

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
291-36 (LS)	Telena Cruz Nelson Christopher M. Dueñas Amanda L. Shelton V. Anthony Ada Frank Blas, Jr.	AN ACT TO ADD A NEW CHAPTER 918 TO DIVISION 4 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ABORTION, INCLUDING ABORTIONS AFTER DETECTION OF AN UNBORN CHILD'S HEARTBEAT; AUTHORIZING A PRIVATE CIVIL RIGHT OF ACTION.	4/8/22 8:32 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 291-36 (LS)

Introduced by:

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AN ACT TO *ADD* A NEW CHAPTER 91B TO DIVISION 4
OF TITLE 10 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ABORTION, INCLUDING ABORTIONS
AFTER DETECTION OF AN UNBORN CHILD'S
HEARTBEAT; AUTHORIZING A PRIVATE CIVIL RIGHT
OF ACTION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
that contemporary medical science, not available decades ago, demonstrates that
early infants in the womb are a class of living, distinct human beings that, among
other individual human traits have their own distinct blood types, distinct organ
systems, distinct central nervous systems, unique fingerprints, unique genetic
characteristics, and at approximately six weeks gestational age, detectable human
heartbeats. From earliest development, unborn children need only nourishment and
a safe environment to grow to full adulthood and that a fetal heartbeat has become a
key medical predictor that an unborn child will reach live birth.

1 **Section 2.** A new Chapter 91B is hereby added to Division 4 of Title 10 of
2 the Guam Code Annotated to read as follows:

3
4 **“CHAPTER 91 B**
5 **THE GUAM HEARTBEAT ACT OF 2022**

6 **§91B101. TITLE.**

7 **§91B102. DEFINITIONS.**

8 **§91B103. DETERMINATION OF THE PRESENCE OF**
9 **FETAL HEARTBEAT REQUIRED; RECORD.**

10 **§91B104. PROHIBITED ABORTION OF UNBORN CHILD**
11 **WITH DETECTABLE FETAL HEARTBEAT;**
12 **EFFECT.**

13 **§91B105. EXCEPTION FOR MEDICAL EMERGENCY;**
14 **RECORDS.**

15 **§91B106. CONSTRUCTION OF SUBCHAPTER.**

16 **§91B107. LIMITATIONS ON PUBLIC ENFORCEMENT.**

17 **§91B108. CIVIL LIABILITY FOR VIOLATIONS, AIDING,**
18 **OR ABETTING VIOLATIONS.**

19 **§91B109. IT IS AN AFFIRMATIVE DEFENSE IF**

20 **§91B110. CIVIL LIABILITY; UNDUE BURDEN DEFENSE**
21 **LIMITATIONS**

22 **§91B111. CIVIL LIABILITY VENUE**

23 **§91B112. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL**
24 **IMMUNITY PRESERVED.**

25 **§91B113. SEVERABILITY.**

26 **§91B114. AWARD OF ATTORNEY’S FEES IN ACTIONS**
27 **CHALLENGING ABORTION LAWS.**

§91B116. LIMITATIONS TO CONSENTING TO AN ABORTION.

§91B118. REPORTING.

§91B101. TITLE.

This Chapter may be cited and referred to as “*The Guam Heartbeat Act of 2022*”.

§91B102. DEFINITIONS. For the purposes of this Chapter, the following words and phrases are defined to mean:

(a) “Act” means all or any provisions or parts thereof of the Guam Heartbeat Act of 2022, including without limitation, any Sections or Subsections.

(b) “Fetal Heartbeat” means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart between the gestational sac.

(c) “Gestational Age” means the amount of the time that has elapsed from
the first day of the women’s last menstrual period.

(d) “Gestational Sac” means the structure comprising the extraembryonic membranes that envelop the unborn child and that is typically visible by ultrasound after the fourth week of pregnancy.

(e) “Physician” means an individual licensed to practice medicine on Guam, including a medical doctor and a doctor of osteopathic medicine.

(f) “Pregnancy” means the human female reproductive condition that:

(1) Begins with fertilization;

(2) Occurs when the woman is carrying the developing human
ring;

(3) Is calculated from the first day of the woman’s last menstrual period.

