

SENATE FILE _____
BY JOHNSON

A BILL FOR

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

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **146A.1 Definitions.**

2 As used in this chapter unless the context otherwise
3 requires:

4 1. *"Abortion"* means abortion as defined in section 146.1.

5 2. *"Department"* means the department of public health.

6 3. *"Medical emergency"* means a condition which, on the basis
7 of a physician's good-faith clinical judgment, so complicates
8 the medical condition of a pregnant woman as to necessitate
9 the immediate abortion of the woman's pregnancy to avert the
10 woman's death or for which a delay will create a serious risk
11 of substantial and irreversible impairment of a major bodily
12 function of the pregnant woman.

13 4. *"Qualified professional"* means a physician licensed
14 pursuant to chapter 148, a physician assistant licensed
15 pursuant to chapter 148C, a registered nurse or licensed
16 practical nurse licensed pursuant to chapter 152, a
17 psychologist licensed pursuant to chapter 154B, a social
18 worker licensed pursuant to chapter 154C, or a mental health
19 counselor licensed pursuant to chapter 154D, acting under
20 the supervision of the physician performing or inducing
21 the abortion, and acting within the course and scope of the
22 qualified professional's authority as provided by law.

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

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

32 a. The physician who is to perform or induce the abortion
33 or a qualified professional has informed the woman orally,
34 in person, which shall be reduced to writing, of all of the
35 following:

1 (1) The name of the physician who will perform or induce
2 the abortion.

3 (2) Medically accurate information that a reasonable
4 patient would consider material to the decision of whether or
5 not to undergo the abortion, including all of the following:

6 (a) A description of the proposed abortion method.

7 (b) The immediate and long-term medical risks to the woman
8 associated with the proposed abortion method including but not
9 limited to infection, hemorrhage, cervical tear or uterine
10 perforation, harm to subsequent pregnancies or the ability
11 to carry a subsequent child to term, and possible adverse
12 psychological effects associated with the abortion.

13 (c) The immediate and long-term medical risks to the
14 woman, in light of the anesthesia and medication that is to be
15 administered, the gestational age of the fetus, and the woman's
16 medical history and medical condition.

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

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

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

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

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

34 b. The physician who is to perform or induce the abortion
35 or a qualified professional has provided the woman, in

1 person, with printed materials provided by the department
2 which describe the probable anatomical and physiological
3 characteristics of the fetus at two-week gestational increments
4 from conception to full term, including color photographs
5 or images of the developing fetus at two-week gestational
6 increments. Such descriptions shall include information about
7 brain and heart functions, the presence of external members and
8 internal organs during the applicable stages of development and
9 information on when the fetus is viable. The printed materials
10 shall prominently display the following statement: "The life
11 of each human being begins at conception. Abortion will
12 terminate the life of a separate, unique, living human being."

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

24 *d.* The physician who is to perform or induce the abortion
25 or a qualified professional has provided the woman with the
26 opportunity to view an active ultrasound of the fetus and
27 hear the heartbeat of the fetus if the heartbeat is audible.
28 The woman shall be provided with a geographically indexed
29 list maintained by the department of health care providers,
30 facilities, and clinics that perform ultrasounds, including
31 those that offer ultrasound services free of charge. Such
32 materials shall provide contact information for each provider,
33 facility, or clinic including telephone numbers and, if
34 available, internet site addresses. If the woman decides to
35 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

1 response to pain.

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

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

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

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

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

27 (2) An explanation of any programs and services available
28 to pregnant women and mothers of newborn children offered by
29 public or private agencies which assist a woman in carrying
30 a fetus to term and to assist the woman in caring for her
31 dependent child or placing her child for adoption, including
32 but not limited to prenatal care; maternal health care; newborn
33 or infant care; mental health services; professional counseling
34 services; housing programs; utility assistance; transportation
35 services; food, clothing, and supplies related to pregnancy;

1 parenting skills; educational programs; job training and
2 placement services; drug and alcohol testing and treatment; and
3 adoption assistance.

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

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

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

33 2. All information required to be provided to a woman
34 considering abortion pursuant to subsection 1 shall be
35 presented to the woman individually, in the physical presence

1 of the woman and in a private room, to protect the woman's
2 privacy, to maintain the confidentiality of her decision, to
3 ensure that the information focuses on the woman's individual
4 circumstances, to ensure she has an adequate opportunity to
5 ask questions, and to ensure that she is not a victim of
6 coerced abortion. If a woman is unable to read the materials
7 provided to her, they shall be read to her. If a woman needs
8 an interpreter to understand the information presented in
9 the written materials, an interpreter shall be provided to
10 the woman. If a woman asks questions concerning any of the
11 information or materials, answers shall be provided in a
12 language the woman is able to understand.

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

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

32 5. A physician shall not perform or induce an abortion
33 unless and until the physician has obtained from the woman
34 her voluntary and informed consent given freely and without
35 coercion as provided in this section. If the physician has

1 reason to believe that the woman is being coerced into having
2 an abortion, the physician or qualified professional shall
3 inform the woman that services are available to her and shall
4 provide her with private access to a telephone and information
5 about such services, including domestic abuse or sexual assault
6 centers and orders of protection.

