

HOUSE BILL 3301

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 10, Part 3; Title 39, Chapter 15, Part 2; Title 63 and Title 68, relative to preventing forced abortions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Freedom From Coercion Act".

SECTION 2. Tennessee Code Annotated, 39-15-202(a), is amended by designating the existing language as subdivision (1) and by adding the following language as new subdivisions:

(2)

(A) Any private physician's office, ambulatory surgical treatment center or other facility or clinic in which abortions, other than abortions necessary to prevent the death of the pregnant female, are performed shall conspicuously post a sign in a location defined in subdivision (a)(2)(C) so as to be clearly visible to patients, which reads:

Notice: It is against the law for anyone, regardless of the person's relationship to you, to coerce you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened criminal offense to coerce an abortion.

(B) The sign required pursuant to subdivision (a)(2)(A) shall be printed in languages appropriate for the clients of the facility with lettering that is legible and that is at least three quarters of an inch (3/4") bold-faced type.

(C) A facility in which abortions are performed that is a private physician office or an ambulatory surgical treatment center shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed. A hospital or any other facility in which abortions are performed that is not a private physician office or ambulatory surgical treatment center shall post the required sign in each patient admission area used by patients on whom abortions are performed.

(3)

(A) If the pregnant female is a minor, in addition to complying with the parental consent requirements of title 37, chapter 10, part 3, the attending physician or other health care professional shall inform the female that no one can force her to have an abortion and that an abortion cannot be performed on her unless she provides her freely given, voluntary and informed consent.

(B) The minor female shall certify in writing, prior to the performance of the abortion, that she was informed of the required information in subdivision (a)(3)(A). A copy of the written certification shall be placed in the minor's file and kept for at least seven (7) years or for two (2) years after the minor reaches the age of majority, whichever is greater.

(C) For purposes of this subdivision (a)(3), "health care professional" means a nurse licensed pursuant to title 63, chapter 7, a physician assistant licensed pursuant to title 63, chapter 19, a midwife certified pursuant to title 63, chapter 29, a psychologist licensed pursuant to title 63, chapter 11, a licensed

master social worker pursuant to § 63-23-103, or a licensed advanced practice social worker pursuant to § 63-23-104.

(4)

(A) Any private physician's office, ambulatory surgical treatment center or other facility or clinic that fails to post the sign required in subdivision (a)(2)(A) shall be assessed a civil penalty of two thousand five hundred dollars (\$2,500). Each day on which an abortion, other than an abortion necessary to prevent the death of the pregnant female, is performed in any private physician's office, ambulatory surgical treatment center, or other facility or clinic during which the required sign is not posted during a portion of business hours when patients or perspective patients are present shall be considered a separate violation.

(B) The board for licensing health care facilities shall be responsible for enforcing subdivisions (a)(2)(A) and (a)(4) as part of the board's existing duties under title 68, chapter 11.

(5)

(A) An action may be brought by a female, or on behalf of a minor female, injured by the failure to post the sign required by subdivision (a)(2)(A). A plaintiff in an action under this subdivision (a)(5)(A) may recover damages for emotional distress and other damages allowed by law.

(B) An action may be brought on behalf of a minor female who is injured by the failure to inform the minor female of the information required by subdivision (a)(3)(A). A plaintiff in an action under this subdivision (a)(5)(B) may recover damages for emotional distress and other damages allowed by law.

(6) The remedies provided for in subdivisions (a)(4) and (5) are in addition to any other remedies applicable under other law, and subdivisions (a)(4) and (5) do not

preclude prosecution and conviction under any applicable criminal law, including, but not limited to the civil action provided for in § 37-10-307 and the criminal penalties provided for in §§ 37-10-303 and 37-10-306 for failure to comply with the parental consent requirements for a minor having an abortion.

SECTION 3. Tennessee Code Annotated, Section 37-10-307, is amended by designating the existing language as subsection (a) and adding the following language as a new subsection:

(b) In addition to the action provided for in subsection (a), a person or entity that fails to comply with the notice and consent requirements of § 39-15-202(a)(2) and (3) shall be subject to the penalties and action provided for in § 39-15-202(a)(4) and (5).

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect October 1, 2010, the public welfare requiring it.