(g) “Standard Medical Practice” means the degree of the skill, care, and diligence that any physician or obstetrician of ordinary judgement, learning, and skill would employ in-like circumstances.

(h) “Unborn Child” means a human fetus or embryo in any stage of gestation from fertilization until birth.

§91B103. DETERMINATION OF THE PRESENCE OF FETAL HEARTBEAT REQUIRED; RECORD.

(a) For the purposes of determining the presence of a fetal heartbeat under this Section, “standard medical practice” includes employing the appropriate means of detecting the heartbeat on the estimated gestational age of the unborn child and the condition of the woman and her pregnancy.

(b) A physician may not knowingly perform or induce an abortion on a pregnant woman unless the physician has determined, in accordance with this Section, whether the woman’s unborn child has a detectable fetal heartbeat.

(c) In making a determination under this section, the physician must use a test that is:

(1) Consistent with the physician’s good faith and reasonable understanding of standard medical practice; and

(2) Appropriate for the estimated gestational age of the unborn child and the condition of the pregnant woman and her pregnancy.

(d) A physician making a determination under this Section shall record in the pregnant woman’s medical record:

(1) The estimated gestational age of the unborn child;

(2) The method used to estimate the gestational age; and

1 (3) The test used for detecting a fetal heartbeat including the date,
2 time, and results of the test.

3 **§91B104. PROHIBITED ABORTION OF UNBORN CHILD WITH**
4 **DETECTABLE FETAL HEARTBEAT; EFFECT.**

5 (a) Except as provided by Section §91B105 relative to a medical
6 emergency, a physician may not knowingly perform or induce an abortion on a
7 pregnant woman if the physician detected a fetal heartbeat for the unborn child as
8 required by Section 91B103 as required by the Act or failed to perform a test to
9 detect a fetal heartbeat.

10 (b) A physician does not violate this Section if the physician performed a
11 test for a fetal heartbeat required by Section 91B103 and did not detect a fetal
12 heartbeat.

13 **§91B105. EXCEPTION FOR MEDICAL EMERGENCY;**
14 **RECORDS.**

15 (a) Section §91B104 does not apply if a physician believes a medical
16 emergency exists, whereby the physician believes that absent performing or
17 inducing an abortion, a pregnant woman may lose her life or her health would be
18 severely impaired.

19 (b) For purposes of Subpart (a) above, “severely impaired” shall mean an
20 impairment or combination of impairments that significantly limit the pregnant
21 woman’s physical or mental abilities.

22 (c) A physician who performs or induces an abortion under circumstances
23 described by Subsection (a) shall make detailed written notations in the pregnant
24 woman’s medical record of:

25 (1) The physician’s belief that a medical emergency necessitated the
26 abortion; and

1 (2) The medical condition of the pregnant woman that prevented
2 compliance with this Section.

3 (d) A physician performing or inducing an abortion under this Section shall
4 maintain in the physician's records a copy of the written notations made under
5 Subsection (c).

6 **§91B106. CONSTRUCTION OF CHAPTER.**

7 (a) This chapter does not create or recognize a right to abortion before a
8 fetal heartbeat is detected.

9 (b) This chapter may not be construed to:

10 (1) Authorize the initiation of a cause, civil or otherwise, against or
11 the persecution of a woman on whom an abortion is performed or induced or
12 attempted to be performed or induced in violation of this Act;

13 (2) Wholly or partially repeal, either expressly or by implication, any
14 other statute that regulates or prohibits abortion; or

15 **§91B107. LIMITATIONS ON GOVERNMENT ENFORCEMENT.**

16 (a) The requirements of this Section shall be enforced exclusively through
17 private civil actions described in Section §91B108. No enforcement of any provision
18 of this Act in response to violations of this Act, may be taken or threatened by the
19 Territory of Guam, the Government of Guam, the Governor of Guam, the Lieutenant
20 Governor of Guam, any Guam Senator collectively or individually, the Attorney
21 General of Guam, any Guam Mayor or Vice Mayor collectively or individually, the
22 Mayors' Council of Guam, any agency of the Government of Guam, any political
23 subdivision of the Government of Guam, any Municipality of Guam, or an executive
24 or administrative officer or employee of the Government of Guam.