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

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

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

25 9. By November 1, 2015, the department shall produce the
26 written materials and forms described in this section. Any
27 written materials produced shall be printed in a typeface
28 large enough to be clearly legible. All information shall
29 be presented in an objective, unbiased manner designed to
30 convey only accurate scientific and medical information. The
31 department shall furnish the written materials and forms at
32 no cost and in sufficient quantity to any person who performs
33 or induces abortions, or to any hospital or facility that
34 provides abortions. The department shall make all information
35 required by subsection 1 available to the public through its

1 department internet site. The department shall maintain a
2 toll-free, twenty-four-hour hotline telephone number thorough
3 which a caller may obtain information on a regional basis
4 concerning the agencies and services described in subsection 1.
5 Identifying information regarding persons who use the internet
6 site shall not be collected or maintained. The department
7 shall monitor the internet site on a regular basis to prevent
8 tampering and correct any operational deficiencies.

9 Sec. 3. EFFECTIVE DATES.

10 1. The provisions of this Act requiring the department of
11 public health to produce certain written materials and forms as
12 described in section 146A.2, subsection 9, as enacted in this
13 Act, by November 1, 2015, being deemed of immediate importance,
14 take effect upon enactment.

15 2. The remainder of this Act takes effect November 1, 2015.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill establishes new Code chapter 146A, requiring
20 voluntary and informed consent to an abortion.

21 The bill specifies the conditions of voluntary and informed
22 consent that must be completed at least 72 hours prior to an
23 abortion including:

24 1. The physician who is to perform or induce the abortion
25 or a qualified professional shall inform the woman orally, in
26 person, which shall be reduced to writing, of the name of the
27 physician who will perform or induce the abortion, medically
28 accurate information relating to the decision of whether or
29 not to undergo the abortion, the medical risks to the woman
30 associated with the abortion, alternatives to the abortion, how
31 the physician may be reached, the location of the hospital, the
32 gestational age of the fetus at the time the abortion is to
33 be performed or induced, and the anatomical and physiological
34 characteristics of the fetus at the time of the abortion.

35 2. The physician who is to perform or induce the abortion

1 or a qualified professional shall provide the woman, in
2 person, with printed materials provided by the department of
3 public health (DPH) which describe the probable anatomical
4 and physiological characteristics of the fetus at two-week
5 gestational increments and includes the prominently displayed
6 statement: "The life of each human being begins at conception.
7 Abortion will terminate the life of a separate, unique, living
8 human being."

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

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

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

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

30 7. The physician who is to perform or induce the abortion or
31 a qualified professional shall provide the woman, in person,
32 with printed materials provided by DPH explaining that the
33 father of the unborn child is liable to assist in the support
34 of the child, even in instances where the father has offered
35 to pay for the abortion.

1 8. The physician who is to perform or induce the abortion
2 or a qualified professional shall inform the woman that she is
3 free to withhold or withdraw her consent to the abortion at any
4 time without affecting her right to future care or treatment
5 and without the loss of any state or federally funded benefits
6 to which she might otherwise be entitled.

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

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

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

34 Under the bill, a physician is prohibited from performing
35 or inducing an abortion unless and until the physician has

1 obtained from the woman her voluntary and informed consent
2 given freely and without coercion. If the physician has
3 reason to believe that the woman is being coerced into having
4 an abortion, the physician or a qualified professional shall
5 inform the woman that services are available for her and shall
6 provide her with private access to a telephone and information
7 about such services, including domestic abuse or sexual assault
8 centers and orders of protection. Additionally, a physician is
9 prohibited from performing or inducing an abortion unless and
10 until the physician has received and signed a copy of the form
11 specified under the bill. The physician is required to retain
12 a copy of the form in the woman's medical record.

13 If a medical emergency exists, the physician who performed
14 or induced the abortion is required to clearly certify in
15 writing the nature and circumstances of the medical emergency.
16 The certification must be signed by the physician who performed
17 or induced the abortion, and is required to be maintained in
18 the woman's medical record.

19 The bill prohibits a person from requiring, obtaining,
20 or accepting payment for an abortion from or on behalf of
21 a patient until at least 72 hours have passed since the
22 time that the information required has been provided to the
23 patient. However, this does not prohibit a person or entity
24 from notifying the patient that payment for the abortion
25 will be required after the 72-hour period has expired if she
26 voluntarily chooses to have the abortion.

27 The bill requires that by November 1, 2015, DPH shall produce
28 the written materials and forms described in the bill, and
29 any written materials produced shall be printed in a typeface
30 large enough to be clearly legible. All information is to
31 be presented in an objective, unbiased manner designed to
32 convey only accurate scientific and medical information. DPH
33 is required to furnish the written materials and forms at no
34 cost and in sufficient quantity to any person who performs or
35 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.