

1 HB494  
2 158670-1  
3 By Representatives Jones, Merrill, Beckman, Williams (J),  
4 Shedd, Weaver, Baker, Wallace, Johnson (K), Collins, Nordgren,  
5 Hammon, Tuggle, Sessions, Rich, McClurkin, Greer and Henry  
6 RFD: Health  
7 First Read: 13-FEB-14

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8 SYNOPSIS: Currently, parental consent is required  
9 before an abortion may be performed on a minor  
10 under the age of 18.

11 This bill would require that only a  
12 physician may perform an abortion.

13 This bill would require the signature of a  
14 parent or legal guardian or adoptive parent of a  
15 minor to a consent form to be signed in the  
16 presence of the physician or agent and to be  
17 accompanied with specific identification and  
18 evidence, and would provide for certain alternative  
19 identification and evidence requirements. This bill  
20 would require certain documents proving that a  
21 minor is emancipated to be certified by the  
22 appropriate issuing authority.

23 This bill would also prohibit a parent,  
24 legal guardian, custodian, or any other person from  
25 coercing a minor into having an abortion performed.

1 This bill would require the Department of  
2 Public Health to develop appropriate forms for the  
3 consent and emancipation requirements.

4 This bill would provide for the appointment  
5 of a guardian ad litem to represent the interests  
6 of the unborn child during certain proceedings.

7 This bill would specify that failure to  
8 comply with this act would provide the basis for a  
9 civil malpractice action, an injunctive action,  
10 professional disciplinary action, and a wrongful  
11 death action. This bill would provide that a  
12 physician who complies would not be civilly liable  
13 for failure to obtain informed consent.

14  
15 A BILL

16 TO BE ENTITLED

17 AN ACT

18  
19 Relating to the Parental Consent Law; to amend  
20 Sections 26-21-1 to 26-21-4, inclusive, and Section 26-21-7,  
21 Code of Alabama 1975, and to add Sections 26-21-9 and 26-21-10  
22 to the Code of Alabama 1975, to require the signature of a  
23 parent, legal guardian, or adoptive parent of a minor to a  
24 consent form to be signed in the presence of the abortion  
25 provider or agent and to be accompanied with specific  
26 identification and evidence, and to provide for certain  
27 alternative identification and evidence requirements; to

1 require certain documents proving that a minor is emancipated  
2 to be certified by the appropriate issuing authority; to  
3 prohibit a parent, legal guardian, custodian, or any other  
4 person from coercing a minor to have an abortion performed; to  
5 provide that the Department of Public Health develop  
6 appropriate forms for the consent and emancipation; to provide  
7 for certain civil actions including professional disciplinary  
8 actions and license suspension; to provide for the right of  
9 intervention; to provide for the appointment of a guardian ad  
10 litem to represent the interests of the unborn child during  
11 certain proceedings; to provide for certain civil actions  
12 based on a violation of Title 26, Chapter 21, Code of Alabama  
13 1975; and to provide for certain exemptions from liability for  
14 physicians.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 26-21-1 to 26-21-4, inclusive,  
17 and Section 26-21-7, Code of Alabama 1975, are amended to read  
18 as follows:

19 "§26-21-1.

20 "(a) It is the intent of the Legislature in enacting  
21 this parental consent provision to further the important and  
22 compelling state interests of: (1) protecting minors against  
23 their own immaturity, (2) fostering the family structure and  
24 preserving it as a viable social unit, and (3) protecting the  
25 rights of parents to rear children who are members of their  
26 household.

1           "(b) The Legislature finds as fact that: (1)  
2     immature minors often lack the ability to make fully informed  
3     choices that take account of both immediate and long-range  
4     consequences, (2) the medical, emotional, and psychological  
5     consequences of abortion are serious and can be lasting,  
6     particularly when the patient is immature, (3) the capacity to  
7     become pregnant and the capacity for mature judgment  
8     concerning the wisdom of an abortion are not necessarily  
9     related, (4) parents ordinarily possess information essential  
10    to a physician's exercise of his or her best medical judgment  
11    concerning the child, and (5) parents who are aware that their  
12    minor daughter has had an abortion may better insure that she  
13    receives adequate medical attention after her abortion. The  
14    Legislature further finds that parental consultation is  
15    usually desirable and in the best interests of the minor.

