SENATE BILL 202

Introduced by Harding, et al.

1/19	Introduced	
1/19	Referred to Judiciary	
1/19	First Reading	
1/19	Fiscal Note Requested	
1/28	Fiscal Note Received	
2/02	Fiscal Note Printed	
2/03	Hearing	
2/22	Committee ReportBill Passed as Amen	ded
2/23		
2/24	3rd Reading Passed	
	Transmitted to House	
3/01	Referred to Judiciary	
3/01		
3/15	Tabled in Committee	

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1	BILL NO.
2	INTRODUCED BY Harding Son Bruke Wan Testing
3	Conticed in 45 hear Pack NATHE Whalen
4	A BILL FOR AN ACT ENTITLED! "AN ACT CLARIFYING A WOMAN'S Engine
5	RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING
6	INFORMED CONSENT IN THE MONTANA ABORTION CONTROL ACT;
7	REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED BUTA
8	AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND AN CALLE
9	OPPORTUNITY TO VIEW AN ULTRASOUND VIDEOTAPE; PROVIDING CIVIL Farmet
10	damages for an abortion performed without informed and film it
11	VOLUNTARY CONSENT; AND AMENDING SECTIONS 50-20-104
12	50-20-106, AND 50-20-112, MCA."
13	Smith
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	Section 1. Section 50-20-104, MCA, is amended to read:
16	*50-20-104. Definitions. As used in this chapter, the
17	following definitions apply:
18	(1) "Abortion" means the performance-ofy-assistance-or

participation-in-the-performance-of;-or-submission-to-an-act

or-operation-intended-to-terminate-a-prequancy-without--live

birth intentional use or prescription of any instrument,

medicine, drug, or other substance or device to terminate

the pregnancy of a woman known to be pregnant, other than to

increase the probability of a live birth, to preserve the

life or health of the child after a live birth, or to remove

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3	environmental sciences provided for in Title 2, chapter 15
4	part 21.
5	(3) "Facility" means a hospital, health care facility
6	physician's office, or other place in which an abortion is
7	performed.
8	(4)"Informed-consent"-means-voluntaryconsenttoa
9	abortionbythewomanuponwhomtheabortion-is-to-be
10	performed-only-after-full-disclosure-to-her-by-the-physicia
11	who-is-to-perform-the-abortionofsuchofthefollowing
12	information-as-is-reasonably-chargeable-to-the-knowledge-o
13	the physician in his professional capacity:
14	ta)the-stage-of-development-of-the-fetus;themethod
15	of-abortion-to-be-utilizedy-and-the-effects-of-such-abortion
16	method-upon-the-fetus;
17	(b)the-physical-and-psychological-effects-of-abortion
18	and
19	(c)availablealternativestoabortion;including
20	childbirth-and-adoption-
21	(4) "Medical emergency" means a condition that, base
22	on a physician's good faith clinical judgment, s
23	complicates the medical condition of a pregnant woman as to
24	necessitate the immediate abortion of the woman's pregnanc

(2) "Department" means the department of health and

a dead fetus.

to avert the woman's death or for which a delay will create

1	serious risk of substantial and irreversible impairment of	a
2	major bodily_function.	

- means the age that, in the judgment of the physician, will with reasonability be the gestational age of the unborn child at the time the abortion is planned to be performed.
- 7 (5)(6) "Viability" means the ability of a fetus to live 8 outside the mother's womb7--albeit--with by natural or 9 artificial aid life-support systems.
 - (7) "Woman" means a female person."

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- 11 Section 2. Section 50-20-106, MCA, is amended to read:
 - "50-20-106. Consent Informed and voluntary consent to abortion medical emergency exception. (1) No An abortion may not be performed upon—any—woman in the absence of informed and voluntary consent by the woman upon whom the abortion is to be performed.
 - (2)--Informed-consent-may--be--evidenced--by--a--written statement--in-a-form-prescribed-by-the-department-and-signed by-the-physician-and-the-woman-upon-whom-the-abortion-is--to be--performed--in--which-the-physician-certifies-that-he-has made-the-full-disclosure-provided--in--50-20-104(4)--and--in which--the--woman--upon-whom-the-abortion-is-to-be-performed acknowledges-that-the-above-disclosures-have--been--made--to her-and-that-she-voluntarily-consents-to-the-abortion-
- 25 (3)--The--above--informed--consent--or--consent--is--not

- required--if--a-licensed-physician-certifies-the-abortion-is
 necessary-to-preserve-the-life-of-the-mother-
- 3 (2) Except in the case of a medical emergency, consent
 4 to an abortion is informed and voluntary only if the
 5 provisions of subsections (3) through (9) are met.
- 6 (3) The information required by subsections (4) and (5)
 7 must be provided to a woman at least 24 hours before an
 8 abortion.
- 9 (4) The physician who is to perform the abortion or the 10 referring physician shall tell the woman:
- 11 (a) the name of the physician who will perform the 12 abortion;
- 13 (b) the probable gestational age of the unborn child at
 14 the time the abortion is to be performed:
- 15 (c) the particular medical risks associated with the
 16 particular abortion procedure to be used, including, when
 17 medically accurate, the risks of infection, hemorrhage,
- 18 danger to subsequent pregnancies, and infertility; and
- 19 (d) the medical risks associated with carrying the 20 child to full term.
- 21 (5) The physician who is to perform the abortion, the 22 referring physician, or the agent of either shall tell the 23 woman that:
- 24 (a) medical assistance benefits may be available for
 25 prenatal care, childbirth, and neonatal care;

1 (b) the father is liable to assist in the support of
2 the woman's child even if the father has offered to pay for
3 the abortion;

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- (c) the woman has a right to view the ultrasound videotape provided by the department of an unborn child in the womb at 2-week gestational increments from the time a woman can be known to be pregnant until full term;
- (d) the woman has a right to review printed material provided by the department describing the unborn child and listing agencies that offer alternatives to abortion; and
- 12 informed and voluntary consent to the abortion.
- 13 (6) If the woman chooses to view the ultrasound
 14 videotape or review the printed material, or both, the
 15 physician or the physician's agent shall furnish them to the
 16 woman.
- 17 (7) Prior to an abortion, the woman upon whom the
 18 abortion is to be performed shall certify in writing, on a
 19 form prescribed by the department, that:
- 20 (a) the information described in subsections (4) and
 21 (5) has been furnished; and
- 22 (b) the woman has been informed of the right to review
 23 the information described in subsections (5)(c) and (5)(d).
- 24 (8) Prior to an abortion, the physician who is to 25 perform the abortion or the physician's agent must have

- received a copy of the written certification required in subsection (7).
- (9) If a medical emergency compels the performance of
 an abortion, the physician shall, prior to the abortion if
- 5 possible, inform the woman of the medical indications
- 6 supporting the physician's judgment that an abortion is
- 7 necessary to avert the woman's death or that a delay will
- 8 create serious risk of substantial and irreversible
- 9 impairment of a major bodily function.
- 10 (10) An executive officer, administrative
 11 agency, or public employee of the state or of any local
- 12 governmental body has--power--to may not issue any order
- 13 requiring an abortion or shall coerce any woman to have an
- 14 abortion. nor--shall-any A person may not coerce any woman
- 15 to have an abortion.
- 16 (5)(11) Violation of subsections (1) and (4) (10) of
- 17 this section is a misdemeanor."
- 18 Section 3. Section 50-20-112, MCA, is amended to read:
- 19 *50-20-112. Penalties. (1) A person convicted of
- 20 deliberate, mitigated, or negligent homicide under this
- 21 chapter is subject to the penalties prescribed by 45-5-102
- 22 through 45-5-104.
- 23 (2) A person convicted of a felony other tha
- 24 deliberate, mitigated, or negligent homicide under this
- 25 chapter is subject to a fine not to exceed \$1,000,

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imprisonment in the state prison for a term not to exceed 5 years, or both.

