

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 854 (First Edition)

SHORT TITLE: Abortion-Woman's Right to Know Act.

SPONSOR(S): Representatives Samuelson and McElraft

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>	<b><u>FY 2014-15</u></b>	<b><u>FY 2015-16</u></b>
<b>REVENUES</b>					
<b>EXPENDITURES</b>	<b>\$6,756,235</b>	<b>\$6,732,735</b>	<b>\$7,030,375</b>	<b>\$7,341,792</b>	<b>\$7,667,223</b>
<b>POSITIONS (cumulative):</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Health & Human Services' Divisions of Medical Assistance, Public Health, and Social Services					
<b>EFFECTIVE DATE:</b>					

**BILL SUMMARY:**

The Proposed Committee Substitute for HB 854 would prohibit an abortion from being performed unless a woman is provided certain information at least 24 hours prior to the abortion. The required information includes information on the physician, the unborn child, and the medical risks, as well as availability of other services as an alternative to the abortion. Additionally, the PCS would require an ultrasound be performed at least 4 hours before the abortion. There are exceptions provided to the informational and ultrasound requirements in cases of medical emergency. The PCS would require the Department of Health and Human Services to maintain a website with general information on the gestational development of a child and resources available by geographic location.

The PCS would provide for civil remedies against any person who performs an abortion in knowing or reckless violation of the provisions, and would allow injunctive relief against any person who willfully violates the provisions.

## **ASSUMPTIONS AND METHODOLOGY:**

### **BACKGROUND**

- 34 states require that women receive counseling before an abortion is performed: 24 of these states detail the information a woman must be given; 10 states have abortion-specific requirements generally following the established principles of informed consent.
  - 25 of these states also require women to wait a specified amount of time—most often 24 hours—between the counseling and the abortion procedure.
- 7 states require that all counseling be provided in person and that the counseling take place before the waiting period begins, thereby necessitating two separate trips to the facility.
- 24 states direct the state health agency to develop written materials:
  - 8 require that the materials be given to a woman seeking an abortion, and
  - 16 require that the materials be offered to her.
- 9 states require that the woman be informed that she cannot be coerced into obtaining an abortion.
- Nearly all the states that require counseling require information about the abortion procedure and fetal development.
- 32 states require that the woman be given information about the specific procedure, while 19 require information about all common abortion procedures.
- 32 states require that the woman be told the gestational age of the fetus.
- 23 states include information on fetal development throughout pregnancy.
- 9 states require verbal counseling or written materials to include information on accessing ultrasound services and 18 states regulate the provision of ultrasound by abortion providers.

## **ACTIONS and FISCAL IMPLICATIONS**

### **DHHS is directed to:**

#### **1. Develop a Website**

Publish and make available on a website extensive materials describing statewide resources and to develop a comprehensive list of agencies providing a range of services. DHHS is to develop and maintain this website and monitor its content for tampering.

- DHHS estimates the website development cost to be between \$17,000 and \$68,000 depending upon further clarification of the legislative requirements.

- In addition, it will require Information Technology professional working in conjunction with program personnel. Once the web site is operational the maintenance time will be less but still requires a skill set for support.
- This estimate appears to be in line with the experience of the Texas Department of Health in its implementation of a website related its “Women’s Right to Know” website.

## **2. Print Materials**

DHHS is charged with preparing extensive material on fetal development, abortion methods, medical risks, side effects, etc. During the first year, the total cost to produce, print, and distribute 125,000 copies of a 24 page booklet (5.5” x 8.5”) in English and 25,000 copies in Spanish comes will be approximately \$66,500.

The booklet will include pages for the fetal development and for abortion procedures and risks including 20 original drawings (or purchase of 20 drawings) for the required every 2 week period during pregnancy and an 8 page insert/separate piece for geographical listing of services/programs and description of services (could be updated without having to reprint the information above).

During the second and subsequent years, the cost to update, print and distribute the original materials may be reduced to approximately \$42,000.

### Michigan

The Michigan Legislature amended its Women’s Right to Know Act to no longer require printed information to be distributed to women. The amended legislation allows informed consent to be given by a woman reviewing abortion information on the state website and printing and signing a confirmation form. The fiscal analysis indicated that the cost of building the website would be minimal and would likely be partially offset by the saving in printed material

### Kansas

The fiscal analysis associated with Kansas’s “Women’s Right To Know Act” estimated the cost to be \$182,637 a year.

### Minnesota

The Minnesota Legislature has appropriated \$207,000 each fiscal year since 2005 for the implementation and maintenance of the “Women’s Right to Know Act.”

### Missouri

The fiscal analysis associated with Minnesota’s “Women’s Right To Know Act” estimated the cost to be \$150,000 a year.

