**South Carolina General Assembly**

121st Session, 2015-2016

**H. 5227**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clary, Felder, Stringer, Newton, Jefferson, Henderson, Norman, Putnam, Ridgeway and Taylor

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Introduced in the House on April 14, 2016

Currently residing in the House Committee on **Judiciary**

Summary: Abortion

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/14/2016 House Introduced and read first time ([House Journal‑page 82](file:///h:\HJ%20Archive\2016\04-14-16.docx))

4/14/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 82](file:///h:\HJ%20Archive\2016\04-14-16.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5227&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/14/2016](file:///p:\pprever\2015-16\5227_20160414.docx)

**A** **BILL**

TO AMEND SECTION 44‑41‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN CHAPTER 41, TITLE 44, SO AS TO CHANGE THE DEFINITIONS OF “SECOND TRIMESTER OF PREGNANCY” AND “THIRD TRIMESTER OF PREGNANCY”; TO AMEND SECTION 44‑41‑20, RELATING TO ABORTION LEGALITY, SO AS TO DISALLOW ABORTIONS IN CLINICS AFTER EIGHTEEN WEEKS, WITH EXCEPTIONS; TO AMEND SECTION 44‑41‑60, RELATING TO ABORTION REPORTING, SO AS TO REQUIRE THE REPORTING OF ADDITIONAL INFORMATION AND INCIDENTS; TO AMEND SECTION 44‑41‑80, RELATING TO VIOLATIONS OF ABORTION STATUTES, SO AS TO PROHIBIT THE SALE OF PRODUCTS OF CONCEPTION AND ESTABLISH PENALTIES; TO AMEND SECTION 44‑41‑320 AND SECTION 44‑41‑330, AS AMENDED, BOTH RELATING TO THE “WOMAN’S RIGHT TO KNOW ACT”, SO AS TO REQUIRE AN ULTRASOUND BEFORE PERFORMING AN ABORTION; AND TO AMEND SECTION 44‑41‑370, RELATING TO APPLICABILITY OF THE WOMAN’S RIGHT TO KNOW ACT, SO AS TO APPLY TO EVERY FACILITY IN WHICH ANY ABORTION IS PERFORMED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑41‑10(j) and (k) of the 1976 Code is amended to read:

“(j) ‘Second trimester of pregnancy’ means that portion of a pregnancy following the twelfth week and extending through the twenty‑fourth week of ~~gestation~~ pregnancy.

(k) ‘Third trimester of pregnancy’ means that portion of a pregnancy beginning with the twenty‑fifth week of ~~gestation~~ pregnancy.”

SECTION 2. Section 44‑41‑20 of the 1976 Code is amended to read:

“Section 44‑41‑20. Abortion ~~shall be~~ is a criminal act except when performed ~~under the following circumstances~~:

~~(a)~~(1) during the first trimester of pregnancy ~~the abortion is performed~~ with the pregnant woman’s consent by her attending physician pursuant to his professional medical judgment~~.~~;

~~(b)~~(2) during the second trimester of pregnancy ~~the abortion is performed~~:

(a) with the pregnant woman’s consent by her attending physician in a hospital ~~or clinic certified by the Department.~~; or

(b) no later than eighteen weeks of gestational age with the pregnant woman’s consent by her attending physician in a clinic; however, if a clinic also is licensed as an ambulatory surgical facility, the clinic may perform an abortion up to twenty‑six weeks of gestational age; and

~~(c)~~(3) during the third trimester of pregnancy~~, the abortion is performed~~ with the pregnant woman’s consent, and if married and living with her husband the consent of her husband, in a ~~certified~~ hospital, and only if the attending physician and one additional consulting physician, who ~~shall~~ are not ~~be~~ related to or engaged in private practice with the attending physician, certify in writing to the hospital in which the abortion is to be performed that the abortion is necessary based upon their best medical judgment to preserve the life or health of the woman. ~~In the event that~~ If the preservation of the woman’s mental health is certified as the reason for the abortion, an additional certification ~~shall~~ must be required from a consulting psychiatrist who ~~shall~~ is not ~~be~~ related to or engaged in private practice with the attending physician. All facts and reasons supporting ~~such~~ the certification ~~shall~~ must be set forth by the attending physician in writing and attached to ~~such~~ the certificate.”