25 (b) This Section may not be construed to:

26 (1) Legalize the conduct prohibited by any provision of the Act;

1 (2) Limit in any way or affect the availability of a remedy
2 established by any provision of this Act; or

3 (3) Limit the enforceability of any other laws that regulate or
4 prohibit abortion.

5 **§91B108. CIVIL LIABILITY FOR VIOLATION, AIDING, OR**
6 **ABETTING VIOLATIONS.**

7 (a) Any person, other than the Government of Guam, the Governor of
8 Guam, the Lieutenant Governor of Guam, any Guam Senator collectively or
9 individually, the Attorney General of Guam, any Guam Mayor or Vice Mayor
10 collectively or individually, the Mayors' Council of Guam, any agency of the
11 Government of Guam, any political subdivision of the Government of Guam, any
12 Municipality of Guam, or an executive or administrative officer or employee of the
13 Government of Guam, may bring a civil action against any person who:

14 (1) Performs or induces an abortion in violation of any provision of
15 the Act;

16 (2) Knowingly engages in conduct that aids or abets the performance
17 or inducement of an abortion, including paying for or reimbursing the costs
18 of an abortion through insurance or otherwise, if the abortion is performed or
19 induced in violation of this Section regardless of whether the person knew or
20 should have known that the abortion would be performed or induced in
21 violation of this Section; or

22 (3) Intends to engage in the conduct described in Section (1) above
23 or if a claimant prevails in an action brought under this Section, the court *shall*
24 award:

25 i. Injunctive relief sufficient to prevent the defendant from
26 violating this Act or any provision of this Section that aid or abet
27 violations of this Section; statutory damages in an amount of not less

1 than \$10,000 for each abortion that the defendant performed or induced
2 in violation of this Section, and for each abortion performed or induced
3 in violation of this Section, that the defendant aided or abetted; and

4 ii. Costs and attorney's fees.

5 iii. Notwithstanding Subsection (ii), a court may not award
6 relief under this Section in response to a violation of Subsection (a) (1)
7 or (2) if the defendant demonstrates that the defendant previously paid
8 the full amount of statutory damages under Subsection (b) (2) in a
9 previous action for that particular abortion performed or induced in a
10 violation of this Section, or for the particular conduct that aided or
11 abetted an abortion performed or induced in violation of this Section.

12 iv. Notwithstanding this Section or any other provision of
13 law, a person may bring an action under this section no later than the
14 sixth anniversary of the date the cause of action accrues.

15 v. Notwithstanding any other provisions of law, the
16 following are not a defense to an action brought under this Section:

17 (1) Ignorance or mistake of law;

18 (2) A defendant's belief that the requirements of this
19 Section are unconstitutional or were unconditional;

20 (3) A defendant's reliance on any court decision that
21 has been overruled on appeal or by a subsequent court, even if
22 that court decision had not been overruled when the defendant
23 engaged in conduct that violated this Section;

24 (4) A defendant's reliance on any state, federal or
25 territorial court decision that is not binding on the court in which
26 the action has been brought;

1 (5) Non-mutual issue preclusion or non-mutual claim
2 preclusion; or

3 (6) The consent of the unborn child's mother to the
4 abortion.

5 **§91B109. IT IS AN AFFIRMATIVE DEFENSE IF:**

6 (1) A person sued under this Act or any provision of this Act, reasonably
7 believed after conducting a reasonable investigation, that the physician performing
8 or inducing the abortion had complied or would comply with this Act or any
9 provision of this Act; or

10 (2) A person sued under Act or any provision of this Act, reasonably
11 believed after conducting a reasonable investigation, that the physician performing
12 or inducing the abortion will comply with this Act or any provision of this Act;

13 (3) The defendant has the burden of proving any affirmative defense by a
14 preponderance of the evidence;

