

2016 Regular Session

HOUSE BILL NO. 386

BY REPRESENTATIVES HOFFMANN, ABRAHAM, AMEDEE, BACALA, BAGLEY, BAGNERIS, BARRAS, BROADWATER, CHAD BROWN, CARMODY, COX, DWIGHT, EDMONDS, EMERSON, FALCONER, GAROFALO, GUINN, LANCE HARRIS, HENSGENS, HILFERTY, HILL, HODGES, HORTON, HUVAL, IVEY, JACKSON, MIKE JOHNSON, ROBERT JOHNSON, NANCY LANDRY, LEBAS, MAGEE, DUSTIN MILLER, AND POPE AND SENATORS BARROW, BOUDREAUX, ERDEY, JOHNS, AND MILLS

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

1 if an obstetric ultrasound is performed in accordance with the provisions of this  
 2 Section.

3 \* \* \*

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

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

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

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

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

30 "Ultrasound Before Abortion Notice and Election Form

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

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

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

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

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

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

14 \_\_\_\_\_

15 Signature Date

16 OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

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

20 \_\_\_\_\_

21 Signature Date"

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

26 "During this ultrasound examination, you have the right to an oral  
27 explanation of the results. You have the option to view the images on the ultrasound  
28 screen. The heartbeat of the unborn child, if present, will be made audible, unless  
29 you declined on the election form. You have the right to receive answers to any

1 questions you ask about your ultrasound examination. You have the right to receive  
2 an ultrasound photographic print, which will be provided at your request."

3 ~~(f)~~ (vi) Retain copies of the election form and certification prescribed by  
4 ~~Subparagraphs (d) and (e) of this Paragraph~~ Items (iv) and (v) of this Subparagraph.

5 The certification shall be placed in the medical file of the woman and shall be kept  
6 by the abortion provider for a period of not less than seven years. If the woman is a  
7 minor, the certification shall be placed in the medical file of the minor and kept for  
8 at least seven years or for five years after the minor reaches the age of majority,  
9 whichever is greater. The woman's medical files shall be kept confidential as  
10 provided by law.

11 (b) If the pregnant woman certifies in writing that she currently lives one  
12 hundred fifty miles or more from the nearest licensed outpatient abortion facility to  
13 her residence, then the physician who is to perform the abortion or a qualified person  
14 who is the physician's agent shall comply with all of the requirements of  
15 Subparagraph (a) of this Paragraph at least twenty-four hours prior to the woman  
16 having any part of an abortion performed or induced.

17 \* \* \*

18 §1061.16. Information on psychological impacts, illegal coercion, abuse, and human  
19 trafficking required prior to abortion; task force on information resources

20 \* \* \*

21 B.(1) At least twenty-four ~~Except as provided in Paragraph (2) of this~~  
22 Subsection, at least seventy-two hours prior to undergoing an elective abortion as  
23 defined in R.S. 40:1061.9, and as a condition for consent to the abortion to be  
24 deemed voluntary and informed, the woman or minor female considering abortion  
25 shall be given a copy of the printed materials described in this Section by the  
26 physician who is to perform the abortion or a qualified person as defined in R.S.  
27 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S.  
28 40:1061.23.

29 (2) If the woman or minor female considering abortion certifies in writing  
30 that she currently lives one hundred fifty miles or more from the nearest licensed

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

6 \* \* \*

7 §1061.17. Woman's Right To Know

8 \* \* \*

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

14 \* \* \*

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

19 (a) (i) The name of the physician who meets the requirements of R.S.  
20 46:1061.10(A) and who will perform the abortion.

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

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

29 (d) (aa) The unborn child may be able to survive outside the womb.



1                   (b)(i) ~~At least twenty-four~~ Except as provided in Item (ii) of this  
 2                   Subparagraph, at least seventy-two hours before a scheduled abortion, the physician  
 3 who is to perform the abortion, the referring physician, or a qualified person has  
 4 informed the woman, orally and in person, that:

5                   (i) (aa) Medical assistance benefits may be available for prenatal care,  
 6 childbirth, and neonatal care, and that more detailed information on the availability  
 7 of such assistance is contained on the department's website and in the printed  
 8 materials which shall be given to her as provided in this Section.

9                   (ii) (bb) The department's website and printed materials describe the unborn  
 10 child and list agencies which offer alternatives to abortion.

11                   (iii) (cc) The father of the unborn child is liable to assist in the support of her  
 12 child, even in instances where he has offered to pay for the abortion. In the case of  
 13 rape, this information may be omitted.

14                   (iv) (dd) She is free to withhold or withdraw her consent to the abortion at  
 15 any time before or during the abortion without affecting her right to future care or  
 16 treatment and without the loss of any state or federally funded benefits to which she  
 17 might otherwise be entitled.

18                   (ii) If the woman certifies in writing that she currently lives one hundred  
 19 fifty miles or more from the nearest licensed outpatient abortion facility to her  
 20 residence, then the physician who is to perform the abortion, the referring physician,  
 21 or a qualified person shall comply with all of the requirements of Item (i) of this  
 22 Subparagraph at least twenty-four hours before a scheduled abortion.

23   \*                 \*                 \*

24                   (5)(a) Provision of printed materials. ~~At least twenty-four~~ Except as  
 25 provided in Subparagraph (b) of this Paragraph, at least seventy-two hours before the  
 26 abortion, the woman is given a copy of the printed materials described in this Section  
 27 by the physician who is to perform the abortion, the referring physician, or a  
 28 qualified person as defined in Subparagraph (4)(c) of this Subsection. If the woman  
 29 is unable to read the materials, they shall be read to her. If the woman asks questions

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 \* \* \*

28 §1061.18. Abortion sought due to rape or certain acts of crime against nature;  
29 reporting and certification

30 \* \* \*



1                   D. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to  
2 terminate a pregnancy resulting from an alleged act of rape or crime against nature  
3 as defined by R.S. 14:89(A)(2), the victim may request spiritual counseling and shall  
4 be offered the same informed consent information, without the seventy-two-hour or  
5 twenty-four-hour delay, contained in whichever may be applicable pursuant to R.S.  
6 40:1061.17(B), prior to the performance of the abortion.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_