

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 54-30 (COR

As Substituted by the Committee on Economic
Development, Health & Human Services, and Judiciary
and further Substituted on the Floor

Introduced by:

E. J. B. Calvo
T. R. Muña-Barnes
F. F. Blas, Jr.

AN ACT TO ADD A NEW § 3218.1 TO CHAPTER 3
ARTICLE 2 TITLE 10 OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE WOMAN'S
INFORMED CONSENT FOR ABORTION AND TO
CITE THE ACT AS "THE WOMAN'S REPRODUCTIVE
HEALTH INFORMATION ACT OF 2010".

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslatura* finds that it is essential to the psychological and physical well-being of a woman considering an abortion that she receives complete and accurate information on her alternatives. It is the intent of *I Liheslatura* to ensure that every woman considering an abortion receive complete information on her alternatives and that every woman submitting to

an abortion do so only after giving her voluntary and informed consent to the abortion procedure.

Section 2. A new § 3218.1 is hereby added to Chapter 3 Article 2 Title 10 of the Guam Code Annotated to read as follows:

“§ 3218.1. The Woman’s Reproductive Health Information Act of 2010.

(a) For purposes of this Act, the following words and phrases are defined to mean:

1. **“Abortion”** means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death to the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (i) save the life or preserve the health of an unborn child;
 - (ii) remove a dead unborn child caused by spontaneous abortion; or
 - (iii) remove an ectopic pregnancy.
2. **“Complication”** means that condition which includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic inflammatory disease, endometritis, and retained products. The Department may further define “complication.”
3. **“Conception”** means the fusion of a human spermatozoon with a human ovum.
4. **“Department”** means the Department of Public Health and Social Services Records Section.
5. **“Facility”** or **“medical facility”** means any public or private hospital, clinic, center, medical school,

medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

6. **"First trimester"** means the first twelve (12) weeks of gestation.
7. **"Gestational age"** means the time that has elapsed since the first day of the woman's last menstrual period.
8. **"Hospital"** means an institution licensed pursuant to the provisions of the law of Guam
9. **"Medical emergency"** means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death or

for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

10. **“Physician”** means any person licensed to practice healing arts, pursuant to the laws of Guam. The term includes medical doctors and doctors of osteopathy.
11. **“Pregnant”** or **“pregnancy”** means that female reproductive condition of having an unborn child in the mother’s uterus.
12. **“Qualified person”** means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.
13. **“Unborn child”** means the offspring of human beings from conception until birth.
14. **“Viability”** means the state of fetal development when, in the judgment of the physician based on the

particular facts of the case before him or her and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.

(b) **Informed consent requirement.** No abortion shall be performed or induced without 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:

1. At least twenty-four (24) hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:

- (i) The name of the physician who will perform the abortion;
 - (ii) The medical risks associated with carrying the child to term; and
 - (iii) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.
2. At least twenty-four (24) hours and up to thirty (30) days before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman in person, that she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

3. The information in Subsection (b) (1) and (2) is provided to the woman individually and in a private room to protect her privacy and maintain the confidentiality of her decision to ensure that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

(c) **Emergencies.** When a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an immediate abortion is necessary to avert her death or that a twenty-four (24) hour delay will cause substantial and irreversible impairment of a major bodily function.

(d) **Criminal Penalties.** Any person who intentionally, knowingly, or recklessly violates this Act is guilty of a misdemeanor.

Section 3. Funding. *I Maga'Lahan Guahan shall identify the funds necessary within the Executive Branch Budget, as required and necessary to fully implement the purposes and intent set forth in this Act.*

Section 4. Severability. *If any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law unless such holding shall be one of utter invalidity or unenforceability, in which even such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.*

Section 5. Effective Date. *This Act shall take effect 180 days after enactment.*