

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 Report--Bill Passed as Amended
2/23	2nd Reading Passed
2/24	3rd Reading Passed

	Transmitted to House
3/01	Referred to Judiciary
3/01	First Reading
3/15	Tabled in Committee

1 ~~Senate~~ BILL NO. 202
 2 INTRODUCED BY Harding Scott Braden Wagon Featuring
 3 Confield Peck NAT Whalen
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A WOMAN'S Engman
 5 RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING Rea
 6 INFORMED CONSENT IN THE MONTANA ABORTION CONTROL ACT; Boe
 7 REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED Bird
 8 AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND AN Galin
 9 OPPORTUNITY TO VIEW AN ULTRASOUND VIDEOTAPE; PROVIDING CIVIL Barrett
 10 DAMAGES FOR AN ABORTION PERFORMED WITHOUT INFORMED AND Heimke
 11 VOLUNTARY CONSENT; AND AMENDING SECTIONS 50-20-104, Primer
 12 50-20-106, AND 50-20-112, MCA." Molnar
 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-of, assistance-or
 19 participation-in-the-performance-of, or submission-to-an-act
 20 or-operation-intended-to-terminate-a-pregnancy-without--live
 21 birth intentional use or prescription of any instrument,
 22 medicine, drug, or other substance or device to terminate
 23 the pregnancy of a woman known to be pregnant, other than to
 24 increase the probability of a live birth, to preserve the
 25 life or health of the child after a live birth, or to remove

1 a dead fetus.

2 (2) "Department" means the department of health and
 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 voluntary consent to an
 9 abortion by the woman upon whom the abortion is to be
 10 performed only after full disclosure to her by the physician
 11 who is to perform the abortion of such of the following
 12 information as is reasonably chargeable to the knowledge of
 13 the physician in his professional capacity:

14 (a) the stage of development of the fetus, the method
 15 of abortion to be utilized, and the effects of such abortion
 16 method upon the fetus;

17 (b) the physical and psychological effects of abortion;
 18 and

19 (c) available alternatives to abortion, including
 20 childbirth and adoption.

21 (4) "Medical emergency" means a condition that, based
 22 on a physician's good faith clinical judgment, so
 23 complicates the medical condition of a pregnant woman as to
 24 necessitate the immediate abortion of the woman's pregnancy
 25 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.

(5) "Probable gestational age of the unborn child" 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.

(6) "Viability" means the ability of a fetus to live outside the mother's womb, ~~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.~~

(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) Except in the case of a medical emergency, consent to an abortion is informed and voluntary only if the provisions of subsections (3) through (9) are met.

(3) The information required by subsections (4) and (5) must be provided to a woman at least 24 hours before an abortion.

(4) The physician who is to perform the abortion or the referring physician shall tell the woman:

(a) the name of the physician who will perform the abortion;

(b) the probable gestational age of the unborn child at the time the abortion is to be performed;

(c) the particular medical risks associated with the particular abortion procedure to be used, including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility; and

(d) the medical risks associated with carrying the child to full term.

(5) The physician who is to perform the abortion, the referring physician, or the agent of either shall tell the woman that:

(a) medical assistance benefits may be available for 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;

4 (c) the woman has a right to view the ultrasound
 5 videotape provided by the department of an unborn child in
 6 the womb at 2-week gestational increments from the time a
 7 woman can be known to be pregnant until full term;

8 (d) the woman has a right to review printed material
 9 provided by the department describing the unborn child and
 10 listing agencies that offer alternatives to abortion; and

11 (e) the woman is free to withhold or to withdraw
 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

1 received a copy of the written certification required in
 2 subsection (7).

3 (9) If a medical emergency compels the performance of
 4 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 ~~†4†~~--No (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~~ may not 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 than
 24 deliberate, mitigated, or negligent homicide under this
 25 chapter is subject to a fine not to exceed \$1,000,

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

(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:

(1) geographically indexed material designed to inform a woman of public and private agencies and services, including adoption agencies and services, that are available to assist a woman through pregnancy, following childbirth, and while the child is dependent. The material must include:

(a) a comprehensive list of the agencies available; and

(b) a description of the services offered by the available agencies, including the telephone numbers of the agencies; and

(2) material designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at 2-week gestational increments from the time a woman can be known to be pregnant until full term, including any color pictures or drawings representing the development of unborn children at 2-week gestational increments containing the dimensions of the fetus that are realistic and appropriate for the stage of pregnancy depicted. The material must be objective, nonjudgmental, and designed to convey only accurate, scientific information about the unborn child at the various gestational ages, including:

(a) objective information describing the methods of

1 abortion procedures commonly used;

2 (b) any relevant information on the possibility of the
3 unborn child's survival;

4 (c) the medical risks commonly associated with each
5 abortion procedure;

6 (d) the possible detrimental psychological effects of
7 abortion; and

8 (e) the medical risks commonly associated with carrying
9 a child to term.