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- (3) A person convicted of a misdemeanor under this chapter is subject to a fine not to exceed \$500, imprisonment in the county jail for a term not to exceed 6 months, or both.
- (4) A penalty may not be assessed against a woman upon whom the abortion is performed or attempted to be performed.
- (5) If the department has not made printed material available when the physician, the referring physician, or the agent of either is required to inform a woman of the right to review it, a criminal or civil penalty may not be imposed for failure to comply with 50-20-106(5)(d) or (7) requiring written certification that a woman has been given an opportunity to review the information.
- (6) If the department has not made the ultrasound videotape available when the physician, the referring physician, or the agent of either is required to inform the woman of the right to view it, a criminal or civil penalty may not be imposed for failure to comply with section 50-20-106(5)(c) or (7) requiring written certification that the woman has been informed of the right to view the ultrasound videotape."
- NEW SECTION. Section 4. Printed information. Within 60 days of [the effective date of this act], the department

- shall publish the following in legible, large typeface and make available upon request at no cost to any person, facility, or hospital:
- 4 (1) geographically indexed material designed to inform
 5 a woman of public and private agencies and services,
 6 including adoption agencies and services, that are available
 7 to assist a woman through pregnancy, following childbirth,
 8 and while the child is dependent. The material must include:
 - (a) a comprehensive list of the agencies available; and
- 10 (b) a description of the services offered by the
 11 available agencies, including the telephone numbers of the
 12 agencies; and
- 13 (2) material designed to inform the woman of the 14 probable anatomical and physiological characteristics of the 15 unborn child at 2-week gestational increments from the time 16 a woman can be known to be pregnant until full term, 17 including any color pictures or drawings representing the 18 development of unborn children at 2-week gestational 19 increments containing the dimensions of the fetus that are 20 realistic and appropriate for the stage of pregnancy depicted. The material must be objective, nonjudgmental, and 21 22 designed to convey only accurate, scientific information 23 about the unborn child at the various gestational ages, 24 including:
- 25 (a) objective information describing the methods of

1 abortion procedures commonly used;

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- 2 (b) any relevant information on the possibility of the 3 unborn child's survival;
- 4 (c) the medical risks commonly associated with each abortion procedure;
- 6 (d) the possible detrimental psychological effects of 7 abortion; and
- 8 (e) the medical risks commonly associated with carrying9 a child to term.
- NEW SECTION. Section 5. Ultrasound 10 required. (1) 11 Within 60 days of [the effective date of this act], the department shall provide a videotape containing ultrasound 12 13 motion pictures of unborn children in the womb that is 14 designed to inform a viewer of the probable anatomical and physiological characteristics of an unborn child at 2-week 15 16 gestational increments from the time a woman can be known to 17 be pregnant until full term.
 - (2) The ultrasound must be objective, nonjudgmental, and designed to convey only accurate, scientific information about an unborn child at the various gestational ages.
- 21 (3) The ultrasound must be available at no cost from 22 the department upon request to any person, facility, or 23 hospital.
- NEW SECTION. Section 6. Anonymity of a woman. (1) If a woman upon whom an abortion has been performed or attempted

- does not consent to be publicly named in a civil or criminal
- 2 action brought for violation of 50-20-104, 50-20-106,
- 3 50-20-112, or [sections 4 through 8], the court shall rule,
- 4 upon motion by either party, whether the identity of the
- 5 woman must be preserved from public disclosure.
- 6 (2) If the court rules that the woman's anonymity
- 7 should be preserved, the court shall issue the order to the
- 8 parties, witnesses, and attorneys; order the court records
- 9 to be sealed; and exclude persons from the court room to the
- 10 extent necessary to protect the woman's identity from public
- 11 disclosure.
- 12 (3) The court order must be accompanied by a written
- 13 statement explaining:
- 14 (a) why the name of the woman should not be publicly
- 15 disclosed:
- 16 (b) why the order is essential in protecting the
- 17 woman's anonymity;
- 18 (c) how the order is narrowly tailored to protect the
- 19 woman's anonymity; and
- 20 (d) why a reasonable, less restrictive alternative does
- 21 not exist.
- 22 (4) If a woman upon whom an abortion has been performed
- 23 or attempted does not give written consent, any person,
- 24 other than a public official, who brings an action under
- 25 [section 7] shall do so under a pseudonym.

- 1 (5) This section may not be construed to conceal from 2 the defendant the identity of a plaintiff or of the 3 witnesses.
- NEW SECTION. Section 7. Performance 4 ο£ abortion without informed consent -- civil damages. (1) A woman upon an abortion has been performed in violation of 50-20-104, 50-20-106, 50-20-112, or [sections 4 through 8], the father of the unborn child who was the subject of the 9 abortion, or a grandparent of the unborn child may file a 10 civil action for \$10,000 in punitive damages and treble the actual damages against the person who performed the 11 12 abortion.
 - (2) A woman upon whom an abortion has been attempted in violation of 50-20-104, 50-20-106, 50-20-112, or [sections 4 through 8] may file a civil action for \$5,000 in punitive damages and treble the actual damages against the person who attempted to perform the abortion.

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- (3) The court shall grant reasonable attorney fees to:
- 19 (a) a plaintiff obtaining a judgment under subsection
 20 (1) or (2); or
- 21 (b) the defendant if the plaintiff does not obtain a 22 judgment and if the court finds that the plaintiff's civil 23 action was frivolous or brought in bad faith.
- 24 (4) An intentional violation of 50-20-104, 50-20-106,
 25 50-20-112, or (sections 4 through 8) is admissible in a

- l civil action as prima facie evidence of a failure to obtain
- 2 informed and voluntary consent.
- 3 NEW SECTION. Section 8. Codification instruction.
- 4 [Sections 4 through 8] are intended to be codified as an
- 5 integral part of Title 50, chapter 20, part 1, and the
- 6 provisions of Title 50, chapter 20, part 1, apply to
- 7 [sections 4 through 8].
- 8 NEW SECTION. Section 9. Severability. If a part of
- 9 [this act] is invalid, all valid parts that are severable
- 10 from the invalid part remain in effect. If a part of [this
- 11 act] is invalid in one or more of its applications, the part
- 12 remains in effect in all valid applications that are
- 13 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0202, as introduced.

