 to whom such information was provided by a physician who is to perform the abortion;
2 and of each of those numbers, the number to whom such information was provided by the
3 physician and the number to whom such information was provided by a qualified agent
4 of the physician;

5 (3) The number of females who availed themselves of the opportunity to obtain a copy
6 of the printed information described in Code Section 16-12-153, other than on the
7 website, and the number who did not; and of each of those numbers, the number who, to
8 the best of the reporting physician's information and belief, went on to obtain the
9 abortion; and

10 (4) The number of abortions performed by the physician in which information otherwise
11 required to be provided at least 24 hours before the abortion was not so provided because
12 an immediate abortion was necessary to avert the female's death and the number of
13 abortions in which such information was not so provided because a delay would create
14 serious risk of substantial and irreversible impairment of a major bodily function.

15 (b) The Department of Human Resources shall ensure that copies of the reporting forms
16 described in subsection (a) of this Code section are provided:

17 (1) Within 120 days after this article first becomes effective, to all physicians licensed
18 to practice in this state;

19 (2) To each physician who subsequently becomes newly licensed to practice in this state,
20 at the same time as official notification to that physician that the physician is so licensed;
21 and

22 (3) By December 1 of each year, other than the calendar year in which forms are
23 distributed in accordance with paragraph (1) of this subsection, to all physicians licensed
24 to practice in this state.

25 (c) By February 28 of each year following a calendar year in any part of which this article
26 was in effect, each physician who provided, or whose qualified agent provided, information
27 to one or more females in accordance with Code Section 16-12-152 during the previous
28 calendar year shall submit to the Department of Human Resources a copy of the form
29 described in subsection (a) of this Code section with the requested data entered accurately
30 and completely.

31 (d) Nothing in this Code section shall be construed to preclude the voluntary or required
32 submission of other reports or forms regarding abortions.

33 (e) Reports that are not submitted within a grace period of 30 days following the due date
34 shall be subject to a late fee of \$500.00 for each additional 30 day period or portion of a 30
35 day period such reports are overdue. Any physician required to submit a report in
36 accordance with this Code section who has not submitted such report or has submitted only
37 an incomplete report or has submitted such report more than one year following the due

1 date may, in an action brought by the Department of Human Resources, be directed by a
2 court of competent jurisdiction to submit a complete report within a period stated by court
3 order or may be subject to sanctions for civil contempt.

4 (f) By June 30 of each year, the Department of Human Resources shall issue a public
5 report providing statistics for the previous calendar year compiled from all of the reports
6 covering that year submitted in accordance with this Code section for each of the items
7 listed in subsection (a) of this Code section. Each such report shall also provide the
8 statistics for all previous calendar years adjusted to reflect any additional information from
9 late or corrected reports. The Department of Human Resources shall ensure that none of
10 the information included in the public reports could reasonably lead to the identification
11 of any individual provided information in accordance with Code Section 16-12-152 or
12 16-12-153.

13 (g) The Department of Human Resources may, by regulation, alter the dates established
14 by subsection (c) or (e) of this Code section or paragraph (3) of subsection (b) of this Code
15 section or may consolidate the forms or reports described in this Code section with other
16 forms or reports to achieve administrative convenience or fiscal savings or to reduce the
17 burden of reporting requirements, so long as reporting forms are sent to all licensed
18 physicians in the state at least once every year and the report described in subsection (f) of
19 this Code section is issued at least once every year.

20 16-12-156.

21 Any person who knowingly or recklessly performs or attempts to perform an abortion in
22 violation of this article shall be guilty of a misdemeanor. Any physician who knowingly
23 or recklessly submits a false report under subsection (c) of Code Section 16-12-155 shall
24 be guilty of a misdemeanor. No penalty may be assessed against the female upon whom
25 the abortion is performed or attempted to be performed. No penalty or civil liability may
26 be assessed for failure to comply with subparagraph (C) of paragraph (2) of Code Section
27 16-12-152 or that portion of paragraph (3) of Code Section 16-12-152 requiring a written
28 certification that the female has been informed of her opportunity to review the information
29 referred to in subparagraph (C) of paragraph (2) of Code Section 16-12-152 unless the
30 Department of Human Resources has made the printed materials available at the time the
31 physician or the physician's qualified agent is required to inform the female of her right to
32 review them.

1 16-12-157.

2 (a) Any female upon whom an abortion has been performed without complying with this
3 article, the father of the unborn child who was the subject of such an abortion, or the
4 grandparent of such an unborn child may maintain an action against the person who
5 performed the abortion in knowing or reckless violation of this article for actual and
6 punitive damages. Any female upon whom an abortion has been attempted without
7 complying with this article may maintain an action against the person who attempted to
8 perform the abortion in knowing or reckless violation of this article for actual and punitive
9 damages.

10 (b) If the Department of Human Resources fails to issue the public report required by
11 subsection (f) of Code Section 16-12-155, or fails in any way to enforce the provisions of
12 this article, any group of ten or more citizens of this state may seek an injunction in a court
13 of competent jurisdiction against the commissioner of human resources requiring that a
14 complete report be issued within a period of time stated by court order. Failure to abide
15 by such an injunction shall subject the commissioner to sanctions for civil contempt.

16 (c) If judgment is rendered in favor of the plaintiff in any action described in this Code
17 section, the court shall also render judgment for a reasonable attorney's fee in favor of the
18 plaintiff against the defendant. If judgment is rendered in favor of the defendant and the
19 court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall
20 render judgment for a reasonable attorney's fee in favor of the defendant against the
21 plaintiff.

22 16-12-158.

23 In every civil or criminal proceeding or action brought under this article, the court shall
24 rule whether the anonymity of any female upon whom an abortion has been performed or
25 attempted shall be preserved from public disclosure if she does not give her consent to such
26 disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon
27 determining that her anonymity should be preserved, shall issue orders to the parties,
28 witnesses, and counsel and shall direct the sealing of the record and exclusion of
29 individuals from courtrooms or hearing rooms to the extent necessary to safeguard her
30 identity from public disclosure. Each such order shall be accompanied by specific written
31 findings explaining why the anonymity of the female should be preserved from public
32 disclosure, why the order is essential to that end, how the order is narrowly tailored to serve
33 that interest, and why no reasonable less restrictive alternative exists. In the absence of
34 written consent of the female upon whom an abortion has been performed or attempted,
35 anyone, other than a public official, who brings an action under subsection (a) of Code

1 Section 16-12-157 shall do so under a pseudonym. This Code section may not be
2 construed to conceal the identity of the plaintiff or of witnesses from the defendant.

3 16-12-159.

4 If any one or more provisions, Code sections, subsections, sentences, clauses, phrases, or
5 words of this article or the application thereof to any person or circumstance is found to be
6 unconstitutional, the same is declared to be severable, and the balance of this article shall
7 remain effective notwithstanding such unconstitutionality. The General Assembly declares
8 that it would have enacted this article and each Code section, subsection, sentence, clause,
9 phrase, or word thereof irrespective of the fact that any one or more provisions, Code
10 sections, subsections, sentences, clauses, phrases, or words would be declared
11 unconstitutional."

12 **SECTION 7.**

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

15 **SECTION 8.**

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