10 **NEW SECTION. Section 5. Ultrasound required.** (1)

11 Within 60 days of [the effective date of this act], the
12 department shall provide a videotape containing ultrasound
13 motion pictures of unborn children in the womb that is
14 designed to inform a viewer of the probable anatomical and
15 physiological characteristics of an unborn child at 2-week
16 gestational increments from the time a woman can be known to
17 be pregnant until full term.

18 (2) The ultrasound must be objective, nonjudgmental,
19 and designed to convey only accurate, scientific information
20 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.

24 **NEW SECTION. Section 6. Anonymity of a woman.** (1) If a

25 woman upon whom an abortion has been performed or attempted

1 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.

(5) This section may not be construed to conceal from the defendant the identity of a plaintiff or of the witnesses.

NEW SECTION. Section 7. Performance of abortion without informed consent -- civil damages. (1) A woman upon whom 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 abortion, or a grandparent of the unborn child may file a civil action for \$10,000 in punitive damages and treble the actual damages against the person who performed the 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.

(3) The court shall grant reasonable attorney fees to:

(a) a plaintiff obtaining a judgment under subsection (1) or (2); or

(b) the defendant if the plaintiff does not obtain a judgment and if the court finds that the plaintiff's civil action was frivolous or brought in bad faith.

(4) An intentional violation of 50-20-104, 50-20-106, 50-20-112, or [sections 4 through 8] is admissible in a

civil action as prima facie evidence of a failure to obtain informed and voluntary consent.

NEW SECTION. Section 8. Codification instruction.

[Sections 4 through 8] are 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 to [sections 4 through 8].

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are 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.

DESCRIPTION OF PROPOSED LEGISLATION: 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).
6. 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	Difference	Current Law	Proposed Law	Difference
Expenditures:						
Operating Expenses	0	\$170,424	\$170,424	0	\$42,704	\$42,704
Funding:						
General Fund	0	\$170,424	\$170,424	0	\$42,704	\$42,704

(continued)

David Lewis 1-27-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

ETHEL HARDING, PRIMARY SPONSOR

DATE

Fiscal Note for SB0202, as introduced

2/2/93
 SB202

Fiscal Note Request, SB0202, 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

SENATE BILL NO. 202

INTRODUCED BY HARDING, BRUSKI-MAUS, KEATING, GROSFIELD, REA,
SWIFT, TVEIT, B. BROWN, PECK, KENNEDY, NATHE, CRIPPEN,
WHALEN, BERGMAN, RYE, KASTEN, BIRD, GALVIN, MENAHAN,
BARNETT, KOEHNKE, GRIMES, MOLNAR, SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A WOMAN'S
RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING
INFORMED--CONSENT--IN--THE--MONTANA--ABORTION--CONTROL--ACT;
REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED
AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND AN
OPPORTUNITY TO VIEW AN ULTRASOUND VIDEOTAPE; PROVIDING CIVIL
DAMAGES FOR AN ABORTION PERFORMED WITHOUT INFORMED AND
VOLUNTARY CONSENT; AND AMENDING SECTIONS 50-20-104, AND
50-20-106, AND 50-20-112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-20-104, MCA, is amended to read:

"50-20-104. Definitions. As used in this chapter, the
following definitions apply:

(1) "Abortion" means the performance of, assistance or
participation in the performance of, or submission to an act
or operation intended to terminate a pregnancy 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
a dead fetus PERFORMANCE OF, ASSISTANCE OR PARTICIPATION IN
THE PERFORMANCE OF, OR SUBMISSION TO AN ACT OR OPERATION
INTENDED TO TERMINATE A PREGNANCY WITHOUT LIVE BIRTH.

