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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1977 Session of  
2019

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INTRODUCED BY BOROWICZ, STRUZZI, LEWIS, TOPPER, RYAN, MILLARD,  
BERNSTINE, COX, ROTHMAN, KAUFFMAN, RAPP, SCHMITT, DIAMOND,  
METCALFE, B. MILLER, HICKERNELL, KAIL, ZIMMERMAN, DOWLING,  
READSHAW, IRVIN, WHEELAND, GROVE, FRITZ, HERSHEY, JONES,  
REESE, MARSHALL, GILLEN, DUSH, GREINER, KNOWLES, BARRAR,  
KEEFER, OWLETT, SCHEMEL, COOK, TURZAI, RIGBY, GLEIM AND  
ECKER, OCTOBER 18, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 18, 2019

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in abortion, further providing for  
3 legislative intent, providing for fetal heartbeat  
4 examination, further providing for medical consultation and  
5 judgment, for abortion on unborn child of 24 or more weeks  
6 gestational age and for reporting.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 3202(b) of Title 18 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a paragraph to read:

11 § 3202. Legislative intent.

12 \* \* \*

13 (b) Conclusions.--Reliable and convincing evidence has  
14 compelled the General Assembly to conclude and the General  
15 Assembly does hereby solemnly declare and find that:

16 \* \* \*

17 (6) Based on contemporary research, all of the

1 following:

2 (i) As many as 30% of natural pregnancies end in  
3 spontaneous miscarriage.

4 (ii) Less than 5% of all natural pregnancies end in  
5 a spontaneous miscarriage after detection of fetal  
6 cardiac activity.

7 (iii) More than 90% of pregnancies resulting from in  
8 vitro fertilization survive the first trimester if  
9 cardiac activity is detected in the gestational sac.

10 (iv) Nearly 90% of pregnancies resulting from in  
11 vitro fertilization do not survive the first trimester if  
12 cardiac activity is not detected in the gestational sac.

13 (v) Consequently, fetal heartbeat has become a key  
14 medical predictor that an unborn individual will reach  
15 live birth.

16 (vi) Cardiac activity begins at a biologically  
17 identifiable moment in time, normally when the fetal  
18 heart is formed in the gestational sac.

19 (vii) In order to make an informed choice about  
20 whether to continue the pregnancy, a pregnant woman has a  
21 legitimate interest in knowing the likelihood of the  
22 fetus surviving to full-term birth based upon the  
23 presence of cardiac activity.

24 \* \* \*

25 Section 2. Title 18 is amended by adding a section to read:

26 § 3203.1. Fetal heartbeat examination.

27 Before performing an abortion, a physician shall conduct a  
28 physical examination of the pregnant woman and her unborn child  
29 to determine if there is a fetal heartbeat present. The  
30 physician shall utilize the physician's best clinical judgment

1 to determine whether or not a fetal heartbeat is present.

2 Section 3. Sections 3204(a), 3211 heading, (a) and (b) (2)  
3 and 3214(a) (1) of Title 18 are amended to read:

4 § 3204. Medical consultation and judgment.

5 (a) Abortion prohibited; exceptions.--No abortion shall be  
6 performed after a fetal heartbeat is detected. If there is no  
7 fetal heartbeat, no abortion shall be performed except by a  
8 physician after either:

9 (1) he determines that, in his best clinical judgment,  
10 the abortion is necessary; or

11 (2) he receives what he reasonably believes to be a  
12 written statement signed by another physician, hereinafter  
13 called the "referring physician," certifying that in this  
14 referring physician's best clinical judgment the abortion is  
15 necessary.

16 \* \* \*

17 § 3211. Abortion on unborn child [of 24 or more weeks  
18 gestational age] after fetal heartbeat is detected.

19 (a) Prohibition.--Except as provided in subsection (b), no  
20 person shall perform or induce an abortion upon another person  
21 when the [gestational age of the unborn child is 24 or more  
22 weeks] unborn child has a detectable fetal heartbeat.

23 (b) Exceptions.--

24 \* \* \*

25 (2) It shall not be a violation of subsection (a) if the  
26 abortion is performed by a physician and that physician  
27 reasonably believes, after [making a determination of the  
28 gestational age of the unborn child] examining the pregnant  
29 woman in compliance with section 3210 (relating to  
30 determination of gestational age), that the unborn child [is

1       less than 24 weeks gestational age] does not have a fetal  
2       heartbeat.

3       \* \* \*

4       § 3214. Reporting.

5       (a) General rule.--For the purpose of promotion of maternal  
6 health and life by adding to the sum of medical and public  
7 health knowledge through the compilation of relevant data, and  
8 to promote the Commonwealth's interest in protection of the  
9 unborn child, a report of each abortion performed shall be made  
10 to the department on forms prescribed by it. The report forms  
11 shall not identify the individual patient by name and shall  
12 include the following information:

13           (1) Identification of the physician who performed the  
14 abortion, the concurring physician as required by section  
15 3211(c)(2) (relating to abortion on unborn child [of 24 or  
16 more weeks gestational age] after fetal heartbeat is  
17 detected), the second physician as required by section  
18 3211(c)(5) and the facility where the abortion was performed  
19 and of the referring physician, agency or service, if any.

20       \* \* \*

21       Section 4. This act shall take effect in 60 days.