A BILL FOR

1 An Act establishing requirements for voluntary and informed consent to an abortion, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 146A.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. "Abortion" means abortion as defined in section 146.1.
2. "Department" means the department of public health.
3. "Medical emergency" means a condition which, on the basis of a physician's good-faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.
4. "Qualified professional" means a physician licensed pursuant to chapter 148, a physician assistant licensed pursuant to chapter 148C, a registered nurse or licensed practical nurse licensed pursuant to chapter 152, a psychologist licensed pursuant to chapter 154B, a social worker licensed pursuant to chapter 154C, or a mental health counselor licensed pursuant to chapter 154D, acting under the supervision of the physician performing or inducing the abortion, and acting within the course and scope of the qualified professional's authority as provided by law.

Sec. 2. NEW SECTION. 146A.2 Abortion — voluntary and informed consent — waiting period.

1. Except in the case of a medical emergency, an abortion shall not be performed or induced on a woman without the woman's voluntary and informed consent, given freely and without coercion. Consent to an abortion is voluntary and informed and given freely and without coercion if, at least seventy-two hours prior to the abortion, all of the following conditions are met:

   a. The physician who is to perform or induce the abortion or a qualified professional has informed the woman orally, in person, which shall be reduced to writing, of all of the following:
(1) The name of the physician who will perform or induce the abortion.

(2) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including all of the following:
   (a) A description of the proposed abortion method.
   (b) The immediate and long-term medical risks to the woman associated with the proposed abortion method including but not limited to infection, hemorrhage, cervical tear or uterine perforation, harm to subsequent pregnancies or the ability to carry a subsequent child to term, and possible adverse psychological effects associated with the abortion.
   (c) The immediate and long-term medical risks to the woman, in light of the anesthesia and medication that is to be administered, the gestational age of the fetus, and the woman's medical history and medical condition.

(3) Alternatives to the abortion including making the woman aware that information and materials shall be provided to the woman detailing such alternatives to the abortion.

(4) A statement that the physician performing or inducing the abortion is available for any questions concerning the abortion and the telephone number at which the physician may be later reached to answer any questions that the woman may have.

(5) The location of the hospital that offers obstetrical or gynecological care located within thirty miles of the location where the abortion is performed or induced and at which the physician performing or inducing the abortion has clinical privileges and where the woman may receive follow-up care by the physician if complications arise.

(6) The gestational age of the fetus at the time the abortion is to be performed or induced.

(7) The anatomical and physiological characteristics of the fetus at the time the abortion is to be performed or induced.

b. The physician who is to perform or induce the abortion or a qualified professional has provided the woman, in
person, with printed materials provided by the department
which describe the probable anatomical and physiological
characteristics of the fetus at two-week gestational increments
from conception to full term, including color photographs
or images of the developing fetus at two-week gestational
increments. Such descriptions shall include information about
brain and heart functions, the presence of external members and
internal organs during the applicable stages of development and
information on when the fetus is viable. The printed materials
shall prominently display the following statement: "The life
of each human being begins at conception. Abortion will
terminate the life of a separate, unique, living human being."

c. The physician who is to perform or induce the abortion
or a qualified professional has provided the woman, in person,
with printed materials provided by the department which
describe the various surgical and drug-induced methods of
abortion relevant to the stage of pregnancy, as well as the
immediate and long-term medical risks commonly associated with
each abortion method including but not limited to infection,
hemorrhage, cervical tear or uterine perforation, harm to
subsequent pregnancies or the ability to carry a subsequent
child to term, and the possible adverse psychological effects
associated with an abortion.

