

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 854

Short Title: Abortion-Woman's Right to Know Act. (Public)

Sponsors: Representatives Samuelson and McElraft (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary.

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE A TWENTY-FOUR-HOUR WAITING PERIOD AND THE  
3 INFORMED CONSENT OF A PREGNANT WOMAN BEFORE AN ABORTION MAY  
4 BE PERFORMED.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding the  
7 following new Article to read:

8 "Article 11.

9 "Woman's Right to Know Act.

10 **"§ 90-21.80. Short title.**

11 This act may be cited as the 'Woman's Right to Know Act.'

12 **"§ 90-21.81. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) Abortion. – The use or prescription of any instrument, medicine, drug, or  
15 other substance or device intentionally to terminate the pregnancy of a  
16 woman known to be pregnant with an intention other than to do any of the  
17 following:  
18 a. Increase the probability of a live birth.  
19 b. Preserve the life or health of the child after live birth.  
20 c. Remove a dead, unborn child who died as the result of (i) natural  
21 causes in utero, (ii) accidental trauma, or (iii) a criminal assault on  
22 the pregnant woman or her unborn child, which causes the premature  
23 termination of the pregnancy.  
24 (2) Attempt to perform an abortion. – An act, or an omission of a statutorily  
25 required act, that, under the circumstances as the actor believes them to be,  
26 constitutes a substantial step in a course of conduct planned to culminate in  
27 the performance of an abortion in violation of this Article.  
28 (3) Department. – The Department of Health and Human Services.  
29 (4) Medical emergency. – A condition which, in reasonable medical judgment,  
30 so complicates the medical condition of the pregnant woman as to  
31 necessitate the immediate abortion of her pregnancy to avert her death or for  
32 which a delay will create serious risk of substantial and irreversible physical  
33 impairment of a major bodily function, not including any psychological or  
34 emotional conditions. For purposes of this definition, no condition shall be  
35 deemed a medical emergency if based on a claim or diagnosis that the



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- 1            woman will engage in conduct which would result in her death or in  
2            substantial and irreversible physical impairment of a major bodily function.  
3            (5)    Physician. – An individual licensed to practice medicine in accordance with  
4            this Chapter.  
5            (6)    Probable gestational age. – What, in the judgment of the physician, will,  
6            with reasonable probability, be the gestational age of the unborn child at the  
7            time the abortion is planned to be performed.  
8            (7)    Qualified professional. – An individual who is a registered nurse, nurse  
9            practitioner, or physician assistant licensed in accordance with Article 1 of  
10           this Chapter, or a qualified technician acting within the scope of the  
11           qualified technician's authority as provided by North Carolina law and under  
12           the supervision of a physician.  
13           (8)    Qualified technician. – A registered diagnostic medical sonographer who is  
14           certified in obstetrics and gynecology by the American Registry for  
15           Diagnostic Medical Sonography (ARDMS) or a nurse midwife or advanced  
16           practice nurse practitioner in obstetrics with certification in obstetrical  
17           ultrasonography.  
18           (9)    Stable Internet Web site. – A Web site that, to the extent reasonably  
19           practicable, is safeguarded from having its content altered other than by the  
20           Department.  
21           (10)   Woman. – A female human, whether or not she is an adult.

22    **"§ 90-21.82. Informed consent to abortion.**

23           No abortion shall be performed upon a woman in this State without her voluntary and  
24           informed consent. Except in the case of a medical emergency, consent to an abortion is  
25           voluntary and informed only if all of the following conditions are satisfied:

- 26           (1)    At least 24 hours prior to the abortion, a physician or qualified professional  
27           has orally informed the woman, by telephone or in person, of all of the  
28           following:  
29           a.        The name of the physician who will perform the abortion.  
30           b.        The particular medical risks associated with the particular abortion  
31           procedure to be employed, including, when medically accurate, the  
32           risks of infection, hemorrhage, cervical tear or uterine perforation,  
33           danger to subsequent pregnancies, including the ability to carry a  
34           child to full term, and any adverse psychological effects associated  
35           with the abortion.  
36           c.        The probable gestational age of the unborn child at the time the  
37           abortion is to be performed.  
38           d.        The medical risks associated with carrying the child to term.  
39           e.        That ultrasound imaging and heart tone monitoring that enable the  
40           pregnant woman to view her unborn child or listen to the heartbeat of  
41           the unborn child are available to the woman. The physician  
42           performing the abortion, qualified technician, or referring physician  
43           shall inform the woman that the printed materials and Web site  
44           described in G.S. 90-21.83 and G.S. 90-21.84 contain phone numbers  
45           and addresses for facilities that offer the services free of charge. If  
46           requested by the woman, the physician or qualified professional shall  
47           provide to the woman the list as compiled by the Department.  
48           f.        If the physician who is to perform the abortion has no liability  
49           insurance for malpractice in the performance or attempted  
50           performance of an abortion, that information shall be communicated.