16           "(c) The Legislature further finds that the United  
17    States Supreme Court has held under certain circumstances a  
18    minor may seek permission to have an abortion without her  
19    parent's consent by petitioning a court. The Legislature  
20    enacts a judicial by-pass procedure for the purposes of  
21    meeting the Constitutional standard and finds that in order to  
22    do substantial justice it is necessary that the Alabama courts  
23    be provided guidance in determining appropriate procedure and  
24    evidence.

25           "(d) The Legislature further finds the public policy  
26    of the State of Alabama is to respect life and provide  
27    safeguards to protect life in the criminal, health, and other

1 laws of the State of Alabama; that in respecting and  
2 protecting life, there is included the unborn life of a child  
3 whose life may be subject to termination before birth by  
4 abortion and that when the mother of said unborn life is a  
5 minor who seeks an abortion through the judicial by-pass  
6 procedure, it is the interest of the State of Alabama to not  
7 only establish and protect the rights of the minor mother, but  
8 also to protect the state's public policy to protect unborn  
9 life; the protection of these interests is done, in part, by  
10 requiring judges to make determinations pursuant to the  
11 judicial by-pass procedure and to require said judges be  
12 provided with sufficient evidence and information upon which  
13 they may make informed and proper decisions.

14 "(e) Alabama judges are called upon to make  
15 decisions not only respecting the lives of born persons, such  
16 as in capital punishment cases, but also respecting the lives  
17 of unborn persons, such as in judicial by-pass cases for minor  
18 abortions; it is always the Legislature's intent to provide  
19 guidance to the Alabama courts on how life may be best  
20 protected.

21 "(f) It is not the intent of the Legislature to  
22 place an undue burden on the minor's otherwise legal right to  
23 make a decision on whether to obtain an abortion on her own of  
24 her unborn child; the Legislature's intent is to provide  
25 guidance and assistance to minors who find themselves in the  
26 unfortunate position of having to make such decisions and to

1 courts who must act in the place of parents in providing an  
2 alternative by-pass mode for decision making.

3 "§26-21-2.

4 "For purposes of this chapter, the following  
5 definitions shall apply:

6 "(1) MINOR. Any person under the age of 18 years;

7 "(2) EMANCIPATED MINOR. Any minor who is or has been  
8 married or has by court order otherwise been legally freed  
9 from the care, custody, and control of her parents;

10 "(3) ABORTION. The use or prescription of any  
11 instrument, medicine, drug, or any other substance or device  
12 with the intent to terminate the pregnancy of a woman known to  
13 be pregnant, ~~with intent other than to increase the~~  
14 ~~probability of a live birth, to preserve the life or health of~~  
15 ~~the child after live birth, or to remove a dead or dying~~  
16 ~~unborn child~~ knowledge that the termination by those means  
17 will with reasonable likelihood cause the death of the unborn  
18 child. Such use or prescription is not an abortion if done  
19 with the intent to save the life or preserve the health of an  
20 unborn child, remove a dead unborn child, or to deliver the  
21 unborn child prematurely in order to preserve the health of  
22 both the mother (pregnant woman) and her unborn child. The  
23 term "abortion" as used herein does not include a procedure or  
24 act to terminate the pregnancy of a woman with an ectopic  
25 pregnancy, nor does it include the procedure or act to  
26 terminate the pregnancy of a woman where the unborn child has  
27 a lethal anomaly. For the purposes of this act a "lethal

1 anomaly" means the child would die at birth, or be stillborn.  
2 For purposes of this act, the term "ectopic pregnancy" means  
3 any pregnancy resulting from a fertilized egg that was  
4 implanted or attached outside the uterus. The term "ectopic  
5 pregnancy" also includes a pregnancy resulting from a  
6 fertilized egg implanted inside the cornu of the uterus.

