

2016 Regular Session

HOUSE BILL NO. 386

BY REPRESENTATIVE HOFFMANN

ABORTION: Extends the mandatory waiting period between certain required pre-abortion procedures and the performance of an abortion

1 AN ACT

2 To amend and reenact R.S. 40:1061.10(D)(2), 1061.16(B), 1061.17(B)(3), (4)(b), (5), (6),  
3 and (8), and 1061.18(D), relative to regulation of abortion; to revise the time period  
4 prescribed for certain activities that are required to occur prior to an abortion; to  
5 provide for the time required to elapse between performance of an obstetric  
6 ultrasound and performance of an abortion; to provide for the time required to elapse  
7 between delivery of certain information to a woman seeking an abortion and  
8 performance of the abortion; to provide relative to conditions for consent to an  
9 abortion to be deemed voluntary and informed; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1061.10(D)(2), 1061.16(B), 1061.17(B)(3), (4)(b), (5), (6), and  
12 (8), and 1061.18(D) are hereby amended and reenacted to read as follows:

13 §1061.10. Abortion by physician; determination of viability; ultrasound test  
14 required; exceptions; penalties

15 \* \* \*

16 D. Ultrasound Requirements. Except in the case of a medical emergency,  
17 and in addition to the provisions of R.S. 40:1061.17, consent to an abortion of an  
18 unborn child at any stage of gestational development is voluntary and informed only  
19 if an obstetric ultrasound is performed in accordance with the provisions of this  
20 Section.

21 \* \* \*

1           (2)(a) Requirements. ~~At least twenty-four~~ Except as provided in  
2           Subparagraph (b) of this Paragraph, at least seventy-two hours prior to the woman  
3           having any part of an abortion performed or induced, and prior to the administration  
4           of any anesthesia or medication in preparation for the abortion on the woman, the  
5           physician who is to perform the abortion or a qualified person who is the physician's  
6           agent shall comply with all of the following requirements:

7           (ⓐ) (i) Perform an obstetric ultrasound on the pregnant woman;  
8           simultaneously display the screen which depicts the active ultrasound images so that  
9           the pregnant woman may view them; and make audible the fetal heartbeat, if present,  
10          in a quality consistent with current medical practice. Nothing in this Section shall  
11          be construed to prevent the pregnant woman from not listening to the sounds  
12          detected by the fetal heart monitor, or from not viewing the images displayed on the  
13          ultrasound screen.

14          (ⓑ) (ii) Provide a simultaneous and objectively accurate oral explanation of  
15          what the ultrasound is depicting, in a manner understandable to a layperson, which  
16          shall include the presence and location of the unborn child within the uterus and the  
17          number of unborn children depicted, the dimensions of the unborn child, and the  
18          presence of cardiac activity if present and viewable, along with the opportunity for  
19          the pregnant woman to ask questions.

20          (ⓒ) (iii) Offer the pregnant woman the option of requesting an ultrasound  
21          photograph or print of her unborn child of a quality consistent with current standard  
22          medical practice that accurately portrays, to the extent feasible, the body of the  
23          unborn child including limbs, if present and viewable.

24          (ⓓ) (iv) Prior to the ultrasound, obtain from the pregnant woman a copy of  
25          a completed, signed, and dated election form. The election form shall be produced  
26          and made available by the department, and shall state as follows:

27                         "Ultrasound Before Abortion Notice and Election Form

28                         Louisiana law requires an ultrasound examination prior to the performance  
29                         of an abortion. By signing below, I certify that I understand the following:

1           (1) I have the option to look at or look away from the ultrasound display  
2 at any time.

3           (2) I have the option to listen to the heartbeat of the unborn child that is  
4 required to be made audible unless I decline by initialing here: \_\_\_\_\_.

5           (3) I am required by law to hear an oral explanation of the ultrasound  
6 images, unless I certify below that I am pregnant due to an act of rape or crime  
7 against nature as defined by R.S. 14:89(A)(2).

8           (4) I have the option to ask and receive answers to any questions about  
9 the images of the unborn child.

10          (5) I have the option to ask for an ultrasound photographic print depicting  
11 the unborn child.

