

**ACT No. 97**

2016 Regular Session

HOUSE BILL NO. 386

BY REPRESENTATIVES HOFFMANN, ABRAHAM, AMEDEE, BACALA, BAGLEY, BAGNERIS, BARRAS, BROADWATER, CHAD BROWN, CARMODY, COX, DWIGHT, EDMONDS, EMERSON, FALCONER, GAROFALO, GUINN, LANCE HARRIS, HENSGENS, HILFERTY, HILL, HODGES, HORTON, HUVAL, IVEY, JACKSON, MIKE JOHNSON, ROBERT JOHNSON, NANCY LANDRY, LEBAS, MAGEE, DUSTIN MILLER, AND POPE AND SENATORS BARROW, BOUDREAUX, ERDEY, JOHNS, AND MILLS

1 AN ACT

2 To amend and reenact R.S. 40:1061.10(D)(2), 1061.16(B), 1061.17(B)(3), (4)(b), (5), (6),  
3 and (8), and 1061.18(D), relative to regulation of abortion; to revise the time period  
4 prescribed for certain activities that are required to occur prior to an abortion; to  
5 provide for the time required to elapse between performance of an obstetric  
6 ultrasound and performance of an abortion; to provide for the time required to elapse  
7 between delivery of certain information to a woman seeking an abortion and  
8 performance of the abortion; to provide relative to conditions for consent to an  
9 abortion to be deemed voluntary and informed; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1061.10(D)(2), 1061.16(B), 1061.17(B)(3), (4)(b), (5), (6), and  
12 (8), and 1061.18(D) are hereby amended and reenacted to read as follows:

13 §1061.10. Abortion by physician; determination of viability; ultrasound test  
14 required; exceptions; penalties

15 \* \* \*

16 D. Ultrasound Requirements. Except in the case of a medical emergency,  
17 and in addition to the provisions of R.S. 40:1061.17, consent to an abortion of an  
18 unborn child at any stage of gestational development is voluntary and informed only

1 if an obstetric ultrasound is performed in accordance with the provisions of this  
2 Section.

3 \* \* \*

4 (2)(a) Requirements. ~~At least twenty-four~~ Except as provided in  
5 Subparagraph (b) of this Paragraph, at least seventy-two hours prior to the ~~woman~~  
6 woman's having any part of an abortion performed or induced, and prior to the  
7 administration of any anesthesia or medication in preparation for the abortion on the  
8 woman, the physician who is to perform the abortion or a qualified person who is the  
9 physician's agent shall comply with all of the following requirements:

10 (a) (i) Perform an obstetric ultrasound on the pregnant woman;  
11 simultaneously display the screen which depicts the active ultrasound images so that  
12 the pregnant woman may view them; and make audible the fetal heartbeat, if present,  
13 in a quality consistent with current medical practice. Nothing in this Section shall  
14 be construed to prevent the pregnant woman from not listening to the sounds  
15 detected by the fetal heart monitor, or from not viewing the images displayed on the  
16 ultrasound screen.

17 (b) (ii) Provide a simultaneous and objectively accurate oral explanation of  
18 what the ultrasound is depicting, in a manner understandable to a layperson, which  
19 shall include the presence and location of the unborn child within the uterus and the  
20 number of unborn children depicted, the dimensions of the unborn child, and the  
21 presence of cardiac activity if present and viewable, along with the opportunity for  
22 the pregnant woman to ask questions.

23 (c) (iii) Offer the pregnant woman the option of requesting an ultrasound  
24 photograph or print of her unborn child of a quality consistent with current standard  
25 medical practice that accurately portrays, to the extent feasible, the body of the  
26 unborn child including limbs, if present and viewable.

27 (d) (iv) Prior to the ultrasound, obtain from the pregnant woman a copy of  
28 a completed, signed, and dated election form. The election form shall be produced  
29 and made available by the department, and shall state as follows:

30 "Ultrasound Before Abortion Notice and Election Form

1 Louisiana law requires an ultrasound examination prior to the performance  
2 of an abortion. By signing below, I certify that I understand the following:

3 (1) I have the option to look at or look away from the ultrasound display  
4 at any time.

5 (2) I have the option to listen to the heartbeat of the unborn child that is  
6 required to be made audible unless I decline by initialing here: \_\_\_\_\_.

7 (3) I am required by law to hear an oral explanation of the ultrasound  
8 images, unless I certify below that I am pregnant due to an act of rape or crime  
9 against nature as defined by R.S. 14:89(A)(2).

10 (4) I have the option to ask and receive answers to any questions about  
11 the images of the unborn child.

12 (5) I have the option to ask for an ultrasound photographic print depicting  
13 the unborn child.

14 \_\_\_\_\_

15 Signature Date

16 OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

17 I certify that I have reported an act of rape or crime against nature as defined  
18 by R.S. 14:89(A)(2) to law enforcement officials, and that I decline to hear an oral  
19 explanation of the ultrasound images.

20 \_\_\_\_\_

21 Signature Date"

22 ~~(e)~~ (v) Orally read the following statement to the pregnant woman in the  
23 ultrasound examination room prior to beginning the ultrasound examination, and  
24 certify by signature on a form that shall be produced and made available by the  
25 department that the following statement was delivered orally:

26 "During this ultrasound examination, you have the right to an oral  
27 explanation of the results. You have the option to view the images on the ultrasound  
28 screen. The heartbeat of the unborn child, if present, will be made audible, unless  
29 you declined on the election form. You have the right to receive answers to any

1 questions you ask about your ultrasound examination. You have the right to receive  
2 an ultrasound photographic print, which will be provided at your request."

3 ~~(f)~~ (vi) Retain copies of the election form and certification prescribed by  
4 ~~Subparagraphs (d) and (e) of this Paragraph~~ Items (iv) and (v) of this Subparagraph.