d. The physician who is to perform or induce the abortion
or a qualified professional has provided the woman with the
opportunity to view an active ultrasound of the fetus and
hear the heartbeat of the fetus if the heartbeat is audible.
The woman shall be provided with a geographically indexed
list maintained by the department of health care providers,
facilities, and clinics that perform ultrasounds, including
those that offer ultrasound services free of charge. Such
materials shall provide contact information for each provider,
facility, or clinic including telephone numbers and, if
available, internet site addresses. If the woman decides to
obtain an ultrasound from a provider, facility, or clinic other
1 than the facility at which the abortion will be performed or
2 induced, the woman shall be offered a reasonable time to obtain
3 the ultrasound examination before the date and time set for
4 performing or inducing an abortion. The person conducting the
5 ultrasound shall ensure that the active ultrasound image is
6 of a quality consistent with standard medical practice in the
7 community, contains the dimensions of the fetus, and accurately
8 portrays the presence of external members and internal organs,
9 if present or viewable, of the fetus. The auscultation of
10 fetal heart tone must also be of a quality consistent with
11 standard medical practice in the community. If the woman
12 chooses to view the ultrasound or hear the heartbeat or both
13 at the facility at which the abortion will be performed or
14 induced, such services shall be provided to the woman at the
15 facility at which the abortion is to be performed or induced at
16 least seventy-two hours prior to the abortion being performed
17 or induced.
18   e. Prior to an abortion being performed or induced on
19 a fetus of twenty-two weeks gestational age or older, the
20 physician who is to perform or induce the abortion or a
21 qualified professional has provided the woman, in person,
22 with printed materials provided by the department that offer
23 information on the possibility of the abortion causing pain to
24 the fetus. This information shall include but is not limited
25 to all of the following:
26   (1) That at least by twenty-two weeks of gestational age,
27 the fetus possesses all the anatomical structures, including
28 pain receptors, spinal cord, nerve tracts, thalamus, and
29 cortex, that are necessary in order to feel pain.
30   (2) A description of the actual steps in the abortion
31 procedure to be performed or induced, and at which steps the
32 abortion procedure could be painful to the fetus.
33   (3) That there is evidence that by twenty-two weeks of
34 gestational age, a fetus seeks to evade certain stimuli in a
35 manner that in an infant or an adult would be interpreted as a
response to pain.

(4) Anesthesia is given to a fetus that is twenty-two weeks or more gestational age who undergoes prenatal surgery.

(5) Anesthesia is given to premature children who are twenty-two weeks or more gestational age who undergo surgery.

(6) Anesthesia or an analgesic is available in order to minimize or alleviate the pain to the fetus.

f. The physician who is to perform or induce the abortion or a qualified professional has provided the woman, in person, with printed materials provided by the department explaining to the woman alternatives to abortion the woman may wish to consider. The materials shall provide all of the following:

(1) Identification on a geographical basis of public and private agencies available to assist a woman in carrying a fetus to term, and to assist the woman in caring for her dependent child or placing her child for adoption, including agencies commonly known and generally referred to as pregnancy resource centers, crisis pregnancy centers, maternity homes, and adoption agencies. Such materials shall provide a comprehensive list by geographical area of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies provided that such materials shall not include any programs, services, organizations, or affiliates of organizations that perform or induce, or assist in the performing or inducing of, abortions, or that refer for abortions.

(2) An explanation of any programs and services available to pregnant women and mothers of newborn children offered by public or private agencies which assist a woman in carrying a fetus to term and to assist the woman in caring for her dependent child or placing her child for adoption, including but not limited to prenatal care; maternal health care; newborn or infant care; mental health services; professional counseling services; housing programs; utility assistance; transportation services; food, clothing, and supplies related to pregnancy;
parenting skills; educational programs; job training and placement services; drug and alcohol testing and treatment; and adoption assistance.

(3) The prominently displayed statement: "There are public and private agencies willing and able to help you carry your fetus to term, and to assist you and your child after your child is born, whether you choose to keep your child or place your child for adoption. The state of Iowa encourages you to contact those agencies before making a final decision about abortion. State law requires that your physician or a qualified professional give you the opportunity to contact agencies like these before you undergo an abortion."

g. The physician who is to perform or induce the abortion or a qualified professional has provided the woman, in person, with printed materials provided by the department explaining that the father of the unborn child is liable to assist in the support of the child, even in instances where the father has offered to pay for the abortion. Such materials shall include information on the legal duties and support obligations of the father of a child, including but not limited to child support payments, and the fact that paternity may be established by the father's name on a birth certificate or statement of paternity, or by court action. Such printed materials shall also state that more information concerning paternity establishment and child support services and enforcement may be obtained by contacting the department of human services.

h. The physician who is to perform or induce the abortion or a qualified professional has informed the woman that the woman is free to withhold or withdraw the woman's consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which the woman might otherwise be entitled.

2. All information required to be provided to a woman considering abortion pursuant to subsection 1 shall be presented to the woman individually, in the physical presence
1 of the woman and in a private room, to protect the woman's privacy, to maintain the confidentiality of her decision, to ensure that the information focuses on the woman's individual circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she is not a victim of coerced abortion. If a woman is unable to read the materials provided to her, they shall be read to her. If a woman needs an interpreter to understand the information presented in the written materials, an interpreter shall be provided to the woman. If a woman asks questions concerning any of the information or materials, answers shall be provided in a language the woman is able to understand.

