

1 **INFORMED CONSENT AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carl Wimmer**

5 Senate Sponsor: D. Chris Buttars

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Utah Criminal Code relating to providing informed  
10 consent to a woman who is seeking an abortion.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ describes informed consent requirements relating to a woman who is seeking an  
14 abortion;

15 ▶ requires that, if an ultrasound is performed on a woman before an abortion is  
16 performed, the ultrasound images will be simultaneously displayed in a manner to  
17 permit the woman to choose to view the images or not to view the images;

18 ▶ requires that, if a woman described in the preceding paragraph desires, the woman  
19 shall be given a detailed description of the ultrasound images;

20 ▶ describes exceptions to the informed consent provisions contained in this bill;

21 ▶ describes the printed materials and informational video relating to abortion that the  
22 Department of Health is required to produce;

23 ▶ subject to certain exceptions, requires a facility that performs an abortion on a  
24 woman to provide the printed materials and informational video described in the  
25 preceding paragraph to the woman at least 24 hours before the abortion is  
26 performed;

27 ▶ requires that the printed materials and video described in this bill be made  
28 available:

- 29 • at no cost; and

- 30           • for viewing on the Department of Health's website;
- 31           ▸ requires the Department of Health to make an annual report to the Health and
- 32 Human Services Interim Committee on statistics relating to the informed consent
- 33 provisions described in this bill;
- 34           ▸ describes reporting requirements for physicians; and
- 35           ▸ makes technical changes.

**36 Monies Appropriated in this Bill:**

37           None

**38 Other Special Clauses:**

39           None

**40 Utah Code Sections Affected:**

**41 AMENDS:**

42           **76-7-304.5**, as enacted by Laws of Utah 2006, Chapter 207

43           **76-7-305**, as last amended by Laws of Utah 2009, Chapter 57

44           **76-7-313**, as enacted by Laws of Utah 1981, Chapter 126

**45 ENACTS:**

46           **76-7-305.6**, Utah Code Annotated 1953

47           **76-7-305.7**, Utah Code Annotated 1953

**48 REPEALS AND REENACTS:**

49           **76-7-305.5**, as last amended by Laws of Utah 2009, Chapter 57



51 *Be it enacted by the Legislature of the state of Utah:*

52           Section 1. Section **76-7-304.5** is amended to read:

53           **76-7-304.5. Consent required for abortions performed on minors -- Hearing to**  
54 **allow a minor to self-consent -- Appeals.**

55           (1) As used in this section, "minor" is as defined in Subsection 76-7-304(1).

56           (2) In addition to the other requirements of this part, a physician may not perform an  
57 abortion on a minor unless:

58 (a) the physician obtains the informed written consent of a parent or guardian of the  
59 minor, consistent with ~~[Section]~~ Sections 76-7-305, 76-7-305.5, and 76-7-305.6;

60 (b) the minor is granted the right, by court order under Subsection (5)(b), to consent to  
61 the abortion without obtaining consent from a parent or guardian; or

62 (c) (i) a medical condition exists that, on the basis of the physician's good faith  
63 clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate  
64 the abortion of her pregnancy to avert:

65 (A) the minor's death; or

66 (B) a serious risk of substantial and irreversible impairment of a major bodily function  
67 of the minor; and

68 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor  
69 under Subsection (3) before it is necessary to terminate the minor's pregnancy in order to avert  
70 the minor's death or impairment described in Subsection (2)(c)(i).

71 (3) A pregnant minor who wants to have an abortion may choose:

72 (a) to seek consent from a parent or guardian under Subsection (2)(a); or

73 (b) to seek a court order under Subsection (2)(b).

74 (4) If a pregnant minor fails to obtain the consent of a parent or guardian of the minor  
75 to the performance of an abortion, or if the minor chooses not to seek the consent of a parent  
76 or guardian, the minor may file a petition with the juvenile court to obtain a court order under  
77 Subsection (2)(b).

78 (5) (a) A hearing on a petition described in Subsection (4) shall be closed to the  
79 public.

