

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To ensure that women seeking an abortion receive an ultrasound and the opportunity to review the ultrasound before giving informed consent to receive an abortion.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARSHALL introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To ensure that women seeking an abortion receive an ultrasound and the opportunity to review the ultrasound before giving informed consent to receive an abortion.

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 “Ultrasound Informed  
5 Consent Act”.

6 **SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE**  
7 **ACT.**

8 The Public Health Service Act (42 U.S.C. 201 et  
9 seq.) is amended by adding at the end the following:

1           **“TITLE XXXIV—INFORMED**  
2                           **CONSENT**

3 **“SEC. 3401. DEFINITIONS.**

4           “In this title:

5                   “(1) ABORTION.—The term ‘abortion’ means  
6           the intentional use or prescription of any instru-  
7           ment, medicine, drug, substance, device, or method  
8           to terminate the life of an unborn child, or to termi-  
9           nate the pregnancy of a woman known to be preg-  
10          nant, with an intention other than—

11                   “(A) to produce a live birth and preserve  
12           the life and health of the child after live birth;  
13           or

14                   “(B) to remove an ectopic pregnancy, or to  
15           remove a dead unborn child who died as the re-  
16           sult of a spontaneous abortion, accidental trau-  
17           ma, or a criminal assault on the pregnant fe-  
18           male or her unborn child.

19                   “(2) ABORTION PROVIDER.—The term ‘abortion  
20           provider’ means any person legally authorized to  
21           perform an abortion.

22                   “(3) UNBORN CHILD.—The term ‘unborn child’  
23           means a member of the species homo sapiens, at any  
24           stage of development prior to birth.

1           “(4) WOMAN.—The term ‘woman’ means a fe-  
2           male human being whether or not she has reached  
3           the age of majority.

4   **“SEC. 3402. REQUIREMENT OF INFORMED CONSENT.**

5           “(a) REQUIREMENT OF COMPLIANCE BY PRO-  
6   VIDERS.—Any abortion provider in or affecting interstate  
7   or foreign commerce, who knowingly performs any abor-  
8   tion, shall comply with the requirements of this title.

9           “(b) PERFORMANCE AND REVIEW OF  
10  ULTRASOUND.—Prior to a woman giving informed con-  
11  sent to having any part of an abortion performed, the  
12  abortion provider who is to perform the abortion, or an  
13  agent under the supervision of the provider, shall—

14           “(1) perform an obstetric ultrasound on the  
15           pregnant woman;

16           “(2) provide a simultaneous explanation of  
17           what the ultrasound is depicting;

18           “(3) display the ultrasound images so that the  
19           pregnant woman may view them;

20           “(4) make audible the live, real-time heart aus-  
21           cultation, when present, for the pregnant woman to  
22           hear, in a quality consistent with current medical  
23           practice, and provide, in a manner understandable to  
24           a layperson, a simultaneous verbal explanation of  
25           the live, real-time heart auscultation; and

1           “(5) provide a complete medical description of  
2           the ultrasound images, which shall include all of the  
3           following: the dimensions of the embryo or fetus,  
4           cardiac activity if present and visible, and the pres-  
5           ence of arms, legs, external members and internal  
6           organs if present and viewable, and provide a copy  
7           of the ultrasound image to the woman.

8           “(c) ABILITY TO TURN EYES AWAY.—Nothing in  
9           this section shall be construed to prevent a pregnant  
10          woman from turning her eyes away from the ultrasound  
11          images required to be displayed and described to her. Nei-  
12          ther the abortion provider nor the pregnant woman shall  
13          be subject to any penalty under this title if the pregnant  
14          woman declines to look at the displayed ultrasound im-  
15          ages.

16          **“SEC. 3403. EXCEPTION FOR MEDICAL EMERGENCIES.**

17          “(a) EXCEPTION.—The provisions of section 3402  
18          shall not apply to an abortion provider if the abortion is  
19          necessary to save the life of a mother whose life is endan-  
20          gered by a physical disorder, physical illness, or physical  
21          injury, including a life-endangering physical condition  
22          caused by or arising from the pregnancy itself.

23          “(b) CERTIFICATION.—Upon a determination by an  
24          abortion provider under subsection (a) that an abortion  
25          is necessary to save the life of a mother, such provider

1 shall include in the medical file of the pregnant woman  
2 a truthful and accurate certification of the specific medical  
3 circumstances that support such determination.

4 **“SEC. 3404. PENALTIES FOR FAILURE TO COMPLY.**

5 “(a) CIVIL PENALTIES.—

6 “(1) IN GENERAL.—The Attorney General may  
7 commence a civil action in Federal court under this  
8 section against any abortion provider who knowingly  
9 commits an act constituting a violation of this title  
10 for a penalty in an amount not to exceed—

11 “(A) \$100,000 for each such violation that  
12 is adjudicated in the first proceeding against  
13 such provider under this title; and

14 “(B) \$250,000 for each violation of this  
15 title that is adjudicated in a subsequent pro-  
16 ceeding against such provider under this title.

17 “(2) NOTIFICATION.—Upon the assessment of  
18 a civil penalty under paragraph (1), the Attorney  
19 General shall notify the appropriate State medical li-  
20 censing authority.

21 “(b) PRIVATE RIGHT OF ACTION.—A woman upon  
22 whom an abortion has been performed in violation of this  
23 title may commence a civil action against the abortion pro-  
24 vider for any violation of this title for actual and punitive  
25 damages. For purposes of the preceding sentence, actual

1 damages are objectively verifiable money damages for all  
2 injuries.”.

3 **SEC. 3. PREEMPTION.**

4 Nothing in this Act or the amendments made by this  
5 Act shall be construed to preempt any provision of State  
6 law to the extent that such State law establishes, imple-  
7 ments, or continues in effect disclosure requirements re-  
8 garding abortion or penalties for failure to comply with  
9 such requirements that are more extensive than those pro-  
10 vided under the amendment made by this Act.

11 **SEC. 4. REQUIREMENT FOR FUNDING.**

12 As a condition for receiving any Federal funds or as-  
13 sistance, an abortion provider shall comply with the re-  
14 quirements of title XXXIV of the Public Health Service  
15 Act, as added by this Act.

16 **SEC. 5. SEVERABILITY.**

17 If any provision of this Act, or any application there-  
18 of, is found to be unconstitutional, the remainder of this  
19 Act and any application thereof shall not be affected by  
20 such finding.