<u>DESCRIPTION OF PROPOSED LEGISLATION</u>: An act clarifying a woman's right to know certain facts prior to abortion; requiring that a woman contemplating an abortion be provided an opportunity to review certain printed material and an opportunity to view an ultrasound videotape.

ASSUMPTIONS:

- 1. Each pregnant woman in Montana would be given an opportunity to review printed materials, ultrasound videotape, and service directory. In 1991, 14,812 pregnancy outcomes were reported in Montana.
- 2. Information would be disseminated from the Helena-based Department of Health and Environmental Sciences (DHES) at no cost to hospitals, health care facilities, physicians, and other places in which an abortion may be performed.
- 3. Information sources, such as the service directory, would have to be designed, developed, and published to be specific to Montana. An informational brochure or training on the new law and resources available would meet the basic requirements.
- 4. The DHES would purchase 1,258 video tapes in FY94 and 125 video tapes in FY95 at an average cost of \$100 (training tapes considered range in price from \$29.95 to \$275.00 and a medium price is used) for a total of \$125,800 in FY94
- 5. The DHES would purchase about 14,800 brochures at an average cost of \$2.00 per recipient (\$29,624 each fiscal year).
- Postage costs would be \$5,800 for FY94 and \$580 for FY95.
- 7. Each facility has the audio-visual equipment to display the video.
- 8. Existing staff in the DHES could assume the additional duties to perform the proposed tasks.
- 9. A contract will be awarded for the development of a resource directory at a cost of \$10,000 in FY94.
- 10. An estimate for enforcement via penalties has not been considered in the development of the fiscal note.
- 11. In 1987, Montana had 1,177 active physicians, 66 hospitals, and 15 family planning facilities
- 12. The DHES will need a general fund appropriation of \$170,424 in FY94 and \$42,704 in FY95.

FISCAL IMPACT:	FY '94			FY '95		
	Current Law	Proposed Law	<u>Difference</u>	Current Law	Proposed Law	Difference
Expenditures: Operating Expenses	0	\$170,424	\$170,424	0	\$42,704	\$42,704
<u>Funding:</u> General Fund	0	\$170,424	\$170,424	0	\$42,704	\$42,704

(continued)

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

ETHEL HARDING, PRIMARY SPONSOR

Fiscal Note for SB0202, as introduced

Fiscal Note Request, <u>SB0202</u>, as introduced Form BD-15 page 2 (continued)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Because DHES is the sole source of the information, there is minimal effect on counties or local revenues.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation would be difficult to enforce without the assistance of a peer review/licensing entity.

APPROVED BY COMMITTEE ON JUDICIARY

1	SENATE BILL NO. 202
2	INTRODUCED BY HARDING, BRUSKI-MAUS, KEATING, GROSFIELD, REA,
3	SWIFT, TVEIT, B. BROWN, PECK, KENNEDY, NATHE, CRIPPEN,
4	WHALEN, BERGMAN, RYE, KASTEN, BIRD, GALVIN, MENAHAN,
5	BARNETT, KOEHNKE, GRIMES, MOLNAR, SMITH
6	
7	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A WOMAN'S
8	RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING
9	INFORMEDCONSENTINTHEMONTANAABORTIONCONTROLACT;
.0	REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED
.1	AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND-AN
.2	OPPORTUNITY-TO-VIEW-AN-ULTRASOUND-VIDEOTAPE;-PROVIDING-CIVIL
.3	DAMAGES-FORANABORTIONPERFORMEDWITHOUTINFORMEDAND
.4	VOLUNTARYCONSENT; AND AMENDING SECTIONS 50-20-1047 AND
.5	50-20-106, AND-50-20-112, MCA."
١6	
L7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
18	Section 1. Section 50-20-104, MCA, is amended to read:
19	"50-20-104. Definitions. As used in this chapter, the
20	following definitions apply:
21	(1) "Abortion" means the performance-ofy-assistance-or
22	participation-in-the-performance-of,-or-submission-to-an-act
23	or-operation-intended-to-terminate-a-pregnancy-withoutlive
24	hith intentional

medicine_-drug_-or-other-substance-or--device--to--terminate

2	increase-the-probability-of-a-live-birthy-to-preserve-the
3	life-or-health-of-the-child-after-a-live-birth,-or-to-remove
4	a-dead-fetus PERFORMANCE OF, ASSISTANCE OR PARTICIPATION IN
5	THE PERFORMANCE OF, OR SUBMISSION TO AN ACT OR OPERATION
6	INTENDED TO TERMINATE A PREGNANCY WITHOUT LIVE BIRTH.
7	(2) "Department" means the department of health and
8	environmental sciences provided for in Title 2, chapter 15,
9	part 21.
10	(3) "Facility" means a hospital, health care facility,
11	physician's office, or other place in which an abortion is
12	performed.
13	(4)"Informed-consent"-means-voluntaryconsenttoan
14	abortionbythewomanuponwhomtheabortion-is-to-be
15	performed-only-after-full-disclosure-to-her-by-the-physician
16	who-is-to-perform-the-abortionofsuchofthefollowing
17	informationas-is-reasonably-chargeable-to-the-knowledge-of
18	the-physician-in-his-professional-capacity:
19	<pre>fa)the-stage-of-development-of-the-fetus;themethod</pre>
20	of-abortion-to-be-utilized,-and-the-effects-of-such-abortion
21	method-upon-the-fetus;
22	(b)the-physical-and-psychological-effects-of-abortion;
23	and
24	<pre>fc}availablealternativestoabortion;including</pre>
25	childbirth-and-adoption-

the-pregnancy-of-a-woman-known-to-be-pregnanty-other-than-to

SB 202

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(4)	"INFORM	ED CONSE	T" MEAL	S VOL	UNTARY	CONSEN	т то	AN
ABORTION	BY TE	E WOMAN	UPON	WHOM	THE	ABORTION	IS TO	BE
PERFORMED	ONLY A	FTER FULI	DISCLO	SURE	TO HER	BY THE	PHYSIC	IAN
WHO IS TO	PERFOR	M THE ABO	ORTION.	OF S	исн с	F THE	FOLLOW	I NG
INFORMATI	ON AS	IS REASO	NABLY C	IARGEA	BLE TO	THE KNC	WLEDGE	OF
THE PHYSI	CIAN IN	HIS PROF	PESSION	AL CAP	ACITY:			

- 7 (A) THE STAGE OF DEVELOPMENT OF THE FETUS, THE METHOD
 8 OF ABORTION TO BE UTILIZED, AND THE EFFECTS OF THE ABORTION
 9 METHOD UPON THE FETUS;
- 10 (B) THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF ABORTION;
 11 AND
- 12 (C) AVAILABLE ALTERNATIVES TO ABORTION, INCLUDING
 13 CHILDBIRTH AND ADOPTION.

