

1 HB39
2 114840-1
3 By Representative Bentley
4 RFD: Health
5 First Read: 12-JAN-10
6 PFD: 11/05/2009

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8 SYNOPSIS: Under existing law, no abortion can be
9 performed without voluntary and informed consent
10 from the woman, except in the case of a medical
11 emergency.

12 This bill would require that additional
13 information be disclosed before an abortion may be
14 performed.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To amend Section 26-23A-4, Code of Alabama 1975,
21 relating to consent required before an abortion may be
22 performed; to require that additional information be specified
23 prior to an abortion procedure.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 26-23A-4, Code of Alabama 1975,
26 is amended to read as follows:

27 "§26-23A-4.

1 "Except in the case of a medical emergency, no
2 abortion shall be performed or induced without the voluntary
3 and informed consent of the woman upon whom the abortion is to
4 be performed or induced. Except in the case of a medical
5 emergency, consent to an abortion is voluntary and informed if
6 and only if:

7 "(a) At least 24 hours before the abortion, the
8 physician who is to perform the abortion, the referring
9 physician, or a qualified person has informed and provided the
10 woman in person, or by return receipt certified mail
11 restricted delivery, and if by mail, again in person prior to
12 the abortion, a copy of the printed materials in Section
13 26-23A-5 which list agencies that offer assistance, adoption
14 agencies, development of the unborn child, methods and risks
15 of abortion and childbirth, father's obligations, and
16 alternatives to abortion. Mailing of the materials in Section
17 26-23A-5 may be arranged by telephone.

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

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

23 "(2) The abortion will terminate the life of a
24 whole, separate, unique, living human being.

25 "~~(2)~~(3) The nature of the proposed abortion method
26 and associated risks and alternatives that a reasonable

1 patient would consider material to the decision of whether or
2 not to undergo the abortion.

3 ~~"(3)(4)~~ The probable gestational age of the unborn
4 child at the time the abortion is to be performed, and the
5 probable anatomical and physiological characteristics of the
6 unborn child at the time the abortion is to be performed. If
7 the unborn child is viable or has reached a gestational age of
8 more than 19 weeks, that:

9 "a. The unborn child may be able to survive outside
10 the womb.

11 "b. The woman has the right to request the physician
12 to use the method of abortion that is most likely to preserve
13 the life of the unborn child, provided such abortion is not
14 otherwise prohibited by law.

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

18 ~~"(4)(5)~~ The physician who is to perform the abortion
19 or the referring physician is required to perform an
20 ultrasound on the unborn child before the abortion. The woman
21 has a right to view the ultrasound before an abortion. The
22 woman shall complete a required form to acknowledge that she
23 either saw the ultrasound image of her unborn child or that
24 she was offered the opportunity and rejected it.

25 ~~"(5)(6)~~ She has the right to view the videotape and
26 ultrasound of her unborn child as described in Section
27 26-23A-6.

1 "~~(6)~~(7) Any need for anti-Rh immune globulin
2 therapy, and if she is Rh negative, the likely consequences of
3 refusing such therapy and the cost of the therapy.

4 "~~(7)~~(8) She cannot be forced or required by anyone
5 to have an abortion. She is free to withhold or withdraw her
6 consent for an abortion without affecting her right to future
7 care or treatment and without the loss of any state or
8 federally funded benefits to which she might otherwise be
9 entitled.

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

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

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

