

No. 1989-64

AN ACT

SB 369

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, regulating matters relating to the performance of abortions, the protection of women who undergo abortion, and the protection of children subject to abortion; providing for notice to spouses prior to an abortion; prohibiting abortions based solely on the sex of the child; prohibiting certain abortions after 24 weeks gestation; and changing the penalty for incest.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "fertilization," "pregnancy," and "unborn child" in section 3203 of Title 18 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a definition to read:

§ 3203. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Fertilization" and "conception." [The fertilization of an ovum by a sperm, which shall be deemed to have occurred when the head of the sperm has penetrated the cell membrane of the ovum and the process of development, differentiation, cell mitosis and replication begins and shall be synonymous with the term conception.] *Each term shall mean the fusion of a human spermatozoon with a human ovum.*

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"Gestational age." *The age of the unborn child as calculated from the first day of the last menstrual period of the pregnant woman.*

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"Pregnancy" and "pregnant." [That] *Each term shall mean that female reproductive condition [caused by and commencing] of having a developing fetus in the body and commences with fertilization.*

* * *

"Unborn child" and "fetus." [For purposes of this chapter, a human being from fertilization until birth and includes a fetus.] *Each term shall mean an individual organism of the species homo sapiens from fertilization until live birth.*

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Section 2. Sections 3204(c) and (d), 3205(a) and (c), 3206(f)(1) and 3208(a) of Title 18 are amended to read:

§ 3204. Medical consultation and judgment.

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(c) Factors.—In determining in accordance with subsection (a) or (b) whether an abortion is necessary, a physician's best clinical judgment may be exercised in the light of all factors (physical, emotional, psychological, familial and the woman's age) relevant to the well-being of the woman. *No abortion which is sought solely because of the sex of the unborn child shall be deemed a necessary abortion.*

(d) Penalty.—Any *person who intentionally, knowingly or recklessly violates the provisions of this section commits a felony of the third degree, and any physician who violates the provisions of this section is guilty of "unprofessional conduct"* and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts.

§ 3205. Informed consent.

(a) General rule.—No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if, **prior to the consent having been given, the physician who is to perform the abortion, or the referring physician, or a qualified physician assistant, health care practitioner, or technician to whom the responsibility has been delegated by either physician, has orally informed the woman of the nature of the proposed procedure or treatment and of those risks and alternatives to the procedure or treatment that a reasonable patient would consider material to the decision whether or not to undergo the abortion, and the woman certifies in writing prior to the abortion that she has been provided such information.]:**

(1) At least 24 hours prior to the abortion, the physician who is to perform the abortion or the referring physician has orally informed the woman of:

(i) The nature of the proposed procedure or treatment and of those risks and alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(ii) The probable gestational age of the unborn child at the time the abortion is to be performed.

(iii) The medical risks associated with carrying her child to term.

(2) At least 24 hours prior to the abortion, the physician who is to perform the abortion or the referring physician, or a qualified physician assistant, health care practitioner, technician or social worker to whom the responsibility has been delegated by either physician, has informed the pregnant woman that:

(i) The department publishes printed materials which describe the unborn child and list agencies which offer alternatives to abortion and that she has a right to review the printed materials and that a copy will be provided to her free of charge if she chooses to review it.

(ii) *Medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the department.*

(iii) *The father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion. In the case of rape, this information may be omitted.*

(3) *A copy of the printed materials has been provided to the pregnant woman if she chooses to view these materials.*

(4) *The pregnant woman certifies in writing, prior to the abortion, that the information required to be provided under paragraphs (1), (2) and (3) has been provided.*

* * *

(c) **Penalty.**—Any physician who violates the provisions of this section is guilty of “unprofessional conduct” and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. *Any physician who performs or induces an abortion without first obtaining the certification required by subsection (a)(4) or with knowledge or reason to know that the informed consent of the woman has not been obtained shall for the first offense be guilty of a summary offense and for each subsequent offense be guilty of a misdemeanor of the third degree.* No physician shall be guilty of [“unprofessional conduct”] *violating this section* for failure to furnish the information required by subsection (a) if he or she can demonstrate, by a preponderance of the evidence, that *he or she reasonably believed that* furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the patient.

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§ 3206. Parental consent.

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(f) **Proceedings.**—

(1) Court proceedings under this section shall be confidential and shall be given such precedence over other pending matters as will ensure that the court may reach a decision promptly and without delay in order to serve the best interests of the pregnant woman. In no case shall the court of common pleas fail to rule within three business days of the date of application. A court of common pleas which conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting its decision and shall, *upon the initial filing of the minor’s petition for judicial authorization of an abortion*, order a sealed record of the *petition*, pleadings, submissions, transcripts, exhibits, orders, evidence and any other written material to be maintained which shall include its own findings and conclusions.