7 "(4) MEDICAL EMERGENCY. A condition that, absent an  
8 abortion performed before the requirements of this act are  
9 met, and based on the applicable standard of care, is likely  
10 to result in the death of the pregnant woman or is likely to  
11 result in substantial irreversible impairment of a major  
12 bodily function of the pregnant woman, not including  
13 psychological or emotional conditions.

14 "§26-21-3.

15 "(a) Except as otherwise provided in subsections (b)  
16 and ~~(e)~~ (d) of this section and Sections 26-21-4 and 26-21-5  
17 hereof, no ~~person~~ physician shall perform an abortion upon an  
18 unemancipated minor unless ~~he or she~~ the physician or his or  
19 her agent first obtains the written consent of either parent  
20 or the legal guardian of the minor.

21 ~~"(b) If the minor's pregnancy was caused by sexual~~  
22 ~~intercourse with the minor's natural father, adoptive father,~~  
23 ~~or stepfather or legal guardian, then written notice to the~~  
24 ~~minor's mother by certified mail shall be sufficient.~~

25 ~~"(c)~~ (b) The ~~person~~ physician who shall perform the  
26 abortion or his or her agent shall obtain or be provided with  
27 the written consent from either parent or legal guardian



1 stating the names of the minor, parent, or legal guardian,  
2 that he or she is informed that the minor desires an abortion  
3 and does consent to the abortion, the date, and the consent  
4 shall be signed by either parent or legal guardian. ~~The~~  
5 ~~unemancipated minor shall verify on the same form, by her~~  
6 ~~signature and in the presence of such person who shall perform~~  
7 ~~the abortion or his or her agent, that the signature of the~~  
8 ~~parents, parent, or legal guardian is authentic. The consent~~  
9 ~~shall be kept as a part of the minor's patient file for four~~  
10 ~~years. The signatures of the parents, parent, or legal~~  
11 ~~guardian shall be affixed and the information required in this~~  
12 ~~subsection shall be on a form to be provided by, and shall be~~  
13 ~~written in the presence of, the physician who shall perform~~  
14 ~~the abortion or his or her agent. The parents, parent, or~~  
15 ~~legal guardian shall provide to the physician who shall~~  
16 ~~perform the abortion or his or her agent, evidence of~~  
17 ~~parentage or legal guardianship. For parents or a parent,~~  
18 ~~there shall also be required a certified birth certificate of~~  
19 ~~the minor identifying the minor and the parents or parent. For~~  
20 ~~a legal guardian or adoptive parent, there shall be required a~~  
21 ~~duly certified court order or other official document naming~~  
22 ~~the legal guardian or adoptive parent as such for the minor.~~  
23 ~~If official photographic personal identification has not been~~  
24 ~~issued to any parents, parent, or legal guardian, other~~  
25 ~~official identification shall be acceptable, provided the~~  
26 ~~parents, parent, or legal guardian affirms in writing on the~~  
27 ~~form herein required under oath, with recognition of criminal~~

1 penalties, that he or she does not possess any photographic  
2 identification and that the alternative personal  
3 identification provided is his or her identification. The  
4 parent, parents or legal guardian signing the consent shall  
5 attest with recognition of criminal penalties that he or she  
6 is the parent or legal guardian, has not been deprived of  
7 primary custody or joint physical custody of the minor by any  
8 court of law, and has not given the child up for adoption or  
9 otherwise waived parental rights. If the minor does not have a  
10 certified birth certificate, an abortion may be performed only  
11 if the physician who shall perform the abortion certifies in  
12 writing in the minor's medical record that a medical emergency  
13 exists or that there is insufficient time to obtain a  
14 certified birth certificate, and provided the minor can  
15 provide other government issued identification. The parents,  
16 parent, or minor shall obtain a certified birth certificate as  
17 soon thereafter as possible and provide a certified copy to  
18 the physician who performed the abortion or his or her agent,  
19 and if it is not received within 90 days, he or she shall  
20 report the failure to the State of Alabama Department of  
21 Public Health on a form provided by the department. Any  
22 certified document, a photocopy of the personal  
23 identification, and any other documentation required by this  
24 subsection shall be attached to the completed consent form and  
25 shall be kept as a part of the minor's patient file for four  
26 years. All signatures required by this act by the minor,