1           g.     The location of the hospital that offers obstetrical or gynecological  
2           care located within 30 miles of the location where the abortion is  
3           performed or induced and at which the physician performing or  
4           inducing the abortion has clinical privileges. If the physician who  
5           will perform the abortion has no local hospital admitting privileges,  
6           that information shall be communicated.

7           If the physician or qualified professional does not know the information  
8           required in sub-subdivision a., f., or g. of this subdivision, the woman shall  
9           be advised that this information will be directly available from the physician  
10          who is to perform the abortion. The information required by this subdivision  
11          shall be provided in English and in each language that is the primary  
12          language of at least two percent (2%) of the State's population. The  
13          information may be provided orally, by telephone, or in person, without  
14          conducting a physical examination or tests of the patient, in which case the  
15          required information may be based on facts supplied by the woman to the  
16          physician and whatever other relevant information is reasonably available.  
17          The information required by this subdivision may not be provided by a tape  
18          recording but shall be provided during a consultation in which the physician  
19          is able to ask questions of the patient and the patient is able to ask questions  
20          of the physician. If, in the medical judgment of the physician, a physical  
21          examination, tests, or the availability of other information to the physician  
22          subsequently indicates a revision of the information previously supplied to  
23          the patient, then that revised information may be communicated to the  
24          patient at any time before the performance of the abortion. Nothing in this  
25          section may be construed to preclude provision of required information in a  
26          language understood by the patient through a translator.

27          (2)     The physician or qualified professional has informed the woman, by  
28          telephone or in person, of each of the following at least 24 hours before the  
29          abortion:

30          a.     That medical assistance benefits may be available for prenatal care,  
31          childbirth, and neonatal care.

32          b.     That public assistance programs under Chapter 108A of the General  
33          Statutes may or may not be available as benefits under federal and  
34          State assistance programs.

35          c.     That the father is liable to assist in the support of the child, even if  
36          the father has offered to pay for the abortion.

37          d.     That the woman has other alternatives to abortion, including keeping  
38          the baby or placing the baby for adoption.

39          e.     That the woman has the right to review the printed materials  
40          described in G.S. 90-21.83, that these materials are available on a  
41          State-sponsored Web site, as well as the address of the  
42          State-sponsored Web site. The physician or a qualified professional  
43          shall orally inform the woman that the materials have been provided  
44          by the Department and that they describe the unborn child and list  
45          agencies that offer alternatives to abortion. If the woman chooses to  
46          view the materials other than on the Web site, they shall either be  
47          given to her at least 24 hours before the abortion or be mailed to her  
48          at least 72 hours before the abortion by certified mail, restricted  
49          delivery to addressee.

50          f.     That the woman is free to withhold or withdraw her consent to the  
51          abortion at any time before or during the abortion without affecting

1 her right to future care or treatment and without the loss of any State  
2 or federally funded benefits to which she might otherwise be entitled.  
3 The information required by this subdivision shall be provided in English  
4 and in each language that is the primary language of at least two percent  
5 (2%) of the State's population. The information required by this subdivision  
6 may be provided by a tape recording if provision is made to record or  
7 otherwise register specifically whether the woman does or does not choose  
8 to have the printed materials given or mailed to her. Nothing in this  
9 subdivision shall be construed to prohibit the physician or qualified  
10 professional from e-mailing a Web site link to the materials described in this  
11 subdivision or G.S. 90-21.83.

12 (3) The woman certifies in writing, before the abortion, that the information  
13 described in subdivisions (1) and (2) of this section has been furnished her  
14 and that she has been informed of her opportunity to review the information  
15 referred to in sub-subdivision (2)e. of this section. The original of this  
16 certification shall be maintained in the woman's medical records, and a copy  
17 shall be given to her.

18 (4) Before the performance of the abortion, the physician who will perform the  
19 abortion or the qualified technician must receive a copy of the written  
20 certification required by subdivision (3) of this section.