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§ 3208. Printed information.

(a) General rule.—The department shall cause to be published in English, Spanish and Vietnamese, within 60 days after this chapter becomes law, and shall update on an annual basis, the following easily comprehensible printed materials:

(1) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers, in which they might be contacted, or, at the option of the department, printed materials including a toll-free, 24-hour a day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer. **[The materials shall include the following statement:**

“There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The Commonwealth of Pennsylvania strongly urges you to contact them before making a final decision about abortion.”]

The materials shall **[state that medical assistance benefits may be available] provide information on the availability of medical assistance benefits for prenatal care, childbirth and neonatal care, and state that it is unlawful for any individual to coerce a woman to undergo abortion, that any physician who performs an abortion upon a woman without obtaining her informed consent or without according her a private medical consultation may be liable to her for damages in a civil action at law, that the father of a child is liable to assist in the support of that child, even in instances where the father has offered to pay for an abortion and that the law permits adoptive parents to pay costs of prenatal care, childbirth and neonatal care.**

(2) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including ***pictures representing the development of unborn children at two-week gestational increments, and any relevant information on the possibility of the unborn child’s survival; provided that any such pictures or drawings must contain the dimensions of the fetus and must be realistic and appropriate for the woman’s stage of pregnancy.*** The materials shall be objective, non-judgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion and the medical risks commonly associated with each such procedure**[, the possible detrimental psychological effects of abortion]** and the

medical risks commonly associated with carrying a child to term.

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Section 3. Title 18 is amended by adding sections to read:

§ 3208.1. Commonwealth interference prohibited.

The Commonwealth shall not interfere with the use of medically appropriate methods of contraception or the manner in which medically appropriate methods of contraception are provided.

§ 3209. Spousal notice.

(a) Spousal notice required.—In order to further the Commonwealth's interest in promoting the integrity of the marital relationship and to protect a spouse's interests in having children within marriage and in protecting the prenatal life of that spouse's child, no physician shall perform an abortion on a married woman, except as provided in subsections (b) and (c), unless he or she has received a signed statement, which need not be notarized, from the woman upon whom the abortion is to be performed, that she has notified her spouse that she is about to undergo an abortion. The statement shall bear a notice that any false statement made therein is punishable by law.

(b) Exceptions.—The statement certifying that the notice required by subsection (a) has been given need not be furnished where the woman provides the physician a signed statement certifying at least one of the following:

(1) Her spouse is not the father of the child.

(2) Her spouse, after diligent effort, could not be located.

(3) The pregnancy is a result of spousal sexual assault as described in section 3128 (relating to spousal sexual assault), which has been reported to a law enforcement agency having the requisite jurisdiction.

(4) The woman has reason to believe that the furnishing of notice to her spouse is likely to result in the infliction of bodily injury upon her by her spouse or by another individual.

Such statement need not be notarized, but shall bear a notice that any false statements made therein are punishable by law.

(c) Medical emergency.—The requirements of subsection (a) shall not apply in case of a medical emergency.

(d) Forms.—The department shall cause to be published forms which may be utilized for purposes of providing the signed statements required by subsections (a) and (b). The department shall distribute an adequate supply of such forms to all abortion facilities in this Commonwealth.

(e) Penalty; civil action.—Any physician who violates the provisions of this section is guilty of "unprofessional conduct," and his or her license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. In addition, any physician who knowingly violates the provisions of this section shall be civilly liable to the spouse who is the father of the aborted child for any damages caused thereby and for punitive damages in the amount of \$5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of costs.

Section 4. Sections 3210, 3211, 3212(b), 3214(a), 3215(b), 3216, 3217, 3218(a) and 3220 of Title 18 are amended to read:

§ 3210. [Abortion after viability.

(a) **Prohibition; penalty.**—Any person who intentionally, knowingly or recklessly performs or induces an abortion when the fetus is viable commits a felony of the third degree. It shall be a complete defense to any charge brought against a physician for violating the requirements of this section that he had concluded in good faith, in his best medical judgment, that the unborn child was not viable at the time the abortion was performed or induced or that the abortion was necessary to preserve maternal life or health.