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- the feature of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.
- this description is planned to be performed.
- 25 (5)(6)--"Wiability"-means-the-ability-of-a-fetus-to-live

- outside--the--mother's--womb;--albeit--with by--natural--or
 artificial-aid life-support-systems;
- 3 (7) "Woman" means a female person."
- Section 2. Section 50-20-106, MCA, is amended to read:
- 5 **50-20-106. Consent Informed and voluntary consent to
 6 abortion -- medical emergency exception. (1) No An abortion
 7 may not be performed upon--any--woman in the absence of
 8 informed and voluntary consent by the woman upon whom the
 9 abortion is to be performed.
 - (2)--Informed--consent--may--be--evidenced--by-a-written
 statement-in-a-form-prescribed-by-the-department-and--signed
 by--the-physician-and-the-woman-upon-whom-the-abortion-is-to
 be-performed-in-which-the-physician-certifies--that--he--has
 made--the--full--disclosure--provided-in-50-20-104(4)-and-in
 which-the-woman-upon-whom-the-abortion-is--to--be--performed
 acknowledges--that--the--above-disclosures-have-been-made-toher-and-that-she-voluntarily-consents-to-the-abortion-
 - (3)--The--above--informed--consent--or--consent--is--not
 required-if-a-licensed-physician-certifies-the--abortion--is
 necessary-to-preserve-the-life-of-the-mother:
 - (2) INFORMED CONSENT MAY BE EVIDENCED BY A WRITTEN
 STATEMENT IN A FORM PRESCRIBED BY THE DEPARTMENT AND SIGNED
 BY THE PHYSICIAN AND THE WOMAN UPON WHOM THE ABORTION IS TO
 BE PERFORMED IN WHICH THE PHYSICIAN CERTIFIES THAT HE HAS
 MADE THE FULL DISCLOSURE PROVIDED IN 50-20-104(4) AND IN

1	WHICH THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED	1	(5)(7) The physician who is to perform the abortion,
2	ACKNOWLEDGES THAT THE ABOVE DISCLOSURES HAVE BEEN MADE TO	2	the referring physician, or the agent of either shall tell
3	HER AND THAT SHE VOLUNTARILY CONSENTS TO THE ABORTION.	3	the woman that:
4	(3) THE ABOVE INFORMED CONSENT OR CONSENT IS NOT	4	ta)medicalassistancebenefitsmay-be-available-for
5	REQUIRED IF A LICENSED PHYSICIAN CERTIFIES THAT THE ABORTION	5	prenatal-care;-childbirth;-and-neonatal-care;
6	IS NECESSARY TO PRESERVE THE LIFE OF THE MOTHER.	6	<pre>tb)the-father-is-liable-to-assist-inthesupportof</pre>
7	(2)(4) Except in the case of a medical emergency,	7	thewoman's-child-even-if-the-father-has-offered-to-pay-for
8	consent to an abortion is informed and voluntary only if the	8	the-abortion;
9	provisions of subsections (3)-through-(9) (5) THROUGH (10)	9	(c)the-womanhasarighttoviewtheultrasound
10	are met.	10	videotapeprovidedby-the-department-of-an-unborn-child-in
11	(3)(5) The information required by subsections (4)-and	11	the-womb-at-2-week-gestational-increments-fromthetimea
12	(5) (6) AND (7) must be provided to a woman atleast24	12	woman-can-be-known-to-be-pregnant-until-full-term;
13	hours before an abortion.	13	(d)(A) the woman has a right to review printed material
14	(4)(6) The physician who is to perform the abortion or	14	provided by the department describing the unborn child and;
15	the referring physician shall tell the woman:	15	listing agencies that offer alternatives to abortion;
16	(a) the name of the physician who will perform the	16	DESCRIBING THE MEDICAL AND PSYCHOLOGICAL EFFECTS ASSOCIATED
17	abortion;	17	WITH PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WITH
18	(b) the probable gestational age of the unborn child at	18	PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD IS
19	the time the abortion is to be performed;	19	PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIED
20	(c) the particular medical risks associated with the	20	TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;
21	particular abortion procedure to be used, including, when	21	and
22	medically accurate, the risks of infection, hemorrhage,	22	<pre>te)(B) the woman is free to withhold or to withdraw</pre>
23	danger to subsequent pregnancies, and infertility; and	23	informed and voluntary consent to the abortion.
24	(d) the medical risks associated with carrying the	24	(6)Ifthewomanchoosestoviewtheultrasound
25	child to full term.	25	videotapeorreviewtheprintedmaterialyor-bothy-the

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1	physician-or-the-physician-s-agent-shall-furnish-them-to-the
2	woman
3	(7)(8) Prior to an abortion, the woman upon whom the
4 .	abortion is to be performed shall certify in writing, on a
5	form prescribed by the department, that:
6	(a) the information described in subsections +49and
7	(5) (6) AND (7) has been furnished; and
8	(b) the woman has been informed of the right to review
9	the information described in subsections-(5)(c)and(5)(d)
0	SUBSECTION (7)(A).
1	$t\theta$ (9) Prior to an abortion, the physician who is to
2	perform the abortion or the physician's agent must have
3	received a copy of the written certification required in
4	subsection (7) (8).
5	<pre>+9+(10) If a medical emergency compels the performance</pre>
6	of an abortion, the physician shall, prior to the abortion
7	if possible, inform the woman of the medical indications
8	supporting the physician's judgment that an abortion is
9	necessary to avert the woman's death or that a delay will
0	create serious risk of substantial and irreversible
1	impairment of a major bodily function.
2	(4)No $(10)(11)$ An executive officer, administrative
:3	agency, or public employee of the state or of any local
4	governmental body has-powerto may not issue any order