21 **"§ 90-21.83. Printed information required.**

22 (a) Within 90 days after this Article becomes effective, the Department shall publish in  
23 English and in each language that is the primary language of at least two percent (2%) of the  
24 State's population and shall cause to be available on the State Web site established under  
25 G.S. 90-21.84, the following printed materials in a manner that ensures that the information is  
26 comprehensible to a person of ordinary intelligence:

27 (1) Geographically indexed materials designed to inform a woman of public and  
28 private agencies and services available to assist her through pregnancy, upon  
29 childbirth, and while the child is dependent, including adoption agencies.  
30 The information shall include a comprehensive list of the agencies available,  
31 a description of the services they offer, including, which agencies offer, at  
32 no cost to the woman, ultrasound imaging that enables the woman to view  
33 the unborn child or heart tone monitoring that enables the woman to listen to  
34 the heartbeat of the unborn child, and a description of the manner, including  
35 telephone numbers, in which they might be contacted. In the alternative, in  
36 the discretion of the Department, the printed materials may contain a  
37 toll-free, 24-hour-a-day telephone number that may be called to obtain,  
38 orally or by tape recorded message tailored to the zip code entered by the  
39 caller, a list of these agencies in the locality of the caller and of the services  
40 they offer.

41 (2) Materials designed to inform the woman of the probable anatomical and  
42 physiological characteristics of the unborn child at two-week gestational  
43 increments from the time a woman can be known to be pregnant until full  
44 term, including pictures or drawings representing the development of the  
45 unborn child at two-week gestational increments. The pictures shall contain  
46 the dimensions of the unborn child, information about brain and heart  
47 functions, the presence of external members and internal organs, and be  
48 realistic and appropriate for the stage of pregnancy depicted. The materials  
49 shall be objective, nonjudgmental, and designed to convey only accurate  
50 scientific information about the unborn child at the various gestational ages.  
51 The printed materials shall prominently display the following statement:

1 'The life of each human being begins at conception. Abortion will terminate  
2 the life of a separate, unique living human being.' The material shall also  
3 contain objective information describing the methods of abortion procedures  
4 employed, the medical risks associated with each procedure, the possible  
5 adverse psychological effects of abortion, as well as the medical risks  
6 associated with carrying an unborn child to term.

7 (b) The materials referred to in subsection (a) of this section shall be printed in a  
8 typeface large enough to be clearly legible. The Web site provided for in G.S. 90-21.84 shall be  
9 maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on the  
10 Web site shall be a minimum of 200x300 pixels. All letters on the Web site shall be a minimum  
11 of 12-point font. All information and pictures shall be accessible with an industry-standard  
12 browser, requiring no additional plug-ins.

13 (c) The materials required under this section shall be available at no cost from the  
14 Department upon request and in appropriate numbers to any physician, person, health facility,  
15 hospital, or qualified professional.

16 **"§ 90-21.84. Internet Web site.**

17 The Department shall develop and maintain a stable Internet Web site to provide the  
18 information described under G.S. 90-21.83. No information regarding who accesses the Web  
19 site shall be collected or maintained. The Department shall monitor the Web site on a regular  
20 basis to prevent and correct tampering.

21 **"§ 90-21.85. Ultrasound requirement.**

22 (a) Notwithstanding G.S. 14-45.1, except in the case of a medical emergency, in order  
23 for the woman to make an informed decision, at least four hours before a woman having any  
24 part of an abortion performed or induced, and before the administration of any anesthesia or  
25 medication in preparation for the abortion on the woman, the physician who is to perform the  
26 abortion, or qualified technician working in conjunction with the physician, shall do each of the  
27 following:

- 28 (1) Perform an obstetric ultrasound on the pregnant woman.
- 29 (2) Provide a simultaneous explanation of what the ultrasound is depicting,  
30 which shall include the presence, location, and dimensions of the unborn  
31 child within the uterus and the number of unborn children depicted. The  
32 individual performing the ultrasound shall offer the pregnant woman the  
33 opportunity to hear the fetal heart tone. The ultrasound image and  
34 auscultation of fetal heart tone shall be of a quality consistent with the  
35 standard medical practice in the community. If the ultrasound image  
36 indicates that fetal demise has occurred, a woman shall be informed of that  
37 fact.
- 38 (3) Display the ultrasound images so that the pregnant woman may view them.
- 39 (4) Provide a medical description of the ultrasound images, which shall include  
40 the dimensions of the embryo or fetus and the presence of external members  
41 and internal organs, if present and viewable.
- 42 (5) Obtain a written certification from the woman, before the abortion, that the  
43 requirements of this section have been complied with, which shall indicate  
44 whether or not she availed herself of the opportunity to view the ultrasound  
45 image.
- 46 (6) Retain a copy of the written certification prescribed by subdivision (a)(5) of  
47 this section. The certification shall be placed in the medical file of the  
48 woman and shall be kept by the abortion provider for a period of not less  
49 than seven years. If the woman is a minor, then the certification shall be

