

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.

IN THE SENATE OF THE UNITED STATES

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

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.