3. An abortion shall not be performed or induced unless and until the woman upon whom the abortion is to be performed or induced certifies in writing on a checklist form provided by the department that she has been presented all the information required in subsection 1, that she has been provided the opportunity to view an active ultrasound image of the fetus and hear the heartbeat of the fetus if it is audible, and that she further certifies that she gives her voluntary and informed consent, freely and without coercion, to the abortion procedure.

4. An abortion shall not be performed or induced on a fetus of twenty-two weeks gestational age or older unless and until the woman upon whom the abortion is to be performed or induced has been provided the opportunity to choose to have an anesthetic or analgesic administered to eliminate or alleviate pain to the fetus caused by the particular method of abortion to be performed or induced. The administration of anesthesia or analgesics shall be performed in a manner consistent with standard medical practice in the community.

5. A physician shall not perform or induce an abortion unless and until the physician has obtained from the woman her voluntary and informed consent given freely and without coercion as provided in this section. If the physician has
reason to believe that the woman is being coerced into having
an abortion, the physician or qualified professional shall
inform the woman that services are available to her and shall
provide her with private access to a telephone and information
about such services, including domestic abuse or sexual assault
centers and orders of protection.

6. A physician shall not perform or induce an abortion
unless and until the physician has received and signed a copy
of the form prescribed in subsection 3. The physician shall
retain a copy of the form in the woman's medical record.

7. If a medical emergency exists, the physician who
performed or induced the abortion shall clearly certify in
writing the nature and circumstances of the medical emergency.
This certification shall be signed by the physician who
performed or induced the abortion, and shall be maintained in
the woman's medical record.

8. A person shall not require, obtain, or accept payment
for an abortion from or on behalf of a patient until at least
seventy-two hours have passed since the time the information
required by subsection 1 has been provided to the patient.
Nothing in this subsection shall prohibit a person or entity
from notifying the patient that payment for the abortion will
be required after the seventy-two-hour period has expired if
the patient voluntarily chooses to have the abortion.

9. By November 1, 2015, the department shall produce the
written materials and forms described in this section. Any
written materials produced shall be printed in a typeface
large enough to be clearly legible. All information shall
be presented in an objective, unbiased manner designed to
convey only accurate scientific and medical information. The
department shall furnish the written materials and forms at
no cost and in sufficient quantity to any person who performs
or induces abortions, or to any hospital or facility that
provides abortions. The department shall make all information
required by subsection 1 available to the public through its
department internet site. The department shall maintain a
toll-free, twenty-four-hour hotline telephone number thorough
which a caller may obtain information on a regional basis
concerning the agencies and services described in subsection 1.
Identifying information regarding persons who use the internet
site shall not be collected or maintained. The department
shall monitor the internet site on a regular basis to prevent
tampering and correct any operational deficiencies.

Sec. 3. EFFECTIVE DATES.
1. The provisions of this Act requiring the department of
public health to produce certain written materials and forms as
described in section 146A.2, subsection 9, as enacted in this
Act, by November 1, 2015, being deemed of immediate importance,
take effect upon enactment.
2. The remainder of this Act takes effect November 1, 2015.

EXPLANATION
The inclusion of this explanation does not constitute agreement with
the explanation’s substance by the members of the general assembly.

This bill establishes new Code chapter 146A, requiring
voluntary and informed consent to an abortion.
The bill specifies the conditions of voluntary and informed
consent that must be completed at least 72 hours prior to an
abortion including:
1. The physician who is to perform or induce the abortion
or a qualified professional shall inform the woman orally, in
person, which shall be reduced to writing, of the name of the
physician who will perform or induce the abortion, medically
accurate information relating to the decision of whether or
not to undergo the abortion, the medical risks to the woman
associated with the abortion, alternatives to the abortion, how
the physician may be reached, the location of the hospital, the
gestational age of the fetus at the time the abortion is to
be performed or induced, and the anatomical and physiological
characteristics of the fetus at the time of the abortion.
2. The physician who is to perform or induce the abortion
or a qualified professional shall provide the woman, in
person, with printed materials provided by the department of
public health (DPH) which describe the probable anatomical
and physiological characteristics of the fetus at two-week
gestational increments and includes the prominently displayed
statement: "The life of each human being begins at conception.
Abortion will terminate the life of a separate, unique, living
human being."

