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3 HOUSE HEALTH COMMITTEE SUBSTITUTE FOR HB494  
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8 SYNOPSIS: Currently, parental consent is required  
9 before an abortion may be performed on a minor  
10 under the age of 18.

11 This bill would require that only a  
12 physician may perform an abortion.

13 This bill would require the signature of a  
14 parent or legal guardian or adoptive parent of a  
15 minor to a consent form to be signed in the  
16 presence of the physician or agent and to be  
17 accompanied with specific identification and  
18 evidence, and would provide for certain alternative  
19 identification and evidence requirements. This bill  
20 would require certain documents proving that a  
21 minor is emancipated to be certified by the  
22 appropriate issuing authority.

23 This bill would also prohibit a parent,  
24 legal guardian, custodian, or any other person from  
25 coercing a minor into having an abortion performed.

1                   This bill would require the Department of  
2                   Public Health to develop appropriate forms for the  
3                   consent and emancipation requirements.

4                   This bill would provide for the appointment  
5                   of a guardian ad litem to represent the interests  
6                   of the unborn child during certain proceedings.

7                   This bill would specify that failure to  
8                   comply with this act would provide the basis for a  
9                   civil malpractice action, an injunctive action, and  
10                  professional disciplinary. This bill would provide  
11                  that a physician who complies would not be civilly  
12                  liable for failure to obtain informed consent.

13  
14   A BILL  
15   TO BE ENTITLED  
16   AN ACT

17  
18                   Relating to the Parental Consent Law; to amend  
19                   Sections 26-21-1 to 26-21-4, inclusive, and Section 26-21-7,  
20                   Code of Alabama 1975, and to add Section 26-21-6.1 to the Code  
21                   of Alabama 1975, to require the signature of a parent, legal  
22                   guardian, or adoptive parent of a minor to a consent form to  
23                   be signed in the presence of the abortion provider or agent  
24                   and to be accompanied with specific identification and  
25                   evidence, and to provide for certain alternative  
26                   identification and evidence requirements; to require certain  
27                   documents proving that a minor is emancipated to be certified

1 by the appropriate issuing authority; to prohibit a parent,  
2 legal guardian, custodian, or any other person from coercing a  
3 minor to have an abortion performed; to provide that the  
4 Department of Public Health develop appropriate forms for the  
5 consent and emancipation; to provide for certain civil actions  
6 including professional disciplinary actions and license  
7 suspension; to provide for the right of intervention; to  
8 provide for the appointment of a guardian ad litem to  
9 represent the interests of the unborn child during certain  
10 proceedings; to provide for certain civil actions based on a  
11 violation of Title 26, Chapter 21, Code of Alabama 1975; and  
12 to provide for certain exemptions from liability for  
13 physicians.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 26-21-1 to 26-21-4, inclusive,  
16 and Sections 26-21-6 and 26-21-7, Code of Alabama 1975, are  
17 amended to read as follows:

18 "§26-21-1.

19 "(a) It is the intent of the Legislature in enacting  
20 this parental consent provision to further the important and  
21 compelling state interests of: (1) protecting minors against  
22 their own immaturity, (2) fostering the family structure and  
23 preserving it as a viable social unit, and (3) protecting the  
24 rights of parents to rear children who are members of their  
25 household.

26 "(b) The Legislature finds as fact that: (1)  
27 immature minors often lack the ability to make fully informed

1 choices that take account of both immediate and long-range  
2 consequences, (2) the medical, emotional, and psychological  
3 consequences of abortion are serious and can be lasting,  
4 particularly when the patient is immature, (3) the capacity to  
5 become pregnant and the capacity for mature judgment  
6 concerning the wisdom of an abortion are not necessarily  
7 related, (4) parents ordinarily possess information essential  
8 to a physician's exercise of his or her best medical judgment  
9 concerning the child, and (5) parents who are aware that their  
10 minor daughter has had an abortion may better insure that she  
11 receives adequate medical attention after her abortion. The  
12 Legislature further finds that parental consultation is  
13 usually desirable and in the best interests of the minor.