(b) **Degree of care.**—Except in the case of a medical emergency, every person who performs or induces an abortion after he has determined an unborn child to be viable shall exercise that degree of professional skill, care and diligence which would reasonably be necessary in order to preserve the life and health of any unborn child intended to be born and not aborted, and the abortion technique employed shall be that which would provide the best opportunity for the unborn child to be delivered alive unless, in the good faith judgment of the physician, that method or technique would present a greater medical risk to the life or health of the pregnant woman than would another available method or technique. The physician shall report the basis for his judgment pursuant to section 3214(a) (relating to reporting). The potential psychological or emotional impact on the mother of the unborn child's survival shall not be deemed a medical risk to the mother. Any person who intentionally, knowingly or recklessly violates the provisions of this subsection commits a felony of the third degree.

(c) **Second physician.**—Except in the case of a medical emergency, any person who intends to perform an abortion after he has determined an unborn child to be viable, the method chosen for which abortion, in his good faith judgment, does not preclude the possibility of the child surviving the abortion, shall arrange for the attendance, in the same room in which the abortion is to be completed, of a second physician. Immediately after the complete expulsion or extraction of the child, the second physician shall take control of the child and shall provide immediate medical care for the child, taking all reasonable steps necessary, in his judgment, to preserve the child's life and health. Any person who intentionally, knowingly or recklessly violates the provisions of this subsection commits a felony of the third degree.]

Determination of gestational age.

(a) **Requirement.**—*Except in the case of a medical emergency which prevents compliance with this section, no abortion shall be performed or induced unless the referring physician or the physician performing or inducing it has first made a determination of the probable gestational age of the unborn child. In making such determination, the physician shall make such inquiries of the patient and perform or cause to be performed such medical examinations and tests as a prudent physician would consider necessary to make or perform in making an accurate diagnosis with respect to gestational age. The physician who performs or induces the abortion shall report the*

type of inquiries made and the type of examinations and tests utilized to determine the gestational age of the unborn child and the basis for the diagnosis with respect to gestational age on forms provided by the department.

(b) *Penalty.*—*Failure of any physician to conform to any requirement of this section constitutes “unprofessional conduct” within the meaning of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. Upon a finding by the State Board of Medicine or the State Board of Osteopathic Medicine that any physician has failed to conform to any requirement of this section, the board shall not fail to suspend that physician’s license for a period of at least three months. Intentional, knowing or reckless falsification of any report required under this section is a misdemeanor of the third degree.*

§ 3211. [Viability.

(a) *Determination of viability.*—*Except in the case of a medical emergency, prior to performing any abortion upon a woman subsequent to her first 19 weeks of pregnancy, the physician shall determine whether, in his good faith judgment, the child is viable. When the physician has determined that a child is viable, he shall, pursuant to section 3214(a) (relating to reporting), report the basis for his determination that the abortion is necessary to preserve maternal life or health. When the physician has determined that a child is not viable after the first 19 weeks of pregnancy, he shall report the basis for such determination pursuant to section 3214(a).*

(b) *Unprofessional conduct.*—*Failure of any physician to conform to any requirement of this section constitutes “unprofessional conduct” within the meaning of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. Upon a finding by the State Board of Medicine or the State Board of Osteopathic Medicine that any physician has failed to conform to any requirement of this section, the board shall not fail to suspend that physician’s license for a period of at least three months. Intentional, knowing or reckless falsification of any report required under this section is a misdemeanor of the third degree.]*

Abortion on unborn child of 24 or more weeks gestational age.

(a) *Prohibition.*—*Except as provided in subsection (b), no person shall perform or induce an abortion upon another person when the gestational age of the unborn child is 24 or more weeks.*

(b) *Exceptions.*—

(1) *It shall not be a violation of subsection (a) if an abortion is performed by a physician and that physician reasonably believes that it is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman. No abortion shall be deemed authorized under this paragraph if performed on the basis of a claim or a diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible impairment of a major bodily function.*

(2) *It shall not be a violation of subsection (a) if the abortion is performed by a physician and that physician reasonably believes, after making a determination of the gestational age of the unborn child in compliance with section 3210 (relating to determination of gestational age), that the unborn child is less than 24 weeks gestational age.*

(c) *Abortion regulated.—Except in the case of a medical emergency which, in the reasonable medical judgment of the physician performing the abortion, prevents compliance with a particular requirement of this subsection, no abortion which is authorized under subsection (b)(1) shall be performed unless each of the following conditions is met:*

(1) *The physician performing the abortion certifies in writing that, based upon his medical examination of the pregnant woman and his medical judgment, the abortion is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman.*

(2) *Such physician's judgment with respect to the necessity for the abortion has been concurred in by one other licensed physician who certifies in writing that, based upon his or her separate personal medical examination of the pregnant woman and his or her medical judgment, the abortion is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman.*