(2) "Department" means the department of health and
environmental sciences provided for in Title 2, chapter 15,
part 21.

(3) "Facility" means a hospital, health care facility,
physician's office, or other place in which an abortion is
performed.

(4) "Informed consent" means voluntary consent to an
abortion by the woman upon whom the abortion is to be
performed only after full disclosure to her by the physician
who is to perform the abortion of such of the following
information as is reasonably chargeable to the knowledge of
the physician in his professional capacity:

(a) the stage of development of the fetus, the method
of abortion to be utilized, and the effects of such abortion
method upon the fetus;

(b) the physical and psychological effects of abortion;
and

(c) available alternatives to abortion, including
childbirth and adoption.

(4) "INFORMED CONSENT" MEANS VOLUNTARY CONSENT TO AN ABORTION BY THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED ONLY AFTER FULL DISCLOSURE TO HER BY THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OF SUCH OF THE FOLLOWING INFORMATION AS IS REASONABLY CHARGEABLE TO THE KNOWLEDGE OF THE PHYSICIAN IN HIS PROFESSIONAL CAPACITY:

(A) THE STAGE OF DEVELOPMENT OF THE FETUS, THE METHOD OF ABORTION TO BE UTILIZED, AND THE EFFECTS OF THE ABORTION METHOD UPON THE FETUS;

(B) THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF ABORTION; AND

(C) AVAILABLE ALTERNATIVES TO ABORTION, INCLUDING CHILDBIRTH AND ADOPTION.

(4)(5) "Medical emergency" means a condition that, based on 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.

(5)(6) "Probable gestational age of the unborn child" 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.

(5)(6) "Viability" means the ability of a fetus to live

outside the mother's womb, 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.

(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
 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 (4) Except in the case of a medical emergency,
 8 consent to an abortion is informed and voluntary only if the
 9 provisions of subsections (3) through (9) (5) THROUGH (10)
 10 are met.

11 (5) The information required by subsections (4) and
 12 (6) AND (7) must be provided to a woman at least 24
 13 hours before an abortion.

14 (6) The physician who is to perform the abortion or
 15 the referring physician shall tell the woman:

16 (a) the name of the physician who will perform the
 17 abortion;

18 (b) the probable gestational age of the unborn child at
 19 the time the abortion is to be performed;

20 (c) the particular medical risks associated with the
 21 particular abortion procedure to be used, including, when
 22 medically accurate, the risks of infection, hemorrhage,
 23 danger to subsequent pregnancies, and infertility; and

24 (d) the medical risks associated with carrying the
 25 child to full term.

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) medical assistance benefits may be available for
 5 prenatal care, childbirth, and neonatal care;

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

9 (c) the woman has a right to view the ultrasound
 10 videotape provided by the department of an unborn child in
 11 the womb at 2-week gestational increments from the time a
 12 woman can be known to be pregnant until full term;

13 (d)(A) the woman has a right to review printed material
 14 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 (e)(B) the woman is free to withhold or to withdraw
 23 informed and voluntary consent to the abortion.

24 (6) If the woman chooses to view the ultrasound
 25 videotape or review the printed material, or both, the

~~physician or the physician's agent shall furnish them to the woman;~~

~~(7)(8) Prior to an abortion, the woman upon whom the abortion is to be performed shall certify in writing, on a form prescribed by the department, that:~~

~~(a) the information described in subsections (4) and (5) (6) AND (7) has been furnished; and~~

~~(b) the woman has been informed of the right to review the information described in subsections (5)(c) and (5)(d) SUBSECTION (7)(A).~~

~~(8)(9) Prior to an abortion, the physician who is to perform the abortion or the physician's agent must have received a copy of the written certification required in subsection (7) (8).~~

~~(9)(10) If a medical emergency compels the performance of an abortion, the physician shall, prior to the abortion if possible, inform the woman of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or that a delay will create serious risk of substantial and irreversible impairment of a major bodily function.~~

~~(4)--No (10)(11) An executive officer, administrative agency, or public employee of the state or of any local governmental body has power to may not issue any order requiring an abortion or shall coerce any woman to have an~~

~~abortion, nor shall any A person may not coerce any woman to have an abortion.~~

~~(5)(11)(12) Violation of subsections (1) and (4) (10) (11) of this section is a misdemeanor."~~

