

SENATE BILL 494

By Pody

AN ACT to amend Tennessee Code Annotated, Title 24;
Title 29; Title 36; Title 39 and Title 68, Chapter 3,
relative to abortion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 2, is amended by adding the following as a new part:

36-2-101.

(a) A person may petition a court with jurisdiction over domestic relations matters to request an injunction to prohibit a woman who is pregnant with the person's unborn child from obtaining an abortion.

(b) Venue for a petition filed pursuant to this section is in the county in which the respondent resides or, if the respondent is not a resident of this state, the county in which the petitioner resides. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition to be served upon the respondent at least five (5) days prior to such hearing.

(c) Within fourteen (14) days of the petition being filed, the court shall hold a hearing at which both parties may present evidence. The court shall issue the injunction if the court finds that petitioner has proven that:

- (1) The petitioner is the biological father of the respondent's unborn child;
- (2) There is a reasonable probability that the respondent will seek an abortion prior to giving birth to the unborn child; and
- (3) If the parties are not married, the petitioner has executed a voluntary acknowledgement of paternity, pursuant to § 68-3-305(f), that is not subject to

being rescinded. The voluntary acknowledgement of paternity must be proven by filing a certified copy with the court.

(d) This section does not require the petitioner to provide DNA evidence to prove that the petitioner is the biological father of the respondent's unborn child.

(e) An injunction issued pursuant to this part shall prohibit the respondent from seeking or obtaining an abortion.

(f)

(1) If the respondent has been served with a copy of the petition and notice of the hearing, an injunction is effective when entered. For purposes of this section, an injunction is considered entered when signed by:

(A) The judge and all parties or counsel;

(B) The judge and one (1) party or counsel and contains a certificate of counsel that a copy of the proposed order has been served on all other parties or counsel; or

(C) The judge and contains a certificate of the clerk that a copy has been served on all other parties or counsel.

(2) As used in this subsection (f), service upon a party or counsel must be made by delivering to the party or counsel a copy of the injunction, or by the clerk mailing the injunction to the party's last known address. In the event the party's last known address is unknown and cannot be ascertained upon diligent inquiry, the certificate of service must so state. Service by mail is complete upon mailing. In order to complete service of process in a timely manner on a party who lives outside the county where the order was issued, the clerk may transmit the order to the sheriff in the appropriate county by facsimile or other electronic transmission.

(3) Notwithstanding when an injunction is considered entered under this subsection (e), if the court finds that the protection of the petitioner's unborn child so requires, the court may order, in the manner provided by law or rule, that the injunction take effect immediately.

(g) Upon violation of an injunction issued pursuant to this section, the court may hold the respondent in civil or criminal contempt and punish the respondent in accordance with the law.

SECTION 2. Tennessee Code Annotated, Section 68-3-305, is amended by adding the following new subsection:

(f)

(1) A person may execute a voluntary acknowledgement of paternity for the purpose of seeking an injunction pursuant to § 36-2-101 prior to the birth of the person's child. The voluntary acknowledgement of paternity may be executed without the signature of the child's mother.

(2) A voluntary acknowledgement of paternity for the purpose of seeking an injunction pursuant to § 36-2-101 must not result in the father's name, surname, or information being entered on the child's birth certificate unless the acknowledgement is subsequently signed by the mother of the child and filed pursuant to subsection (b).

SECTION 3. Tennessee Code Annotated, Section 24-7-113(c)(1), is amended by deleting the language "A signatory to a voluntary acknowledgment shall be permitted to rescind the voluntary acknowledgment at the earlier of:" and substituting:

Except as provided by subsection (i), a signatory to a voluntary acknowledgment shall be permitted to rescind the voluntary acknowledgment at the earlier of:

SECTION 4. Tennessee Code Annotated, Section 24-7-113, is amended by deleting the language "§ 68-3-305(b)" and substituting "§ 68-3-305(b) or (f)" wherever it appears.

SECTION 5. Tennessee Code Annotated, Section 24-7-113, is amended by adding the following new subsection:

(i) Notwithstanding this section to the contrary, a person who executes a voluntary acknowledgement of paternity for the purpose of seeking an injunction pursuant to § 36-2-101 shall not rescind or challenge the voluntary acknowledgement of paternity under any circumstances, including on basis of fraud, duress, or material mistake of fact.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.