

House File 323 - Introduced

HOUSE FILE _____
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and MAY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to informed consent to an abortion and providing
2 a criminal penalty, and providing effective dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2144YH 83
5 pf/rj/5

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1 1 Section 1. NEW SECTION. 146A.1 TITLE.
1 2 This chapter shall be known and may be cited as the
1 3 "Woman's Right to Know Act".
1 4 Sec. 2. NEW SECTION. 146A.2 DEFINITIONS.
1 5 As used in this chapter, unless the context otherwise
1 6 requires:
1 7 1. "Abortion" means abortion as defined in section 146.1.
1 8 2. "Attempt to perform an unlawful abortion" means an act,
1 9 or an omission of an act required by law, that constitutes a
1 10 substantial step in a course of conduct intended to culminate
1 11 in the performance of an abortion in violation of this
1 12 chapter.
1 13 3. "Department" means the department of public health.
1 14 4. "Medical emergency" means any condition which, on the
1 15 basis of a physician's good faith clinical judgment, so
1 16 complicates the medical condition of a pregnant woman as to
1 17 necessitate the immediate performance of an abortion to avert
1 18 the pregnant woman's death, or to necessitate the immediate
1 19 performance of an abortion to avert a serious risk of
1 20 substantial and irreversible impairment of a major bodily
1 21 function if the performance of the abortion is delayed.
1 22 5. "Physician" means a person licensed to practice
1 23 medicine and surgery or osteopathic medicine and surgery
1 24 pursuant to chapter 148.
1 25 Sec. 3. NEW SECTION. 146A.3 VOLUNTARY AND INFORMED
1 26 CONSENT.
1 27 1. An abortion shall not be performed in this state
1 28 without the voluntary and informed consent of the woman upon
1 29 whom the abortion is to be performed. Except in the case of a
1 30 medical emergency, consent to an abortion is voluntary and
1 31 informed only if the requirements of this section are met.
1 32 2. The referring physician, the physician who will perform
1 33 the abortion, or an agent of either physician shall provide
1 34 all of the following information to the woman by telephone, by
1 35 audiotape, or in person, at the time the woman initially
2 1 contacts the physician's private office or a facility that
2 2 provides abortions to inquire about or to schedule an
2 3 appointment for an abortion:
2 4 a. Information that medical assistance benefits may be
2 5 available to the woman for prenatal care, childbirth, and
2 6 neonatal care.
2 7 b. Information that the putative father is liable to
2 8 assist in the support of the child and that efforts to collect
2 9 support may result in, but are not guaranteed to result in,
2 10 financial support of the child, even if the putative father
2 11 has offered to pay for the abortion.
2 12 c. Information that the woman has the right to review the
2 13 printed materials described in subsection 3.
2 14 d. Information that the woman has the right to have an
2 15 opportunity to receive and view an active ultrasound of the

2 16 fetus at least twenty-four hours before an abortion is
2 17 performed.

2 18 3. a. After being informed of the woman's right to review
2 19 printed materials pursuant to subsection 2, if the woman
2 20 wishes to review the materials, all of the following shall
2 21 apply:

2 22 (1) If the department establishes an internet site, the
2 23 woman shall be informed that the materials are available
2 24 through a state-sponsored internet site and shall be informed
2 25 of the internet site address.

2 26 (2) If the woman initially contacts the physician's
2 27 private office or a facility that provides abortions in
2 28 person, the materials shall be provided to the woman at that
2 29 time.

2 30 (3) If the woman initially contacts the physician's
2 31 private office or a facility that provides abortions by
2 32 telephone and wishes to review the materials, the materials
2 33 shall be mailed to the woman by regular mail or by restricted
2 34 certified mail, as defined in section 618.15, as requested by
2 35 the woman.

3 1 (4) The woman shall be informed that the materials have
3 2 been provided by the state and that they describe the fetus
3 3 and list agencies that offer alternatives to abortion.

3 4 b. The printed materials shall include all of the
3 5 following:

3 6 (1) Geographically indexed materials designed to inform
3 7 the woman of public and private agencies and services
3 8 available to assist a woman through pregnancy, at the time of
3 9 childbirth, and while the child is dependent, including
3 10 adoption agencies. The materials shall include a
3 11 comprehensive list of the agencies available, categorized by
3 12 the type of services offered, and a description of the manner,
3 13 including telephone numbers, in which the agencies may be
3 14 contacted. The department may also provide a toll-free,
3 15 twenty-four-hour-a-day telephone number which may be called to
3 16 obtain, orally, a list and description of agencies in the
3 17 locality of the caller and of the services offered.

3 18 (2) Materials that encourage consideration of placement
3 19 for adoption. The materials shall inform the woman of the
3 20 benefits of adoption, including the requirements of
3 21 confidentiality in the adoption process, the importance of
3 22 adoption to individuals and society, and the state's interest
3 23 in promoting adoption by preferring childbirth over abortion.