~~Section 3.--Section 50-20-112, MCA, is amended to read:--~~

~~"50-20-112.--Penalties.--(1)--A person convicted of deliberate, mitigated, or negligent homicide under this chapter is subject to the penalties prescribed by 45-5-102 through 45-5-104.~~

~~(2)--A person convicted of a felony other than deliberate, mitigated, or negligent homicide under this chapter is subject to a fine not to exceed \$1,000, imprisonment in the state prison for a term not to exceed 5 years, or both.~~

~~(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 3. Printed information. (1)
 Within 60 180 days of [the effective date of this act], the department shall, SUBJECT TO THE PROVISIONS OF SUBSECTION (2), publish the following in legible, large typeface and make available upon request at no cost to any person, facility, or hospital:

~~(A)~~ (A) geographically indexed material designed to inform a woman of public and private agencies and services, including adoption agencies and services, that are available to assist a woman through pregnancy, following childbirth, and while the child is dependent. The material must include:

(a)(I) a comprehensive list of the agencies available;
 and

(b)(II) a description of the services offered by the available agencies, including the telephone numbers of the

agencies; and

(B) MATERIAL DESIGNED TO INFORM THE WOMAN OF THE MEDICAL AND PSYCHOLOGICAL EFFECTS ASSOCIATED WITH PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WITH PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD IS PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIED TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;

(2)(C) material THAT IS designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at 2-week gestational increments from the time a woman can be known to be pregnant until full term, including any color pictures or drawings representing the development of unborn children at 2-week gestational increments containing the dimensions of the fetus that are realistic and appropriate for the stage of pregnancy depicted FETUS. The material must be objective, nonjudgmental, and designed to convey only accurate, scientific information about the unborn child FETUS at the various gestational ages, including:

(a)(I) objective information describing the methods of abortion procedures commonly used;

(b)(II) any relevant information on the possibility of the unborn child's FETUS'S survival;

(c)(III) the medical risks commonly associated with each abortion procedure;

{d}{IV} the possible detrimental psychological effects of abortion; and

{e}{V} the medical risks commonly associated with carrying a child to term.

(2) THE MATERIAL PREPARED BY THE DEPARTMENT UNDER THIS SECTION MUST BE BASED ON INFORMATION PUBLISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION, THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, AND THE AMERICAN MEDICAL ASSOCIATION AND MUST IDENTIFY RISK LEVELS FOR DIFFERENT AGE GROUPS WHEN RISKS VARY BY AGE GROUP.

NEW-SECTION--Section 5--Ultrasound---required----{1}-- Within--60--days--of--{the--effective-date-of-this-act},--the department--shall--provide--a--videotape--containing--ultrasound motion--pictures--of--unborn--children--in--the--womb--that--is designed--to--inform--a--viewer--of--the--probable--anatomical--and physiological--characteristics--of--an--unborn--child--at--2-week gestational--increments--from--the--time--a--woman--can--be--known--to 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--

{3}--The--ultrasound--must--be--available--at--no--cost--from the--department--upon--request--to--any--person,--facility,--or 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 action--brought--for--violation--of--50-20-104,--50-20-106, 50-20-112,--or--{sections--4--through--8},--the--court--shall--rule, upon--motion--by--either--party,--whether--the--identity--of--the woman--must--be--preserved--from--public--disclosure--

{2}--If--the--court--rules--that--the--woman's--anonymity should--be--preserved,--the--court--shall--issue--the--order--to--the 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 disclosure--

{3}--The--court--order--must--be--accompanied--by--a--written statement--explaining:

{a}--why--the--name--of--the--woman--should--not--be--publicly disclosed;

{b}--why--the--order--is--essential--in--protecting--the woman's--anonymity;

{c}--how--the--order--is--narrowly--tailored--to--protect--the 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 or--attempted--does--not--give--written--consent,--any--person, other--than--a--public--official,--who--brings--an--action--under

~~{section-7}-shall-do-so-under-a-pseudonym-~~

~~{5}--This--section--may-not-be-construed-to-conceal-from
the--defendant--the--identity--of--a--plaintiff--or--of--the
witnesses-~~