1 parent, parents, legal guardian, physician or other person  
2 shall be attested by a notary public.

3 ~~"(d)~~(c) If the minor is emancipated, the ~~person~~  
4 physician who shall perform the abortion or his or her agent  
5 shall obtain a written ~~statement~~ form stating the name of the  
6 emancipated minor, that the minor is emancipated, the type of  
7 emancipation, and the date, and the form shall be signed by  
8 the emancipated minor. The written ~~statement~~ form shall be  
9 signed in the presence of the ~~person~~ physician who shall  
10 perform the abortion or his or her agent and witnessed by ~~him~~  
11 ~~or her~~ the physician or the agent. The emancipated minor shall  
12 also provide a license or certificate of marriage, judgment,  
13 or decree of divorce, order of emancipation or relieving her  
14 of the disabilities of nonage, or other court document  
15 evidencing her marriage, divorce, or emancipation. Any such  
16 document shall be a copy of the original, duly certified by  
17 the appropriate court. ~~A copy of any such~~ Such certified  
18 document shall be attached to the written ~~statement~~ form and  
19 kept as a part of the minor's patient file for four years.

20 ~~"(e)~~(d) A minor, including a ward of the state, who  
21 elects not to seek or does not or cannot for any reason,  
22 including unavailability or refusal by either or both parents  
23 or legal guardian, obtain consent from either of her parents  
24 or legal guardian under this section, may petition, on her own  
25 behalf, the juvenile court, or court of equal standing, in the  
26 county in which the minor resides ~~or in the county in which~~  
27 ~~the abortion is to be performed~~ for a waiver of the consent

1 requirement of this section pursuant to the procedure of  
2 Section 26-21-4.

3 "(e) A parent, legal guardian, custodian, or any  
4 other person, shall not coerce a minor to have an abortion  
5 performed.

6 "(f) The Department of Public Health shall propose  
7 within 90 days of the effective date of this act, the forms  
8 required in subsections (b) and (c).

9 "§26-21-4.

10 "(a) A minor who elects not to seek or does not or  
11 cannot for any reason, obtain consent from either of her  
12 parents or legal guardian, may petition, on her own behalf,  
13 the juvenile court, or the court of equal standing, in the  
14 county in which the minor resides or in the county in which  
15 the abortion is to be performed for a waiver of the consent  
16 requirement of this chapter. Notice by the court to the  
17 minor's parents, parent, or legal guardian shall not be  
18 required or permitted. The requirements and procedures under  
19 this chapter shall apply and are available only to minors  
20 ~~whether or not they~~ who are residents of this state.

21 "(b) The minor may participate in proceedings in the  
22 court on her own behalf. The court shall advise her that she  
23 has a right to be represented by an attorney and that if she  
24 is unable to pay for the services of an attorney one will be  
25 appointed for her. If the court appoints an attorney to  
26 represent her, such attorney shall be compensated as provided  
27 in Section 15-12-21. If the minor petitioner chooses to

1 represent herself, such pleadings, documents, or evidence that  
2 she may file with the court shall be liberally construed by  
3 the court so as to do substantial justice. ~~Hearsay evidence~~  
4 ~~shall be admissible.~~

5 "(c) The court shall insure that the minor is given  
6 assistance in preparing and filing the petition ~~and shall~~  
7 ~~insure that the minor's identity is kept confidential.~~ Such  
8 assistance may be provided by court personnel including intake  
9 personnel of juvenile probation services. The minor's identity  
10 shall be kept confidential, but her identity may be made known  
11 to the judge, any guardian ad litem, any representative of the  
12 Attorney General's Office, appropriate court personnel, any  
13 witness who has a need to know the minor's identity, or any  
14 other person determined by the court who needs to know. Any  
15 person who is given the identity of the minor shall keep her  
16 name confidential and shall not give it to any other person,  
17 unless otherwise ordered by the court.