14 "(c) The Legislature further finds that the United  
15 States Supreme Court has held under certain circumstances a  
16 minor may seek permission to have an abortion without her  
17 parent's consent by petitioning a court. The Legislature  
18 enacts a judicial by-pass procedure for the purposes of  
19 meeting the Constitutional standard and finds that in order to  
20 do substantial justice it is necessary that the Alabama courts  
21 be provided guidance in determining appropriate procedure and  
22 evidence.

23 "(d) The Legislature further finds the public policy  
24 of the State of Alabama is to respect life and provide  
25 safeguards to protect life in the criminal, health, and other  
26 laws of the State of Alabama; that in respecting and  
27 protecting life, there is included the unborn life of a child

1 whose life may be subject to termination before birth by  
2 abortion and that when the mother of said unborn life is a  
3 minor who seeks an abortion through the judicial by-pass  
4 procedure, it is the interest of the State of Alabama to not  
5 only establish and protect the rights of the minor mother, but  
6 also to protect the state's public policy to protect unborn  
7 life; the protection of these interests is done, in part, by  
8 requiring judges to make determinations pursuant to the  
9 judicial by-pass procedure and to require said judges be  
10 provided with sufficient evidence and information upon which  
11 they may make informed and proper decisions.

12 "(e) Alabama judges are called upon to make  
13 decisions not only respecting the lives of born persons, such  
14 as in capital punishment cases, but also respecting the lives  
15 of unborn persons, such as in judicial by-pass cases for minor  
16 abortions; it is always the Legislature's intent to provide  
17 guidance to the Alabama courts on how life may be best  
18 protected.

19 "(f) It is not the intent of the Legislature to  
20 place an undue burden on the minor's otherwise legal right to  
21 make a decision on whether to obtain an abortion of her unborn  
22 child; the Legislature's intent is to provide guidance and  
23 assistance to minors who find themselves in the unfortunate  
24 position of having to make such decisions and to courts who  
25 must act in the place of parents in providing an alternative  
26 by-pass mode for decision making.

27 "§26-21-2.

1           "For purposes of this chapter, the following  
2 definitions shall apply:

3           "(1) MINOR. Any person under the age of 18 years;

4           "(2) EMANCIPATED MINOR. Any minor who is or has been  
5 married or has by court order otherwise been legally freed  
6 from the care, custody, and control of her parents;

7           "(3) ABORTION. The use or prescription of any  
8 instrument, medicine, drug, or any other substance or device  
9 with the intent to terminate the pregnancy of a woman known to  
10 be pregnant, ~~with intent other than to increase the~~  
11 ~~probability of a live birth, to preserve the life or health of~~  
12 ~~the child after live birth, or to remove a dead or dying~~  
13 ~~unborn child~~ knowledge that the termination by those means  
14 will with reasonable likelihood cause the death of the unborn  
15 child. Such use or prescription is not an abortion if done  
16 with the intent to save the life or preserve the health of an  
17 unborn child, remove a dead unborn child, or to deliver the  
18 unborn child prematurely in order to preserve the health of  
19 both the mother (pregnant woman) and her unborn child. The  
20 term "abortion" as used herein does not include a procedure or  
21 act to terminate the pregnancy of a woman with an ectopic  
22 pregnancy, nor does it include the procedure or act to  
23 terminate the pregnancy of a woman where the unborn child has  
24 a lethal anomaly. For the purposes of this act a "lethal  
25 anomaly" means the child would die at birth, or be stillborn.  
26 For purposes of this act, the term "ectopic pregnancy" means  
27 any pregnancy resulting from a fertilized egg that was

1 implanted or attached outside the uterus. The term "ectopic  
2 pregnancy" also includes a pregnancy resulting from a  
3 fertilized egg implanted inside the cornu of the uterus.

