

Senate Bill 165

By: Senators McKoon of the 29th, Shafer of the 48th, Bethel of the 54th, Ligon, Jr. of the 3rd, Albers of the 56th 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 provide for maintenance of forensic samples from
3 abortions performed on children under 16 years of age; to provide for civil cause of action
4 under certain circumstances; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
9 parental notification, is amended by adding two new Code sections to read as follows:

10 "15-11-119.

11 (a) Any physician who performs an abortion on a child who is less than 16 years of age
12 at the time of the abortion procedure shall preserve, in accordance with rules and
13 regulations adopted by the Georgia Bureau of Investigation, fetal tissue extracted during
14 such abortion. The physician shall submit such tissue to the Georgia Bureau of
15 Investigation.

16 (b) The Georgia Bureau of Investigation shall adopt rules and regulations prescribing:

17 (1) The amount and type of fetal tissue to be preserved and submitted by a physician
18 pursuant to this Code section;

19 (2) Procedures for the proper preservation of such tissue for the purpose of DNA testing
20 and examination;

21 (3) Procedures for documenting the chain of custody of such tissue for use as evidence;

22 (4) Procedures for proper disposal of fetal tissue preserved pursuant to this Code section;

23 (5) A uniform reporting instrument mandated to be utilized by physicians when
24 submitting fetal tissue under this Code section which shall include the name and address
25 of the physician submitting the fetal tissue and the name and complete address of

26 residence of the parent or legal guardian of the child upon whom the abortion was
 27 performed; and

28 (6) Procedures for communication with law enforcement agencies regarding evidence
 29 and information obtained pursuant to this Code section.

30 15-11-120.

31 (a) Any person who intentionally causes, aids, or assists a child to obtain an abortion in
 32 violation of this article shall be civilly liable to such child and to the person or persons
 33 receiving notice under this article.

34 (b) A court may award damages to the person or persons adversely affected by a violation
 35 of subsection (a) of this Code section, including compensation for emotional injury,
 36 without the need for personal presence at the act or event, and the court may further award
 37 attorneys' fees, litigation costs, and punitive damages.

38 (c) Any adult who engages in or consents to another person engaging in a sexual act with
 39 a child in violation of Title 16, which results in such child's pregnancy, shall not be
 40 awarded damages under this Code section.

41 (d) It shall not be a defense to a claim brought under this Code section that the abortion
 42 was performed or induced pursuant to consent to the abortion given in a manner that is
 43 otherwise lawful in the state or place where the abortion was performed or induced.

44 (e) An unemancipated minor shall not have the capacity to consent to any action in
 45 violation of this Code section.

46 (f) A court of competent jurisdiction may enjoin conduct that would be in violation of this
 47 Code section upon petition by the Attorney General, a prosecuting attorney, or any person
 48 adversely affected or who reasonably may be adversely affected by such conduct, upon a
 49 showing that such conduct:

50 (1) Is reasonably anticipated to occur in the future; or

51 (2) Has occurred in the past, whether with the same child or others, and that it is not
 52 unreasonable to expect that such conduct will be repeated."

53 **SECTION 2.**

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