~~NEW SECTION.--Section 7. Performance---of-----abortion--
without-informed-consent---civil-damages--(1)--A woman-upon
whom---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
abortion, or a grandparent-of-the-unborn-child--may--file--a
civil--action-for-\$10,000-in-punitive-damages-and-treble-the
actual--damages--against--the--person--who---performed---the
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-~~

~~{3}--The-court-shall-grant-reasonable-attorney-fees-to-~~

~~{a}--a-plaintiff-obtaining-a-judgment--under--subsection
{1}-or-{2},-or~~

~~{b}--the--defendant--if--the-plaintiff-does-not-obtain-a
judgment-and-if-the-court-finds-that-the--plaintiff's--civil
action-was-frivolous-or-brought-in-bad-faith-~~

~~{4}--An--intentional--violation-of-50-20-104, 50-20-106,~~

~~50-20-112, or {sections-4-through-8}--is--admissible--in--a
civil--action-as-prima-facie-evidence-of-a-failure-to-obtain
informed-and-voluntary-consent-~~

NEW SECTION. Section 4. Codification instruction.
~~{Sections-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
to ~~{sections-4-through-8}~~ [SECTION 3].

NEW SECTION. Section 5. Severability. If a part of
[this act] is invalid, all valid parts that are severable
from the invalid part remain in effect. If a part of [this
act] is invalid in one or more of its applications, the part
remains in effect in all valid applications that are
severable from the invalid applications.

-End-

SENATE BILL NO. 202

INTRODUCED BY HARDING, BRUSKI-MAUS, KEATING, GROSFIELD, REA,
 SWIFT, TVEIT, B. BROWN, PECK, KENNEDY, NATHE, CRIPPEN,
 WHALEN, BERGMAN, RYE, KASTEN, BIRD, GALVIN, MENAHAN,
 BARNETT, KOEHNKE, GRIMES, MOLNAR, SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A WOMAN'S
 RIGHT TO KNOW CERTAIN FACTS PRIOR TO AN ABORTION; REDEFINING
 INFORMED--CONSENT--IN--THE--MONTANA--ABORTION--CONTROL--ACT;
 REQUIRING THAT A WOMAN CONTEMPLATING AN ABORTION BE PROVIDED
 AN OPPORTUNITY TO REVIEW CERTAIN PRINTED MATERIAL AND AN
 OPPORTUNITY TO VIEW AN ULTRASOUND VIDEOTAPE; PROVIDING CIVIL
 DAMAGES FOR AN ABORTION PERFORMED WITHOUT INFORMED AND
 VOLUNTARY CONSENT; AND AMENDING SECTIONS 50-20-104, AND
 50-20-106, AND 50-20-112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-20-104, MCA, is amended to read:

"50-20-104. Definitions. As used in this chapter, the
 following definitions apply:

(1) "Abortion" means the performance of, assistance or
 participation in the performance of, or submission to an act
 or operation intended to terminate a pregnancy 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
a dead fetus PERFORMANCE OF, ASSISTANCE OR PARTICIPATION IN
 THE PERFORMANCE OF, OR SUBMISSION TO AN ACT OR OPERATION
 INTENDED TO TERMINATE A PREGNANCY WITHOUT LIVE BIRTH.

(2) "Department" means the department of health and
 environmental sciences provided for in Title 2, chapter 15,
 part 21.

(3) "Facility" means a hospital, health care facility,
 physician's office, or other place in which an abortion is
 performed.

(4) "Informed consent" means voluntary consent to an
 abortion by the woman upon whom the abortion is to be
 performed only after full disclosure to her by the physician
 who is to perform the abortion of such of the following
 information as is reasonably chargeable to the knowledge of
 the physician in his professional capacity:

(a) the stage of development of the fetus; the method
 of abortion to be utilized; and the effects of such abortion
 method upon the fetus;

(b) the physical and psychological effects of abortion;
 and

(c) available alternatives to abortion, including
 childbirth and adoption.

(4) "INFORMED CONSENT" MEANS VOLUNTARY CONSENT TO AN ABORTION BY THE WOMAN UPON WHOM THE ABORTION IS TO BE PERFORMED ONLY AFTER FULL DISCLOSURE TO HER BY THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OF SUCH OF THE FOLLOWING INFORMATION AS IS REASONABLY CHARGEABLE TO THE KNOWLEDGE OF THE PHYSICIAN IN HIS PROFESSIONAL CAPACITY:

(A) THE STAGE OF DEVELOPMENT OF THE FETUS, THE METHOD OF ABORTION TO BE UTILIZED, AND THE EFFECTS OF THE ABORTION METHOD UPON THE FETUS;

(B) THE PHYSICAL AND PSYCHOLOGICAL EFFECTS OF ABORTION; AND

(C) AVAILABLE ALTERNATIVES TO ABORTION, INCLUDING CHILDBIRTH AND ADOPTION.

