



Office of the Governor of Guahan

P.O. Box 2950 Hagåtña, GU 96932

Tel: (671) 472-8931 • Fax: (671) 477-4826 • Email: governor@guam.gov

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

DEC 13 2010

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Trenta Na Liheslaturan Guahan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Submitted herewith is Bill 54-30 (COR) (As substituted by the Committee on Economic Development, Health & Human Services, and Judiciary, and further substituted and amended on the Floor), **“AN ACT TO ADD A NEW § 3218.1 TO CHAPTER 3, ARTICLE 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE INFORMED CONSENT REQUIREMENT FOR A WOMAN CONSIDERING AN ABORTION,”** (“Substitute Bill 54”) which I have vetoed.

In spite of its title, Substitute Bill 54 is not an authentic “informed consent” bill. In fact, it includes almost no informational requirements which would inform a woman’s decision whether to undergo an abortion.

To understand and appreciate the true intent behind Substitute Bill 54, one must first examine the original version of Bill 54-30 (COR) (“Original Bill 54”). Original Bill 54 was introduced by Senator Calvo on February 2, 2009. Although the Committee on Economic Development, Health & Human Services, and Judiciary initially approved Original Bill 54 for a full vote by the Legislature, it remained in Committee for nearly two years until it was replaced with Substitute Bill 54 on November 30, 2010. The purpose of Original Bill 54 was to ensure that on *Guahan*, a woman’s decision to undergo an abortion is always fully informed. In particular, the Original Bill 54 required abortion providers on *Guahan* or their agents to provide women considering an abortion: i) information regarding both the medical risks associated with the abortion procedure and carrying the child to term, ii) medically accurate information regarding the nature – including the anatomical and physical characteristics – of the unborn child, iii) information regarding the mother’s legal rights (such as the right to receive financial support from the father), alternatives to abortion (such as adoption), and available public and private assistance, prior to undergoing the abortion procedure.

It is a matter of fact that some women who undergo an abortion are unaware of their legal rights to paternal support, or alternatives to abortion, or that abortion involves the killing of a human being; and, in fact, that abortions – even early stage surgical abortions – kill human beings with discernibly human features. This is due, in part, to the fact that some abortion providers

encourage women contemplating an abortion to make a quick and uninformed decision. As a result, some of these same women, upon discovering the truth regarding the nature of the unborn life killed during the abortion procedure, not only come to deeply regret their decision to abort, but also suffer serious, sometimes devastating, psychological harm.¹ Indeed, the U.S. Supreme Court has on several occasions affirmed that the “medical, emotional, and psychological consequences of an abortion are serious and can be lasting.”² Accordingly, the reason that Original Bill 54 sought to ensure that women on *Guahan* are fully informed prior to undergoing an abortion was simply to reduce the risk that they discover only later, with devastating psychological effect, the true nature of abortion.³

Section 1 of Substitute Bill 54, which sets forth the legislative findings and intent of the bill, is identical to Section 1 of the Original Bill 54. Thus, both bills assert 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,” and, thus, the Legislature must “ensure that every women considering an abortion receive complete information on her alternatives.” (emphasis added). Unfortunately, instead of requiring doctors to provide “complete information” to women considering an abortion, Substitute Bill 54 deleted nearly all of the informational requirements set forth in the Original Bill 54, including nearly all of the informational requirements which would inform a woman’s decision whether to undergo an abortion. In particular, Substitute Bill 54 deleted:

1. The requirement that the abortion provider provide women contemplating abortion:
 - a. Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion,

¹ See, e.g., Garfinkel, et al., *Stress, Depression and Suicide: A Study of Adolescents in Minnesota*, (Minneapolis: University of Minnesota Extension Service, 1986); Zimmerman, “Psychosocial and Emotional Consequences of Elective Abortion: A Literature Review” *Abortion: Readings and Research* ed. Paul Sachdev (Butterworths: Toronto, 1981), 69.

² *H.L. v. Matheson*, 450 U.S. 398, 411 (1980) (with respect to the decision “to carry her child to term, the *medical* decisions to be made entail few -- perhaps none -- of the potentially grave emotional and psychological consequences of the decision to abort.”); see *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 67 (1975)

³ The risk to a woman’s psychological well-being arising from an uninformed decision to undergo an abortion was recognized by the U.S. Supreme Court in the 1992 case, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, which established the constitutionality of “informed consent” laws. In finding that states have a legitimate interest in ensuring that women who undergo abortions are provided medically accurate information about the nature of the unborn child, the Court wrote:

It cannot be questioned that psychological well-being is a facet of health. Nor can it be doubted that most women considering an abortion would deem the impact on the fetus relevant, if not dispositive, to the decision. In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed.

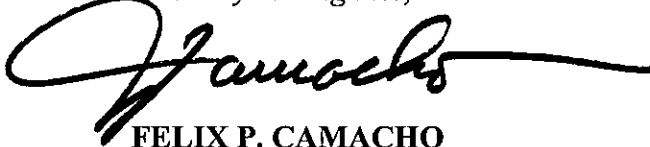
Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 882 (1992)

- including (a) a description of the proposed abortion method; (b) the immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies; and (c) alternatives to the abortion;
- b. The probable gestational age of the unborn child at the time the abortion is to be performed;
 - c. The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.
2. The requirement that the abortion provider inform women contemplating abortion, that:
- a. 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 and informational video given to her and described in Subsection (c).
 - b. The printed materials and informational video in Subsection (c) describe the unborn child and list agencies that offer alternatives to abortion.
 - c. The father of the unborn child is liable to assist in the support of this child, even in instances where he has offered to pay for the abortion.

In addition to these provisions, Substitute Bill 54 deleted an entire subsection that detailed the nature of the informational materials that abortion providers would be required to provide women prior to performing an abortion. All told, Substitute Bill 54 deleted nearly 90% of the informed consent section as set forth in Original Bill 54.

Because Substitute Bill 54 does not provide the women of *Guahan* complete information on their alternatives with respect to the decision to undergo an abortion, as well as for the other reasons set forth herein, I have vetoed Bill 54-30 (COR), submitted herewith.

Sinseru yan Magâhet,



FELIX P. CAMACHO
I Maga' Lâhen Guahan
Governor of Guahan

Attachment