

*Uncorrected copy Mrs Hamilton*

A BILL

TO BE ENTITLED

An Act to amend Code Chapter 26-12, relating to abortions, so as to authorize any physician to perform an abortion upon any woman who has been pregnant for not more than twelve (12) weeks; to remove certain provisions relating to abortions when the pregnancy is the result of forcible or statutory rape; to provide that no physician shall be liable civilly or to criminal prosecution when he performs an abortion in compliance with the provisions of this Act, except in the case of negligence in performing the abortion; to define "physician"; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Code Chapter 26-12, relating to abortions, is hereby amended by striking Code Section 26-1202 in its entirety and inserting in lieu thereof a new Code Section 26-1202, to read as follows:

"26-1202. Exceptions. (a) For the purposes of this Section, the word 'physician' means a physician duly licensed to practice medicine and surgery pursuant to Chapter 84-9 or 84-12 of the Code of Georgia of 1933, as amended.

(b) Section 26-1201 shall not apply to an abortion performed by a physician upon a woman when the abortion is performed not later than during the twelfth week of pregnancy.

(c) Section 26-1201 shall not apply to an abortion performed by a physician based upon his best clinical judgment that an abortion is necessary because:

(1) A continuation of the pregnancy would endanger the life of the pregnant



woman or would seriously and permanently injure her health; or

(2) The fetus would very likely be born with a grave, permanent, and irremediable mental or physical defect.

(d) No abortion is authorized or shall be performed under this Section unless each of the following conditions is met:

(1) The pregnant woman requesting the abortion certifies in writing under oath and subject to the penalties of false swearing to the physician who proposes to perform the abortion that she is a bona fide legal resident of the State of Georgia.

(2) The physician certifies that he believes the woman is a bona fide resident of this State and that he has no information which should lead him to believe otherwise.

(3) Such physician's judgment is reduced to writing and concurred in by at least two other physicians duly licensed to practice medicine and surgery pursuant to Chapter 84-9 of the Code of Georgia of 1933, as amended, who certify in writing that based upon their separate personal medical examinations of the pregnant woman, the abortion is, in their judgment, necessary because of one or more of the reasons enumerated above.

(4) Such abortion is performed in a hospital licensed by the State Board of Health and accredited by the Joint Commission on Accreditation of Hospitals.

(5) The performance of the abortion has been



approved in advance by a committee of the medical staff of the hospital in which the operation is to be performed. This committee must be one established and maintained in accordance with the standards promulgated by the Joint Commission on the Accreditation of Hospitals, and its approval must be by a majority vote of a membership of not less than three members of the hospital's staff; the physician proposing to perform the operation may not be counted as a member of the committee for this purpose.

(6) Such written opinions, statements, certificates, and concurrences are maintained in the permanent files of such hospital and are available at all reasonable times to the district attorney of the judicial circuit in which the hospital is located.

(7) A copy of such written opinions, statements, certificates, and concurrences is filed with the Director of the State Department of Public Health within ten days after such operation is performed.

(8) All written opinions, statements, certificates, and concurrences filed and maintained pursuant to paragraphs (6) and (7) of this subsection shall be confidential records and shall not be made available for public inspection at any time.

(e) Any district attorney of the judicial circuit in which an abortion is to be performed under this



Section, or any person who would be a relative of the child within the second degree of consanguinity, may petition the superior court of the county in which the abortion is to be performed for a declaratory judgment whether the performance of such abortion would violate any constitutional or other legal rights of the fetus. Such district attorney may also petition such court for the purpose of taking issue with compliance with the requirements of this Section. The physician who proposes to perform the abortion and the pregnant woman shall be respondents. The petition shall be heard expeditiously and if the court adjudges that such abortion would violate the constitutional or other legal rights of the fetus, the court shall so declare and shall restrain the physician from performing the abortion.

(f) If an abortion is performed in compliance with this Section, the death of the fetus shall not give rise to any claim for wrongful death.

(g) Nothing in this section shall require a hospital to admit any patient under the provisions hereof for the purpose of performing an abortion, nor shall any hospital be required to appoint a committee such as contemplated under subsection (d) (5). A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which an abortion has been authorized, who shall state in writing an objection to such abortion on moral or religious grounds shall not be required to participate in the medical procedures which will result in the abortion, and the



refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(h) When an abortion shall have been performed in compliance with the provisions of this Section, no physician or other person legally participating in the execution of the provisions of this Act shall be liable civilly or to criminal prosecution on account of such operation or participation therein, except in the case of negligence in the performance of said procedures."

Section 2. An Act entitled "An Act to amend Code Chapter 26-11 relating to the crimes of abortion, foeticide and infanticide, so as to provide for the additional exceptions where such acts are undertaken or accomplished by physicians; to provide the circumstances when such acts shall be lawful; to repeal conflicting laws; and for other purposes." which became law without the approval of the Governor (Ga. Laws 1968, p. 1432), is hereby repealed in its entirety.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.