{4}(5) "Medical emergency" means a condition that, based on 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.

{5}(6) "Probable gestational age of the unborn child" 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.

{5}{6}--"Viability"--means-the-ability-of-a-fetus-to-live

outside--the--mother's--womb,--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;

{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
 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,
 8 consent to an abortion is informed and voluntary only if the
 9 provisions of subsections (3)-through-(9) (5) THROUGH (10)
 10 are met.

11 (3)(5) The information required by subsections (4)-and
 12 (5) (6) AND (7) must be provided to a woman at--least--24
 13 hours before an abortion.

14 (4)(6) The physician who is to perform the abortion or
 15 the referring physician shall tell the woman:

16 (a) the name of the physician who will perform the
 17 abortion;

18 (b) the probable gestational age of the unborn child at
 19 the time the abortion is to be performed;

20 (c) the particular medical risks associated with the
 21 particular abortion procedure to be used, including, when
 22 medically accurate, the risks of infection, hemorrhage,
 23 danger to subsequent pregnancies, and infertility; and

24 (d) the medical risks associated with carrying the
 25 child to full term.

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)--medical--assistance--benefits--may-be-available-for
 5 prenatal-care, childbirth, and neonatal care;

6 (b)--the-father-is-liable-to-assist-in--the--support--of
 7 the--woman's-child-even-if-the-father-has-offered-to-pay-for
 8 the-abortion;

9 (c)--the-woman--has--a--right--to--view--the--ultrasound
 10 videotape--provided--by-the-department-of-an-unborn-child-in
 11 the-womb-at-2-week-gestational-increments-from--the--time--a
 12 woman-can-be-known-to-be-pregnant-until-full-term;

13 (d)(A) the woman has a right to review printed material
 14 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 (e)(B) the woman is free to withhold or to withdraw
 23 informed and voluntary consent to the abortion.

24 (6)--if--the--woman--chooses--to--view--the--ultrasound
 25 videotape--or--review--the--printed--material,--or--both--the

~~physician or the physician's agent shall furnish them to the woman:~~

~~{7}(8) Prior to an abortion, the woman upon whom the abortion is to be performed shall certify in writing, on a form prescribed by the department, that:~~

~~(a) the information described in subsections {4}--and {5} (6) AND (7) has been furnished; and~~

~~(b) the woman has been informed of the right to review the information described in subsections {5}(c)--and--{5}(d) SUBSECTION (7)(A).~~

~~{8}(9) Prior to an abortion, the physician who is to perform the abortion or the physician's agent must have received a copy of the written certification required in subsection {7} (8).~~

~~{9}(10) If a medical emergency compels the performance of an abortion, the physician shall, prior to the abortion if possible, inform the woman of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or that a delay will create serious risk of substantial and irreversible impairment of a major bodily function.~~

~~{4}--No {10}(11) An executive officer, administrative agency, or public employee of the state or of any local governmental body has power--to may not issue any order requiring an abortion or shall coerce any woman to have an~~

~~abortion, nor shall any A person may not coerce any woman to have an abortion.~~

~~{5}{11}(12) Violation of subsections (1) and {4} {10} (11) of this section is a misdemeanor."~~

~~Section 3.--Section 50-20-112, MCA, is amended to read:--~~

~~"50-20-112.--Penalties.--{1}--A--person---convicted---of deliberate,--mitigated,--or--negligent--homicide--under--this chapter--is--subject--to--the--penalties--prescribed--by--45-5-102 through 45-5-104.~~

~~{2}--A---person---convicted---of--a--felony--other--than deliberate, mitigated,--or--negligent--homicide--under--this chapter---is--subject--to--a--fine--not--to--exceed--\$1,000, imprisonment in the state prison for a term not to exceed--5 years, or both.~~

~~{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 3. Printed information. (1)