4 "(4) MEDICAL EMERGENCY. A condition that, absent an  
5 abortion performed before the requirements of this act are  
6 met, and based on the applicable standard of care, is likely  
7 to result in the death of the pregnant woman or is likely to  
8 result in substantial irreversible impairment of a major  
9 bodily function of the pregnant woman, not including  
10 psychological or emotional conditions.

11 "§26-21-3.

12 "(a) Except as otherwise provided in subsections (b)  
13 and ~~(e)~~ (d) of this section and Sections 26-21-4 and 26-21-5  
14 hereof, no ~~person~~ physician shall perform an abortion upon an  
15 unemancipated minor unless ~~he or she~~ the physician or his or  
16 her agent first obtains the written consent of either parent  
17 or the legal guardian of the minor.

18 ~~"(b) If the minor's pregnancy was caused by sexual~~  
19 ~~intercourse with the minor's natural father, adoptive father,~~  
20 ~~or stepfather or legal guardian, then written notice to the~~  
21 ~~minor's mother by certified mail shall be sufficient.~~

22 ~~"(c)~~ (b) The ~~person~~ physician who shall perform the  
23 abortion or his or her agent shall obtain or be provided with  
24 the written consent from either parent or legal guardian  
25 stating the names of the minor, parent, or legal guardian,  
26 that he or she is informed that the minor desires an abortion  
27 and does consent to the abortion, the date, and the consent

1 shall be signed by either parent or legal guardian. ~~The~~  
2 ~~unemancipated minor shall verify on the same form, by her~~  
3 ~~signature and in the presence of such person who shall perform~~  
4 ~~the abortion or his or her agent, that the signature of the~~  
5 ~~parents, parent, or legal guardian is authentic. The consent~~  
6 ~~shall be kept as a part of the minor's patient file for four~~  
7 ~~years.~~ The signatures of the parents, parent, or legal  
8 guardian shall be affixed and the information required in this  
9 subsection shall be on a form to be provided by, and shall be  
10 written in the presence of, the physician who shall perform  
11 the abortion or his or her agent. The parents, parent, or  
12 legal guardian shall provide to the physician who shall  
13 perform the abortion or his or her agent, evidence of  
14 parentage or legal guardianship. For parents or a parent,  
15 there shall also be required a certified birth certificate of  
16 the minor identifying the minor and the parents or parent. For  
17 a legal guardian or adoptive parent, there shall be required a  
18 duly certified court order or other official document naming  
19 the legal guardian or adoptive parent as such for the minor.  
20 If official photographic personal identification has not been  
21 issued to any parents, parent, or legal guardian, other  
22 official identification shall be acceptable, provided the  
23 parents, parent, or legal guardian affirms in writing on the  
24 form herein required under oath, with recognition of criminal  
25 penalties, that he or she does not possess any photographic  
26 identification and that the alternative personal  
27 identification provided is his or her identification. The

1 parent, parents or legal guardian signing the consent shall  
2 attest with recognition of criminal penalties that he or she  
3 is the parent or legal guardian, has not been deprived of  
4 primary custody or joint physical custody of the minor by any  
5 court of law, and has not given the child up for adoption or  
6 otherwise waived parental rights. If the minor does not have a  
7 certified birth certificate, an abortion may be performed only  
8 if the physician who shall perform the abortion certifies in  
9 writing in the minor's medical record that a medical emergency  
10 exists or that there is insufficient time to obtain a  
11 certified birth certificate, and provided the minor can  
12 provide other government issued identification. The parents,  
13 parent, or minor shall obtain a certified birth certificate as  
14 soon thereafter as possible and provide a certified copy to  
15 the physician who performed the abortion or his or her agent,  
16 and if it is not received within 90 days, he or she shall  
17 report the failure to the State of Alabama Department of  
18 Public Health on a form provided by the department. Any  
19 certified document, a photocopy of the personal  
20 identification, and any other documentation required by this  
21 subsection shall be attached to the completed consent form and  
22 shall be kept as a part of the minor's patient file for four  
23 years. All signatures required by this act by the minor,  
24 parent, parents, legal guardian, physician or other person  
25 shall be attested by a notary public.