SECTION 3. Section 44‑41‑60 of the 1976 Code is amended to read:

“Section 44‑41‑60. (A)(1) Any abortion performed in this Statemust be reported by ~~the~~ ~~performing physician on the standard form~~ ~~for reporting abortions to the state registrar, Department of Health and Environmental Control,~~ the clinic, hospital, or other facility in which the abortion was performed to the state registrar on a standard form developed by the department, within seven days after the abortion is performed. The names of the patient and physician may not be reported on the form or otherwise disclosed to the state registrar. The form must indicate from whom consent was obtained or circumstances waiving consent.

(2) The form developed by the department for reporting abortions pursuant to item (1) must require the reporting of information that would assist the department in investigating potential violations of the chapter, which must not identify the patient or physician. A clinic, hospital, or other facility that fails to report the information as required in item (1) is subject to a penalty in an amount to be determined by the department.

(B) A clinic, hospital, or other facility shall report to the department any post‑operative complications arising as a result of an abortion procedure, regardless of where the procedure was performed. If the clinic, hospital, or other facility reporting pursuant to this subsection is not the facility in which the abortion procedure was performed and the patient consents and provides the name of the facility, the reporting clinic, hospital, or other facility shall provide the name of the facility in which the abortion was performed as part of the report. The department shall use the information reported pursuant to this subsection to collect and provide, by facility, statistics on the number of postoperative complications reported.”

SECTION 4. Section 44‑41‑80 of the 1976 Code is amended to read:

“Section 44‑41‑80. ~~(a)~~(A) Any person, except as permitted by this chapter, who provides, supplies, prescribes, or administers any drug, medicine, prescription, or substance to any woman or uses or employs any device, instrument, or other means upon any woman, with the intent to produce an abortion ~~shall be~~ ~~deemed~~ is guilty of a felony and, upon conviction, ~~shall~~ must be ~~punished by imprisonment for a term of~~ imprisoned not less than two nor more than five years or fined not more than five thousand dollars, or both~~. Provided, that~~; however, the provisions of this item ~~shall~~ do not apply to any woman upon whom an abortion has been attempted or performed.

~~(b)~~(B) Except as otherwise permitted by this chapter, any woman who solicits of any person or otherwise procures any drug, medicine, prescription, or substance and administers it to herself or who submits to any operation or procedure or who uses or employs any device or instrument or other means with intent to produce an abortion, unless it is necessary to preserve her life, ~~shall be deemed~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be ~~punished by imprisonment for a term of~~ imprisoned not more than two years or fined not more than one thousand dollars, or both.

~~(c)~~(C) Any woman upon whom an abortion has been performed or attempted in violation of the provisions of this chapter may be compelled to testify in any criminal prosecution initiated pursuant to subsection ~~(a) of this section~~ (A); ~~provided,~~ however, ~~that such~~ the testimony ~~shall~~ is not ~~be~~ admissible in any civil or criminal action against ~~such~~ the woman, and ~~she shall be forever~~ the woman is immune from any prosecution for having solicited or otherwise procured the performance of the abortion or the attempted performance of the abortion ~~upon~~ on her.

(D) Any person who sells, or attempts to sell, products of conception is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than one thousand dollars, or both; however, products of conception may be donated for medical research without compensation and with the woman’s written consent.”

SECTION 5. Section 44‑41‑320(2) of the 1976 Code is amended to read:

“(2) ‘Probable gestational age of the embryo or fetus’ means what, in the judgment of the attending physician based upon the attending physician’s examination, which must include the performance of an ultrasound on the woman, and the woman’s medical history, is with reasonable probability the gestational age of the embryo or fetus at the time the abortion is planned to be performed.”

SECTION 6. Section 44‑41‑330(A)(1) of the 1976 Code, as last amended by Act 222 of 2008, is further amended to read:

“(1) The woman must be informed by the physician who is to perform the abortion or by an allied health professional working in conjunction with the physician of the procedure to be involved and by the physician who is to perform the abortion of the probable gestational age of the embryo or fetus at the time the abortion is to be performed, which must take into account the findings of the ultrasound performed on the woman. ~~If an ultrasound is performed,~~ An abortion may not be performed sooner than sixty minutes following completion of the ultrasound. The physician who is to perform the abortion or an allied health professional working in conjunction with the physician must inform the woman before the ultrasound procedure of her right to view the ultrasound image at her request during or after the ultrasound procedure.”

SECTION 7. Section 44‑41‑370 of the 1976 Code is amended to read:

“Section 44‑41‑370. This article applies ~~only~~ to ~~facilities~~ any facility in which ~~any second trimester or five or more first trimester abortions are~~ any abortion is performed ~~in a month~~.”

SECTION 8. This act takes effect upon approval by the Governor.

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