

118TH CONGRESS
1ST SESSION

H. R. 6636

To ensure that women seeking an abortion are notified, before giving informed consent to receive an abortion, of the medical risks associated with the abortion procedure and the major developmental characteristics of the unborn child.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2023

Mrs. MILLER of Illinois (for herself, Mr. MOORE of Alabama, Mr. LAMALFA, and Ms. BOEBERT) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure that women seeking an abortion are notified, before giving informed consent to receive an abortion, of the medical risks associated with the abortion procedure and the major developmental characteristics of the unborn child.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Woman’s Right To
5 Know Act”.

6 **SEC. 2. REQUIREMENT OF INFORMED CONSENT.**

7 (a) IN GENERAL.—

1 (1) REQUIREMENT OF COMPLIANCE BY PRO-
2 VIDERS.—Any abortion provider, acting in or affect-
3 ing interstate or foreign commerce, who knowingly
4 performs, or attempts to perform, any abortion shall
5 comply with the requirements of this section.

6 (2) REVIEW OF MEDICAL RISKS AND UNBORN
7 HEALTH STATUS.—An abortion provider who intends
8 to perform, or attempt to perform, an abortion may
9 not perform any part of the abortion procedure with-
10 out first—

11 (A) performing an ultra sound on the
12 woman seeking the abortion and sharing the re-
13 sults of such ultra sound with the woman; and

14 (B) obtaining a signed Informed Consent
15 Authorization form in accordance with this sub-
16 section.

17 (3) INFORMED CONSENT AUTHORIZATION
18 FORM.—

19 (A) IN GENERAL.—The Informed Consent
20 Authorization form required under this sub-
21 section shall—

22 (i) be presented in person by the abor-
23 tion provider 24 hours prior to performing,
24 or attempting to perform, the abortion to
25 the woman seeking the abortion; and

1 (ii) consist of—

2 (I) a statement by the abortion
3 provider indicating—

4 (aa) the probable gestational
5 age, in completed days, of the
6 child;

7 (bb) all medical risks associ-
8 ated with the specific abortion
9 procedure; and

10 (cc) the major developmental
11 characteristics of unborn children
12 at such gestational age, including
13 the presence of a heartbeat, the
14 ability to react to painful stimuli,
15 and the development of organs,
16 appendages, and facial features;

17 (II) a statement by the abortion
18 provider that an ultra sound has been
19 performed, and the results of such
20 ultra sound have been shared, as re-
21 quired by paragraph (2)(A);

22 (III) a statement that the re-
23 quirements of this subsection are
24 binding upon the abortion provider
25 and all other medical personnel, that

1 such abortion providers and medical
2 personnel are subject to criminal and
3 civil penalties for violations of these
4 requirements, and that a woman on
5 whom an abortion has been performed
6 may take civil action if these require-
7 ments are not followed; and

8 (IV) an affirmation that each in-
9 dividual signing the Informed Consent
10 Authorization form has filled out the
11 form to the best of his or her knowl-
12 edge and understands the information
13 contained in the form.

14 (B) SIGNATORIES REQUIRED.—The In-
15 formed Consent Authorization form required
16 under this subsection shall be signed in person
17 by the woman seeking the abortion, the abor-
18 tion provider performing or attempting to per-
19 form the abortion, and a witness.

20 (C) RETENTION OF CONSENT FORM.—The
21 abortion provider performing or attempting to
22 perform an abortion shall retain the signed In-
23 formed Consent Authorization form required
24 under this subsection in the patient's medical
25 file.

1 (D) REQUIREMENT FOR DATA RETEN-
2 TION.—Paragraph (j)(2) of section 164.530 of
3 title 45, Code of Federal Regulations, shall
4 apply to the Informed Consent Authorization
5 form required to be placed in a patient’s med-
6 ical file pursuant to subparagraph (C) in the
7 same manner and to the same extent as such
8 paragraph applies to documentation required by
9 paragraph (j)(1) of such section.

10 (4) EXCEPTIONS.—The requirements of this
11 subsection shall not apply if, in reasonable medical
12 judgment, compliance with paragraph (2) would pose
13 a greater risk of—

14 (A) the death of the pregnant woman; or

15 (B) the substantial and irreversible phys-
16 ical impairment of a major bodily function, not
17 including psychological or emotional conditions,
18 of the pregnant woman.

19 (b) PENALTY FOR FAILURE TO COMPLY.—

20 (1) CIVIL PENALTY.—

21 (A) ENFORCEMENT BY ATTORNEY GEN-
22 ERAL.—The Attorney General shall commence
23 a civil action in an appropriate district court of
24 the United States under this subsection against

1 any abortion provider who knowingly commits a
2 violation of subsection (a).