requiring an abortion or shall coerce any woman to have an

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1
     abortion; nor-shall-any A person may not coerce any woman
     to have an abortion.
 3
         t5)(11) Violation of subsections (1) and t4) (10)
 4
     (11) of this section is a misdemeanor."
 5
         Section-3.-Section-50-20-1127-MCA7-is-amended-to-read:--
 6
          7
     deliberate; -- mitigated; -- or -- negligent -- homicide -- under - this
     chapter-is-subject-to-the-penalties-prescribed--by--45-5-102
 9
     through-45-5-104-
          (2)--A---person---convicted---of--a--felony--other--than
10
11
     deliberate; -mitigated; --or--negligent--homicide--under--this
      chapter---is--subject--to--a--fine--not--to--exceed--$170007
12
13
      imprisonment-in-the-state-prison-for-a-term-not-to-exceed--5
14
      years,-or-both;
15
         +3)--A--person--convicted--of--a--misdemeanor-under-this
      chapter--is--subject--to--a--fine--not---to---exceed---95007
16
17
      imprisonment--in--the-county-jail-for-a-term-not-to-exceed-6
18
      months--or-both-
19
          +4)--A-penalty-may-not-be-assessed-against-a-woman--upon
20
      whom-the-abortion-is-performed-or-attempted-to-be-performed-
21
          #5}--#f--the--department--has--not-made-printed-material
22
      available-when-the-physiciany-the--referring--physiciany--or
23
      the--agent--of--either--is-required-to-inform-a-woman-of-the
24
      right-to-review-ity-a-crimingl-or-civil-penalty-may--not--be
25
      imposed-_for--failure--to-comply-with-50-20-106(5)(d)-or-(7)
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1	requiring-written-certification-that-a-woman-has-beengiven
2	an-opportunity-to-review-the-information:
3	+6
4	videotapeavailablewhenthephysician,thereferring
5	physician,or-the-agent-of-either-is-required-to-inform-the
6	woman-of-the-right-to-view-ity-a-criminal-orcivilpenalty
7	maynotbeimposedforfailuretocomply-with-section
8	50-20-106(5)(c)-or-(7)-requiring-written-certificationthat
9	thewomanhasbeeninformedoftherightto-view-the
10	ultrasound-wideotaper"
11	NEW SECTION. Section 3. Printed information. (1)
12	Within 60 ± 180 days of [the effective date of this act], the
13	department shall, SUBJECT TO THE PROVISIONS OF SUBSECTION
14	$(2)_{t}$ publish the following in legible, large typeface and
15	make available upon request at no cost to any person,
16	facility, or hospital:
17	(++)(A) geographically indexed material designed to
18	inform a woman of public and private agencies and services,
19	including adoption agencies and services, that are available
20	to assist a woman through pregnancy, following childbirth,
21	and while the child is dependent. The material must include:
22	<pre>(a)(I) a comprehensive list of the agencies available;</pre>
23	and
24	$\{b\}$ (II) a description of the services offered by the

available agencies, including the telephone numbers of the

25

1	agencies; and
2	(B) MATERIAL DESIGNED TO INFORM THE WOMAN OF THE
3	MEDICAL AND PSYCHOLOGICAL EFFECTS ASSOCIATED WITH
4	PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WITH
5	PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD IS
6	PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIED
7	TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;
8	(2)(C) material THAT IS designed to inform the woman of
9	the probable anatomical and physiological characteristics of
10	the unbornchild-at-2-week-gestational-increments-from-the
11	time-a-woman-can-be-known-to-be-pregnantuntilfullterm;
12	includinganycolorpictures-or-drawings-representing-the
13	developmentofunbornchildrenat2-weekgestationa
14	incrementscontainingthe-dimensions-of-the-fetus-that-are
15	realisticandappropriateforthestageofpregnancy
16	depicted FETUS. The material must be objective,
17	nonjudgmental, and designed to convey only accurate,
18	scientific information about the unborn-child FETUS at the
19	various gestational ages, including:
20	(a)(1) objective information describing the methods of
21	abortion procedures commonly used;

tb)(II) any relevant information on the possibility of

te)(III) the medical risks commonly associated with each

the unborn-child's FETUS'S survival;

abortion procedure;

22

23

1	<pre>(d)(IV) the possible detrimental psychological effects</pre>
2	of abortion; and
3	(v) the medical risks commonly associated with
4	carrying a child to term.
5	(2) THE MATERIAL PREPARED BY THE DEPARTMENT UNDER THIS
6	SECTION MUST BE BASED ON INFORMATION PUBLISHED BY THE
7	AMERICAN PSYCHIATRIC ASSOCIATION, THE AMERICAN COLLEGE OF
8	OBSTETRICIANS AND GYNECOLOGISTS, AND THE AMERICAN MEDICAL
9	ASSOCIATION AND MUST IDENTIFY RISK LEVELS FOR DIFFERENT AGE
0	GROUPS WHEN RISKS VARY BY AGE GROUP.
1	NBW-SECTION: Section 5 Ultrasoundrequired(1)
2	Within60daysofftheeffective-date-of-this-act}7-the
3	department-shall-provide-a-videotapecontainingultrasound
4	motionpicturesofunbornchildreninthe-womb-that-is
5	designed-to-inform-a-viewer-of-the-probableanatomicaland
6	physiologicalcharacteristicsof-an-unborn-child-at-2-week
7	gestational-increments-from-the-time-a-woman-can-be-known-to
8	be-pregnant-until-full-term.
9	(2)The-ultrasound-mustbeobjective;nonjudgmental;
0	and-designed-to-convey-only-accurate,-scientific-information
1	about-an-unborn-child-at-the-various-gestational-ages-
2	+3)Theultrasoundmustbe-available-at-no-cost-from
3	the-department-upon-requesttoanyperson;facility;or
Δ	hasnibal.

womanupon-whom-an-abortion-has-been-performed-or-attempted
does-not-consent-to-be-publicly-named-in-a-civil-or-criminal
actionbroughtforviolationof50-20-104750-20-1067
50-20-1127or-fsections-4-through-837-the-court-shall-rule7
upon-motion-by-either-partyy-whethertheidentityofthe
woman-must-be-preserved-from-public-disclosure:
(2)#fthecourtrulesthatthewoman's-anonymity
should-be-preserved;-the-court-shall-issue-the-order-tothe
parties,witnesses,and-attorneys,-order-the-court-records
to-be-sealed;-and-exclude-persons-from-the-court-room-to-the
extent-necessary-to-protect-the-woman's-identity-from-public
disciosure:
(3)The-court-order-must-be-accompaniedbyawritten
statement-explaining:
(a)whythenameof-the-woman-should-not-be-publicly
disclosed;
(b)whytheorderisessentialinprotectingthe
woman's-anonymity;
<pre>(c)how-the-order-is-narrowly-tailored-toprotectthe</pre>
woman's-anonymity;-and
(d)why-a-reasonable;-less-restrictive-alternative-does
not-exist:
(4)If-a-woman-upon-whom-an-abortion-has-been-performed
orattempteddoesnotgivewritten-consent;-any-person;

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NEW-SECTION: -- Section-6. -- Anonymity-of-a-woman: -(1)-1f-a--

1	{section-7}-shall-do-so-under-a-pseudonym-
2	(5)Thissectionmay-not-be-construed-to-conceal-from
3	thedefendanttheidentityofaplaintifforofthe
4	witnesses.
5	NEW-SECTION: Section 7. Performance of abortion-
6	without-informed-consentcivil-damages(1)A-woman-upon
7	whomanabortionhasbeenperformedinviolationof
8	50-20-104,-50-20-106,-50-20-112,-or-{sections-4-through0},
9	thefatherofthe-unborn-child-who-was-the-subject-of-the
10	abortion,-or-a-grandparent-of-the-unborn-childmayfilea
11	civilaction-for-\$10,000-in-punitive-damages-and-treble-the
12	actualdamagesagainstthepersonwhoperformedthe
13	abortion.
14	(2)A-woman-upon-whom-an-abortion-has-been-attempted-in
15	violation-of-50-20-1047-50-20-1067-50-20-1127-or-{sections-4
16	through8}mayfile-a-civil-action-for-\$5,000-in-punitive
17	damages-and-treble-the-actual-damages-against-the-person-who
18	attempted-to-perform-the-abortion-
19	<pre>f3}The-court-shall-grant-reasonable-attorney-fees-to:</pre>
20	tata-plaintiff-obtaining-a-judgmentundersubsection
21	(1)-or-(2);-or
22	tb)thedefendantifthe-plaintiff-does-not-obtain-a
23	judgment-and-if-the-court-finds-that-theplaintiff'scivil
24	action-was-frivolous-or-brought-in-bad-faith-

