

ACT No. 282

HOUSE BILL NO. 25

BY REPRESENTATIVES CROWE, ALEXANDER, BALDONE, BAUDOIN, BEARD, BOWLER, BURNS, CHANDLER, DARTEZ, ERDEY, FANNIN, FRITH, GEYMANN, GREENE, ELCIE GUILLORY, MICKEY GUILLORY, HEBERT, HILL, HUTTER, JOHNS, KATZ, KENNEY, KLECKLEY, LAMBERT, LANCASTER, LORUSSO, MARTINY, MONTGOMERY, MORRIS, M. POWELL, T. POWELL, ROBIDEAUX, ROMERO, SCALISE, SCHNEIDER, SMILEY, JACK SMITH, JANE SMITH, STRAIN, THOMPSON, TOWNSEND, TRAHAN, WADDELL, WALSWORTH, WHITE, AND WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 40:1299.35.6(C)(1)(a) and to enact R.S. 40:1299.35.6(A)(5)(d)
3 and (B)(1)(g) and (h), relative to the performance of abortions; to provide for
4 informed consent requirements; to provide for publication of materials by the
5 Department of Health and Hospitals; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1299.35.6(C)(1)(a) is hereby amended and reenacted and R.S.
8 40:1299.35.6(A)(5)(d) and (B)(1)(g) and (h) are hereby enacted to read as follows:

9 §1299.35.6. Woman's Right To Know

10 A. Legislative findings and purposes. The Legislature of Louisiana finds
11 that:

12 * * *

13 (5) Based on the above findings, it is the purpose of this Act to:

14 * * *

15 (d) Ensure that every woman considering an abortion receive complete
16 information regarding the availability of anesthesia or analgesics that would
17 eliminate or alleviate organic pain to the unborn child that could be caused by the
18 particular method of abortion to be employed.

19 B. Informed consent; requirements. After a woman is determined to be
20 pregnant, no abortion shall be performed or induced without the voluntary and

1 informed consent of the woman upon whom the abortion is to be performed or
2 induced. Except in the case of a medical emergency, consent to an abortion is
3 voluntary and informed if and only if:

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

7 * * *

8 (g) The availability of anesthesia or analgesics to alleviate or eliminate
9 organic pain to the unborn child that could be caused by the method of abortion to
10 be employed.

11 (h) The option of reviewing and receiving an explanation of an obstetric
12 ultrasound image of the unborn child. Nothing contained in this Subparagraph shall
13 require a woman to view or receive an explanation of the obstetric ultrasound
14 images. Neither the physician or the woman shall be penalized should the woman
15 choose not to view or receive an explanation of the obstetric ultrasound images.

16 * * *

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

21 (a) Geographically indexed materials designed to inform the woman of
22 public and private agencies and services available to assist a woman through
23 pregnancy, upon childbirth, and while her child is dependent, including but not
24 limited to adoption agencies. The materials shall include a comprehensive list of the
25 agencies, a description of the services they offer, and the telephone number and
26 addresses of the agencies, and inform the woman about available medical assistance
27 benefits for prenatal care, childbirth, and neonatal care, and about the support
28 obligations of the father of a child who is born alive. The department shall ensure
29 that the materials described in this Section are comprehensive and do not directly or
30 indirectly promote, exclude, or discourage the use of any agency or service described

1 in this Section. The materials shall also contain a toll-free, all-hours-a-day telephone
 2 number which may be called to obtain orally such a list and description of agencies
 3 in the locality of the caller and of the services they offer. Such toll-free telephone
 4 number shall be funded by the Department of Health and Hospitals. The materials
 5 shall state that it is unlawful for any individual to coerce a woman to undergo an
 6 abortion, that any physician who performs an abortion upon a woman without her
 7 informed consent may be liable to her for damages in a civil action at law, and that
 8 the law permits adoptive parents to pay costs of prenatal care, childbirth, and
 9 neonatal care. The materials shall include the following ~~statement~~ statements:

10 (i) "There are many public and private agencies willing and able to help you
 11 to carry your child to term, and to assist you and your child after your child is born,
 12 whether you choose to keep your child or to place her or him for adoption. The state
 13 of Louisiana strongly urges you to contact them before making a final decision about
 14 abortion. The law requires that your physician or his agent give you the opportunity
 15 to call agencies like these before you undergo an abortion."

16 (ii) "By twenty weeks gestation, the unborn child has the physical structures
 17 necessary to experience pain. There is evidence that by twenty weeks gestation
 18 unborn children seek to evade certain stimuli in a manner which in an infant or an
 19 adult would be interpreted to be a response to pain. Anesthesia is routinely
 20 administered to unborn children who are twenty weeks gestational age or older who
 21 undergo prenatal surgery."

22 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____