1           placed in the medical file of the minor and kept for at least seven years or for  
2           five years after the minor reaches the age of majority, whichever is greater.  
3 If the woman has had an obstetric ultrasound within 72 hours before the abortion is to be  
4 performed, the certification of the physician or qualified technician who performed the  
5 ultrasound in compliance with this subsection shall be included in the patient's records and the  
6 requirements under this subsection shall be deemed to have been met.

7        (b) Nothing in this section shall be construed to prevent a pregnant woman from  
8 averting her eyes from the ultrasound images required to be provided to and reviewed with her.  
9 Neither the physician nor the pregnant woman shall be subject to any penalty if she declines to  
10 look at the presented ultrasound images.

11        (c) In the event the person upon whom the abortion is to be performed is an  
12 unemancipated minor, as defined in G.S. 90-21.6(1), the information described in subdivisions  
13 (a)(2) and (a)(4) of this section shall be furnished and offered respectively to a person required  
14 to give parental consent under G.S. 90-21.7(a) and the unemancipated minor. The person  
15 required to give consent in accordance with G.S. 90-21.7(a), as appropriate, shall make the  
16 certification required by subdivision (a)(5) of this section. In the event the person upon whom  
17 the abortion is to be performed has been adjudicated mentally incompetent by a court of  
18 competent jurisdiction, the information shall be furnished and offered respectively to her  
19 spouse or a legal guardian if she is married or, if she is not married, to one parent or a legal  
20 guardian and the woman. The spouse, legal guardian, or parent, as appropriate, shall make the  
21 certification required by subdivision (a)(5) of this section. In the case of an abortion performed  
22 pursuant to a court order under G.S. 90-21.8(e) and (f), the information described in  
23 subdivisions (a)(2) and (a)(4) of this section shall be provided to the minor, and the certification  
24 required by subdivision (a)(5) of this section. shall be made by the minor.

25 **"§ 90-21.86. Procedure in case of medical emergency.**

26        When a medical emergency compels the performance of an abortion, the physician shall  
27 inform the woman, before the abortion if possible, of the medical indications supporting the  
28 physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay will  
29 create a serious risk of substantial and irreversible impairment of a major bodily function, not  
30 including psychological or emotional conditions. As soon as feasible, the physician shall  
31 document in writing the medical indications upon which the physician relied and shall cause  
32 the original of the writing to be maintained in the woman's medical records and a copy given to  
33 her.

34 **"§ 90-21.87. Informed consent for a minor.**

35        If the woman upon whom an abortion is to be performed is an unemancipated minor, the  
36 voluntary and informed written consent required under G.S. 90-21.82 shall be obtained from  
37 the minor and from the adult individual who gives consent pursuant to G.S. 90-21.7(a).

38 **"§ 90-21.88. Reporting requirements.**

39        (a) Reporting Form. – Within 90 days after this Article becomes effective, the  
40 Department shall prepare a reporting form for physicians containing a reprint of this Article,  
41 which lists the following:

42           (1) The number of women to whom the physician performing the abortion,  
43 referring physician, or qualified technician provided the information  
44 described in G.S. 90-21.82(1); of that number, the number provided by  
45 telephone and the number provided in person; and of each of those numbers,  
46 the number provided in the capacity of the physician performing the  
47 abortion, the number provided by a referring physician, and the number  
48 provided by a qualified technician.

49           (2) The number of women to whom the physician performing the abortion,  
50 referring physician, or qualified technician provided the information  
51 described in G.S. 90-21.82(2); of that number, the number provided by

1 telephone and the number provided in person; of each of those numbers, the  
2 number provided by the physician performing the abortion, the number  
3 provided by a referring physician and the number provided by a qualified  
4 technician.

5 (3) The number of women who availed themselves of the opportunity to obtain a  
6 copy of the printed information described in G.S. 90-21.83, either in person  
7 or by mail, and the number who did not; and of each of those numbers, the  
8 number who, to the best of the reporting physician's or qualified technician's  
9 information and belief, went on to obtain the abortion.