(4)--An--intentional--violation-of-50-20-1047-50-20-1067

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1 50-20-1127-or-{sections-4-through--0}--is--admissible--in--a civil--action-as-prima-facie-evidence-of-a-failure-to-obtain 2 informed-and-voluntary-consent: NEW SECTION. Section 4. Codification 4 instruction. fSections-4-through-8}-are [SECTION 3] IS intended to be codified as an integral part of Title 50, chapter 20, part 1, and the provisions of Title 50, chapter 20, part 1, apply 7 to {sections-4-through-8} [SECTION 3]. NEW SECTION. Section 5. Severability. If a part of 9 [this act] is invalid, all valid parts that are severable 10 11 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part 12 remains in effect in all valid applications that are 13 14 severable from the invalid applications.

-End-

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SB 202

1	SENATE BILL NO. 202
2	INTRODUCED BY HARDING, BRUSKI-MAUS, KEATING, GROSFIELD, REA,
3	SWIFT, TVEIT, B. BROWN, PECK, KENNEDY, NATHE, CRIPPEN,
4	WHALEN, BERGMAN, RYE, KASTEN, BIRD, GALVIN, MENAHAN,
5	BARNETT, KOEHNKE, GRIMES, MOLNAR, SMITH
6	
7	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A WOMAN'S
8	RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING
9	inpormedeonsentinthemontanaabortioncontrolact;
0	REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED
1	AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND-AN
2	opportunity-to-view-an-ultrasound-vidbotape;-providing-civil
3	Damages-Poranabortionperpormedwithoutinpormedand
4	VOLUNTARY CONSENT; AND AMENDING SECTIONS 50-20-1047 AND
5	50-20-106, AND-50-20-1127 MCA."
6	
.7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.8	Section 1. Section 50-20-104, MCA, is amended to read:
.9	"50-20-104. Definitions. As used in this chapter, the
20	following definitions apply:
21	(1) "Abortion" means the performance-ofy-assistance-or
22	participation-in-the-performance-of;-or-submission-to-an-act
23	or-operation-intended-to-terminate-a-pregnancy-withoutlive
24	birth intentionaluseorprescription-of-any-instrumenty

mediciney-drugy-or-other-substance-or--device--to--terminate

2	increasetheprobabilityof-a-live-birthy-to-preserve-the
3	life-or-health-of-the-child-after-a-live-birthy-or-to-remove
4	a-dead-fetus PERFORMANCE OF, ASSISTANCE OR PARTICIPATION IN
5	THE PERFORMANCE OF, OR SUBMISSION TO AN ACT OR OPERATION
Б	INTENDED TO TERMINATE A PREGNANCY WITHOUT LIVE BIRTH.
7	(2) "Department" means the department of health and
В	environmental sciences provided for in Title 2, chapter 15,
9	part 21.
0	(3) "Facility" means a hospital, health care facility,
1	physician's office, or other place in which an abortion is
2	performed.
3	(4)*Informed-consent*-means-voluntaryconsenttoan
4	abortionbythewomanuponwhomtheabortion-is-to-be
5	performed-only-after-full-disclosure-to-her-by-the-physician
6	who-is-to-perform-the-abortionofsuchofthefollowing
7	informationas-is-reasonably-chargeable-to-the-knowledge-of
8	the-physician-in-his-professional-capacity:
9	(a)the-stage-of-development-of-the-fetus;themethod
0	of-abortion-to-be-utilizedy-and-the-effects-of-such-abortion
1	method-upon-the-fetus;
2	(b)the-physical-and-psychological-effects-of-abortion;
3	and
4	<pre>(c)availablealternativestoabortion,including</pre>
5	childbirth-and-adoption-

the-pregnancy-of-a-woman-known-to-be-pregnanty-other-than-to

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1	(4) "INFORMED CONSENT" MEANS VOLUNTARY CONSENT TO AN
2	ABORTION BY THE WOMAN UPON WHOM THE ABORTION IS TO BE
3	PERFORMED ONLY AFTER FULL DISCLOSURE TO HER BY THE PHYSICIAN
4	WHO IS TO PERFORM THE ABORTION OF SUCH OF THE FOLLOWING
5	INFORMATION AS IS REASONABLY CHARGEABLE TO THE KNOWLEDGE OF
6	THE PHYSICIAN IN HIS PROFESSIONAL CAPACITY:
7	(A) THE STAGE OF DEVELOPMENT OF THE PETUS, THE METHOD
8	OF ABORTION TO BE UTILIZED, AND THE EFFECTS OF THE ABORTION
9	METHOD UPON THE PETUS;
10	(B) THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF ABORTION;
11	AND
12	(C) AVAILABLE ALTERNATIVES TO ABORTION, INCLUDING
13	CHILDBIRTH AND ADOPTION.
14	(4)(5) "Medical emergency" means a condition that,
15	based on a physician's good faith clinical judgment, so
16	complicates the medical condition of a pregnant woman as to
17	necessitate the immediate abortion of the woman's pregnancy
18	to avert the woman's death or for which a delay will create
19	serious risk of substantial and irreversible impairment of a
20	major bodily function.
21	(5)(6) "Probable gestational age of the unborn child"
22	means the age that, in the judgment of the physician, will

with reasonability be the gestational age of the unborn

+5++6+--*Viability*-means-the-ability-of-a-fetus-to-live

child at the time the abortion is planned to be performed.