80 (b) After considering the evidence presented at the hearing, the court shall order that  
81 the minor may obtain an abortion without the consent of a parent or guardian of the minor if  
82 the court finds by a preponderance of the evidence that:

83 (i) the minor:

84 (A) has given her informed consent to the abortion; and

85 (B) is mature and capable of giving informed consent to the abortion; or

- 86 (ii) an abortion would be in the minor's best interest.
- 87 (6) The Judicial Council shall make rules that:
- 88 (a) provide for the administration of the proceedings described in this section;
- 89 (b) provide for the appeal of a court's decision under this section;
- 90 (c) ensure the confidentiality of the proceedings described in this section and the
- 91 records related to the proceedings; and
- 92 (d) establish procedures to expedite the hearing and appeal proceedings described in
- 93 this section.

94 Section 2. Section **76-7-305** is amended to read:

95 **76-7-305. Informed consent requirements for abortion -- 24-hour wait**  
96 **mandatory -- Exceptions.**

97 (1) ~~[No abortion may be performed unless]~~ A person may not perform an abortion,  
98 unless, before performing the abortion, the physician who will perform the abortion obtains a  
99 voluntary and informed written consent[;] from the woman on whom the abortion is  
100 performed, that is consistent with:

101 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,  
102 Current Opinions[;]; and

103 (b) the provisions of this section ~~[is first obtained by the attending physician from the~~  
104 ~~woman upon whom the abortion is to be performed].~~

105 (2) Except ~~[in the case of a medical emergency]~~ as provided in Subsection (8), consent  
106 to an abortion is voluntary and informed only if:

107 (a) at least 24 hours ~~[prior to]~~ before the abortion, the physician who is to perform the  
108 abortion, the referring physician, a registered nurse, nurse practitioner, advanced practice  
109 registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a  
110 face-to-face consultation, orally informs the woman:

111 (i) consistent with Subsection (3)(a), of:

112 (A) the nature of the proposed abortion procedure ~~[or treatment];~~

113 (B) specifically how ~~[that]~~ the procedure described in Subsection (2)(a)(i)(A) will

114 affect the fetus[;]; and

115 (C) the risks and alternatives to an abortion procedure or treatment [~~that any person~~  
116 ~~would consider material to the decision of whether or not to undergo an abortion~~];

117 (ii) of the probable gestational age and a description of the development of the unborn  
118 child at the time the abortion would be performed;

119 (iii) of the medical risks associated with carrying her child to term; and

120 (iv) except as provided in Subsection (3)(b), if the abortion is to be performed on an  
121 unborn child who is at least 20 weeks gestational age:

122 (A) that, upon the woman's request, an anesthetic or analgesic will be administered to  
123 the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child  
124 that may be caused by the particular method of abortion to be employed; and

125 (B) of any medical risks to the woman that are associated with administering the  
126 anesthetic or analgesic described in Subsection (2)(a)(iv)(A);

127 (b) at least 24 hours prior to the abortion the physician who is to perform the abortion,  
128 the referring physician, or, as specifically delegated by either of those physicians, a registered  
129 nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse,  
130 clinical laboratory technologist, psychologist, marriage and family therapist, clinical social  
131 worker, genetic counselor, or certified social worker [~~has~~] orally, in a face-to-face  
132 consultation, [~~informed~~] informs the pregnant woman that:

133 (i) the Department of Health, in accordance with Section 76-7-305.5, publishes  
134 printed material and an informational video that:

135 (A) provides medically accurate information regarding all abortion procedures that  
136 may be used;

137 (B) describes the gestational stages of an unborn child; and

138 (C) includes information regarding public and private services and agencies available  
139 to assist her through pregnancy, at childbirth, and while the child is dependent, including  
140 private and agency adoption alternatives;

141 (ii) the printed material and a viewing of or a copy of the informational video [~~shall be~~

142 ~~provided to her free of charge;]~~ shall be made available to her, free of charge, on the  
143 Department of Health's website;