### 3. Inform Women of the Availability of State Medical and Public Assistance through DHHS

HB 854 states that 24 hours prior to an abortion she is to be counseled on the potential availability of:

1. State Medical Assistance (Medicaid) for she and her baby, and
2. State and Federal funded Public Assistance programs under Chapter 108A of the General Statutes

Currently, there are approximately 1.7 million women of childbearing potential in North Carolina. The total number of abortions performed in 2008 was 27,234. About half of all births in the state are paid for with Medicaid, so approximately half of the women who receive abortions have household incomes of less than 185% of the federal poverty level.

#### Increased births lead to increased State costs

A study of the impact of Mississippi's "Women's Right to Know Act" showed that the state's overall abortion rate went from 11.3 per 1,000 to 9.9 per 1,000 women of childbearing age after passage of the law, a decrease of 12.9%. While it is impossible to fully determine the reasons for an increase or decrease in abortion rates, a similar reduction in abortion rates in North Carolina, where in 2008 27,234 abortions were recorded, would result in approximately 2,891 additional births.

In North Carolina, almost fifty percent of all births in 2008 were paid for in full or in part by Medicaid. In this scenario, approximately 1,149 additional births would be funded through Medicaid. An additional 286 births would be funded in part by Medicaid. For these 286 pregnant women, the cost has been prorated between Medicaid and private reimbursement. Medicaid does not reimburse the cost of prenatal care for certain pregnant women; however, reimbursement is provided for the delivery and the infant's health care.

The estimated cost to Medicaid for prenatal, intrapartum and postpartum care as well as medical care through the first year of life in 2008 was \$13,299, so the total increased Medicaid cost for these births would be approximately:

\$ 6,621,734	State General Funds
<u>\$ 12,297,507</u>	Federal Match Funds
\$ 18,909,242	

The \$6.6 million in SFY 2011-12 and the costs shown in the subsequent fiscal years in the Fiscal Impact Table above are for Medicaid medical care through the first year of life of the child. There would be a compounding of subsequent costs each fiscal year as the cohort born in SFY 2011-12 (and other cohorts) advances in age and accesses Medicaid services through age 18.

Further, costs would be incurred by taxpayers through increased enrollment in Work First, child care subsidies, public education and food assistance programs.

## **Potential Medical Risks of Abortion**

HB 854 requires that no abortion shall be performed without a woman being told of the medical risks associated with an abortion. In 2007, *The Journal of Reproductive Medicine* published an article on the “*Cost Consequences of Induced Abortion as an Attributable Risk for Preterm Birth and Impact on Informed Consent.*” The article is based on research conducted in 2002 by Byron C. Calhoun, M.D., M.B.A., Elizabeth Shadigian, M.D., and Brent Rooney, B.Sc. The implication of this research is that induced abortion can lead to increased risk of birth defects, specifically Cerebral Palsy, in a woman’s subsequent pregnancy. This increased risk, applied to the number of births in North Carolina would lead to 32 infants being born with Cerebral Palsy. The associated first year of infancy costs would be approximately:

\$ 39,085,552 Neonatal costs resulting from infant born with Cerebral Palsy

These are costs that could be avoided, according to this research. And similar to the analysis above, there would be lifetime savings (or cost avoidance) in subsequent fiscal years as this cohort grew older and additional cohorts were added annually.

## **Requirement for an Ultrasound Prior to Procedure**

Women who do not have private insurance or Medicaid may incur a cost for the required obstetric ultrasound. While the Medicaid reimbursement rate for an ultrasound is \$117.09, a woman without insurance would be charged approximately \$300 for the procedure. An estimated one-fourth to one-half, or 3400 to 6800, women seeking an abortion may need to pay this amount out-of-pocket.

## **Changes to the practice of medicine in North Carolina**

The content of informed consent, a critical part of the practice of medicine, will be set by the legislature rather than by a qualified medical professional. Additional requirements will be placed on the medical provider. These requirements include an information process that must occur 24 hours before the procedure and having the consent notarized. In addition the medical provider must also assure that the pregnant woman receives an ultrasound plus extensive information regarding the ultrasound at least four hours before an abortion could be performed.

## **Change to existing minor’s consent laws**

HB 854 substantially changes existing minor’s consent laws for un-emancipated minors. The information process and ultrasound information must be provided to the parent/guardian.

## **SOURCES OF DATA:**

- National Conference of State Legislatures, Denver, Colorado
- Guttmacher Institute, New York City, New York
- North Carolina Department of Health and Human Services

- North Carolina Medicaid Be Smart Family Planning Waiver Year Five Annual Report North Carolina Department of Health and Human Services Division of Medical Assistance March 2011 page 39 Navigant Consulting, Inc. 30 South Wacker Drive, Suite 3100 Chicago, Illinois 60606. <http://www.ncdhhs.gov/dma/mfpw/Yr5Annual.pdf>
- *Cost Consequences of Induced Abortion as an Attributable Risk for Preterm Birth and Impact on Informed Consent*; Byron C. Calhoun, M.D., M.B.A., Elizabeth Shadigian, M.D., and Brent Rooney, B.Sc.; *The Journal of Reproductive Medicine*, March 2007

**TECHNICAL CONSIDERATIONS:** None

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