Within 60 180 days of [the effective date of this act], the department shall, SUBJECT TO THE PROVISIONS OF SUBSECTION (2), publish the following in legible, large typeface and make available upon request at no cost to any person, facility, or hospital:

{2}{A} geographically indexed material designed to inform a woman of public and private agencies and services, including adoption agencies and services, that are available to assist a woman through pregnancy, following childbirth, and while the child is dependent. The material must include:

{a}{I} a comprehensive list of the agencies available; and

{b}{II} a description of the services offered by the available agencies, including the telephone numbers of the

agencies; and

(B) MATERIAL DESIGNED TO INFORM THE WOMAN OF THE MEDICAL AND PSYCHOLOGICAL EFFECTS ASSOCIATED WITH PREGNANCIES TERMINATED BY ABORTION, ASSOCIATED WITH PREGNANCIES CARRIED TO TERM IN WHICH THE INFANT OR CHILD IS PLACED FOR ADOPTION, AND ASSOCIATED WITH PREGNANCIES CARRIED TO TERM IN WHICH THE CHILD IS KEPT BY THE NATURAL MOTHER;

{2}{C} material THAT IS designed to inform the woman of the probable anatomical and physiological characteristics of the unborn--child--at--2-week--gestational--increments--from--the time--a--woman--can--be--known--to--be--pregnant--until--full--term, including--any--color--pictures--or--drawings--representing--the development--of--unborn--children--at--2-week--gestational increments--containing--the--dimensions--of--the--fetus--that--are realistic--and--appropriate--for--the--stage--of--pregnancy depicted FETUS. The material must be objective, nonjudgmental, and designed to convey only accurate, scientific information about the unborn-child FETUS at the various gestational ages, including:

{a}{I} objective information describing the methods of abortion procedures commonly used;

{b}{II} any relevant information on the possibility of the unborn-child's FETUS'S survival;

{c}{III} the medical risks commonly associated with each abortion procedure;

{d}{IV} the possible detrimental psychological effects of abortion; and

{e}{V} the medical risks commonly associated with carrying a child to term.

(2) THE MATERIAL PREPARED BY THE DEPARTMENT UNDER THIS SECTION MUST BE BASED ON INFORMATION PUBLISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION, THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, AND THE AMERICAN MEDICAL ASSOCIATION AND MUST IDENTIFY RISK LEVELS FOR DIFFERENT AGE GROUPS WHEN RISKS VARY BY AGE GROUP.

NEW SECTION,--Section 5.--Ultrasound---required,---{1}--
 Within--60--days--of--{the--effective-date-of-this-act},--the department--shall--provide--a--videotape--containing--ultrasound motion--pictures--of--unborn--children--in--the--womb--that--is designed--to--inform--a--viewer--of--the--probable--anatomical--and physiological--characteristics--of--an--unborn--child--at--2-week gestational--increments--from--the--time--a--woman--can--be--known--to 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,

{3}--The--ultrasound--must--be--available--at--no--cost--from the--department--upon--request--to--any--person,--facility,--or hospital;

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woman--upon--whom--an--abortion--has--been--performed--or--attempted does--not--consent--to--be--publicly--named--in--a--civil--or--criminal action--brought--for--violation--of--50-20-104,--50-20-106, 50-20-112,--or--{sections--4--through--8},--the--court--shall--rule, upon--motion--by--either--party,--whether--the--identity--of--the woman--must--be--preserved--from--public--disclosure:

{2}--If--the--court--rules--that--the--woman's--anonymity should--be--preserved,--the--court--shall--issue--the--order--to--the 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 disclosure:

{3}--The--court--order--must--be--accompanied--by--a--written statement--explaining:

{a}--why--the--name--of--the--woman--should--not--be--publicly disclosed;

{b}--why--the--order--is--essential--in--protecting--the woman's--anonymity;

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the--father--of--the-unborn-child-who-was-the-subject-of-the
abortion, or a grandparent-of-the-unborn-child--may--file--a
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{3}--The-court-shall-grant-reasonable-attorney-fees-to-

{a}--a-plaintiff-obtaining-a-judgment--under--subsection
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{b}--the--defendant--if--the-plaintiff-does-not-obtain-a
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{Sections-4-through-8}-are [SECTION 3] IS intended to be
codified as an integral part of Title 50, chapter 20, part
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-End-