144 (iii) medical assistance benefits may be available for prenatal care, childbirth, and  
145 neonatal care, and that more detailed information on the availability of that assistance is  
146 contained in the printed materials and the informational video published by the Department of  
147 Health;

148 (iv) except as provided in Subsection (3)(c)~~[-]~~;

149 (A) the father of the unborn child is legally required to assist in the support of her  
150 child, even ~~[in instances where]~~ if he has offered to pay for the abortion~~[-, and that]; and~~

151 (B) the Office of Recovery Services within the Department of Human Services will  
152 assist her in collecting child support; and

153 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,  
154 upon her request;

155 (c) the information required to be provided to the pregnant woman under Subsection  
156 (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face  
157 consultation, prior to performance of the abortion, unless the attending or referring physician  
158 is the individual who provides the information required under Subsection (2)(a);

159 (d) a copy of the printed materials published by the Department of Health has been  
160 provided to the pregnant woman;

161 (e) the informational video, published by the Department of Health, has been provided  
162 to the pregnant woman in accordance with Subsection (4); and

163 (f) the pregnant woman has certified in writing, prior to the abortion, that the  
164 information required to be provided under Subsections (2)(a) through (e) was provided, in  
165 accordance with the requirements of those subsections.

166 (3) (a) The alternatives required to be provided under Subsection (2)(a)(i) ~~[shall]~~  
167 include:

168 (i) a description of adoption services, including private and agency adoption methods;  
169 and

170 (ii) a statement that it is legal for adoptive parents to financially assist in pregnancy  
171 and birth expenses.

172 (b) The information described in Subsection (2)(a)(iv) may be omitted from the  
173 information required to be provided to a pregnant woman under this section if~~[(i)]~~ the  
174 abortion is performed for a reason described in Subsection 76-7-302(3)(b)(i)~~[and]~~.

175 ~~[(ii) due to a serious medical emergency, time does not permit compliance with the  
176 requirement to provide the information described in Subsection (2)(a)(iv).]~~

177 (c) The information described in Subsection (2)(b)(iv) may be omitted from the  
178 information required to be provided to a pregnant woman under this section if the woman is  
179 pregnant as the result of rape.

180 (d) Nothing in this section shall be construed to prohibit a person described in  
181 Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv),  
182 informing a woman of the person's own opinion regarding:

- 183 (i) the capacity of an unborn child to experience pain;
- 184 (ii) the advisability of administering an anesthetic or analgesic to an unborn child; or
- 185 (iii) any other matter related to fetal pain.

186 (4) When the informational video described in Section 76-7-305.5 is provided to a  
187 pregnant woman, the person providing the information shall [first]:

188 (a) request that the woman view the video at that time or at another specifically  
189 designated time and location~~[-If]~~; or

190 (b) if the woman chooses not to [do so, a copy of the video shall be provided to her]  
191 view the video at a time described in Subsection (4)(a), inform the woman that she can access  
192 the video on the Department of Health's website.

193 (5) When a serious medical emergency compels the performance of an abortion, the  
194 physician shall inform the woman prior to the abortion, if possible, of the medical indications  
195 supporting the physician's judgment that an abortion is necessary.

196 (6) If an ultrasound is performed on a woman before an abortion is performed, the  
197 person who performs the ultrasound, or another qualified person, shall:

198 (a) inform the woman that the ultrasound images will be simultaneously displayed in a  
199 manner to permit her to:

200 (i) view the images, if she chooses to view the images; or

201 (ii) not view the images, if she chooses not to view the images;

202 (b) simultaneously display the ultrasound images in order to permit the woman to:

203 (i) view the images, if she chooses to view the images; or

204 (ii) not view the images, if she chooses not to view the images;

205 (c) inform the woman that, if she desires, the person performing the ultrasound, or  
206 another qualified person shall provide a detailed description of the ultrasound images,

207 including:

208 (i) the dimensions of the unborn child;

209 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

210 (iii) the presence of external body parts or internal organs, if present and viewable; and

211 (d) provide the detailed description described in Subsection (6)(c), if the woman  
212 requests it.