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outside--the--mother's--womby--albeit--with by--natural--or
artificial-aid life-support-systems-
   (7) "Woman" means a female person."
   Section 2. Section 50-20-106, MCA, is amended to read:
    "50-20-106. Consent Informed and voluntary consent to
abortion -- medical emergency exception. (1) No An abortion
may not be performed upon--any--woman in the absence of
informed and voluntary consent by the woman upon whom the
abortion is to be performed.
   +2}--Informed--consent--may--be--evidenced--by-a-written
statement-in-a-form-prescribed-by-the-department-and--signed
by--the-physician-and-the-woman-upon-whom-the-abortion-is-to
be-performed-in-which-the-physician-certifies--that--he--has
made--the--full--disclosure--provided-in-50-20-104(4)-and-in
which-the-woman-upon-whom-the-abortion-is--to--be--performed
acknowledges--that--the--above-disclosures-have-been-made-to
her-and-that-she-voluntarily-consents-to-the-abortion-
    +31--The--above--informed--consent--or--consent--is--not
required-if-a-licensed-physician-certifies-the--abortion--is
necessary-to-preserve-the-life-of-the-mother-
    (2) INFORMED CONSENT MAY BE EVIDENCED BY A WRITTEN
STATEMENT IN A FORM PRESCRIBED BY THE DEPARTMENT AND SIGNED
BY THE PHYSICIAN AND THE WOMAN UPON WHOM THE ABORTION IS TO
BE PERFORMED IN WHICH THE PHYSICIAN CERTIFIES THAT HE HAS
```

MADE THE FULL DISCLOSURE PROVIDED IN 50-20-104(4) AND IN

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1	WHICH THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED
2	ACKNOWLEDGES THAT THE ABOVE DISCLOSURES HAVE BEEN MADE TO
3	HER AND THAT SHE VOLUNTARILY CONSENTS TO THE ABORTION.
4	(3) THE ABOVE INFORMED CONSENT OR CONSENT IS NOT
5	REQUIRED IF A LICENSED PHYSICIAN CERTIFIES THAT THE ABORTION
6	IS NECESSARY TO PRESERVE THE LIFE OF THE MOTHER.
7	(2)(4) Except in the case of a medical emergency,
В	consent to an abortion is informed and voluntary only if the
9	provisions of subsections (3)-through-(9) (5) THROUGH (10)
0	are met.
1	(3)(5) The information required by subsections (4)-and
2	(5) (6) AND (7) must be provided to a woman atleast24
3	hours before an abortion.
4	(4)(6) The physician who is to perform the abortion or
5	the referring physician shall tell the woman:
6	(a) the name of the physician who will perform the
7	abortion;
8	(b) the probable gestational age of the unborn child at
9	the time the abortion is to be performed;
0	(c) the particular medical risks associated with the
1	particular abortion procedure to be used, including, when
2	medically accurate, the risks of infection, hemorrhage,
3	danger to subsequent pregnancies, and infertility; and
:4	(d) the medical risks associated with carrying the
5	child to full term.
	CHILD CO LOLL CELMI

1	(5)(7) The physician who is to perform the abortion,
2	the referring physician, or the agent of either shall tell
3	the woman that:
4	{a}medicalassistancebenefitsmay-be-available-for
5	prenatal-carey-childbirthy-and-neonatal-care;
6	<pre>jb)the-father-is-liable-to-assist-inthesupportof</pre>
7	thewoman's-child-even-if-the-father-has-offered-to-pay-for
8	the-abortion;
9	(c)the-womanhasarighttoviewtheultrasound
10	videotapeprovidedby-the-department-of-an-unborn-child-in
11	the-womb-at-2-week-gestational-increments-fromthetimea
L 2	woman-can-be-known-to-be-pregnant-until-full-term;
13	(d)(A) the woman has a right to review printed material
L 4	provided by the department describing the unborn child and;
15	listing agencies that offer alternatives to abortion;
16	DESCRIBING THE MEDICAL AND PSYCHOLOGICAL EFFECTS ASSOCIATED
17	WITH PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WITH
18	PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD IS
19	PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIED
20	TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;
21	and
22	<pre>fef(B) the woman is free to withhold or to withdraw</pre>
23	informed and voluntary consent to the abortion.
24	f6}
25	videotapeorreviewtheprintedmaterialyor-bothy-the

1	physician-or-the-physician's-agent-shall-furnish-them-to-the	. 1	abortion. nor-shall-any A person may not coerce any woman
2	WOMEN -	2	to have an abortion.
3	(7)(8) Prior to an abortion, the woman upon whom the	3	(1) and (4) (10)
4	abortion is to be performed shall certify in writing, on a	4	(11) of this section is a misdemeanor."
5	form prescribed by the department, that:	5	Section-3Section-50-20-1127-MCA7-is-amended-to-read:
6	(a) the information described in subsections (4)and	6	#50-20-112:Penalties:(1)Apersonconvictedof
7	(6) AND (7) has been furnished; and	7	deliberate;mitigated;ornegligenthomicideunder-this
8	(b) the woman has been informed of the right to review	8	chapter-is-subject-to-the-penalties-prescribedby45-5-102
9	the information described in subsections-(5)(c)and(5)(d)	9	through-45-5-184.
10	SUBSECTION (7)(A).	10	+2}Apersonconvictedofafelonyotherthan
11	(8)(9) Prior to an abortion, the physician who is to	11	deliberate; mitigated;ornegligenthomicideunderthis
12	perform the abortion or the physician's agent must have	12	chapterissubjecttoafinenottoexceed\$170007
13	received a copy of the written certification required in	13	imprisonment-in-the-state-prison-for-a-term-not-to-exceed5
14	subsection (7) (8).	14	years,-or-both.
15	(10) If a medical emergency compels the performance	15	(3)Apersonconvictedofamisdemeanor-under-this
16	of an abortion, the physician shall, prior to the abortion	16	chapterissubjecttoafinenottoexceed\$5007
17	if possible, inform the woman of the medical indications	17	imprisonmentinthe-county-jail-for-a-term-not-to-exceed-6
18	supporting the physician's judgment that an abortion is	18	months,-or-both;
19	necessary to avert the woman's death or that a delay will	19	(4)A-penalty-may-not-be-assessed-against-a-womanupon
20	create serious risk of substantial and irreversible	20	whom-the-abortion-is-performed-or-attempted-to-be-performed-
21	impairment of a major bodily function.	21	<pre>{5}Ifthedepartmenthasnot-made-printed-material</pre>
22	(4)No $(10)(11)$ An executive officer, administrative	22	available-when-the-physician,-thereferringphysician,or
23	agency, or public employee of the state or of any local	23	theagentofeitheris-required-to-inform-a-woman-of-the

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governmental body has-power--to may not issue any order

requiring an abortion or shall coerce any woman to have an

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right-to-review-ity-a-criminal-or-civil-penalty-may--not--be

imposed--for--failure--to-comply-with-50-20-106(5)(d)-or-(7)

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1	requiring-written-certification-that-a-woman-has-beengiven
2	an-opportunity-to-review-the-information:
3	t6}Ifthedepartmenthasnotmadethe-witrasound
4	videotapeavailablewhenthephysician,thereferring
5	physicianyor-the-agent-of-either-is-required-to-inform-the