(3) *The abortion is performed in a hospital.*

(4) *The physician terminates the pregnancy in a manner which provides the best opportunity for the unborn child to survive, unless the physician determines, in his or her good faith medical judgment, that termination of the pregnancy in that manner poses a significantly greater risk either of the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman than would other available methods.*

(5) *The physician performing the abortion arranges for the attendance, in the same room in which the abortion is to be completed, of a second physician who shall take control of the child immediately after complete extraction from the mother and shall provide immediate medical care for the child, taking all reasonable steps necessary to preserve the child's life and health.*

(d) *Penalty.—Any person who violates subsection (a) commits a felony of the third degree. Any person who violates subsection (c) commits a misdemeanor of the second degree for the first offense and a misdemeanor of the first degree for subsequent offenses.*

§ 3212. Infanticide.

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(b) *Care required.—All physicians and licensed medical personnel attending a child who is born alive during the course of an abortion or premature delivery, or after being carried to term, shall provide such child that type and degree of care and treatment which, in the good faith judgment of the physician, is commonly and customarily provided to any other person*

under similar conditions and circumstances. Any individual who *intentionally*, knowingly or *recklessly* violates the provisions of this subsection commits a felony of the third degree.

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§ 3214. Reporting.

(a) General rule.—For the purpose of promotion of maternal health and life by adding to the sum of medical and public health knowledge through the compilation of relevant data, and to promote the Commonwealth's interest in protection of the **[viable]** unborn child, a report of each abortion performed shall be made to the department on forms prescribed by it. The report forms shall not identify the individual patient by name and shall include the following information:

(1) Identification of the physician who performed the abortion, *the concurring physician as required by section 3211(c)(2) (relating to abortion on unborn child of 24 or more weeks gestational age), the second physician as required by section 3211(c)(5)* and the facility where the abortion was performed and of the referring physician, agency or service, if any.

(2) The county and state in which the woman resides.

(3) The woman's age.

(4) The number of prior pregnancies and prior abortions of the woman.

(5) The **[probable]** gestational age of the unborn child *at the time of the abortion*.

(6) The type of procedure performed or prescribed and the date of the abortion.

(7) **[Medical complications of the pregnancy, if any, including but not limited to, rubella disease, hydatid mole, endocervical polyp and malignancies,] Pre-existing medical conditions of the woman which would complicate pregnancy, if any,** and, if known, any medical complication which resulted from the abortion itself.

(8) **[The information required to be reported under section 3211(a) (relating to viability).] The basis for the medical judgment of the physician who performed the abortion that the abortion was necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman, where an abortion has been performed pursuant to section 3211(b)(1).**

(9) The **[length and]** weight of the aborted **[unborn]** child for any abortion performed **[subsequent to the first 19 weeks of pregnancy] pursuant to section 3211(b)(1).**

(10) Basis for any medical judgment that a medical emergency existed **[as required by any part of this chapter] which excused the physician from compliance with any provision of this chapter.**

(11) The information required to be reported under section **[3210(b) (relating to abortion after viability)] 3210(a) (relating to determination of gestational age).**

(12) *Whether the abortion was performed upon a married woman and, if so, whether notice to her spouse was given. If no notice to her*

spouse was given, the report shall also indicate the reason for failure to provide notice.

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§ 3215. Publicly owned facilities; public officials and public funds.

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(b) Permitted treatment.—Nothing in subsection (a) shall be construed to preclude any hospital, clinic or other health facility from providing treatment for post-abortion complications[, or from permitting the performance of abortion where no other facility permitting abortion is available within a radius of 20 miles from the facility].

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§ 3216. Fetal experimentation.

(a) Unborn or live child.—Any person who knowingly performs any type of nontherapeutic experimentation *or nontherapeutic medical procedure (except an abortion as defined in this chapter)* upon any unborn child, or upon any child born alive during the course of an abortion, commits a felony of the third degree. “Nontherapeutic” means that which is not intended to preserve the [child’s] life or health *of the child upon whom it is performed*.