213 ~~[(6)]~~ (7) ~~[Any]~~ In addition to the criminal penalties described in this part, a physician  
214 who violates the provisions of this section:

215 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

216 and

217 (b) shall be subject to:

218 (i) suspension or revocation of the physician's license for the practice of medicine and  
219 surgery in accordance with Section 58-67-401 or 58-68-401; and

220 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

221 ~~[(7)]~~ (8) A physician is not guilty of violating this section for failure to furnish any of  
222 the information described in Subsection (2), or for failing to comply with Subsection (6), if:

223 (a) the physician can demonstrate by a preponderance of the evidence that the  
224 physician reasonably believed that furnishing the information would have resulted in a  
225 severely adverse effect on the physical or mental health of the pregnant woman;



226 (b) in the physician's professional judgment, the abortion was necessary to ~~[save the~~  
227 ~~pregnant woman's life;]~~ avert:

228 (i) the death of the woman on whom the abortion is performed; or

229 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
230 of the woman on whom the abortion is performed;

231 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections  
232 76-5-402 and 76-5-402.1;

233 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and  
234 Section 76-7-102; or

235 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

236 ~~[(8)]~~ (9) A physician who complies with the provisions of this section and Section  
237 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain  
238 informed consent under Section 78B-3-406.

239 (10) (a) The Department of Health shall provide an ultrasound, in accordance with the  
240 provisions of Subsection (2)(b), at no expense to the pregnant woman.

241 (b) A local health department shall refer a person who requests an ultrasound  
242 described in Subsection (10)(a) to the Department of Health.

243 Section 3. Section **76-7-305.5** is repealed and reenacted to read:

244 **76-7-305.5. Requirements for printed materials and informational video.**

245 (1) In order to ensure that a woman's consent to an abortion is truly an informed  
246 consent, the Department of Health shall, in accordance with the requirements of this section:

247 (a) publish printed materials; and

248 (b) produce an informational video.

249 (2) The printed materials and the informational video described in Subsection (1)  
250 shall:

251 (a) be scientifically accurate, comprehensible, and presented in a truthful,  
252 nonmisleading manner;

253 (b) present adoption as a preferred and positive choice and alternative to abortion;

- 254 (c) be printed and produced in a manner that conveys the state's preference for  
255 childbirth over abortion;
- 256 (d) state that the state prefers childbirth over abortion;
- 257 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;
- 258 (f) state that any physician who performs an abortion without obtaining the woman's  
259 informed consent or without providing her a private medical consultation in accordance with  
260 the requirements of this section, may be liable to her for damages in a civil action at law;
- 261 (g) provide information on resources and public and private services available to assist  
262 a pregnant woman, financially or otherwise, during pregnancy, at childbirth, and while the  
263 child is dependent, including:
- 264 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;
- 265 (ii) services and supports available under Section 35A-3-308;
- 266 (iii) other financial aid that may be available during an adoption; and
- 267 (iv) services available from public adoption agencies, private adoption agencies, and  
268 private attorneys whose practice includes adoption;
- 269 (h) describe the adoption-related expenses that may be paid under Section 76-7-203;
- 270 (i) describe the persons who may pay the adoption related expenses described in  
271 Subsection (2)(h);
- 272 (j) describe the legal responsibility of the father of a child to assist in child support,  
273 even if the father has agreed to pay for an abortion;
- 274 (k) describe the services available through the Office of Recovery Services, within the  
275 Department of Human Services, to establish and collect the support described in Subsection  
276 (2)(j);
- 277 (l) state that private adoption is legal;
- 278 (m) in accordance with Subsection (3), describe the probable anatomical and  
279 physiological characteristics of an unborn child at two-week gestational increments from  
280 fertilization to full term, including:
- 281 (i) brain and heart function; and