26 "(d)(c) If the minor is emancipated, the ~~person~~  
27 physician who shall perform the abortion or his or her agent

1 shall obtain a written ~~statement form~~ stating the name of the  
2 emancipated minor, that the minor is emancipated, the type of  
3 emancipation, and the date, and the form shall be signed by  
4 the emancipated minor. The written ~~statement form~~ shall be  
5 signed in the presence of the ~~person~~ physician who shall  
6 perform the abortion or his or her agent and witnessed by ~~him~~  
7 ~~or her~~ the physician or the agent. The emancipated minor shall  
8 also provide a license or certificate of marriage, judgment,  
9 or decree of divorce, order of emancipation or relieving her  
10 of the disabilities of nonage, or other court document  
11 evidencing her marriage, divorce, or emancipation. Any such  
12 document shall be a copy of the original, duly certified by  
13 the appropriate court. ~~A copy of any such~~ Such certified  
14 document shall be attached to the written ~~statement form~~ and  
15 kept as a part of the minor's patient file for four years.

16 ~~"(e)~~ (d) A minor, including a ward of the state, who  
17 elects not to seek or does not or cannot for any reason,  
18 including unavailability or refusal by either or both parents  
19 or legal guardian, obtain consent from either of her parents  
20 or legal guardian under this section, may petition, on her own  
21 behalf, the juvenile court, or court of equal standing, in the  
22 county in which the minor resides ~~or in the county in which~~  
23 ~~the abortion is to be performed~~ for a waiver of the consent  
24 requirement of this section pursuant to the procedure of  
25 Section 26-21-4.

1           "(e) A parent, legal guardian, custodian, or any  
2 other person, shall not coerce a minor to have an abortion  
3 performed.

4           "(f) The Department of Public Health shall propose  
5 within 90 days of the effective date of this act, the forms  
6 required in subsections (b) and (c).

7           "§26-21-4.

8           "(a) A minor who elects not to seek or does not or  
9 cannot for any reason, obtain consent from either of her  
10 parents or legal guardian, may petition, on her own behalf,  
11 the juvenile court, or the court of equal standing, in the  
12 county in which the minor resides ~~or in the county in which~~  
13 ~~the abortion is to be performed~~ for a waiver of the consent  
14 requirement of this chapter. Notice by the court to the  
15 minor's parents, parent, or legal guardian shall not be  
16 required or permitted. The requirements and procedures under  
17 this chapter shall apply and are available only to minors  
18 ~~whether or not they~~ who are residents of this state.

19           "(b) The minor may participate in proceedings in the  
20 court on her own behalf. The court shall advise her that she  
21 has a right to be represented by an attorney and that if she  
22 is unable to pay for the services of an attorney one will be  
23 appointed for her. If the court appoints an attorney to  
24 represent her, such attorney shall be compensated as provided  
25 in Section 15-12-21. If the minor petitioner chooses to  
26 represent herself, such pleadings, documents, or evidence that  
27 she may file with the court shall be liberally construed by

1 the court so as to do substantial justice. ~~Hearsay evidence~~  
2 ~~shall be admissible.~~

3 "(c) The court shall insure that the minor is given  
4 assistance in preparing and filing the petition ~~and shall~~  
5 ~~insure that the minor's identity is kept confidential.~~ Such  
6 assistance may be provided by court personnel including intake  
7 personnel of juvenile probation services. The minor's identity  
8 shall be kept confidential, but her identity may be made known  
9 to the judge, any guardian ad litem, any representative of the  
10 Attorney General's Office, appropriate court personnel, any  
11 witness who has a need to know the minor's identity, or any  
12 other person determined by the court who needs to know. Any  
13 person who is given the identity of the minor shall keep her  
14 name confidential and shall not give it to any other person,  
15 unless otherwise ordered by the court.

