

House Bill 882

By: Representatives Cantrell of the 22<sup>nd</sup>, Lott of the 122<sup>nd</sup>, Mathiak of the 73<sup>rd</sup>, Gilligan of the 24<sup>th</sup>, Taylor of the 173<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-12-141 of the Official Code of Georgia Annotated, relating to  
2 restrictions on the performance of abortions and availability of records, so as to provide for  
3 a private right of action for mothers upon whom abortions are performed in violation of  
4 existing law; to provide for a private right of action for wrongful death on behalf of an  
5 unborn child where the abortion was performed in violation of existing law; to provide for  
6 prohibition of a contractual waiver with an abortion provider; to provide for a penalty and  
7 the award of attorney's fees; to provide a short title; to provide definitions; to provide for  
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 This Act shall be known and may be cited as the "Woman's Right to Recover Act."

12 SECTION 2.

13 Code Section 16-12-141 of the Official Code of Georgia Annotated, relating to restrictions  
14 on the performance of abortions and availability of records, is amended by adding a new  
15 subsection to read as follows:

16 "(e)(1) As used in this subsection, the term:

17 (A) 'Abortion provider' means a physician or his or her qualified agents or other agents,  
18 employees, or contractors who provide abortion services.

19 (B) 'Unborn child' shall have the same meaning as provided for in Code Section  
20 31-9A-2.

21 (2) Notwithstanding any other provision of law to the contrary, violation of Article 8 of  
22 Chapter 11 of Title 15, this article, or Chapter 9A of Title 31 by an abortion provider  
23 shall create a private right of action against the abortion provider:

24 (A) In favor of the mother upon whom the abortion was performed for damages caused  
25 thereby; and

26 (B) For wrongful death of the unborn child.

27 (3) The abortion provider or the facility providing the abortion shall be prohibited from  
28 obtaining a contractual waiver from the mother concerning her or the unborn child's  
29 private right of action. In any action for damages pursuant to this subsection, compliance  
30 with Code Section 9-11-9.1 shall not be required.

31 (4) In any action brought pursuant to this subsection, an abortion provider found to have  
32 violated Article 8 of Chapter 11 of Title 15, this article, or Chapter 9A of Title 31 shall  
33 be liable to pay to the plaintiff, in addition to any damages assessed, not more than 50  
34 percent of the liability for damages or \$5,000.00, whichever is greater, and all reasonable  
35 attorney's fees for the prosecution of the action."

36 **SECTION 3.**

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