282           (ii) the presence and development of external members and internal organs;  
283           (n) describe abortion procedures used in current medical practice at the various stages  
284 of growth of the unborn child, including:  
285           (i) the medical risks associated with each procedure;  
286           (ii) the risk related to subsequent childbearing that are associated with each procedure;  
287 and  
288           (iii) the consequences of each procedure to the unborn child at various stages of fetal  
289 development;  
290           (o) describe the possible detrimental psychological effects of abortion;  
291           (p) describe the medical risks associated with carrying a child to term; and  
292           (q) include relevant information on the possibility of an unborn child's survival at the  
293 two-week gestational increments described in Subsection (2)(m).  
294           (3) The information described in Subsection (2)(m) shall be accompanied by the  
295 following for each gestational increment described in Subsection (2)(m):  
296           (a) pictures or video segments that accurately represent the normal development of an  
297 unborn child at that stage of development; and  
298           (b) the dimensions of the fetus at that stage of development.  
299           (4) The printed material and video described in Subsection (1) may include a toll-free  
300 24-hour telephone number that may be called in order to obtain, orally, a list and description  
301 of services, agencies, and adoption attorneys in the locality of the caller.  
302           (5) In addition to the requirements described in Subsection (2), the printed material  
303 described in Subsection (1)(a) shall:  
304           (a) be printed in a typeface large enough to be clearly legible;  
305           (b) in accordance with Subsection (6), include a geographically indexed list of public  
306 and private services and agencies available to assist a woman, financially or otherwise,  
307 through pregnancy, at childbirth, and while the child is dependent;  
308           (c) except as provided in Subsection (7), include a separate brochure that contains  
309 truthful, nonmisleading information regarding:

- 310           (i) the ability of an unborn child to experience pain during an abortion procedure;  
311           (ii) the measures that may be taken, including the administration of an anesthetic or  
312 analgesic to an unborn child, to alleviate or eliminate pain to an unborn child during an  
313 abortion procedure;  
314           (iii) the effectiveness and advisability of taking the measures described in Subsection  
315 (5)(c)(ii); and  
316           (iv) potential medical risks to a pregnant woman that are associated with the  
317 administration of an anesthetic or analgesic to an unborn child during an abortion procedure.  
318           (6) The list described in Subsection (5)(b) shall include:  
319           (a) private attorneys whose practice includes adoption; and  
320           (b) the names, addresses, and telephone numbers of each person listed under  
321 Subsection (5)(b) or (6)(a).  
322           (7) A person or facility is not required to provide the information described in  
323 Subsection (5)(c) to a patient or potential patient, if the abortion is to be performed:  
324           (a) on an unborn child who is less than 20 weeks gestational age at the time of the  
325 abortion; or  
326           (b) on an unborn child who is at least 20 weeks gestational age at the time of the  
327 abortion, if:  
328           (i) the abortion is being performed for a reason described in Subsection  
329 76-7-302(3)(b)(i); and  
330           (ii) due to a serious medical emergency, time does not permit compliance with the  
331 requirement to provide the information described in Subsection (5)(c).  
332           (8) In addition to the requirements described in Subsection (2), the video described in  
333 Subsection (1)(b) shall:  
334           (a) make reference to the list described in Subsection (5)(b); and  
335           (b) show an ultrasound of the heartbeat of an unborn child at:  
336           (i) four weeks from conception;  
337           (ii) six to eight weeks from conception; and

338 (iii) each month after ten weeks gestational age, up to 14 weeks gestational age.

339 Section 4. Section **76-7-305.6** is enacted to read:

340 **76-7-305.6. Abortion facilities required to provide printed materials and**  
341 **informational video -- Department of Health to make printed materials and**  
342 **informational video available.**

343 (1) Except as provided in Subsection 76-7-305.5(7), every facility in which abortions  
344 are performed shall provide the printed materials and a viewing or a copy of the video  
345 described in Section 76-7-305.5 to each patient or potential patient at least 24 hours before the  
346 abortion is performed, unless:

347 (a) the physician can demonstrate by a preponderance of the evidence that the  
348 physician reasonably believed that furnishing the information would have resulted in a  
349 severely adverse effect on the physical or mental health of the pregnant woman;

350 (b) in the physician's professional judgment, the abortion was necessary to avert:

351 (i) the death of the woman on whom the abortion is performed; or

352 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
353 of the woman on whom the abortion is performed;

354 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections  
355 76-5-402 and 76-5-402.1;

356 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and  
357 Section 76-7-102; or

358 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

359 (2) The Department of Health and each local health department shall make the printed  
360 materials and the video described in Section 76-7-305.5 available at no cost to any person.

