

Regular Session, 2007

HOUSE BILL NO. 25

BY REPRESENTATIVES CROWE, KATZ, ALEXANDER, BALDONE, BAUDOIN, BEARD, BOWLER, BURNS, CHANDLER, DARTEZ, ERDEY, FANNIN, FRITH, GEYMAN, GREENE, ELCIE GUILLORY, MICKEY GUILLORY, HEBERT, HILL, HUTTER, JOHNS, KENNEY, KLECKLEY, LAMBERT, LANCASTER, LORUSSO, MARTINY, MONTGOMERY, MORRIS, M. POWELL, T. POWELL, ROBIDEAUX, ROMERO, SCALISE, 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.

ABORTION: Provides relative to a Woman's Right to Know

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

1 eliminate or alleviate organic pain to the unborn child that could be caused by the  
2 particular method of abortion to be employed.

3 B. Informed consent; requirements. After a woman is determined to be  
4 pregnant, no abortion shall be performed or induced without the voluntary and  
5 informed consent of the woman upon whom the abortion is to be performed or  
6 induced. Except in the case of a medical emergency, consent to an abortion is  
7 voluntary and informed if and only if:

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

11 \* \* \*

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

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

20 \* \* \*

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

25 (a) Geographically indexed materials designed to inform the woman of  
26 public and private agencies and services available to assist a woman through  
27 pregnancy, upon childbirth, and while her child is dependent, including but not  
28 limited to adoption agencies. The materials shall include a comprehensive list of the  
29 agencies, a description of the services they offer, and the telephone number and

1 addresses of the agencies, and inform the woman about available medical assistance  
2 benefits for prenatal care, childbirth, and neonatal care, and about the support  
3 obligations of the father of a child who is born alive. The department shall ensure  
4 that the materials described in this Section are comprehensive and do not directly or  
5 indirectly promote, exclude, or discourage the use of any agency or service described  
6 in this Section. The materials shall also contain a toll-free, all-hours-a-day telephone  
7 number which may be called to obtain orally such a list and description of agencies  
8 in the locality of the caller and of the services they offer. Such toll-free telephone  
9 number shall be funded by the Department of Health and Hospitals. The materials  
10 shall state that it is unlawful for any individual to coerce a woman to undergo an  
11 abortion, that any physician who performs an abortion upon a woman without her  
12 informed consent may be liable to her for damages in a civil action at law, and that  
13 the law permits adoptive parents to pay costs of prenatal care, childbirth, and  
14 neonatal care. The materials shall include the following ~~statement~~ statements:

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

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

27 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Crowe

HB No. 25

**Abstract:** Requires the inclusion of information related to fetal pain as a requirement to informed consent prior to performance of an abortion.

Proposed law requires that, at least 24 hours before the abortion, the physician who will perform the abortion inform the woman, orally and in person, of the following:

- (1) The availability of anesthesia or analgesics to alleviate or eliminate organic pain to the unborn child that could be caused by the method of abortion to be employed.
- (2) The option of reviewing and receiving an explanation of an obstetric ultrasound image of the unborn child. A woman is not required to view or receive an explanation of the obstetric ultrasound images. Neither the physician or the woman will be penalized should the woman choose not to view or receive an explanation of the obstetric ultrasound images.

Proposed law mandates that DHH publish, in English, printed materials that contain the following statements:

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

(Amends R.S. 40:1299.35.6(C)(1)(a); Adds R.S. 40:1299.35.6(A)(5)(d) and (B)(1)(g) and (h))

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Makes technical changes.
2. Adds to the requirements of informed consent.