16 "(d) The petition required in Section 26-21-3~~(e)~~(d)  
17 shall be made under oath and shall include all of the  
18 following:

19 "(1) A statement that the petitioner is pregnant;

20 "(2) A statement that the petitioner is unmarried,  
21 under 18 years of age, and unemancipated;

22 "(3) A statement that the petitioner wishes to have  
23 an abortion without the consent of either parent or legal  
24 guardian.

25 "(4) An allegation of either or both of the  
26 following:

1            "a. That the petitioner is sufficiently mature and  
2 well enough informed to intelligently decide whether to have  
3 an abortion without the consent of either of her parents or  
4 legal guardian.

5            "b. That one or both of her parents or her guardian  
6 has engaged in a pattern of physical, sexual, or emotional  
7 abuse against her, or that the consent of her parents, parent  
8 or legal guardian otherwise is not in her best interest.

9            "(5) A statement as to whether the petitioner has  
10 retained an attorney and the name, address, and telephone  
11 number of her attorney.

12            "(e) Court proceedings shall be given such  
13 precedence over other pending matters as is necessary to  
14 insure that the court may reach a decision promptly, but in no  
15 case, except as provided herein, shall the court fail to rule  
16 within ~~72~~ 48 hours of the time the petition is filed,  
17 Saturdays, Sundays, and legal holidays excluded. Provided,  
18 however, this time requirement may be extended on the request  
19 of the minor or any other participant in the proceeding, or by  
20 order of the court for the purpose of obtaining further  
21 testimony or evidence necessary for it to make an informed  
22 decision and to do substantial justice. If a juvenile court  
23 judge is not available for the hearing provided herein, the  
24 clerk of the court in which the petition was filed shall  
25 forthwith notify the presiding circuit court judge and the  
26 presiding circuit court judge of the circuit shall immediately

1 appoint a district or circuit court ~~level~~ judge to hear the  
2 petition.

3 "(f) Except as otherwise required by the section,  
4 this court shall adhere to the Rules of Juvenile Procedure,  
5 the Rules of Civil Procedure and Rules of Evidence required of  
6 Alabama courts. The court shall assure that it is presented  
7 sufficient probative evidence upon which to make its findings,  
8 either granting or denying the minor's petition. If the court  
9 determines at the initial hearing on the petition that  
10 additional evidence or testimony is necessary, the court may  
11 adjourn the hearing and issue instanter subpoenas or otherwise  
12 permit any party or participant in the hearing to bring before  
13 the court admissible evidence or testimony either in support  
14 of or against the petition.

15 "~~(f)~~(g) The required consent shall be waived if the  
16 court finds either:

17 "(1) That the minor is mature and well-informed  
18 enough to make the abortion decision on her own; or

19 "(2) That performance of the abortion would be in  
20 the best interest of the minor.

21 "(h) In determining if either of the requirements in  
22 subsection (g) are met, the court shall require that the minor  
23 provide probative and admissible evidence that she has been  
24 informed and understands the medical procedure of abortion and  
25 its consequences and that she has been informed and counseled  
26 by a qualified person as to the alternatives to abortion. She  
27 shall explain each of the foregoing to the court and the court

1 shall be satisfied that she is making an informed judgment and  
2 shall document its finding in its order. The minor shall  
3 present such additional probative evidence to the court of her  
4 maturity that demonstrates to the court that she has  
5 sufficient experience with and understanding of life which  
6 enables her to make mature and informed decisions. Further,  
7 the minor may provide to the court a substantive explanation  
8 of why she cannot consult with her parent, parents, or legal  
9 guardian to assist her in making the decision. It shall not be  
10 sufficient that the court find the minor mature because she  
11 has requested relief from the court, but rather the totality  
12 of the evidence must be probative and of such weight to prove  
13 that the minor is mature and well-informed enough to make the  
14 abortion decision on her own, or that the performance of the  
15 abortion will be in her best interest. Uncorroborated legal  
16 conclusions by the minor shall not be sufficient to support a  
17 determination by the court to grant her petition. In the event  
18 of a denial of the petition by the court, the minor may  
19 re-file the petition once for a de novo hearing with the  
20 court.

