

1 HB739
2 140770-4
3 By Representatives Weaver, Wallace, Collins, Buttram, Tuggle,
4 Farley, Wood and Sessions
5 RFD: Health
6 First Read: 19-APR-12

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8 SYNOPSIS: Under existing law, the Legislature has
9 established certain findings regarding abortions.

10 Under existing law, except in the case of a
11 medical emergency, before an abortion is performed,
12 an ultrasound is required to be performed of the
13 unborn child, and the woman seeking the abortion is
14 offered an opportunity to view the ultrasound.

15 This bill would make additional findings
16 regarding abortions.

17 This bill would require the ultrasound image
18 to be displayed on a screen that is within the
19 woman's line of vision.

20
21 A BILL

22 TO BE ENTITLED

23 AN ACT

24
25 To amend Sections 26-23A-2 and 26-23A-4, Code of
26 Alabama 1975, relating to the Woman's Right to Know Act, to
27 provide for additional legislative findings and to require the

1 ultrasound image made prior to an abortion be displayed on a
2 screen within the woman's line of vision.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 26-23A-2 and 26-23A-4 of the Code
5 of Alabama 1975, are amended to read as follows:

6 "§26-23A-2.

7 "(a) The Legislature of the State of Alabama finds
8 that:

9 "(1) It is essential to the psychological and
10 physical well-being of a woman considering an abortion that
11 she receive complete and accurate information on her
12 alternatives.

13 "(2) Most abortions are performed in clinics devoted
14 solely to providing abortions and family planning services.
15 Most women who seek abortions at these facilities do not have
16 any relationship with the physician who performs the abortion,
17 before or after the procedure. Most women do not return to the
18 facility for post-surgical care. In most instances, the
19 woman's only actual contact with the physician occurs
20 simultaneously with the abortion procedure, with little
21 opportunity to receive counseling concerning her decision.

22 "(3) The development of ultrasound technology has
23 enhanced medical and public understanding, allowing the
24 expectant woman to watch the growth and development of the
25 unborn child in a way previous generations could never have
26 imagined.

1 "(4) Nearly every abortion is preformed using
2 ultrasound technology, and Alabama requires that an ultrasound
3 be preformed prior to an abortion. Due to the seriousness and
4 the importance and relevance of the information contained in
5 an ultrasound image of her unborn child, it is necessary that
6 a woman have the ultrasound of her unborn child displayed so
7 that the image is visible without her requesting to see it.
8 This will ensure that every woman who submits to an abortion
9 procedure does so only after giving her voluntary and informed
10 consent to the abortion procedure.

11 ~~"(3)~~ (5) The decision to abort is an important, and
12 often a stressful one, and it is desirable and imperative that
13 it be made with full knowledge of its nature and consequences.
14 The medical, emotional, and psychological consequences of an
15 abortion are serious and can be lasting or life threatening.

16 "(b) Based on the findings in subsection (a), it is
17 the purpose of this chapter to ensure that every woman
18 considering an abortion receives complete information on the
19 procedure, risks, and her alternatives and to ensure that
20 every woman who submits to an abortion procedure does so only
21 after giving her voluntary and informed consent to the
22 abortion procedure.

23 "§26-23A-4.

24 "Except in the case of a medical emergency, no
25 abortion shall be performed or induced without the voluntary
26 and informed consent of the woman upon whom the abortion is to
27 be performed or induced. Except in the case of a medical

1 emergency, consent to an abortion is voluntary and informed if
2 and only if:

3 "(a) At least 24 hours before the abortion, the
4 physician who is to perform the abortion, the referring
5 physician, or a qualified person has informed and provided the
6 woman in person, or by return receipt certified mail
7 restricted delivery, and if by mail, again in person prior to
8 the abortion, a copy of the printed materials in Section
9 26-23A-5 which list agencies that offer assistance, adoption
10 agencies, development of the unborn child, methods and risks
11 of abortion and childbirth, father's obligations, and
12 alternatives to abortion. Mailing of the materials in Section
13 26-23A-5 may be arranged by telephone.

14 "(b) Prior to an abortion, the physician who is to
15 perform the abortion, the referring physician, or a qualified
16 person has informed the woman in person:

17 "(1) The name of the physician who will perform the
18 abortion in writing or a business card.

19 "(2) The nature of the proposed abortion method and
20 associated risks and alternatives that a reasonable patient
21 would consider material to the decision of whether or not to
22 undergo the abortion.

23 "(3) The probable gestational age of the unborn
24 child at the time the abortion is to be performed, and the
25 probable anatomical and physiological characteristics of the
26 unborn child at the time the abortion is to be performed. If

1 the unborn child is viable or has reached a gestational age of
2 more than 19 weeks, that:

3 "a. The unborn child may be able to survive outside
4 the womb.

5 "b. The woman has the right to request the physician
6 to use the method of abortion that is most likely to preserve
7 the life of the unborn child, provided such abortion is not
8 otherwise prohibited by law.

9 "c. If the unborn child is born alive, the attending
10 physician has the legal obligation to take all reasonable
11 steps necessary to maintain the life and health of the child.

12 "(4) The physician who is to perform the abortion or
13 the referring physician is required to perform an ultrasound
14 on the unborn child before the abortion. The ultrasound images
15 shall be displayed on the screen that is within the woman's
16 line of vision. The woman has a right to view the ultrasound
17 before an abortion. The woman shall complete a required form
18 to acknowledge that she ~~either~~ saw the ultrasound image of her
19 unborn child, chose not to look at the ultrasound image, or
20 that she was not offered the opportunity ~~and rejected it to~~
21 view the ultrasound image. Nothing in this subdivision shall
22 be construed to prevent a pregnant woman from averting her
23 eyes or looking away from the ultrasound images required to be
24 within her line of vision. Neither the physician nor the
25 pregnant woman shall be subject to any penalty if she declines
26 to look at the presented ultrasound images.

1 "(5) She has the right to view the videotape and
2 ultrasound of her unborn child as described in Section
3 26-23A-6.

4 "(6) Any need for anti-Rh immune globulin therapy,
5 and if she is Rh negative, the likely consequences of refusing
6 such therapy and the cost of the therapy.

7 "(7) She cannot be forced or required by anyone to
8 have an abortion. She is free to withhold or withdraw her
9 consent for an abortion without affecting her right to future
10 care or treatment and without the loss of any state or
11 federally funded benefits to which she might otherwise be
12 entitled.

13 "(c) The woman shall complete and sign a form that
14 she has received the information of subsections (a) and (b),
15 and does provide her informed consent for an abortion on her
16 unborn child.

17 "(d) Prior to the performance of an abortion, the
18 physician who is to perform the abortion or his or her agent
19 shall receive the signed receipt of the certified mail dated
20 24 hours before the abortion, if mailed, and the signed forms
21 that she has received the information of subsections (a) and
22 (b) before the abortion, had the opportunity to view the video
23 and the ultrasound of her unborn child, and provided her
24 informed consent for an abortion. The abortion facility shall
25 retain the signed receipt, signed forms, and the ultrasound in
26 the woman's medical file for the time required by law, but not
27 less than four years."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.