

HOUSE BILL 989

By Moody

AN ACT to amend Tennessee Code Annotated, Section 39-15-202(b); Section 39-15-202(c) and Section 39-15-202(d), relative to abortion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-15-202, is amended by deleting subsections (b), (c), and (d) in their entireties and by substituting instead the following:

(b) In order to ensure that a consent for an abortion is truly informed consent, an abortion shall be performed or induced upon a pregnant woman only after she has been orally informed by her attending physician of the following facts and has signed a consent form acknowledging that she has been informed as follows:

(1) That according to the best judgment of her attending physician she is pregnant;

(2) The number of weeks elapsed from the probable time of the conception of her unborn child, based upon the information provided by her as to the time of her last menstrual period or after a history, physical examination, and appropriate laboratory tests;

(3) That if more than twenty-four (24) weeks have elapsed from the time of conception, her child may be viable, that is, capable of surviving outside of the womb, and that if the child is prematurely born alive in the course of an abortion her attending physician has a legal obligation to take steps to preserve the life and health of the child;

(4) That abortion in a considerable number of cases constitutes a major surgical procedure;

(5) That numerous public and private agencies and services are available to assist her during her pregnancy and after the birth of her child, if she chooses not to have the abortion, whether she wishes to keep her child or place the child for adoption, and that her physician will provide her with a list of the agencies and the services available if she so requests; and

(6) Numerous benefits and risks are attendant either to continued pregnancy and childbirth or to abortion, depending upon the circumstances in which the patient might find herself. The physician shall explain these benefits and risks to the best of the physician's ability and knowledge of the circumstances involved.

(c) At the same time the attending physician provides the information required by subsection (b), the physician shall inform the pregnant woman of the particular risks associated with her pregnancy and childbirth and the abortion or child delivery technique to be employed, including providing her with at least a general description of the medical instructions to be followed subsequent to the abortion or childbirth in order to ensure her safe recovery.

(d)

(1) There shall be a two-day waiting period after the physician provides the required information, excluding the day on which the information was given. On the third day following the day the information was given, the patient may return to the physician and sign a consent form.

(2) A violation of this subsection (d) by a physician is a Class E felony.

(3) This subsection (d) shall not apply when the attending physician, utilizing experience, judgment or professional competence, determines that a two-day waiting period or any waiting period would endanger the life of the pregnant woman. The determination made by the attending physician shall be in writing and shall state the physician's medical reasons upon which the physician

bases the opinion that the waiting period would endanger the life of the pregnant woman. This provision shall not relieve the attending physician of the duty to the pregnant woman to inform her of the facts under subsection (b).

SECTION 2. It is the legislative intent that this act shall revive and reenact the informed consent and waiting period provisions for abortion that were in place in this state prior to the decision of the Tennessee Supreme Court in *Planned Parenthood of Middle Tennessee, et al v. Sundquist*, 38 S.W.3d 1 (Tenn. 2000).

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 4. This act shall take effect July 1, 2015, the public welfare requiring it.