(b) Dead child.—[Experimentation upon children who have died during the course of an abortion may be conducted only upon the written consent of the mother: Provided, That no consideration for such consent is offered or given. Any person who knowingly violates this subsection commits a misdemeanor of the first degree.] *The following standards govern the procurement and use of any fetal tissue or organ which is used in animal or human transplantation, research or experimentation:*

(1) *No fetal tissue or organs may be procured or used without the written consent of the mother. No consideration of any kind for such consent may be offered or given. Further, if the tissue or organs are being derived from abortion, such consent shall be valid only if obtained after the decision to abort has been made.*

(2) *No person who provides the information required by section 3205 (relating to informed consent) shall employ the possibility of the use of aborted fetal tissue or organs as an inducement to a pregnant woman to undergo abortion except that payment for reasonable expenses occasioned by the actual retrieval, storage, preparation and transportation of the tissues is permitted.*

(3) *No remuneration, compensation or other consideration may be paid to any person or organization in connection with the procurement of fetal tissue or organs.*

(4) *All persons who participate in the procurement, use or transplantation of fetal tissue or organs, including the recipients of such tissue or organs, shall be informed as to whether the particular tissue or organ involved was procured as a result of either:*

(i) *stillbirth;*

(ii) *miscarriage;*

(iii) *ectopic pregnancy;*

- (iv) *abortion; or*
- (v) *any other means.*

(5) *No person who consents to the procurement or use of any fetal tissue or organ may designate the recipient of that tissue or organ, nor shall any other person or organization act to fulfill that designation.*

(6) *The department may assess a civil penalty upon any person who procures, sells or uses any fetal tissue or organs in violation of this section or the regulations issued thereunder. Such civil penalties may not exceed \$5,000 for each separate violation. In assessing such penalties, the department shall give due consideration to the gravity of the violation, the good faith of the violator and the history of previous violations. Civil penalties due under this paragraph shall be paid to the department for deposit in the State Treasury and may be enforced by the department in the Commonwealth Court.*

(c) *Construction of section.—Nothing in this section shall be construed to condone or prohibit the performance of diagnostic tests while the unborn child is in utero or the performance of pathological examinations on an aborted child. Nor shall anything in this section be construed to condone or prohibit the performance of in vitro fertilization and accompanying embryo transfer.*

§ 3217. Civil penalties.

Any physician who knowingly violates any of the provisions of section 3204 (relating to medical consultation and judgment) or 3205 (relating to informed consent) shall, in addition to any other penalty prescribed in this chapter, be civilly liable to his patient for any damages caused thereby and, in addition, shall be liable to his patient for punitive damages in the amount of \$5,000, *and the court shall award a prevailing plaintiff a reasonable attorney fee as part of costs.*

§ 3218. Criminal penalties.

(a) *Application of chapter.—Notwithstanding any other provision of this chapter, no criminal penalty shall apply to a woman who violates any provision of this chapter solely in order to perform or induce or attempt to perform or induce an abortion upon herself. Nor shall any woman who undergoes an abortion be found guilty of having committed an offense, liability for which is defined under section 306 (relating to liability for conduct of another; complicity) or Chapter 9 (relating to inchoate crimes), by reason of having undergone such abortion.*

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§ 3220. Construction.

(a) *Referral to coroner.—The provisions of section 503(3) of the act of June 29, 1953 (P.L.304, No.66), known as the "Vital Statistics Law of 1953," shall not be construed to require referral to the coroner of cases of abortions performed in compliance with this chapter.*

(b) *Other laws unaffected.—Apart from the provisions of subsection (a) and section 3214 (relating to reporting) nothing in this chapter shall have the effect of modifying or repealing any part of the "Vital Statistics Law of 1953" or section 5.2 of the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act."*

(c) Required statement.—When any provision of this chapter requires the furnishing or obtaining of a nonnotarized statement or verification, the furnishing or acceptance of a notarized statement or verification shall not be deemed a violation of that provision.

Section 5. Section 4302 of Title 18 is amended to read:
§ 4302. Incest.

A person is guilty of incest, a **[misdemeanor of the first degree] felony of the second degree**, if he knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Section 6. The provisions of this act are severable. If any word, phrase or provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect any other word, phrase or provision or application of this act which can be given effect without the invalid word, phrase, provision or application.

Section 7. The Department of Health shall create the forms required by 18 Pa.C.S. §§ 3209(d) and 3214(a) within 30 days after the effective date of this act and shall cause to be published, within 60 days after the effective date of this act, the printed materials described in 18 Pa.C.S. § 3208(a).

Section 8. No provision of this act requiring the reporting of information on forms published by the Department of Health, or requiring the distribution of printed materials published by the Department of Health pursuant to 18 Pa.C.S. § 3208, shall be applicable until ten days after the requisite forms are first created and printed materials are first published by the Department of Health or until the effective date of this act, whichever is later.

Section 9. This act shall take effect as follows:

(1) The provisions of 18 Pa.C.S. §§ 3209(d) and 3214(a) requiring the Department of Health to create forms and of 18 Pa.C.S. § 3208(a) requiring the department to publish certain information shall take effect immediately.

(2) The remainder of this act shall take effect in 60 days.

APPROVED—The 17th day of November, A. D. 1989.

ROBERT P. CASEY