

# ACT No. 620

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, DANAHAY, 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

1 AN ACT

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

10 Be it enacted by the Legislature of Louisiana:

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

13 §1299.35.2. Abortion by physician; determination of viability; ultrasound test  
14 required; exceptions; penalties

15 A.(1) Physician ~~requirement~~ requirements. No person shall perform or  
16 induce an abortion unless that person is a physician licensed to practice medicine in  
17 the state of Louisiana and is currently enrolled in or has completed a residency in  
18 obstetrics and gynecology or family medicine. Any outpatient abortion facility that  
19 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.

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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: \_\_\_\_\_