3. The physician who is to perform or induce the abortion or
a qualified professional shall provide the woman, in person,
with printed materials provided by DPH which describe the
various methods of abortion relevant to the stage of pregnancy,
as well as the medical risks commonly associated with each
abortion method.

4. The physician who is to perform or induce the abortion or
a qualified professional shall provide the woman with the
opportunity to view an active ultrasound of the fetus and hear
the heartbeat of the fetus if the heartbeat is audible.

5. Prior to an abortion being performed or induced on a
fetus of at least 22 weeks gestational age, the physician
who is to perform or induce the abortion or a qualified
professional shall provide the woman, in person, with printed
materials provided by DPH that offer information on the
possibility of the abortion causing pain to the fetus.

6. The physician who is to perform or induce the abortion or
a qualified professional shall provide the woman, in person,
with printed materials provided by DPH explaining to the woman
alternatives to abortion she may wish to consider, including
the agencies, programs, and services available to assist her.

7. The physician who is to perform or induce the abortion or
a qualified professional shall provide the woman, in person,
with printed materials provided by DPH explaining that the
father of the unborn child is liable to assist in the support
of the child, even in instances where the father has offered
to pay for the abortion.
8. The physician who is to perform or induce the abortion or a qualified professional shall inform the woman that she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

The bill requires that all information required to be provided to a woman considering abortion be presented to the woman individually, in the physical presence of the woman and in a private room, to protect her privacy, to maintain the confidentiality of her decision, to ensure that the information focuses on her individual circumstances, to ensure she has an adequate opportunity to ask questions, and to ensure that she is not a victim of coerced abortion.

Under the bill, an abortion is prohibited from being performed or induced unless and until the woman upon whom the abortion is to be performed or induced certifies in writing on a checklist form provided by DPH that she has been presented all the information required, that she has been provided the opportunity to view an active ultrasound image of the fetus and hear the heartbeat of the fetus if it is audible, and that she further certifies that she gives her voluntary and informed consent, freely and without coercion, to the abortion procedure.

Under the bill, an abortion shall not be performed or induced on a fetus of 22 weeks gestational age or older unless and until the woman upon whom the abortion is to be performed or induced has been provided the opportunity to choose to have an anesthetic or analgesic administered to eliminate or alleviate pain to the fetus caused by the particular method of abortion to be performed or induced. The administration of anesthesia or analgesics shall be performed in a manner consistent with standard medical practice in the community.

Under the bill, a physician is prohibited from performing or inducing an abortion unless and until the physician has
obtained from the woman her voluntary and informed consent given freely and without coercion. If the physician has reason to believe that the woman is being coerced into having an abortion, the physician or a qualified professional shall inform the woman that services are available for her and shall provide her with private access to a telephone and information about such services, including domestic abuse or sexual assault centers and orders of protection. Additionally, a physician is prohibited from performing or inducing an abortion unless and until the physician has received and signed a copy of the form specified under the bill. The physician is required to retain a copy of the form in the woman's medical record. If a medical emergency exists, the physician who performed or induced the abortion is required to clearly certify in writing the nature and circumstances of the medical emergency. The certification must be signed by the physician who performed or induced the abortion, and is required to be maintained in the woman's medical record. The bill prohibits a person from requiring, obtaining, or accepting payment for an abortion from or on behalf of a patient until at least 72 hours have passed since the time that the information required has been provided to the patient. However, this does not prohibit a person or entity from notifying the patient that payment for the abortion will be required after the 72-hour period has expired if she voluntarily chooses to have the abortion. The bill requires that by November 1, 2015, DPH shall produce the written materials and forms described in the bill, and any written materials produced shall be printed in a typeface large enough to be clearly legible. All information is to be presented in an objective, unbiased manner designed to convey only accurate scientific and medical information. DPH is required to furnish the written materials and forms at no cost and in sufficient quantity to any person who performs or induces abortions, or to any hospital or facility that provides
1 abortions. DPH is required to make all information required
2 available to the public through its department internet site.
3 DPH is also required to maintain a toll-free, 24-hour hotline
4 telephone number through which a caller may obtain information
5 on a regional basis concerning the agencies and services
6 offering alternatives to abortion.
7 The provisions requiring DPH to produce certain written
8 materials and forms by November 1, 2015, take effect upon
9 enactment. The remainder of the bill takes effect November 1,
10 2015.