

1 HB131
2 173116-1
3 By Representatives Rich, Ainsworth, Collins, Henry, Butler
4 and Nordgren
5 RFD: Health
6 First Read: 07-FEB-17

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8 SYNOPSIS: Under existing law a physician and other
9 qualified persons must provide certain information
10 to a woman at least 48 hours before performance of
11 an abortion.

12 This bill would require an abortion provider
13 to privately provide the woman with additional
14 written and oral information including a sonogram
15 portraying the entire body of the unborn child and
16 specific information regarding that child as
17 disclosed by the sonogram.

18 This bill would impose certain notice
19 requirements and provide penalties for violations.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To establish specific notice and information
19 requirements by an abortion provider regarding a sonogram of
20 an unborn baby; to provide for penalties for violations; and
21 in connection therewith would have as its purpose or effect
22 the requirement of a new or increased expenditure of local
23 funds within the meaning of Amendment 621 of the Constitution
24 of Alabama of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Ultrasound Access Act.

3 Section 2. The Legislature makes the following
4 findings:

5 (1) Approximately 61,000,000 abortions have been
6 performed in the United States since the decision in Roe v.
7 Wade.

8 (2) Abortion is a tragedy that involves the taking
9 of a human life.

10 (3) Every year tens of thousands of viable unborn
11 children are aborted for no other reason than a minor physical
12 disability or the small inconvenience which would be involved
13 in placing that child in a loving home.

14 Section 3. For purposes of this act, the following
15 terms shall have the following meanings:

16 (1) ABORTION. The act of using or prescribing any
17 instrument, medicine, drug, or any other substance, device, or
18 means with the intent to terminate the pregnancy of a woman
19 with knowledge or reason to believe that the termination by
20 those means will cause the death of the unborn child. Such
21 use, prescription, or means is not an abortion if done with
22 the intent of any of the following:

23 a. Save the life or preserve the health of an unborn
24 child.

25 b. Remove a dead unborn child who did not die as a
26 result of the doctor's own intentional, knowing, or reckless
27 action to terminate a pregnancy.

1 c. Remove an ectopic pregnancy.

2 (2) ABORTION PROVIDER. A person performing or
3 inducing an abortion, or the facility at which the abortion is
4 to be performed or induced.

5 (3) CONFLICT OF INTEREST DISCLAIMER. A written and
6 oral statement divulging the abortion provider's gross income
7 from the previous fiscal year, as well as the percentage of
8 that income which was obtained from the performance of
9 abortions together with a statement concerning the monetary
10 loss to the abortion provider which would result from the
11 woman's decision to carry the pregnancy to term.

12 (4) FETAL SAC. The natural membrane surrounding the
13 fetus that can be used to determine if an intrauterine
14 pregnancy exists.

15 (5) MEDICAL EMERGENCY. A condition that so
16 complicates the medical condition of a pregnant woman that the
17 death of the woman would result from the failure to
18 immediately treat her physical condition even though the
19 treatment may result in the death of her unborn child.

20 (6) VIABLE PREGNANCY. A pregnancy in which a fetal
21 sac is located inside the uterus and a fetal heartbeat is
22 found with the fetal sac.

23 Section 4. (a) Notwithstanding any other provision
24 of law, no abortion shall be performed or induced without the
25 voluntary and informed consent of the woman upon whom the
26 abortion is performed or induced. Except in the case of a

1 medical emergency, consent to an abortion is voluntary and
2 informed only if the following conditions are met:

3 (1) At least 48 hours before the abortion, the
4 physician who is to perform the abortion has informed the
5 woman, orally and in writing, of all of the following:

6 a. The name of the physician who will perform the
7 abortion.

8 b. A thorough and accurate description of the
9 proposed method for performing the abortion, including
10 information on the probable gestational age of the unborn
11 child at the time the abortion is to be performed and the
12 probable anatomical and physiological characteristics of an
13 unborn child at that age.

14 c. A description of immediate and long-term physical
15 and psychological risks involved in the abortion procedure,
16 including, but not limited to, the risks of infection,
17 hemorrhage, cervical or uterine perforation, risks to
18 subsequent pregnancies, and infertility.

19 d. A description of alternatives to abortion,
20 including the availability of adoption alternatives and the
21 availability of financial help from adoptive parents and other
22 sources for prenatal care, childbirth, and neonatal care
23 expenses.

24 e. A description of medical assistance benefits that
25 may be available for prenatal care, childbirth, and neonatal
26 care, together with the names and contact information for
27 individuals and organizations that may be willing to assist

1 with the costs involved in carrying the pregnancy to term and
2 information of the liability of the father for child support
3 and other expenses.