18 "(d) The petition required in Section 26-21-3~~(e)~~(d)  
19 shall be made under oath and shall include all of the  
20 following:

21 "(1) A statement that the petitioner is pregnant;

22 "(2) A statement that the petitioner is unmarried,  
23 under ~~18~~ (19) years of age, and unemancipated;

24 "(3) A statement that the petitioner wishes to have  
25 an abortion without the consent of either parent or legal  
26 guardian.

1           "(4) An allegation of either or both of the  
2 following:

3           "a. That the petitioner is sufficiently mature and  
4 well enough informed to intelligently decide whether to have  
5 an abortion without the consent of either of her parents or  
6 legal guardian.

7           "b. That one or both of her parents or her guardian  
8 has engaged in a pattern of physical, sexual, or emotional  
9 abuse against her, or that the consent of her parents, parent  
10 or legal guardian otherwise is not in her best interest.

11           "(5) A statement as to whether the petitioner has  
12 retained an attorney and the name, address, and telephone  
13 number of her attorney.

14           "(e) Court proceedings shall be given such  
15 precedence over other pending matters as is necessary to  
16 insure that the court may reach a decision promptly, but in no  
17 case, except as provided herein, shall the court fail to rule  
18 within ~~72~~ 48 hours of the time the petition is filed,  
19 Saturdays, Sundays, and legal holidays excluded. Provided,  
20 however, this time requirement may be extended on the request  
21 of the minor or any other participant in the proceeding, or by  
22 order of the court for the purpose of obtaining further  
23 testimony or evidence necessary for it to make an informed  
24 decision and to do substantial justice. If a juvenile court  
25 judge is not available for the hearing provided herein, the  
26 clerk of the court in which the petition was filed shall  
27 forthwith notify the presiding circuit court judge and the

1 presiding circuit court judge of the circuit shall immediately  
2 appoint a district or circuit court level judge to hear the  
3 petition.

4 "(f) Except as otherwise required by the section,  
5 this court shall adhere to the Rules of Juvenile Procedure,  
6 the Rules of Civil Procedure and Rules of Evidence required of  
7 Alabama courts. The court shall assure that it is presented  
8 sufficient probative evidence upon which to make its findings,  
9 either granting or denying the minor's petition. If the court  
10 determines at the initial hearing on the petition that  
11 additional evidence or testimony is necessary, the court may  
12 adjourn the hearing and issue instanter subpoenas or otherwise  
13 permit any party or participant in the hearing to bring before  
14 the court admissible evidence or testimony either in support  
15 of or against the petition.

16 ~~"(f)~~(g) The required consent shall be waived if the  
17 court finds either:

18 "(1) That the minor is mature and well-informed  
19 enough to make the abortion decision on her own; or

20 "(2) That performance of the abortion would be in  
21 the best interest of the minor.

