

Regular Session, 2014

HOUSE BILL NO. 388

BY REPRESENTATIVES KATRINA JACKSON, ADAMS, ARMES, BARRAS, BARROW, STUART BISHOP, BROADWATER, BURFORD, HENRY BURNS, TIM BURNS, BURRELL, CARMODY, CHAMPAGNE, CHANEY, CONNICK, COX, DANAHAAY, GEYMAN, GISCLAIR, GREENE, GUINN, HARRIS, HARRISON, HAVARD, HAZEL, HENRY, HENSGENS, HILL, HODGES, HOFFMANN, HOLLIS, HOWARD, IVEY, JOHNSON, KLECKLEY, LEBAS, LORUSSO, JAY MORRIS, ORTEGO, PEARSON, PONTI, POPE, PYLANT, REYNOLDS, ROBIDEAUX, SCHRODER, SEABAUGH, SIMON, STOKES, THOMPSON, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT AND SENATORS CROWE, JOHNS, LONG, NEVERS, AND THOMPSON

AN ACT

To amend and reenact R.S. 40:1299.35.2(A), 1299.35.2.1, and 2175.3(2) and (5), relative to abortion; to provide for requirements of physicians who perform abortions; to require delivery of certain information concerning health care facilities and services to a pregnant woman prior to abortion; to provide relative to penalties; to provide regulations for the practice of inducing an abortion through use of drugs or chemicals; to provide for definitions of terms in the Outpatient Abortion Facility Licensing Law; to provide for penalties; to provide for application of laws; to provide for legislative intent; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.35.2(A), 1299.35.2.1, and 2175.3(2) and (5) are hereby amended and reenacted to read as follows:

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

A.(1) ~~Physician requirement~~ requirements. No person shall perform or induce an abortion unless that person is a physician licensed to practice medicine in the state of Louisiana and is currently enrolled in or has completed a residency in obstetrics and gynecology or family medicine. Any outpatient abortion facility that knowingly or negligently employs, contracts with, or provides any valuable

1 consideration for the performance of an abortion in an outpatient abortion facility by
2 any person who does not meet the requirements of this Section is subject to having
3 its license denied, non-renewed, or revoked by the Department of Health and
4 Hospitals in accord with R.S. 40:2175.6.

5 (2) On the date the abortion is performed or induced, a physician performing
6 or inducing an abortion shall:

7 (a) Have active admitting privileges at a hospital that is located not further
8 than thirty miles from the location at which the abortion is performed or induced and
9 that provides obstetrical or gynecological health care services. For purposes of this
10 Section, "active admitting privileges" means that the physician is a member in good
11 standing of the medical staff of a hospital that is currently licensed by the
12 department, with the ability to admit a patient and to provide diagnostic and surgical
13 services to such patient consistent with the requirements of Paragraph (A)(1) of this
14 Subsection.

15 (b) Provide the pregnant woman with all of the following before the abortion
16 is performed or induced:

17 (i) A telephone number by which the pregnant woman may reach the
18 physician, or other health care personnel employed by the physician or facility at
19 which the abortion was performed or induced, who has twenty-four hours per day
20 access to the woman's relevant medical records so that the woman may request
21 assistance related to any complication that arises from the performance or induction
22 of the abortion, or to ask health-related questions regarding the abortion.

23 (ii) The name and telephone number of the hospital nearest to the home of
24 the pregnant woman at which an emergency arising from the abortion would be
25 treated.

26 (c) Whoever violates the provisions of Subparagraph (2)(a) of this Paragraph
27 shall be fined not more than four thousand dollars per violation.

28 * * *

1 §1299.35.2.1. Drugs or chemicals used; penalties

2 A. When any drug or chemical is used for the purpose of inducing an
3 abortion as defined in R.S. 40:1299.35.1, the physician who prescribed the drug or
4 chemical shall be in the same room and in the physical presence of the pregnant
5 woman when the drug or chemical is initially administered, dispensed, or otherwise
6 provided to the pregnant woman.

7 B. The drug or chemical shall not be administered, dispensed, or otherwise
8 provided to the pregnant woman by a physician or any person acting under the
9 physician's direction, whether in a licensed outpatient abortion facility, private
10 medical office or any other facility, unless the physician has obtained the voluntary
11 and informed consent of the pregnant woman pursuant to the provisions of R.S.
12 40:1299.35.6 and the requirements set forth in that Section.

13 C. If a physician prescribes, dispenses, administers, or provides any drug or
14 chemical to a pregnant woman for the purpose of inducing an abortion as defined in
15 R.S. 40:1299.35.1, the physician shall report the abortion to the Department of
16 Health and Hospitals as provided in R.S. 40:1299.35.10.

17 D. In addition to the requirements of reporting complications to the
18 Department of Health and Hospitals pursuant to R.S. 40:1299.35.10, if the physician
19 knows that the woman experienced a serious adverse event, as defined by the
20 MedWatch Reporting System, during or after the administration or use of the drug,
21 the physician shall also report the event to the United States Food and Drug
22 Administration through the MedWatch Reporting System not later than the third day
23 after the date the physician learns that the event occurred.

24 E. The Louisiana State Board of Medical Examiners may take disciplinary
25 action as authorized in R.S. 37:1261 et seq. or any other applicable provision of law
26 against a physician who violates any provision of this Section.

27 ~~B. F.~~ Any person not under the direct and immediate supervision of a
28 physician who knowingly performs or attempts to perform an abortion ~~without~~
29 ~~complying with the requirements of~~ using chemicals or drugs in violation of this
30 Section shall be subject to penalties pursuant to R.S. 40:1299.35.19. No penalty may

1 be assessed against the woman ~~upon whom~~ who undergoes the abortion is performed
 2 or attempted to be performed.

3 * * *

4 §2175.3. Definitions

5 For purposes of this Part, the following definitions apply:

6 * * *

7 (2) "First trimester" means the time period ~~from six~~ up to fourteen weeks
 8 after the first day of the last menstrual period.

9 * * *

10 (5) "Outpatient abortion facility" means any outpatient facility, other than
 11 a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in
 12 R.S. 40:2133, in which any second trimester or five or more first trimester abortions
 13 per ~~month~~ calendar year are performed.

14 * * *

15 Section 2.(A) This Act shall be known as the "Unsafe Abortion Protection Act".

16 (B) It is the intent of the legislature that each physician who performs an abortion
 17 as defined in R.S. 40:1299.35.1, whether the abortion is surgical or drug-induced, shall
 18 follow the long-established procedure of reporting anonymous, aggregate abortion statistics
 19 and health complications to the Department of Health and Hospitals, subject to all state and
 20 federal privacy protections, for the purpose of providing anonymous and accurate public
 21 health and safety data regarding abortion and its impact on women's health.

22 (C) Nothing in this Act shall be construed or interpreted to apply to emergency
 23 contraceptives or any other drugs or chemicals that do not cause abortion as defined in R.S.
 24 40:1299.35.1.

25 Section 3. The legislature intends that every application of this statute to every
 26 individual woman shall be severable from each other. In the unexpected event that the
 27 application of this statute is found to impose an impermissible undue burden on any pregnant
 28 woman or group of pregnant women, the application of the statute to those women shall be

1 severed from the remaining applications of the statute that do not impose an undue burden,
2 and those remaining applications shall remain in force and unaffected.

3 Section 4. This Act shall be effective on September 1, 2014.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____