21 "(i) The court shall immediately notify the Attorney  
22 General's Office of the filing of the petition on the day of  
23 such filing and the Attorney General or his or her  
24 representative shall participate as an advocate for the state  
25 to examine the petitioner and any witnesses, and to present  
26 evidence for the purpose of providing the court with a

1 sufficient record upon which to make an informed decision and  
2 to do substantial justice.

3 "(j) In the court's discretion, it may appoint a  
4 guardian ad litem for the interests of the unborn child of the  
5 petitioner who shall also have the same rights and obligations  
6 of participation in the proceeding as given to the Attorney  
7 General. The guardian ad litem shall further have the  
8 responsibility of assisting and advising the court so the  
9 court may make an informed decision and do substantial  
10 justice. The guardian ad litem shall be compensated as  
11 provided in Section 15-12-21.

12 "(k) Either the Attorney General or his or her  
13 representative, or any other party in the proceeding may  
14 request the court for additional time either before the  
15 hearing has begun or during the hearing, if justice requires,  
16 to obtain evidence, subpoena witnesses, or to obtain and  
17 present any evidence or information which will be necessary  
18 and appropriate for the court to make an informed decision. In  
19 any event, any such delay shall not be more than one business  
20 day for which the applicable court is open to the public,  
21 unless justice requires an extension thereof. The length of  
22 time for any such delay and the information, evidence, or  
23 subpoena sought shall be within the sound discretion of the  
24 trial court subject to the time constraints of the petitioner  
25 related to her medical condition.

26 "(l) Although the court shall not be required or  
27 permitted to contact the minor's parent, parents, or legal

1 guardian, in the event that the minor's parent, parents, or  
2 legal guardian are otherwise aware of the by-pass proceeding,  
3 they, he, or she shall be given notice of and be permitted to  
4 participate in the proceeding and be represented by counsel  
5 with all of the rights and obligations of any party to the  
6 proceeding.

7 "~~(g)~~ (m) A court that conducts proceedings under this  
8 section shall issue written and specific factual findings and  
9 legal conclusions supporting its decision and shall order that  
10 a confidential record of the evidence be maintained for at  
11 least four years. A transcript of the proceedings shall be  
12 recorded and if there is an appeal as provided in subsection  
13 ~~(h)~~ (n), a transcript of the proceedings shall be prepared  
14 forthwith.

15 "~~(h)~~ (n) An expedited confidential and anonymous  
16 appeal shall be available to any minor to whom the court  
17 denies a waiver of consent, the Attorney General, and any  
18 guardian ad litem, or the parent, parents, or legal guardian  
19 of the minor. If notice of appeal is given, the record of  
20 appeal shall be completed and the appeal shall be perfected  
21 within five days from the filing of the notice of appeal.  
22 Briefs shall not be required but may be permitted. Because  
23 time may be of the essence regarding the performance of the  
24 abortion, the Alabama Supreme Court shall issue promptly such  
25 additional rules as it deems are necessary to insure that  
26 appeals under this section are handled in an expeditious,  
27 confidential and anonymous manner.

1           "~~(i)~~(o) All proceedings under this chapter shall be  
2 confidential and anonymous. In all pleadings or court  
3 documents, the minor shall be identified by initials only.

4           "~~(j)~~(p) No fees or costs shall be required of any  
5 minor who avails herself of the procedures provided by this  
6 section.

7           "(q) proceedings under this section and with the  
8 consent of the minor for whom such proceedings are conducted,  
9 the court may refer for prosecution any criminal charge that  
10 may be known to said court, including, but not limited to,  
11 statutory rape.