22 "(h) In determining if either of the requirements in  
23 subsection (g) are met, the court shall require that the minor  
24 provide probative and admissible evidence that she has been  
25 informed and understands the medical procedure of abortion and  
26 its consequences and that she has been informed and counseled  
27 by a qualified person as to the alternatives to abortion. She

1 shall explain each of the foregoing to the court and the court  
2 shall be satisfied that she is making an informed judgment and  
3 shall document its finding in its order. The minor shall  
4 present such additional probative evidence to the court of her  
5 maturity that demonstrates to the court that she has  
6 sufficient experience with and understanding of life which  
7 enables her to make mature and informed decisions. Further,  
8 the minor shall provide to the court a substantive explanation  
9 of why she cannot consult with her parent, parents, or legal  
10 guardian to assist her in making the decision and the court  
11 shall determine whether the reasons are substantive and it  
12 shall be the court's determination as to whether it would be  
13 in the best interests of the minor for her to consult with her  
14 parents. It shall not be sufficient that the court find the  
15 minor mature because she has requested relief from the court,  
16 but rather the totality of the evidence must be probative and  
17 of such weight to prove that the minor is mature and  
18 well-informed enough to make the abortion decision on her own,  
19 or that the performance of the abortion will be in her best  
20 interest. Uncorroborated legal conclusions by the minor shall  
21 not be sufficient to support a determination by the court to  
22 grant her petition. In the event of a denial of the petition  
23 by the court, the minor may re-file another petition for a de  
24 novo hearing with the appropriate court.

25 "(i) The court shall immediately notify the Attorney  
26 General's Office of the filing of the petition on the day of  
27 such filing and the Attorney General or his or her



1 representative shall participate as an advocate for the state  
2 to examine the petitioner and any witnesses, and to present  
3 evidence for the purpose of providing the court with a  
4 sufficient record upon which to make an informed decision and  
5 to do substantial justice.

6 "(j) In the court's discretion, it may appoint a  
7 guardian ad litem for the interests of the unborn child of the  
8 petitioner who shall also have the same rights and obligations  
9 of participation in the proceeding as given to the Attorney  
10 General. The guardian ad litem shall further have the  
11 responsibility of assisting and advising the court so the  
12 court may make an informed decision and do substantial  
13 justice. The guardian ad litem shall be compensated as  
14 provided in Section 15-12-21.

15 "(k) Either the Attorney General or his or her  
16 representative, or any other party in the proceeding may  
17 request the court for additional time either before the  
18 hearing has begun or during the hearing, if justice requires,  
19 to obtain evidence, subpoena witnesses, or to obtain and  
20 present any evidence or information which will be necessary  
21 and appropriate for the court to make an informed decision. In  
22 any event, any such delay shall not be more than one business  
23 day for which the applicable court is open to the public,  
24 unless justice requires an extension thereof. The length of  
25 time for any such delay and the information, evidence, or  
26 subpoena sought shall be within the sound discretion of the

1 trial court subject to the time constraints of the petitioner  
2 related to her medical condition.

3 "(l) Although the court shall not be required or  
4 permitted to contact the minor's parent, parents, or legal  
5 guardian, in the event that the minor's parent, parents, or  
6 legal guardian are otherwise aware of the by-pass proceeding,  
7 they, he, or she shall be given notice of and be permitted to  
8 participate in the proceeding and be represented by counsel  
9 with all of the rights and obligations of any party to the  
10 proceeding.

11 "(g) (m) A court that conducts proceedings under this  
12 section shall issue written and specific factual findings and  
13 legal conclusions supporting its decision and shall order that  
14 a confidential record of the evidence be maintained for at  
15 least four years. A transcript of the proceedings shall be  
16 recorded and if there is an appeal as provided in subsection  
17 (h) (n), a transcript of the proceedings shall be prepared  
18 forthwith.

19 "(h) (n) An expedited confidential and anonymous  
20 appeal shall be available to any minor to whom the court  
21 denies a waiver of consent, the Attorney General, and any  
22 guardian ad litem, or the parent, parents, or legal guardian  
23 of the minor. If notice of appeal is given, the record of  
24 appeal shall be completed and the appeal shall be perfected  
25 within five days from the filing of the notice of appeal.  
26 Briefs shall not be required but may be permitted. Because  
27 time may be of the essence regarding the performance of the

1 abortion, the Alabama Supreme Court shall issue promptly such  
2 additional rules as it deems are necessary to insure that  
3 appeals under this section are handled in an expeditious,  
4 confidential and anonymous manner.

