

# COERCIVE ABUSE AGAINST MOTHERS PREVENTION ACT

HOUSE/SENATE BILL No. \_\_\_\_\_  
 By Representatives/Senators \_\_\_\_\_

## Section 1. Title.

This Act shall be known as the “Coercive Abuse Against Mothers Prevention Act.”

## Section 2. Legislative Findings and Purposes.

- (a) The [Legislature] of the [Insert name of State] finds that:
- (1) Research indicates that violence against pregnant women is a serious problem across the nation. Many women report that they were coerced into abortion and have suffered grievous physical, emotional, psychological, and spiritual harm as a result.
  - (2) Reproductive healthcare facilities are often the only and last opportunities of hope for victims of coercive abuse and, as such, are in a unique position to help such victims.
  - (3) More cases of coerced or attempted coerced abortions are reported if women are informed of their rights and given information concerning treatment and protection options.
  - (4) More victims receive treatment for coercive abuse if women are informed of their rights and given information concerning treatment and protection options.
  - (5) Coercive abuse is a serious women’s health issue because it violates women’s rights to physical and emotional health, freedom of conscience, and their right to freely *choose* either pregnancy or abortion.
- (b) The [Legislature] seeks to make it illegal to coerce or otherwise force a woman or minor into aborting her unborn child and intends to empower all mothers in the State of [Insert name of State] to exercise their freedom of conscience in choosing life for their pre-born children free of violent and abusive coercion.



### Section 3. Definitions.

For the purposes of this Act only:

(a) “**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 of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (1) Save the life or preserve the health of an unborn child;
- (2) Remove a dead unborn child caused by spontaneous abortion; or
- (3) Remove an ectopic pregnancy.

(b) “**Abuser**” means any person who coerces, forces, attempts to coerce, or attempts to force a woman into having an abortion.

(c) “**Coerce**” or “**force**” an abortion occurs when a person knows of or suspects the pregnancy of a woman and engages or conspires with another to engage in any conduct described below that is intentionally and purposely aimed at causing or directing the pregnant woman to have an abortion and solely conditioned upon the pregnant woman disregarding or refusing the person’s demand that she seek an abortion:

- (1) Committing, attempting to commit, or threatening to commit physical harm to the woman, unborn child, or another person;
- (2) Committing, attempting to commit, or threatening to commit any act prohibited by any statute of this State [*or insert specific citation(s) or reference(s) to State’s criminal and civil code*], (*including any common law tort not codified in a State statute*);
- (3) Revoking, attempting to revoke, or threatening to revoke a scholarship awarded to the woman by a public or private institution of higher education;
- (4) Discharging, attempting to discharge, or threatening to discharge the woman or another person; or changing, attempting to change, or threatening to change her or the other person’s compensation, terms, conditions, or privileges of employment;



- (5) Denying, attempting to deny, or threatening to deny any social assistance for which a pregnant woman or another person has applied, has been approved for, or has been receiving and for which she or the other person is otherwise eligible;
- (6) Denying, removing, or threatening to deny or remove financial support or housing from a dependent.

The terms “coerce” and “force” do not include or encompass constitutionally-protected speech, conduct, or expressions of conscience.

(d) “**Coercion**” occurs when, with purpose to restrict a pregnant woman’s freedom of action to her detriment, any person engages conduct defined in Section 3(c) of this Act.

(e) “**Course of conduct**” means a pattern of conduct composed of a series of two or more separate acts evidencing a continuity of purpose.

(f) “**Dependent**” means *[Insert definition]* as defined in *[Insert citation(s) to appropriate federal or state law]*.

(g) “**Mandatory reporter**” means any individual who provides health care services, including a physician, surgeon, physical therapist, psychiatrist, psychologist, medical resident, medical intern, hospital staff member, licensed nurse, nurse’s aide, any emergency medical technician, paramedic, and any employee, staff member, or volunteer at a reproductive health care facility.

(h) “**Physician**” or “**attending physician**” means any person licensed to practice medicine in this State. The term includes medical doctors and doctors of osteopathy.

(i) “**Pregnant woman**” means any female, including those who have not reached the age of 18 *[or minors]*, who is in the reproductive condition of having an unborn child in her uterus.

(j) “**Reproductive healthcare facility**” or “**facility**” means any office, clinic, or other physical location that provides surgical or medical abortions, abortion counseling, abortion referrals, contraceptives, contraceptive counseling, sex education, or gynecological care and services.