10 (4) The number of women to whom the physician provided an ultrasound as  
11 described in G.S. 90-21.85; of that number, the number of women who  
12 viewed the ultrasound and the number that did not; of that number, the  
13 number that decided to proceed with the abortion.

14 (5) The number of abortions performed by the physician in which information  
15 otherwise required to be provided at least 24 hours before the abortion was  
16 not so provided because an immediate abortion was necessary to avert the  
17 woman's death, and the number of abortions in which the information was  
18 not so provided because a delay would create serious risk of substantial and  
19 irreversible physical impairment of a major bodily function, not including  
20 psychological or emotional conditions.

21 (b) Distribution of Forms. – The Department shall ensure that copies of the reporting  
22 forms described in subsection (a) of this section are provided as follows:

23 (1) Within 120 days after this act becomes effective, to all physicians licensed to  
24 practice in this State.

25 (2) To each physician who subsequently becomes newly licensed to practice in  
26 this State, at the same time as official notification to that physician that the  
27 physician is so licensed.

28 (3) On or before December 1 of each year, other than the calendar year in which  
29 forms are distributed in accordance with subdivision (1) of this subsection,  
30 to all physicians licensed to practice in this State.

31 (c) Reporting Requirement. – On or before February 28 of each year following a  
32 calendar year in any part of which this act was in effect, each physician who provided, or  
33 whose qualified technician provided, information to one or more women in accordance with  
34 this section during the previous calendar year shall submit to the Department a copy of the form  
35 described in subsection (a) of this section, with the requested data entered accurately and  
36 completely.

37 (d) Failure to Report as Required. – Reports that are not submitted by the end of a  
38 30-day grace period following the due date shall be subject to a late fee of five hundred dollars  
39 (\$500.00) for each additional 30-day period or portion of a 30-day period they are overdue.  
40 Any physician required to report in accordance with this section who has not submitted a  
41 report, or has submitted only an incomplete report, more than one year following the due date,  
42 may, in an action brought by the Department, be directed by a court of competent jurisdiction  
43 to submit a complete report within a period stated by court order or be subject to sanctions for  
44 civil contempt.

45 (e) Public Statistics. – On or before June 30 of each year the Department shall issue a  
46 public report providing statistics for the previous calendar year compiled from all of the reports  
47 covering that year submitted in accordance with this section for each of the items listed in  
48 subsection (a) of this section. Each such report shall also provide the statistics for all previous  
49 calendar years, adjusted to reflect any additional information from late or corrected reports. The  
50 Department shall take care to ensure that none of the information included in the public reports

1 could reasonably lead to the identification of any individual about whom information was  
2 provided in accordance with subsection (c) of this section.

3 (f) Modifications by Rule. – The Department may, by rule, alter the dates established in  
4 this section or consolidate the forms or reports described in this section with other forms or  
5 reports to achieve administrative convenience or fiscal savings or to reduce the burden of  
6 reporting requirements, so long as reporting forms are provided to all licensed physicians in the  
7 State at least once every year and the report described in subsection (e) of this section is issued  
8 at least once every year.

9 **"§ 90-21.89. Civil remedies.**

10 (a) Any person upon whom an abortion has been performed and any father of an unborn  
11 child that was the subject of an abortion may maintain an action for damages against the person  
12 who performed the abortion in knowing or reckless violation of this Article. Any person upon  
13 whom an abortion has been attempted may maintain an action for damages against the person  
14 who performed the abortion in willful violation of this Article.

15 (b) Injunctive relief against any person who has willfully violated this Article may be  
16 sought by and granted to (i) the woman upon whom an abortion was performed or attempted to  
17 be performed in violation of this Article, (ii) any person who is the spouse, parent, sibling, or  
18 guardian of, or a current or former licensed health care provider of, the woman upon whom an  
19 abortion has been performed or attempted to be performed in violation of this Article, or (iii)  
20 the Attorney General. The injunction shall prevent the abortion provider from performing or  
21 inducing further abortions in this State in violation of this Article.

22 (c) If judgment is rendered in favor of the plaintiff in any action authorized under this  
23 section, the court shall also tax as part of the costs reasonable attorneys' fees in favor of the  
24 plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court  
25 finds that the plaintiff's suit was frivolous or brought in bad faith, then the court shall tax as part  
26 of the costs reasonable attorneys' fees in favor of the defendant against the plaintiff.