15 (4) This Act or any provision of this Act may not be construed to impose
16 liability on any speech or conduct protected by the First Amendment of the United
17 States Constitution, as made applicable to States and the Territory of Guam through
18 the United States Supreme Court interpretation of the Fourteenth Amendment of the
19 United States Constitution or by any provision of the Organic Act of Guam related
20 to freedom of speech;

21 (5) Notwithstanding any other provisions of law, the Territory, the
22 Government of Guam, the Governor of Guam, Lieutenant Governor of Guam, any
23 Guam Senator collectively or individually, the Attorney General of Guam, any
24 Guam Mayor or Vice Mayor collectively or individually, the Mayors' Council of
25 Guam, any agency of the Government of Guam, any political subdivision of the
26 Government of Guam, any Municipality of Guam, or an executive or administrative

1 officer or employee of the Government of Guam, may not intervene in an action
2 brought under this Act or any provision of this Act.

3 **§91B110. CIVIL LIABILITY; UNDUE BURDEN DEFENSE**
4 **LIMITATIONS.**

5 A defendant against whom an action is brought under this Act or any provision
6 of this Act, does not have standing to assert the rights of women seeking an abortion
7 as a defense to unless: the United States Supreme Court holds that the courts of this
8 Territory, federal or local, must confer standing for defendant to assert the third-
9 party rights of women seeking an abortion in court as a matter of constitutional law;
10 or the defendant has standing to assert the rights of women seeking an abortion under
11 the tests for third-party standing established by the United States Supreme Court

12 (a) A defendant in an action brought under this Act or any provision of this
13 Act, may assert an affirmative defense to liability under this Act or any provision of
14 this Act if:

15 (1) The defendant has standing to assert the third-party rights of a
16 woman or group of women seeking an abortion in accordance with this Act
17 or any provision of this Act; and

18 (2) The defendant demonstrated that the relief sought by the
19 claimant will impose an undue burden on that woman or that group of women
20 seeking an abortion.

21 (b) A court may not find an undue burden under this Act or any provision
22 of this Act, unless the defendant introduced evidence proving that:

23 (1) An award of relief will prevent a substantial obstacle in the path
24 of a woman or a group of women who are seeking an abortion;

25 (2) An award of relief will place a substantial obstacle in the path of
26 a woman or a group of women who are seeking an abortion.

1 (c) Any affirmative defense under this Act or any provision of this Act, is
2 not available if the United States Supreme Court overrules Roe v. Wade, 410 U.S.
3 113 (1973) or Planned Parenthood v. Casey, 505 U.S. 833 (1992), regardless of
4 whether the conduct on which the cause of action is based under the Act or any
5 provision of this Act, occurred before the Supreme Court overruled either of those
6 decisions.

7 (d) Nothing in this Act or any provision of this Act, shall in any way limit
8 or preclude a defendant from asserting the defendant's personal constitutional rights
9 as a defense to liability under this Act or any provision of this Act, and a court may
10 not award relief under this Act or any provision of this Act, if the conduct for which
11 the defendant has been sued was an exercise of territorial or federal constitutional
12 rights that personally belong to the defendant.

13 **§91B111. CIVIL LIABILITY VENUE.**

14 (a) Notwithstanding any other provisions of law, including Act or any
15 provision of this Act, a civil action brought under Act or any provision of this Act,
16 shall be brought in either the United States District Court of Guam or the Superior
17 Court of Guam.

18 (b) If a civil action is brought under this Act or any provision of this Act,
19 in either the United States District Court of Guam or the Superior Court of Guam,
20 the action may not be transferred to a different venue without the written consent of
21 all parties.