4 f. A conflict of interest disclaimer.

5 g. Any other medical or other information that a
6 reasonable patient would consider material to the decision
7 whether to have an abortion.

8 (2) At least 48 hours prior to the abortion, the
9 abortion provider has provided the woman in writing and, where
10 applicable, orally:

11 a. A current sonogram of the unborn child portraying
12 the entire body of the unborn child, including all of the
13 following:

14 1. A verbal description of all relevant features of
15 the sonogram with audible heartbeat if present.

16 2. Upon request and without additional charge, a
17 photograph or print of the sonogram, of a quality consistent
18 with the current standard medical practice.

19 3. A written and verbal description stating whether
20 the woman has a viable pregnancy, the location of the fetal
21 sac, and the presence or absence of a heartbeat. If the
22 pregnancy is not viable, the abortion provider shall advise
23 the woman that she will miscarry with no further intervention
24 unless the abortion provider has evidence to the contrary.

25 4. In order to provide the possibility of a second
26 opinion, a list of all known sonogram providers within a
27 10-mile radius of the abortion provider, or if there are no

1 such sonogram providers within a 10-mile radius of the
2 abortion provider, a list of all known sonogram providers
3 within a 50-mile radius of the abortion provider.

4 5. Nothing in this act shall be construed to prevent
5 the pregnant woman from not listening to the sounds detected
6 by the fetal heart monitor, or from not viewing the images
7 displayed on the ultrasound screen.

8 b. The probable gestational age of the unborn child,
9 including provision of color photographs of fetal development
10 within a four-week increment of the age of the unborn child
11 and during each succeeding four-week increment during the
12 pregnancy.

13 c. A description of the development of the child's
14 nerve endings and the child's ability to feel pain at each
15 stage of the development.

16 d. Relevant information on the potential survival of
17 the child at his or her current stage of development.

18 e. A statement that the woman is free to withhold or
19 withdraw her consent to the abortion at any time without
20 affecting her right to care or treatment in the future, and
21 without the loss of any state or federal benefits to which she
22 might otherwise be entitled.

23 f. Any other medical or other information that a
24 reasonable patient would consider material to the decision
25 whether to have an abortion.

26 (b) The information provided in subsection (a) shall
27 be provided individually in a private room, and the woman

1 shall be provided with an adequate opportunity to ask
2 questions and receive answers she can understand.

3 (c) If the woman is unable to read the written
4 materials provided to her under the provisions of subsection
5 (a), they shall be read to her and, if necessary, shall be
6 explained in a way understandable to her. If the woman is
7 unable to understand the sonogram image, it shall be explained
8 to her.

9 (d) The woman shall sign separate statements that
10 the abortion provider has complied with each of the provisions
11 of subsection (a). The abortion provider, under oath under
12 penalty of perjury, shall sign separate statements that he or
13 she has complied with each of the provisions of subdivision
14 (a) (1).

15 (e) No abortion provider may accept payment, nor may
16 the abortion provider legally or otherwise bind a woman to
17 make a payment, for the performance or inducing of an abortion
18 prior to the expiration of 48 hours from the abortion
19 provider's fulfillment of all of the provisions of subdivision
20 (a) (1).

21 (f) Whoever intentionally, knowingly, or recklessly
22 violates any provision of this act, or who performs an
23 abortion with reason to believe such an abortion is a
24 violation of this act, shall be imprisoned for up to 10 years,
25 fined not more than one million dollars (\$1,000,000) for each
26 violation, or both.

1 (g) Any person or entity which has been convicted
2 under the provisions of this act shall be referred to the
3 appropriate professional disciplinary authority in Alabama.

4 Section 5. Whoever is aggrieved by a violation of
5 this act by an abortion provider may bring a cause of action
6 against the abortion provider for damages, punitive damages,
7 treble damages, reasonable attorney fees and expenses, and
8 such equitable remedies as the court may deem appropriate.

9 Section 6. (a) Nothing contained in this act shall
10 be construed to (1) preempt or supersede any provision of law
11 or any provision of law which is more restrictive than the
12 provisions of this act, or (2) create or recognize any right
13 to an abortion, or to sanction, approve of, or expand in any
14 way the legality of abortion.

15 (b) This act shall be construed in pari materia with
16 the Woman's Right to Know Act, now codified in Sections
17 26-23A-1 to 26-23A-13, inclusive, Code of Alabama 1975, and
18 other applicable laws.

19 Section 7. The provisions of this act are severable.
20 If any provision of this act, or word, phrase, or application
21 thereof, is found to be invalid, that invalidity shall not
22 affect the validity of the provisions or application of the
23 act not found to be invalid.

24 Section 8. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 9. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.