(k) “**Solely**” means the conduct described in Section 4 of this Act must be such that it would not have occurred but for the woman’s pregnancy. This does not preclude the possibility that an actor may have multiple motives for engaging in the conduct described in Section 4 of this Act.



(l) “**Threat**” means at least one statement, or a course of conduct, by an individual that would cause a reasonable person to believe that the individual is likely to act in accordance with the statements or as implied by a course of conduct. A threat does not include constitutionally protected speech or any generalized statement regarding a lawful pregnancy option, including, but not limited to, an emotional expression by a family or household member of the pregnant woman.

(m) “**Unborn child**” or “**pre-born child**” means the offspring of human beings from conception until birth.

#### **Section 4. Forced or Coerced Abortion Prohibited; Penalties.**

(a) **Prohibition:** It shall be illegal to coerce or force a pregnant woman to have an abortion.

(b) **Penalties:**

- (1) A pregnant woman injured by reason of an abuser’s violation of this Act may bring a civil suit for recovery of damages for such injury, including wrongful death on behalf of an aborted child (*as provided for in [Insert citation to state’s Wrongful Death Act]*), whether or not the perpetrator is criminally prosecuted or convicted and whether or not the pregnant woman has an abortion. In such a civil suit, the pregnant woman shall be entitled to recover, in addition to any other damages, her reasonable attorney’s fees and costs if she is the prevailing party.
- (2) Anyone who is guilty of engaging in conduct described in and proscribed by this Section is, in addition to any other crimes described in [*State’s criminal code*], guilty of a [*Insert appropriate penalty classification*].
- (3) If a violation of this Section is committed by the father or putative father of the unborn child against a pregnant female who is less than 18 years of age, and the father or putative father is 18 years of age or older, the father or putative father is guilty of a [*Insert reference to a higher penalty classification*].
- (4) Any minor [*or woman*] who is threatened with such coercion may apply to a court of competent jurisdiction for relief. The court shall provide the minor with counsel, give the matter expedited consideration, and grant such relief as may be necessary to prevent such coercion.
- (5) If a minor is denied financial support by the minor’s parents, guardian, or cus-



todian because of the minor's refusal to have an abortion, the minor must be considered an emancipated minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be used to obtain an abortion.

## Section 5. Reproductive Healthcare Facility Requirements; Penalties.

### (a) *Sign Postage Requirement:*

- (1) A reproductive health care facility shall conspicuously post signs visible to all who enter so as to be clearly readable, which state: "It is against the law for anyone, regardless of his or her relationship to you, to force you to have an abortion. You have the right to contact any local or state law enforcement or social service agency to receive protection from any actual or threatened physical, emotional, or psychological abuse. It is against the law to perform, induce, prescribe for, or provide you with the means for an abortion without your voluntary consent."
- (2) Such signs must be posted in the waiting room(s), consultation room(s), and procedure room(s).
- (3) The continued posting of such signs shall be a condition of licensure of any reproductive healthcare facility under [*Insert reference(s) to state licensure law or administrative requirements*]. The display of such a sign does not discharge the duty of a reproductive healthcare facility to have a physician orally inform the pregnant woman of information contained in Sections 5(b)(5) and 5(c) of this Act.

### (b) *Mandatory Reporting Requirements:*

- (1) **Requirement:** A mandatory reporter must report every instance of alleged or suspected coerced abortion as defined in Sections 3 and 4 of this Act. The mandatory reporter may not use his or her discretion in deciding what cases should or should not be reported to the appropriate law enforcement or relevant state agency.
- (2) **Standard:** The standard to be applied to a mandatory reporter in determining a reportable suspicion is reasonability in good faith.
- (3) **Procedure:** If a mandatory reporter has cause to believe that a pregnant woman is or was a victim of conduct described in and proscribed by Sections



3 and 4 of this Act, the mandatory reporter shall make a report no later than the 48th hour after such coercion, force, attempted coercion, or attempted force has been brought to his or her attention or suspicion. A mandatory reporter may not delegate the responsibility to report such coercion, force, attempted coercion, or attempted force to any other person but must personally make the report. A mandatory reporter must make a report to [*designate local or state law enforcement agency or other appropriate social services agency*].

