AN ACT

To amend and reenact R.S. 40:1299.35.2 and the introductory paragraph of 1299.35.6(B), (B)(1)(h), and the introductory paragraph of (C)(1)(a), and to enact R.S. 40:1299.35.6(B)(1)(i), relative to abortions; to require an obstetric ultrasound to be performed prior to an abortion; to provide for exceptions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.35.2 and the introductory paragraph of 1299.35.6(B), (B)(1)(h), and the introductory paragraph of (C)(1)(a) are hereby amended and reenacted and R.S. 40:1299.35.6(B)(1)(i) is hereby enacted to read as follows:

§1299.35.2. Abortion by physician; determination of viability; ultrasound test required; exceptions; penalties

A. Physician requirement. No person shall perform or induce an abortion unless that person is a physician licensed to practice medicine in the state of Louisiana.

B. Viability. Except in the case of a medical emergency, before a physician performs an abortion on a woman he has reason to believe is carrying an unborn child of twenty or more weeks gestational age, the physician, by use of his good faith medical judgment, shall first determine if the unborn child is viable.

C. Determination of Viability. In order to preserve the health of the woman,
and in order to make a assist in making an accurate finding of viability considering the gestational age, weight, and lung maturity of the unborn child, the physician intending to terminate a pregnancy of twenty or more weeks gestational age shall first perform or cause to be performed an ultrasound examination pursuant to the provisions of Subsection D of this Section, of the unborn child of a quality commonly used by the ordinary skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions. The physician shall provide the option of viewing the ultrasound images to the pregnant woman as the test is being performed: The physician shall enter such findings and determination of viability in the medical record of the pregnant woman, along with photographs or prints of the ultrasound evidencing the findings.

D. Ultrasound Requirements. Except in the case of a medical emergency, and in addition to the provisions of R.S. 40:1299.35.6, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed under the provisions of this Section.

(1) Qualifications to perform ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion, the referring physician, or a qualified person working in conjunction with either physician. For purposes of this Section, "qualified person" means a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

(2) Requirements. At least two hours prior to the woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion, the referring physician, or a qualified person working in conjunction with either physician shall comply with all of the following requirements:

(a) Perform an obstetric ultrasound on the pregnant woman and offer
to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them.

(b) Offer to provide a simultaneous explanation of what the ultrasound is depicting, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of external members and internal organs, if present and viewable.

(c) Offer to provide the pregnant woman with a sealed envelope clearly marked "ultrasound print" that contains an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including external members, if present and viewable; provided that the pregnant woman shall be informed that R.S. 40:1299.35.2 requires that she be provided with the envelope containing the ultrasound print, but that there is no requirement that she view the print image of her unborn child.

(d) Orally read the following statement to the pregnant woman in the examination room prior to beginning the ultrasound examination:

"Louisiana law requires that you be informed of three options that you may request at any time during this ultrasound examination:

(1) You have the option to view the ultrasound screen at any time during the examination.

(2) You have the option to receive an oral explanation of the ultrasound images.

(3) You have the option to receive an ultrasound photographic print. Please inform me now or at any time during the ultrasound examination if you want to view the screen, receive an oral explanation or receive an ultrasound print."

(e) Obtain a written certification from the woman, after the ultrasound and prior to the abortion, that the requirements of this Subsection have been complied with.
(f) Retain a copy of the written certification prescribed by Subparagraph (e) of this Paragraph. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(3) Medical Emergencies.

(a) "Medical emergency" as used in this Section, means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(b) Upon a determination by a physician that a medical emergency exists with respect to a pregnant woman, the provider shall certify in writing the specific medical conditions that constitute the emergency. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(4) Civil penalties. In addition to whatever remedies are otherwise available under the laws of this state, failure to comply with the requirements of this Section shall provide a basis for professional disciplinary action provided for under law.

(5) Protection of privacy in court proceedings. In every civil or criminal proceeding or action brought under this Section, the court shall rule whether
the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted. This Section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

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§1299.35.6. Woman's Right To Know

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B. Informed consent; requirements. After a woman is determined to be pregnant, no abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if the provisions of R.S. 40:1299.35.2 requiring an ultrasound test and determination of viability are met, and:

(1) At least twenty-four hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of:

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(h) The option of reviewing and receiving an explanation of an obstetric ultrasound image of the unborn child. Nothing contained in this Subparagraph shall require a woman to view or receive an explanation of the obstetric ultrasound images. Neither the requirement that at least two hours prior to the woman having any part of an abortion performed or induced, the physician, referring physician, or qualified person working in conjunction with either physician must perform an obstetric ultrasound under the provisions of R.S. 40:1299.35.2 for the purpose of preserving the woman's health and determining the viability of the unborn child, and that neither the physician or nor the woman shall be penalized should the woman choose not to view or receive an explanation of the
obstetric ultrasound images or the photographic print provided to her in a sealed envelope.

(i) The inclusion in her printed materials of a comprehensive list, compiled by the Department of Health and Hospitals, of facilities that offer obstetric ultrasounds free of charge, along with an oral explanation of the provision that shall be included on the department's list that if the woman voluntarily chooses to obtain free ultrasound services, that ultrasound would likely be in addition to the ultrasound required by law for purposes of determining viability and preserving the woman's health, unless the free ultrasound is performed by the physician performing the abortion, the referring physician, or a qualified person working in conjunction with either physician. The list shall be arranged geographically and shall include the name, address, hours of operation, and telephone number of each entity.

C.(1) Publication of materials. The Department of Health and Hospitals shall cause to be published in English, within ninety days after June 20, 1995, and shall update on an annual basis, the following easily comprehensible printed materials:

(a) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer, and the telephone number and addresses of the agencies, and inform the woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care, and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in this Section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this Section. The materials shall also contain a toll free, all hours a day telephone number which may be called to obtain orally such a list and description of agencies in the locality of the caller and of the services they offer.
of facilities that provide obstetric ultrasound services free of charge, as
described in Subparagraph (B)(1)(i) of this Section. All materials shall include
a website address where the required materials can be accessed on the Internet.
Such toll-free telephone number website shall be funded maintained by the
Department of Health and Hospitals. The materials shall state that it is unlawful for
any individual to coerce a woman to undergo an abortion, that any physician who
performs an abortion upon a woman without her informed consent may be liable to
her for damages in a civil action at law, and that the law permits adoptive parents to
pay costs of prenatal care, childbirth, and neonatal care. The materials shall include
the following statements:

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ___________