12 \_\_\_\_\_

13 Signature Date

14 OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

15 I certify that I have reported an act of rape or crime against nature as defined  
16 by R.S. 14:89(A)(2) to law enforcement officials, and that I decline to hear an oral  
17 explanation of the ultrasound images.

18 \_\_\_\_\_

19 Signature Date"

20           (⇌) (v) Orally read the following statement to the pregnant woman in the  
21 ultrasound examination room prior to beginning the ultrasound examination, and  
22 certify by signature on a form that shall be produced and made available by the  
23 department that the following statement was delivered orally:

24 "During this ultrasound examination, you have the right to an oral  
25 explanation of the results. You have the option to view the images on the ultrasound  
26 screen. The heartbeat of the unborn child, if present, will be made audible, unless  
27 you declined on the election form. You have the right to receive answers to any  
28 questions you ask about your ultrasound examination. You have the right to receive  
29 an ultrasound photographic print, which will be provided at your request."



1 printed materials described in this Section at least twenty-four hours prior to an  
2 elective abortion procedure by the physician who is to perform the abortion or a  
3 qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of  
4 medical emergency as provided in R.S. 40:1061.23.

5 \* \* \*

6 §1061.17. Woman's Right To Know

7 \* \* \*

8 B. Informed consent; requirements. After a woman is determined to be  
9 pregnant, no abortion shall be performed or induced without the voluntary and  
10 informed consent of the woman upon whom the abortion is to be performed or  
11 induced. Except in the case of a medical emergency, consent to an abortion is  
12 voluntary and informed if and only if:

13 \* \* \*

14 (3)(a) Oral information from the physician. ~~At least twenty-four~~ Except as  
15 provided in Subparagraph (b) of this Paragraph, at least seventy-two hours before the  
16 abortion, the physician who is to perform the abortion or the referring physician has  
17 informed the woman, orally and in person, of:

18 (a) (i) The name of the physician who meets the requirements of R.S.  
19 46:1061.10(A) and who will perform the abortion.

20 (b) (ii) A description of the proposed abortion method and of those risks  
21 (including risks to the woman's reproductive health) and alternatives to the abortion  
22 that a reasonable patient would consider material to the decision of whether or not  
23 to undergo the abortion.

24 (c) (iii) The probable gestational age of the unborn child at the time the  
25 abortion is to be performed; and, if the unborn child is viable or has reached the  
26 gestational age of twenty-four weeks and the abortion may be otherwise lawfully  
27 performed under existing law, that:

28 (i) (aa) The unborn child may be able to survive outside the womb.





1 concerning any of the information or materials, answers shall be provided to her in  
2 her own language.

3 (b) If the woman certifies in writing that she currently lives one hundred fifty  
4 miles or more from the nearest licensed outpatient abortion facility to her residence,  
5 then the woman shall be given a copy of the printed materials described in this  
6 Section by the physician who is to perform the abortion, the referring physician, or  
7 a qualified person as defined in Subparagraph (4)(c) of this Subsection at least  
8 twenty-four hours before the abortion. If the woman is unable to read the materials,  
9 they shall be read to her. If the woman asks questions concerning any of the  
10 information or materials, answers shall be provided to her in her own language.

11 (6) Certification and reporting. The woman certifies in writing on a form  
12 provided by the department, prior to the abortion, that the information and materials  
13 required to be provided under this Section have been provided at least ~~twenty-four~~  
14 seventy-two hours prior to the abortion; or, if applicable, at least twenty-four hours  
15 prior to the abortion in the case of a woman who has given prior certification in  
16 writing that she currently lives one hundred fifty miles or more from the nearest  
17 licensed outpatient abortion facility to her residence. All physicians who perform  
18 abortions shall report the total number of certifications received monthly to the  
19 department. The department shall make the number of certifications received  
20 available to the public on an annual basis.

21 \* \* \*

22 (8) The woman is not required to pay any amount for the abortion procedures  
23 until the ~~twenty-four-hour~~ seventy-two-hour period has expired; or until expiration  
24 of the twenty-four-hour period applicable in the case of a woman who has given  
25 prior certification in writing that she currently lives one hundred fifty miles or more  
26 from the nearest licensed outpatient abortion facility to her residence.

27 \* \* \*