5 The certification shall be placed in the medical file of the woman and shall be kept  
6 by the abortion provider for a period of not less than seven years. If the woman is a  
7 minor, the certification shall be placed in the medical file of the minor and kept for  
8 at least seven years or for five years after the minor reaches the age of majority,  
9 whichever is greater. The woman's medical files shall be kept confidential as  
10 provided by law.

11 (b) If the pregnant woman certifies in writing that she currently lives one  
12 hundred fifty miles or more from the nearest licensed outpatient abortion facility to  
13 her residence, then the physician who is to perform the abortion or a qualified person  
14 who is the physician's agent shall comply with all of the requirements of  
15 Subparagraph (a) of this Paragraph at least twenty-four hours prior to the woman  
16 having any part of an abortion performed or induced.

17 \* \* \*

18 §1061.16. Information on psychological impacts, illegal coercion, abuse, and human  
19 trafficking required prior to abortion; task force on information resources

20 \* \* \*

21 B.(1) At least twenty-four ~~Except as provided in Paragraph (2) of this~~  
22 Subsection, at least seventy-two hours prior to undergoing an elective abortion as  
23 defined in R.S. 40:1061.9, and as a condition for consent to the abortion to be  
24 deemed voluntary and informed, the woman or minor female considering abortion  
25 shall be given a copy of the printed materials described in this Section by the  
26 physician who is to perform the abortion or a qualified person as defined in R.S.  
27 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S.  
28 40:1061.23.

29 (2) If the woman or minor female considering abortion certifies in writing  
30 that she currently lives one hundred fifty miles or more from the nearest licensed



1                    ~~(ii)~~ (bb) The woman has the right to request the physician to use the method  
 2 of abortion that is most likely to preserve the life of the unborn child.

3                    ~~(iii)~~ (cc) If the unborn child is born alive, that attending physicians have the  
 4 legal obligation to take all reasonable steps necessary to maintain the life and health  
 5 of the child.

6                    ~~(d)~~ (iv) The probable anatomical and physiological characteristics of the  
 7 unborn child at the time the abortion is to be performed.

8                    ~~(e)~~ (v) The medical risks associated with carrying her child to term.

9                    ~~(f)~~ (vi) Any need for anti-Rh immune globulin therapy, if she is Rh negative,  
 10 the likely consequences of refusing such therapy, and a good faith estimate of the  
 11 cost of the therapy.

12                    ~~(g)~~ (vii) 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)~~ (viii) The requirement that at least ~~twenty-four~~ seventy-two hours prior  
 16 to the ~~woman~~ woman's having any part of an abortion performed or induced, the  
 17 physician, referring physician, or qualified person working in conjunction with either  
 18 physician must perform an obstetric ultrasound under the provisions of R.S.  
 19 40:1061.10.

20                    ~~(i)~~ (ix) The inclusion in her printed materials of a comprehensive list,  
 21 compiled by the department, of facilities that offer obstetric ultrasounds free of  
 22 charge.

23                    (b) If the woman certifies in writing that she currently lives one hundred fifty  
 24 miles or more from the nearest licensed outpatient abortion facility to her residence,  
 25 then the physician who is to perform the abortion or the referring physician shall  
 26 comply with all of the requirements of Subparagraph (a) of this Paragraph at least  
 27 twenty-four hours prior to the abortion.

28                    (4) Oral information from a physician or qualified person.

29                    \*                    \*                    \*



1 concerning any of the information or materials, answers shall be provided to her in  
2 her own language.

3 (b) If the woman certifies in writing that she currently lives one hundred fifty  
4 miles or more from the nearest licensed outpatient abortion facility to her residence,  
5 then the woman shall be given a copy of the printed materials described in this  
6 Section by the physician who is to perform the abortion, the referring physician, or  
7 a qualified person as defined in Subparagraph (4)(c) of this Subsection at least  
8 twenty-four hours before the abortion. If the woman is unable to read the materials,  
9 they shall be read to her. If the woman asks questions concerning any of the  
10 information or materials, answers shall be provided to her in her own language.

11 (6) Certification and reporting. The woman certifies in writing on a form  
12 provided by the department, prior to the abortion, that the information and materials  
13 required to be provided under this Section have been provided at least ~~twenty-four~~  
14 seventy-two hours prior to the abortion; or, if applicable, at least twenty-four hours  
15 prior to the abortion in the case of a woman who has given prior certification in  
16 writing that she currently lives one hundred fifty miles or more from the nearest  
17 licensed outpatient abortion facility to her residence. All physicians who perform  
18 abortions shall report the total number of certifications received monthly to the  
19 department. The department shall make the number of certifications received  
20 available to the public on an annual basis.

21 \* \* \*

22 (8) The woman is not required to pay any amount for the abortion procedures  
23 until the ~~twenty-four-hour~~ seventy-two-hour period has expired; or until expiration  
24 of the twenty-four-hour period applicable in the case of a woman who has given  
25 prior certification in writing that she currently lives one hundred fifty miles or more  
26 from the nearest licensed outpatient abortion facility to her residence.

27 \* \* \*

28 §1061.18. Abortion sought due to rape or certain acts of crime against nature;  
29 reporting and certification

30 \* \* \*



1                   D. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to  
 2                   terminate a pregnancy resulting from an alleged act of rape or crime against nature  
 3                   as defined by R.S. 14:89(A)(2), the victim may request spiritual counseling and shall  
 4                   be offered the same informed consent information, without the seventy-two-hour or  
 5                   twenty-four-hour delay, ~~contained in~~ whichever may be applicable pursuant to R.S.  
 6                   40:1061.17(B), prior to the performance of the abortion.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_