22 **§91B112. SOVEREIGN, GOVERNMENTAL, AND OFFICAL**
23 **IMMUNITY PRESERVED.**

24 (a) This Section prevails over any conflicting law, including:

25 (1) The Uniform Declaratory Judgements Act; and

26 (2) Any provision of the Guam Civil Procedure Code

1 (b) The Territory has sovereign immunity, the Government of Guam and
2 its agencies have sovereign immunity, the Governor of Guam has official immunity,
3 the Lieutenant Governor of Guam has official immunity, Guam Senators collectively
4 or individually have official immunity, the Attorney General of Guam has official
5 immunity, any Guam Mayor or Vice Mayor collectively or individually have official
6 immunity, the Mayors' Council of Guam has official immunity, any political
7 subdivision of the Government of Guam shall have sovereign immunity, any
8 Municipality of Guam shall have sovereign immunity, or an executive or
9 administrative officer or employee of the Government of Guam shall have official
10 immunity, in any action, claim, or counterclaim of any type of legal or equitable
11 action that challenges the availability of any provision or application of this Act or
12 any provision of this Act on constitutional grounds or otherwise.

13 (c) A provision of federal or territorial law may not be construed to waive
14 or abrogate an immunity described by Subsection (b) unless it expressly waives
15 immunity under this Section.

16 **§91B113. SEVERABILITY.**

17 (a) In Leavitt. v. Jane L., 518 U.S. 137, (1996), in which in the context of
18 determining the severability of a state statute regulating abortion, the United States
19 Supreme Court held that an explicit statement of legislative intent is controlling. It
20 is the intent of *I Liheslaturan Guåhan* by virtue of this Act that every provision,
21 Section, Subsection, sentence, clause, phrase or word in this Act and every
22 application of the provisions in this Act are severable from each other.

23 (b) In Leavitt. v. Jane L., 518 U.S. 137, (1996), in which in the context of
24 determining the severability of a state statute regulating abortion, the United States
25 Supreme Court held that an explicit statement of legislative intent is controlling. It
26 is the intent of *I Liheslaturan Guåhan* by virtue of this Act that every provision,

1 Section, Subsection, sentence, clause, phrase or word in this Act and every
2 application of the provisions in this Act are severable from each other.

3 (c) Other persons and circumstances shall be severed and may not be
4 affected. All constitutionally valid applications of this Act shall be severed from any
5 applications that a court finds to be invalid, leaving the valid applications in full
6 force and effect, because it is the Legislature's intent and priority that the valid
7 applications be allowed to stand alone. Even if a reviewing court finds a provision
8 of this Act to impose an undue burden in a large or substantial fraction of relevant
9 cases, the applications that do not present an undue burden shall be severed from the
10 remaining applications and shall remain in full force and effect, and shall be treated
11 as if the legislature had enacted a statute limited to the persons, group of persons, or
12 circumstances for which the statute's application does not present an undue burden.

13 (d) If any court declares or finds any provision of this Act facially
14 unconstitutional, when discrete applications of that provision can be enforced
15 against a person, group of persons, or circumstances without violating the United
16 States Constitution and/or the Organic Act of Guam, those applications shall be
17 severed from all remaining applications of the provision, and the provision shall be
18 interpreted as if the people had enacted a provision limited to the persons, group of
19 persons, or circumstances for which the provision's application will not violate the
20 United States Constitution and/or the Organic Act of Guam.

21 (e) If any provision of this Act is found by any court to be
22 unconstitutionally vague, then the applications of that provision that do not present
23 constitutional vagueness problems shall be severed and remain in full force and
24 effect.

25 (f) No Court may decline to enforce the severability requirements of this
26 Act or any provision of this Act, on the ground that severance would rewrite the
27 statute or involve the court in legislative or lawmaking activity. A court that declines

1 to enforce or enjoin a state official from enforcing a statutory provision does not
2 rewrite a statute, as the statute continues to contain the same words as before the
3 court's decision.

4 **§91B114. AWARD OF ATTORNEY'S FEES IN ACTIONS**
5 **CHALLENGING ABORTION LAWS.**

6 a) Notwithstanding any other law, any person, including an entity,
7 attorney, or law firm, who seeks declaratory or injunctive relief to prevent the
8 Territory of Guam, the Government of Guam, the Governor of Guam, the Lieutenant
9 Governor of Guam, any Guam Senator collectively or individually, the Attorney
10 General of Guam, any Guam Mayor or Vice Mayor collectively or individually, the
11 Mayors' Council of Guam, any agency of the Government of Guam, any political
12 subdivision of the Government of Guam, any Municipality of Guam, or an executive
13 or administrative officer or employee of the Government of Guam, from enforcing
14 any statute, ordinance, rule, regulation, or any other type of law that regulates or
15 restricts abortion or that limits taxpayer funding for individuals or entities that
16 perform or promote abortions, in the United States District Court of Guam or
17 Superior Court of Guam , or that represents any litigant seeking such relief in any
18 court, is jointly and severally liable to pay the costs and attorney's fees of the
19 prevailing party.