12           "§26-21-6.

13           (a) (1) Any person who intentionally performs or  
14 causes to be performed an abortion in violation of the  
15 provisions of this chapter or intentionally fails to conform  
16 to any requirement of this chapter, shall be guilty of a Class  
17 A misdemeanor. Any person found guilty under this section  
18 shall immediately forfeit any professional license they may  
19 hold.

20           (2) Any conviction of any person for any failure to  
21 comply with the requirements of this chapter shall result in  
22 the automatic immediate suspension of the person's  
23 professional license for a period of at least one year and  
24 shall be reinstated after that time only on such conditions as  
25 the appropriate regulatory or licensing body shall require to  
26 insure compliance with this chapter.

1           (b) In addition to whatever remedies are available  
2 under the common or statutory law of this state, failure to  
3 comply with the requirements of this chapter shall provide a  
4 basis for professional disciplinary action under any  
5 applicable statutory or regulatory procedure for the  
6 suspension or revocation of any license for physicians,  
7 psychologists, licensed social workers, licensed professional  
8 counselors, registered nurses, or other licensed or regulated  
9 persons.

10           "§26-21-7.

11           "(a) No physician who complies with the parental  
12 consent ~~requirement(s)~~ requirements of this chapter shall be  
13 liable in any manner to the minor upon whom the abortion was  
14 performed for any claim whatsoever arising out of or based on  
15 the disclosure of any information concerning the medical  
16 condition of such minor to her ~~parent(s) or legal guardian(s);~~  
17 ~~provided that~~ parent, parents, or legal guardian.  
18 Notwithstanding the foregoing, a physician who performs an  
19 abortion pursuant to a court order obtained under ~~the~~  
20 ~~provisions of~~ this chapter, shall not disclose any information  
21 regarding same to the ~~parent(s) or legal guardian(s)~~ parent,  
22 parents, or legal guardian of the minor unless such disclosure  
23 is made pursuant to a court order. In no event shall the  
24 physician be under any duty to initiate proceedings in any  
25 court to secure a waiver of the parental consent requirement  
26 on behalf of any minor who has requested that an abortion be  
27 performed.

1           "(b) Any physician who complies with this chapter  
2 may not be held civilly liable to his or her patient for  
3 failure to obtain consent to the abortion required by this  
4 chapter.

5           "(c) A physician or his or her agent who  
6 demonstrates compliance with the requirements of this chapter  
7 shall not bear criminal or civil liability for the deliberate,  
8 intentional, or willful action by the minor or any other  
9 person acting in concert with or on behalf of the minor to  
10 present fabricated, altered, forged, or counterfeit  
11 identification, certificates, or other documentation to  
12 satisfy the parental consent requirements of this chapter."

13           Section 2. Section 26-21-6.1 is added to Chapter 21,  
14 Title 26, Code of Alabama 1975, as follows:

15           §26-21-6.1.

16           In addition to whatever remedies are available under  
17 the common or statutory law of this state, failure to comply  
18 with the requirements of this chapter shall provide a basis  
19 for a civil action for compensatory and/or punitive damages.  
20 Any criminal conviction under this chapter shall be admissible  
21 in a civil suit as prima facie evidence of a failure to obtain  
22 an informed consent or parental or judicial consent. The civil  
23 action may be based on a claim that the action was a result of  
24 simple negligence, gross negligence, wantonness, willfulness,  
25 intention, or breach of other legal standard of care. The  
26 Medical Liability Act of 1987 shall not apply to any civil  
27 causes of action brought pursuant to this act.

1                   Section 3. The provisions of this act are severable.  
2                   If any part of this act is declared invalid or  
3                   unconstitutional, that declaration shall not effect the part  
4                   which remains.

5                   Section 4. This act shall become effective on the  
6                   first day of the third month following its passage and  
7                   approval by the Governor, or its otherwise becoming law.