6	woman-of-the-right-to-view-ity-a-criminal-orcivilpenalty
7	maynotbeimposedforfailuretocomply-with-section
8	50-20-106(5)(c)-or-(7)-requiring-written-certificationthat
9	thewomanhasbeeninformedoftherightto-view-the
0	ultrasound-videotape.
1	NEW SECTION. Section 3. Printed information. (1)
2	Within 60 180 days of [the effective date of this act], the
3	department shall, SUBJECT TO THE PROVISIONS OF SUBSECTION
4	(2), publish the following in legible, large typeface and
5	make available upon request at no cost to any person,
6	facility, or hospital:
7	$\{\frac{1}{2}\}$ geographically indexed material designed to
8	inform a woman of public and private agencies and services,
9	including adoption agencies and services, that are available
0	to assist a woman through pregnancy, following childbirth,
1	and while the child is dependent. The material must include:
2	$\{a\}\{I\}$ a comprehensive list of the agencies available;
:3	and
4 .	(b)(II) a description of the services offered by the
	Tunilable service including the telephone sumbary of the

1	PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WIT
i	PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD I
á	PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIE
7	TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;
3	$\{2\}$ (C) material THAT IS designed to inform the woman o
•	the probable anatomical and physiological characteristics o
0	the unbornchild-at-2-week-gestational-increments-from-th
L	time-a-woman-can-be-known-to-be-pregnantuntilfullterm
2	includinganycolorpictures-or-drawings-representing-th
3	developmentofunbornchildrenat2-weekgestationa
4	incrementscontainingthe-dimensions-of-the-fetus-that-ar
5	realisticandappropriateforthestageofpregnanc
6	depicted FETUS. The material must be objective
7	nonjudgmental, and designed to convey only accurate
8	scientific information about the unborn-child FETUS at th
9	various gestational ages, including:
0	$\{a\}\{I\}$ objective information describing the methods
1	abortion procedures commonly used;
2	<pre>(b)(II) any relevant information on the possibility of</pre>
3	the unborn-child's FETUS'S survival;
4	te)(III) the medical risks commonly associated with each
5	abortion procedure:

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PSYCHOLOGICAL

agencies; and

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1	td)(IV) the possible detrimental psychological effects
2	of abortion; and
3	$ ext{fe}_{1}(V)$ the medical risks commonly associated with
4	carrying a child to term.
5	(2) THE MATERIAL PREPARED BY THE DEPARTMENT UNDER THIS
6	SECTION MUST BE BASED ON INFORMATION PUBLISHED BY THE
7	AMERICAN PSYCHIATRIC ASSOCIATION, THE AMERICAN COLLEGE OF
8	OBSTETRICIANS AND GYNECOLOGISTS, AND THE AMERICAN MEDICAL
9	ASSOCIATION AND MUST IDENTIFY RISK LEVELS FOR DIFFERENT AGE
10	GROUPS WHEN RISKS VARY BY AGE GROUP.
11	NEW-SECTION: Section-5 Ultrasoundrequired(1)
12	Within68daysof{theeffective-date-of-this-act},-the
13	department-shall-provide-a-videotapecontainingultrasound
14	motionpicturesofunbornchildreninthe-womb-that-is
15	designed-to-inform-e-viewer-of-the-probableanatomicaland
16	physiologicalcharacteristicsof-an-unborn-child-at-2-week
17	gestational-increments-from-the-time-a-woman-can-be-known-to
18	be-pregnant-until-full-term:
19	(2)The-ultrasound-mustbeobjective;nonjudgmental;
20	and-designed-to-convey-only-accurate,-scientific-information
21	about-an-unborn-child-at-the-various-gestational-ages-
22	(3)Theultrasoundmustbe-available-at-no-cost-from
23	the-department-upon-requesttoanyperson;facility;or
24	hospitalt
25	NEW-SHETION:Section-6Anonymity-of-a-woman:-(1)-If-a

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does-not-consent-to-be-publicly-named-in-a-civil-or-criminal
action--brought--for--violation--of--50-20-1047---50-20-1067
58-28-1127--or-factions-4-through-8/7-the-court-shall-ruley
upon-motion-by-either-party;-whether--the--identity--of--the
woman-must-be-preserved-from-public-disclosurer
    +2}--If--the--court--rules--that--the--woman's-anonymity
should-be-preservedy-the-court-shall-issue-the-order-to--the
partiesy--witnessesy--and-attorneys;-order-the-court-records
to-be-sealed;-and-exclude-persons-from-the-court-room-to-the
extent-necessary-to-protect-the-woman's-identity-from-public
dischosurer
    {3}--The-court-order-must-be-accompanied--by--a--written
statement-explaining:
    (a)--why--the--name--of-the-woman-should-not-be-publicly
dischosed;
    fb}--why--the--order--is--essential--in--protecting--the
woman-s-anonymity;
    te)--how-the-order-is-narrowly-tailored-to--protect--the
woman's-anonymity;-and
    †d)--why-e-reasonable;-less-restrictive-alternative-does
not-exist:
    +4)--If-a-woman-upon-whom-an-abortion-has-been-performed
or--attempted--does--not--give--written-consenty-any-persony
other-than-a-public-officialy-who--brings--an--action--under
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woman--upon-whom-an-abortion-has-been-performed-or-attempted

1	{section-7}-shall-do-so-under-a-pseudonym;
2	(5)Thissectionmay-not-be-construed-to-conceal-from
3	thedefendanttheidentityofaplaintifforofthe
4	witnesses
5	NEW-SECTION: Section 7 Performance of abortion-
6	without-informed-consentcivil-damages:-(1)A-woman-upon
7	whomanabortionhasbeenperformedinviolationof
8	50-20-1847-50-20-1067-50-20-1127-or-factions-4-through017
9	thefatherofthe-unborn-child-who-was-the-subject-of-the
10	abortion,-or-a-grandparent-of-the-unborn-childmayfilea
11	civilaction-for-\$107000-in-punitive-damages-and-treble-the
12	actualdamagesagainstthepersonwhoperformedthe
13	abortion.
14	(2)A-woman-upon-whom-an-abortion-has-been-attempted-in
15	violation-of-50-20-1047-50-20-1067-50-20-1127-or-{sections-4
16	through0}mayfile-a-civil-action-for-\$5,000-in-punitive
17	damages-and-treble-the-actual-damages-against-the-person-who
18	attempted-to-perform-the-abortion-
19	(3)The-court-shall-grant-reasonable-attorney-fees-to:
20	<pre>{a}a-plaintiff-obtaining-a-judgmentundersubsection</pre>
21	(1)-or-(2);-or
22	tb;thedefendantifthe-plaintiff-docs-not-obtain-a
23	judgment-and-if-the-court-finds-that-theplaintiff-scivil
24	action-was-frivolous-or-brought-in-bad-faith-
25	f4}Anintentionalviolation-of-50-20-1047-50-20-1067

1 50-20-1127-or-facetions-4-through--0}--is--admissible--in--a civil--action-as-prima-facie-evidence-of-a-failure-to-obtain 2 3 informed-and-voluntary-consent: NEW SECTION. Section 4. Codification instruction. {Sections-4-through-8}-are [SECTION 3] IS intended to be 5 codified as an integral part of Title 50, chapter 20, part 7 1, and the provisions of Title 50, chapter 20, part 1, apply to {sections-4-through-0} [SECTION 3]. NEW SECTION. Section 5. Severability. If a part of 9 10 (this act) is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this 11 12 act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are 13

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severable from the invalid applications.