20 b) For purposes of this Section, a party is considered a prevailing party if
21 the United States District Court of Guam or Superior Court of Guam:

22 (1) Dismisses any claim or cause of action brought against the party
23 that seeks the declaration or injunctive relief describe in Subsection (a),
24 regardless of the reason for the dismissal; or

25 (2) Enters judgment in the party's favor on any such claim or cause
26 of action.

27 **§91B115. REQUIRED DOCUMENTATION.**

1 (a) If an abortion is performed or induced on a pregnant woman because of
2 a medical emergency, the physician who performs or induces the abortion shall
3 execute a written document that certifies the abortion is necessary due to a medical
4 emergency and specifies the woman's medical condition requiring the abortion.

5 (b) A physician shall:

6 (1) Place the document described by Subsection (a) in the pregnant
7 woman's medical records; and

8 (2) Maintain a copy of the document described by in Subsection (a)
9 in the physician's records.

10 (c) A physician who performs or induces an abortion on a pregnant woman
11 shall:

12 (1) If the abortion is performed or induced to preserve the health of
13 the pregnant woman, execute a written document that:

14 i. Specifies the medical condition of the pregnant woman the
15 abortion is asserted to address; and

16 ii. Provides the medical rationale for the physician's
17 conclusion that the abortion is necessary to address the medical
18 condition; or

19 (2) For an abortion other than an abortion described by Subsection
20 (a), specify in a written document that maternal health is not a purpose of the
21 abortion.

22 (d) The physician shall maintain copies of all documents described in this
23 Section in the physician's practice records.

24 **§91B116. LIMITATIONS TO CONSENTING TO AN ABORTION.**

25 (a) Consent to an abortion is voluntary and informed only if:

26 (1) The physician who is to perform or induce the abortion informs
27 the pregnant woman on whom the abortion is to be performed or induced of:

- 1 i. The physician's name;
- 2 ii. The particular medical risks associated with the particular
- 3 abortion to be induced or performed:
- 4 1) The risks of infection and hemorrhage;
- 5 2) The potential danger to a subsequent pregnancy and
- 6 of infertility; and
- 7 3) The possibility of increased risk of breast cancer
- 8 following an induced abortion and the natural protective effect
- 9 of a completed pregnancy in avoiding breast cancer;
- 10 iii. The probable gestational age of the unborn child at the
- 11 time the abortion is to be performed or induced; and
- 12 iv. The medical risks associated with carrying the child to
- 13 term;
- 14 (2) The physician who is to perform or induce the abortion or the
- 15 physician's agent informs the pregnant woman that:
- 16 i. Medical assistance benefits may be available for the
- 17 prenatal care, childbirth, and neonatal care;
- 18 ii. The father is liable for assistance in the support of the child
- 19 without regard to whether the father has offered to pay for the abortion;
- 20 and
- 21 iii. Private agencies that provide assistance for the adoption
- 22 of children and/or the fostercare of children.
- 23 (3) The physician who is to perform or induce the abortion or the
- 24 physician's agent before any sedative or anesthesia is administered to the
- 25 pregnant woman and at least 24 hours before the abortions:
- 26 i. The physician who is to perform or induce the abortion or
- 27 an agent of the physician who is a licensed sonographer, shall display

1 the sonogram to the pregnant woman the abortion is to be performed or
2 induced;

3 ii. The physician who is to perform or induce the abortion
4 displays the sonogram images to the pregnant woman in a quality
5 consistent with current medical practices in a manner that the pregnant
6 woman may view them;

7 iii. The physician who is to perform or induce the abortion
8 provides, in a manner understandable to a layperson, a verbal
9 explanation of the results of the sonogram images, including a medical
10 description of the dimension of the embryo or fetus, the presence of
11 cardiac activity, and the presence of external membranes and internal
12 organs; and

13 iv. The physician who is to perform or induce the abortion or
14 an agent of the physician who is a licensed sonographer, shall make
15 audible the heart auscultation for the pregnant woman to hear, if
16 present, in a quality consistent with current medical practice and
17 provides, in a manner understandable to a layperson, a simultaneous
18 verbal explanation of the heart auscultation.

