

House Bill 197

By: Representatives Burmeister of the 119<sup>th</sup>, Mills of the 25<sup>th</sup>, Smith of the 168<sup>th</sup>, Walker of the 107<sup>th</sup>, Fleming of the 117<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

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

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

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

22 "15-11-111.

23 As used in this article, the term:

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

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

4 (2) 'Proper identification' means any document issued by a governmental agency  
 5 containing a description of the person, the person's photograph, or both, including, but  
 6 not limited to, a driver's license, an identification card authorized under Code Sections  
 7 40-5-100 through 40-5-104 or similar identification card issued by another state, a  
 8 military identification card, a passport, or an appropriate work authorization issued by the  
 9 United States Immigration and Naturalization Service.

10 ~~(2)~~(3) 'Unemancipated minor' means any person under the age of 18 who is not or has  
 11 not been married or who is under the care, custody, and control of such person's parent  
 12 or parents, guardian, ~~person standing in loco parentis~~, or the juvenile court of competent  
 13 jurisdiction."

## 14 SECTION 2.

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

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

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

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

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

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

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

12 (b) If the unemancipated minor or the physician or an agent, as the case may be, elects not  
 13 to comply with any one of the notification requirements of subparagraph (a)(1)(A),  
 14 (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent; or legal guardian, ~~or person~~  
 15 ~~standing in loco parentis~~ of ~~such~~ the minor cannot be located, ~~such~~ the minor may petition,  
 16 on ~~such~~ the minor's own behalf or by next friend, any juvenile court in the state for a  
 17 waiver of such requirement pursuant to the procedures provided for in Code Section  
 18 15-11-114. ~~Such~~ The juvenile court shall assist the minor or next friend in preparing the  
 19 petition and notices required pursuant to this Code section. Venue shall be lawful in any  
 20 county, notwithstanding Code Section 15-11-29."

### 21 SECTION 3.

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

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

26 (1) That the unemancipated minor is mature enough and well enough informed to make  
 27 the abortion decision in consultation with her physician, independently of the wishes of  
 28 such minor's parent; or guardian, ~~or person standing in loco parentis~~; or

29 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal  
 30 guardian ~~or person standing in loco parentis~~ pursuant to Code Section 15-11-112 would  
 31 not be in the best interests of the minor."

### 32 SECTION 4.

33 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
 34 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

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

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

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

#### 17 **SECTION 6.**

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

#### 20 "ARTICLE 5A

21 16-12-150.

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

23 16-12-151.

24 As used in this article, the term:

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

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

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

6 (4) 'Physician' means a person licensed to practice medicine under Article 2 of Chapter  
 7 34 of Title 43.

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

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

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

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

19 16-12-152.

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

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

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

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

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

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

32 The information required by this paragraph may be provided by telephone without  
 33 conducting a physical examination or tests of the patient, in which case the information  
 34 required to be provided may be based on facts supplied to the physician by the female and  
 35 whatever other relevant information is reasonably available to the physician. Such  
 36 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.

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

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

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

15 16-12-154.

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

21 16-12-155.

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

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

31 (2) The number of females to whom the physician or a qualified agent of the physician  
32 provided the information described in paragraph (2) of Code Section 16-12-152; of that  
33 number, the number to whom such information was provided by telephone and the  
34 number to whom such information was provided in person; of each of those numbers, the  
35 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.