5 ~~"(i)(o)~~ All proceedings under this chapter shall be  
6 confidential and anonymous. In all pleadings or court  
7 documents, the minor shall be identified by initials only.

8 ~~"(j)(p)~~ No fees or costs shall be required of any  
9 minor who avails herself of the procedures provided by this  
10 section.

11 "(q) proceedings under this section and with the  
12 consent of the minor for whom such proceedings are conducted,  
13 the court may refer for prosecution any criminal charge that  
14 may be known to said court, including, but not limited to,  
15 statutory rape.

16 "§26-21-7.

17 "(a) No physician who complies with the parental  
18 consent ~~requirement(s)~~ requirements of this chapter shall be  
19 liable in any manner to the minor upon whom the abortion was  
20 performed for any claim whatsoever arising out of or based on  
21 the disclosure of any information concerning the medical  
22 condition of such minor to her ~~parent(s) or legal guardian(s);~~  
23 ~~provided that~~ parent, parents, or legal guardian.

24 Notwithstanding the foregoing, a physician who performs an  
25 abortion pursuant to a court order obtained under ~~the~~  
26 ~~provisions of~~ this chapter, shall not disclose any information  
27 regarding same to the ~~parent(s) or legal guardian(s)~~ parent,

1 parents, or legal guardian of the minor unless such disclosure  
2 is made pursuant to a court order. In no event shall the  
3 physician be under any duty to initiate proceedings in any  
4 court to secure a waiver of the parental consent requirement  
5 on behalf of any minor who has requested that an abortion be  
6 performed.

7 "(b) Any physician who complies with this chapter  
8 may not be held civilly liable to his or her patient for  
9 failure to obtain consent to the abortion required by this  
10 chapter.

11 "(c) A physician or his or her agent who  
12 demonstrates compliance with the requirements of this chapter  
13 shall not bear criminal or civil liability for the deliberate,  
14 intentional, or willful action by the minor or any other  
15 person acting in concert with or on behalf of the minor to  
16 present fabricated, altered, forged, or counterfeit  
17 identification, certificates, or other documentation to  
18 satisfy the parental consent requirements of this chapter."

19 Section 2. Sections 26-21-9 and 26-21-10 are added  
20 to Chapter 21, Title 26, Code of Alabama 1975, as follows:

21 §26-21-9.

22 In addition to whatever remedies are available under  
23 the common or statutory law of this state, failure to comply  
24 with the requirements of this chapter shall:

25 (1) Provide a basis for a civil action for  
26 compensatory and/or punitive damages. Any conviction under  
27 this chapter shall be admissible in a civil suit as prima

1 facie evidence of a failure to obtain an informed consent or  
2 parental or judicial consent. The civil action may be based on  
3 a claim that the action was a result of simple negligence,  
4 gross negligence, wantonness, willfulness, intention, or other  
5 legal standard of care.

6 (2) Provide a basis for professional disciplinary  
7 action under any applicable statutory or regulatory procedure  
8 for the suspension or revocation of any license for  
9 physicians, psychologists, licensed social workers, licensed  
10 professional counselors, registered nurses, or other licensed  
11 or regulated persons. Any conviction of any person for any  
12 failure to comply with the requirements of this chapter shall  
13 result in the automatic suspension of his or her license for a  
14 period of at least one year and shall be reinstated after that  
15 time only on such conditions as the appropriate regulatory or  
16 licensing body shall require to insure compliance with this  
17 chapter.

18 §26-21-10.

19 (a) Nothing in the act adding this section shall be  
20 construed as creating or recognizing a right to abortion.

21 (b) It is not the intention of the act adding this  
22 section to make lawful an abortion that was unlawful on and  
23 before the effective date of such act.

24 Section 3. The provisions of this act are severable.  
25 If any part of this act is declared invalid or  
26 unconstitutional, that declaration shall not effect the part  
27 which remains.

1                   Section 4. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.