361 (3) The Department of Health shall make the printed materials and the video described  
362 in Section 76-7-305.5 available for viewing on the Department of Health's website by clicking  
363 on a conspicuous link on the home page of the website.

364 (4) If the printed materials or a viewing of the video are not provided to a pregnant  
365 woman under Subsection (1), the physician who performs the abortion on the woman shall,

366 within 10 days after the day on which the abortion is performed, provide to the Department of  
367 Health an affidavit that:

- 368 (a) specifies the information that was not provided to the woman; and
- 369 (b) states the reason that the information was not provided to the woman.

370 Section 5. Section **76-7-305.7** is enacted to read:

371 **76-7-305.7. Statistical report by the Department of Health.**

372 (1) In accordance with Subsection (2), the Department of Health shall, on an annual  
373 basis, after July 1 of each year, compile and report the following information, relating to the  
374 preceding fiscal year, to the Health and Human Services Interim Committee:

375 (a) the total amount of informed consent material described in this section that was  
376 distributed or accessed;

377 (b) the number of women who obtained abortions in this state without receiving the  
378 informed consent materials described in this section;

379 (c) the number of statements signed by attending physicians under Subsection  
380 76-7-305.6(4); and

381 (d) any other information pertaining to obtaining informed consent from a woman who  
382 seeks an abortion.

383 (2) The report described in Subsection (1) shall be prepared and presented in a manner  
384 that preserves physician and patient anonymity.

385 Section 6. Section **76-7-313** is amended to read:

386 **76-7-313. Physician's report to Department of Health.**

387 (1) In order for the state Department of Health to maintain necessary statistical  
388 information and ensure enforcement of the provisions of this part, any physician performing  
389 an abortion must obtain and record in writing:

390 (a) the age [~~of the pregnant woman, her~~], marital status, and county of residence of the  
391 woman on whom the abortion was performed;

392 (b) the number of previous abortions performed on [~~her~~] the woman described in  
393 Subsection (1)(a);

394           (c) the hospital or other facility where the abortion was performed;

395           (d) the weight in grams of the unborn child aborted, if it is possible to ascertain;

396           (e) the pathological description of the unborn child;

397           (f) the given menstrual age of the unborn child;

398           (g) the measurements of the unborn child, if possible to ascertain; and

399           (h) the medical procedure used to abort the unborn child. [~~This information, and~~]

400           (2) Each physician who performs an abortion shall provide the following to the

401 Department of Health within 30 days after the day on which the abortion is performed:

402           (a) the information described in Subsection (1);

403           (b) a copy of the pathologist's report[~~, as required~~] described in Section 76-7-309[;

404 together with];

405           (c) an affidavit;

406           (i) that the required consent was obtained pursuant to [~~Section~~] Sections 76-7-305

407 [and], 76-7-305.5, and 76-7-305.6; and

408           (ii) described in Subsection 76-7-305.6(4), if applicable; and

409           (d) a certificate [~~by the physician that~~] indicating:

410           (i) whether the unborn child was or was not [~~capable of survival outside of the~~

411 ~~mother's womb, must be filed by the physician with the state Department of Health within 10~~

412 ~~days after] viable, as defined in Subsection 76-7-302(1), at the time of the abortion[-]; and~~

413           (ii) if the unborn child was viable, as defined in Subsection 76-7-302(1), at the time of

414 the abortion, the reason for the abortion.

415           (3) All information supplied to the [~~state~~] Department of Health shall be confidential

416 and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.