27 **"§ 90-21.90. Protection of privacy in court proceedings.**

28 In every proceeding or action brought under this Article, the court shall rule whether the  
29 anonymity of any woman upon whom an abortion has been performed or attempted shall be  
30 preserved from public disclosure if she does not give her consent to the disclosure. The court,  
31 upon motion or sua sponte, shall make the ruling and, upon determining that her anonymity  
32 should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the  
33 sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the  
34 extent necessary to safeguard her identity from public disclosure. Each order issued pursuant to  
35 this section shall be accompanied by specific written findings explaining (i) why the anonymity  
36 of the woman should be preserved from public disclosure, (ii) why the order is essential to that  
37 end, (iii) how the order is narrowly tailored to serve that interest, and (iv) why no reasonable  
38 less restrictive alternative exists. In the absence of written consent of the woman upon whom an  
39 abortion has been performed or attempted, anyone who brings an action under G.S. 90-21.89  
40 (a) or (b) shall do so under a pseudonym. This section may not be construed to conceal the  
41 identity of the plaintiff or of witnesses from the defendant.

42 **"§ 90-21.91. Assurance of informed consent.**

43 (a) All information required to be provided under G.S. 90-21.82 to a woman  
44 considering abortion shall be presented to the woman individually and, except for information  
45 that may be provided by telephone, in the physical presence of the woman and in a language  
46 the woman understands to ensure that the woman has adequate opportunity to ask questions and  
47 to ensure the woman is not the victim of a coerced abortion.

48 (b) Should a woman be unable to read the materials provided to the woman pursuant to  
49 this section, a physician or qualified professional shall read the materials to the woman in a  
50 language the woman understands before the abortion.

51 **"§ 90-21.92. Assurance that consent is freely given.**



1 If a physician acting pursuant to this Article has reason to believe that a woman is being  
2 coerced into having an abortion, the physician or qualified professional shall inform the woman  
3 that services are available for the woman and shall provide the woman with private access to a  
4 telephone and information including, but not limited to, any of the following services:

- 5 (1) Rape crisis centers.
- 6 (2) Shelters for victims of domestic violence.
- 7 (3) Restraining orders.

8 **"§ 90-21.93. Severability.**

9 If any one or more provision, section, subsection, sentence, clause, phrase, or word of this  
10 Article or the application thereof to any person or circumstance is found to be unconstitutional,  
11 the same is hereby declared to be severable and the balance of this Article shall remain  
12 effective, notwithstanding such unconstitutionality. The General Assembly hereby declares that  
13 it would have passed this Article, and each provision, section, subsection, sentence, clause,  
14 phrase, or word thereof, irrespective of the fact that any one or more provision, section,  
15 subsection, sentence, clause, phrase, or word be declared unconstitutional."

16 **SECTION 2.** G.S. 90-21.7 reads as rewritten:

17 **"§ 90-21.7. Parental consent required.**

18 (a) No physician licensed to practice medicine in North Carolina shall perform an  
19 abortion upon an unemancipated minor unless the physician or agent thereof or another  
20 physician or agent thereof first obtains the written consent of the minor and of:

- 21 (1) A parent with custody of the minor; or
- 22 (2) The legal guardian or legal custodian of the minor; or
- 23 (3) A parent with whom the minor is living; or
- 24 (4) A grandparent with whom the minor has been living for at least six months  
25 immediately preceding the date of the minor's written consent.

26 (a1) The written consent required by subsection (a) of this section shall be signed and  
27 acknowledged before a notary public. The physician shall retain in the medical records of the  
28 minor a copy of the written notarized consent required by this subsection for at least seven  
29 years or for five years after the minor reaches the age of majority, whichever is greater.

30 (b) The pregnant minor may petition, on her own behalf or by guardian ad litem, the  
31 district court judge assigned to the juvenile proceedings in the district court where the minor  
32 resides or where she is physically present for a waiver of the parental consent requirement if:

- 33 (1) None of the persons from whom consent must be obtained pursuant to this  
34 section is available to the physician performing the abortion or the  
35 physician's agent or the referring physician or the agent thereof within a  
36 reasonable time or manner; or
- 37 (2) All of the persons from whom consent must be obtained pursuant to this  
38 section refuse to consent to the performance of an abortion; or
- 39 (3) The minor elects not to seek consent of the person from whom consent is  
40 required."

41 **SECTION 3.** The Department of Health and Human Services shall use funds  
42 appropriated to it in implementing this act.

43 **SECTION 4.** This act becomes effective 90 days after it becomes law and applies  
44 to claims for relief arising on or after December 1, 2011.