

# SOUTHEAST LAW INSTITUTE™

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Dear SLI Supporter:

The legal challenge to the Woman's Right to Know Act ("Act") has already hit a stumbling block. The abortion clinics' request for a temporary restraining order was denied and its motion for a preliminary injunction was only partially granted. This month's educational update is a memorandum SLI prepared for crisis pregnancy centers in Alabama. It has been distributed across the state with hopes that the Act will have a meaningful impact for the benefit of women and children in Alabama even though in the midst of a lawsuit.

As of August 31, 2002, 897 Choose Life license tags have been reserved. Have you reserved yours? It does not matter when your current tag is renewed you just need to reserve your Choose Life tag for the next yearly purchase time. Remember, 1000 tags must be pre-ordered by November 30, 2002 or no tags will be available to anyone. For more information, see [www.ccbama.org](http://www.ccbama.org).

Curiously, SLI has had several requests for assistance concerning homeschooling situations. We have not had many real problems over the last several years. However, in several jurisdictions we have had attendance officers suggesting action be taken against homeschooling parents. We are in the process of addressing those and we will keep you informed.

By the time you receive this newsletter the elections will be over. Who is elected will be determinative of what to expect during the 2003 Regular Session of the Alabama Legislature--gambling, constitutional crisis, and pork barrel spending; or sanctity of life, constitutional protection, and protection of the family. In the coming months we will address some of the issues we expect to see.

On a personal note, congratulations to our Executive Director, Harry Yates, wife Ginny, and daughter, Sarah Catherine, on the arrival last month of son/brother, Jackson Bolling. Please be praying for them as they enjoy this time of family adjustment.

We are encouraged by your support for our efforts in the current issues. Please continue your support of us. We especially request your prayers, because we know with all of the challenges we have, we can do nothing without God's help. God bless you and with personal regards, I am,

Sincerely,

A. Eric Johnston

AEJ/jfj

## AN EDUCATIONAL UPDATE FROM THE SOUTHEAST LAW INSTITUTE™, INC.

**To:** SLI Supporters  
**Date:** November 2002  
**From:** A. Eric Johnston  
**Re:** Women's Right to Know Act (Preliminary Junction Order)\*

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A lawsuit has been filed alleging the Women's Right To Know Act ("Act") is unconstitutional. On September 30, 2002, a United States District Judge enjoined certain portions of the Act. Reading interpretations of his order in the press or from biased sources may lead the public to misunderstand the judge's injunction. The injunction and explanatory opinion are very favorable to the pro-life position and require abortion clinics to do substantially all the Act requires. In the following paragraphs, we will briefly describe the meaning of the injunction. It is the first step in the lawsuit. In the months to come there will be other proceedings and ultimately a final judgment on all parts of the Act. We will give some explanation for what has happened to this point. Please feel free to call us if you have any questions.

### EXPLANATION OF THE PRELIMINARY INJUNCTION

1. The term "medical emergency" must include a determination by the physician that "psychological harm" might be sufficient to rise to the level of a medical emergency.
  - a. The clinics argued the definition was unconstitutionally narrow because it did not include mental health. We have sought to avoid a mental health definition because of the loophole it creates for allowing abortions. We expect the judge to further define this at a subsequent court hearing. For the time being, physicians may use mental health as an emergency reason for doing an abortion, however, it must be something more than a substantial degree of anxiety.
2. The physician must give information that the child may survive at a gestational age of more than 19 weeks.

However, he will be allowed to use his medical judgment on what "survive" means.

  - a. The court found conflicting evidence about to what degree the unborn child could "survive" beginning at the age of 19 weeks. Specifically, the physician is required to give more than a mechanical reading and must give (1) a full and complete definition of the term "survive" in accordance with his good faith clinical judgment; (2) the nature of any survival; (3) survival is merely a possibility; (4) survival will or may be of extremely limited duration.
3. The State may not distribute the printed booklet or video required by the Act.
  - a. The comprehensive objective medical information required by the Act to be given in a booklet to be distributed to women who go to abortion clinics was disputed by the clinics as being medically incorrect. While pro-life leaders had some dissatisfaction with the booklet, we believed it overall good under the circumstances. However, the objective of the clinics is to stop distribution of the booklet altogether, or reduce it to an ineffective informational level. The judge will hold later hearings on the accuracy of the information in the booklet. The booklet is, in fact, ready for distribution. The same reasoning applies to the video. We believe the use of these items will ultimately be allowed.
4. The prohibition of abortions for lethal fetal anomalies, and ectopic pregnancies is enjoined.
  - a. The judge interprets a lethal fetal anomaly to mean the child would die at birth or be still born and ectopic pregnancy to never result in the birth of a living child. There is some dispute about the meaning of these terms and they will be examined at a later hearing.

## CONCLUSION

Otherwise, the Act is in force. Abortion clinics will be required to give all of the other information twenty-four hours in advance of the abortion procedure. We believe this is a very good beginning for the case. We are not discouraged with this order. This memorandum does not address everything else the Act requires. If something is not mentioned above, then that requirement of the Act still exists. However, a great deal is left to be done. The great majority of the work of attorneys and the judge remains to be done. The preliminary injunction is exactly what it means. It is "preliminary" only. There will be later hearings on the substantive issues involved. The judge seems to be on a fairly fast track. There is a possibility he will make final judgments in the next few months. We expect there to be an appeal. This will delay the case further.

For the time being, if you are involved in crisis pregnancy intervention, you will probably have inquiries about the Act and an increase in the number of visitors to your facilities. Therefore, you should be prepared. Again, we emphasize our availability to answer questions in the event they arise. There is no clear meaning at this point on everything the judge says, since it is not a final order. Therefore, we will do the best we can to interpret the information and provide good advice to you.

\* This is a memo that was sent to "crisis pregnancy centers" in Alabama.