19 (4) Before receiving a sonogram under this Section and before the
20 abortion is performed or induced and before any sedative or anesthesia is
21 administered, the pregnant woman completes and certifies with her signature
22 an election form that states as follows:

23 “ABORTION AND SONOGRAM ELECTION”

24 (1) THE INFORMATION AND PRINTED MATERIALS DESCRIBED
25 IN SECTION §91B117 HAVE BEEN PROVIDED AND EXPLAINED TO ME.

26 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN
27 ABORTION.

1 (3) GUAM LAW REQUIRES THAT I RECEIVE A SONOGRAM
2 PRIOR TO RECEIVING AN ABORTION.

3 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE
4 SONOGRAM IMAGES.

5 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE
6 HEARTBEAT.

7 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN
8 EXPLANATION OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN
9 WRITING THE FOLLOWING:

10 I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT
11 OR INCEST AS A RESULT OF A VIOLATION TO THE GUAM PENAL
12 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT
13 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I
14 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK
15 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

16 MY UNBORN CHILD HAS AN IRREVERSIBLE MEDICAL
17 CODNITION OR ABNORMALITY, AS DIRECTED BY RELIABLE
18 DIAGNOTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL
19 FILE.

20 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND
21 WITHOUT COERCION.

22 _____
23 SIGNATURE

DATE

24 (5) Before the abortion is performed or induced, the physician who
25 is to perform or induce the abortion received a copy of the signed, written
26 certification required by this Section; and

1 (6) The pregnant woman is provided the same of each person who
2 provides or explains the information required under this Section.

3 **§91B117. MEDICINE INDUCED ABORTIONS.**

4 (a) For purposes of this Section, no physician or person, shall administer
5 any medication or provide a pregnant woman with any medication with the primary
6 intent of ending a pregnancy, after a fetal heartbeat has been detected in accordance
7 with Section 91B103.

8 (b) Any physician or person in violation of this Section, shall be subject to
9 civil liability as provided in Section 91B108.

10 (c) For purposes of this Section, the exception for medical emergency
11 pursuant to Section 91B105 shall apply.

12 (d) If any provision of this Section or its application to any person or
13 circumstance is found to be invalid or contrary to law, such invalidity shall not affect
14 other provisions of this Section or other provisions of this Act that can be given
15 effect without the invalid provision or application, and to this end the provisions of
16 this Section are severable.

17 **§91B118. REPORTING. Read as follows:**

18 (a) The report must include:

19 (1) The patient's year of birth, race, marital status, and place of
20 residence;

21 (2) The type of abortion procedure;

22 (3) The date of abortion was performed;

23 (4) Whether the patient survived the abortion, and if the patient did
24 not survive, the cause of death;

25 (5) The probable post-fertilization age of the unborn child based on
26 the best medical judgement of the attending physician at the time of the
27 procedure;

- 1 (6) The date, if known, of the patient’s last menstrual cycle;
2 (7) The number of previous induced abortions of the patient; and
3 (8) Whether the abortion was performed or induced because of a
4 medical emergency and any medical condition of the pregnant woman that
5 required the abortion.”

6 **Section 3. Severability.** If any provision of this Act, including without
7 limitation and Sections or Subsections, or their application to any person or
8 circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect
9 other provisions or applications of this Act that can be given effect without the
10 invalid provision or application, and to this end the provisions of this Act are
11 severable.

12 **Section 4. Effective Date.** This Act *shall* take effect thirty (30) days upon
13 enactment and *shall not* affect, in the interim, any other improvements necessary to
14 be done in carrying out the purpose of this Act.