- (4) **Content:** The person making the report must identify the name and address of the woman, and, in a case of a minor, the name and address of the person who is responsible for the care or custody of the minor. The person making the report must also file any pertinent information he or she may have relating to the alleged or suspected coercion, force, attempted coercion, or attempted force.
- (5) The attending physician shall orally inform the female that no one can force her to have an abortion.
- (6) It shall be unlawful for any reproductive healthcare facility to willfully and knowingly continue to employ a mandatory reporter who has violated Section 4 or 5 of this Act.

(c) In a private room, the attending physician shall orally ask the pregnant woman if she is being coerced or forced to have an abortion. If it is reasonably suspected that the woman is being coerced or forced into having an abortion, the physician shall inform the woman that such coercion is illegal, that the woman may have civil remedies, and that a request or demand by the father to have an abortion does not relieve his financial support responsibilities. The attending physician shall also provide the pregnant woman with information about assistance, counseling, and protective services offered by social programs and local or state law enforcement agencies, as well as access to a telephone where she can make a private call and to an alternate exit from the facility [*so that, if necessary, she can exit the abortion facility without being seen or confronted*].

(d) No person shall perform an abortion upon a pregnant woman who is known or suspected to be a victim of conduct described in and proscribed by Sections 3 and 4 of this Act within twenty-four (24) hours of when this fact or suspicion arises and informing the woman of her rights as provided in Sections 5(b)(5) and 5(c) of this Act.

The mandatory 24-hour reflection period may be waived if, in the physician's best medical judgment, an abortion is necessary to prevent the death of the woman or to prevent substantial and irreversible injury to a major bodily function.



(e) ***Penalties:***

- (1) A pregnant woman injured by reason of a facility's violation of this Act may bring a civil suit for recovery of damages for such injury, including wrongful death on behalf of an aborted child (*as provided for in [Insert citation to state's Wrongful Death Act]*), whether or not the attending physician or the facility is criminally prosecuted or convicted and whether or not the pregnant woman has an abortion. In such a civil suit, the pregnant woman shall be entitled to recover, in addition to any other damages, her reasonable attorney's fees and costs if she is the prevailing party.
- (2) Any mandatory reporter who has reason to believe a woman is or has been a victim of conduct described in and proscribed by Sections 3 and 4 of this Act and willfully and knowingly does not report such coercion, force, attempted coercion, or attempted force as required by this Act is guilty of a [*Insert appropriate class of felony or misdemeanor*].
- (3) Any person who performs an abortion which is inconsistent with Section 5(d) of this Act is guilty of a [*Insert appropriate class of felony or misdemeanor*].
- (4) Any person who performs, induces, or assists in performing or inducing an abortion on a woman, and is unaware that the woman is or has been a victim of conduct described in and proscribed by Sections 3 and 4 as a result of a willful, knowing, or purposeful failure to comply with the requirements of Section 5(c) of this Act is guilty of a [*Insert appropriate class of felony or misdemeanor*].
- (5) Initial and continuing adherence to the requirements of Section 5 of this Act shall be a condition of licensure for any reproductive healthcare facility under [*Insert reference(s) to state licensure law or administrative requirements*].
- (6) A woman receiving an abortion inconsistent with any provision of this Act cannot be prosecuted.

**Section 6: Duties of Law Enforcement [*or Other Designated State Social Services or Public Agency*].**

- (a) Upon the request of the complainant (including a pregnant woman, a woman who was coerced or forced into having an abortion and later reports the coercion or force, or any woman whose rights under this Act were denied by any physician or facility), a law enforcement agency [*or designated social services agency*] investigating a violation of this Act shall notify the complainant not less than 24 hours before initially contacting the person(s) alleged to have



violated Section 4 or 5 of this Act.

(b) This Act does not preclude or prohibit an alleged perpetrator from being charged with, convicted of, or punished for any other crime committed while also violating this Act.

(c) A court of competent jurisdiction may order that a term of imprisonment imposed for violating this Act be served consecutively to a term of imprisonment imposed for any other crime committed while also violating this Act.

### **Section 7. Construction.**

(a) This Act does not create, recognize, endorse, or condone a right to an abortion.

(b) It is not the intention of this Act to make lawful an abortion that is currently unlawful.

### **Section 8. Severability.**

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 to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable here from 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 9. Right of Intervention.**

The [Legislature], by a joint resolution, may appoint one or more of its members, who sponsored or cosponsored this Act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this Act is challenged.

### **Section 10. Enforcement Date.**

This Act takes effect on [Insert date].