3 (B) PENALTY.—In a civil action under
4 subparagraph (A), the court may, to vindicate
5 the public interest, assess a civil penalty against
6 the abortion provider in an amount—

7 (i) not less than \$100,000 and not
8 more than \$150,000, for each such viola-
9 tion that is adjudicated in the first pro-
10 ceeding against such abortion provider
11 under this subsection; or

12 (ii) not less than \$150,001 and not
13 more than \$250,000, for each such viola-
14 tion that is adjudicated in a subsequent
15 proceeding against such abortion provider
16 under this subsection.

17 (C) NOTIFICATION.—Upon the assessment
18 of a civil penalty under subparagraph (B), the
19 Attorney General shall notify the appropriate
20 State medical licensing authority.

21 (D) NO PENALTIES FOR PREGNANT
22 WOMEN.—A pregnant woman shall not be sub-
23 ject to any penalty under this section.

24 (2) PRIVATE RIGHT OF ACTION.—

1 (A) IN GENERAL.—A woman or a parent
2 of a minor upon whom an abortion has been
3 performed in violation of subsection (a) may
4 commence a civil action against the abortion
5 provider for appropriate relief.

6 (B) APPROPRIATE RELIEF.—Appropriate
7 relief in a civil action under this paragraph in-
8 cludes—

9 (i) objectively verifiable money dam-
10 ages for all injuries, psychological and
11 physical, occasioned by the violation;

12 (ii) statutory damages equal to 3
13 times the cost of the abortion; and

14 (iii) punitive damages.

15 (C) ATTORNEY'S FEES FOR PLAINTIFF.—
16 The court shall award a reasonable attorney's
17 fee as part of the costs to a prevailing plaintiff
18 in a civil action under this paragraph.

19 (D) ATTORNEY'S FEES FOR DEFEND-
20 ANT.—If a defendant in a civil action under
21 this paragraph prevails and the court finds that
22 the plaintiff's suit was frivolous, the court shall
23 award a reasonable attorney's fee in favor of
24 the defendant against the plaintiff.

1 (E) AWARDS AGAINST WOMAN.—In any
2 civil action under this paragraph, no damages
3 or other monetary relief, and no attorney’s fees
4 except as provided under subparagraph (D),
5 may be assessed against the woman upon whom
6 the abortion was performed or attempted.

7 (c) PREEMPTION.—Nothing in this Act or the amend-
8 ments made by this Act shall be construed to preempt any
9 provision of State law to the extent that such State law
10 establishes, implements, or continues in effect disclosure
11 requirements regarding abortion or penalties for failure to
12 comply with such requirements that are more extensive
13 than those provided under the amendment made by this
14 Act.

15 (d) RULE OF CONSTRUCTION.—Nothing in this Act
16 shall be construed to prohibit an abortion provider from
17 presenting the information required under subsection (a)
18 to a pregnant woman at the same time as acquiring in-
19 formed consent for an abortion from such woman in ac-
20 cordance with State law, provided that the presentation
21 of such information occurs at least 24 hours before the
22 abortion.

23 (e) DEFINITIONS.—In this section:

1 (1) ABORTION.—The term “abortion” means
2 the use or prescription of any instrument, medicine,
3 drug, or any other substance or device—

4 (A) to intentionally kill the unborn child of
5 a woman known to be pregnant; or

6 (B) to intentionally terminate the preg-
7 nancy of a woman known to be pregnant, with
8 an intention other than—

9 (i) after viability to produce a live
10 birth and preserve the life and health of
11 the child born alive; or

12 (ii) to remove a dead unborn child.

13 (2) ABORTION PROVIDER.—The term “abortion
14 provider” means a person—

15 (A) licensed to practice medicine and sur-
16 gery or osteopathic medicine and surgery; or

17 (B) otherwise legally authorized to perform
18 an abortion.

19 (3) ATTEMPT.—The term “attempt”, with re-
20 spect to an abortion, means conduct that, under the
21 circumstances as the actor believes them to be, con-
22 stitutes a substantial step in a course of conduct
23 planned to culminate in performing an abortion.

24 (4) MINOR.—The term “minor” means an indi-
25 vidual who has not attained the age of 18 years.

1 (5) PERFORM.—The term “perform”, with re-
2 spect to an abortion, includes inducing an abortion
3 through a medical or chemical intervention including
4 writing a prescription for a drug or device intended
5 to result in an abortion.

6 (6) REASONABLE MEDICAL JUDGMENT.—The
7 term “reasonable medical judgment” means a med-
8 ical judgment that would be made by a reasonably
9 prudent abortion provider, knowledgeable about the
10 case and the treatment possibilities with respect to
11 the medical conditions involved.

12 (7) UNBORN CHILD.—The term “unborn child”
13 means an individual organism of the species homo
14 sapiens, beginning at fertilization, until the point of
15 being born alive as defined in section 8(b) of title 1,
16 United States Code.

17 (8) WOMAN.—The term “woman” means a fe-
18 male human being whether or not she has reached
19 the age of majority.

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