3 24 (3) Materials designed to inform the woman of the probable
3 25 anatomical and physiological characteristics of the fetus at
3 26 two-week gestational increments from the time that it is
3 27 medically possible to make a determination of pregnancy to
3 28 full term. The materials shall include any relevant
3 29 information regarding the possibility of the survival of the
3 30 fetus and pictures or drawings representing the development of
3 31 the fetus at two-week gestational increments, provided that
3 32 any pictures or drawings shall contain the dimensions of the
3 33 fetus and shall be realistic and appropriate for the state of
3 34 pregnancy depicted. The materials shall be objective,
3 35 nonjudgmental, and designed to convey only accurate scientific
4 1 information about the fetus at various gestational stages.
4 2 The materials shall also contain objective information
4 3 describing the methods of abortion procedures commonly used,
4 4 the medical risks commonly associated with each such
4 5 procedure, the possible detrimental psychological effects of
4 6 abortion, and the medical risks commonly associated with
4 7 carrying a fetus to term.

4 8 4. A physician shall not perform an abortion on a woman
4 9 unless both of the following conditions are met:

4 10 a. The physician obtains written certification that the
4 11 information required pursuant to subsection 2 was provided to
4 12 the woman. The physician shall retain a copy of the
4 13 certification and shall provide a copy of the certification to
4 14 the woman.

4 15 b. The physician certifies that the woman has been offered
4 16 an opportunity to receive and view an active ultrasound of the
4 17 fetus. The offer and opportunity to receive and view an
4 18 ultrasound shall occur at least twenty-four hours before the
4 19 abortion is scheduled to be performed. In order to comply
4 20 with this requirement, the active ultrasound image must be of
4 21 a quality consistent with standard medical practice in the
4 22 community, must contain the dimensions of the fetus, and must
4 23 accurately portray the presence of external members and
4 24 internal organs, including the heartbeat, if present or
4 25 viewable, of the fetus. The auscultation of the fetal heart
4 26 tone also must be of a quality consistent with standard

4 27 medical practice in the community. The physician shall
4 28 document the woman's response to the offer, including the date
4 29 and time of the offer and the woman's signature attesting to
4 30 the woman's informed decision.

4 31 5. a. By October 1, 2009, the department shall cause the
4 32 information described in subsection 2 to be published in
4 33 printed format. The information shall be provided in an
4 34 easily comprehensible manner. The information shall be
4 35 published in a typeface large enough to be clearly legible.
5 1 The printed information shall be available from the department
5 2 at no cost, upon request, and in an appropriate number, to any
5 3 person.

5 4 b. The department may establish and maintain an internet
5 5 site to provide the information described in subsection 2.
5 6 The internet site shall provide for confidentiality of
5 7 individuals who access the site and no information identifying
5 8 the individual shall be collected or maintained. The
5 9 department shall monitor the internet site to ensure that the
5 10 site is secure and to prevent and correct any tampering with
5 11 the site.

5 12 Sec. 4. NEW SECTION. 146A.4 PROCEDURE IN CASE OF MEDICAL
5 13 EMERGENCY.

5 14 If a medical emergency necessitates the performance of an
5 15 abortion, the physician shall inform the woman, prior to the
5 16 performance of the abortion, if possible, of the medical
5 17 indications supporting the physician's judgment that the
5 18 immediate performance of an abortion is necessary to avert the
5 19 woman's death or that a delay in the performance of an
5 20 abortion will create a serious risk of substantial and
5 21 irreversible impairment of a major bodily function.

5 22 Sec. 5. NEW SECTION. 146A.5 CRIMINAL PENALTIES.

5 23 1. A person who knowingly or recklessly performs or
5 24 attempts to perform an abortion in violation of this chapter
5 25 is guilty of a simple misdemeanor.

5 26 2. A criminal penalty shall not be imposed under this
5 27 chapter on a woman upon whom an abortion is performed or
5 28 attempted to be performed. A criminal penalty shall not be
5 29 imposed for failure of a woman to comply with the requirement
5 30 of written certification pursuant to section 146A.3, if the
5 31 department has not made the information available at the time
5 32 the physician or the physician's agent is required to inform
5 33 the woman of the woman's right to review the information.

5 34 Sec. 6. NEW SECTION. 146A.6 PROTECTION OF PRIVACY IN
5 35 COURT PROCEEDINGS == PENALTY.

6 1 1. In every criminal proceeding brought pursuant to this
6 2 chapter, the court proceedings shall be conducted in a manner
6 3 which protects the confidentiality of the woman, and all court
6 4 documents pertaining to the proceedings shall remain
6 5 confidential and shall be sealed. The court shall direct the
6 6 exclusion of individuals from courtrooms or hearing rooms to
6 7 the extent necessary to safeguard the woman's identity from
6 8 public disclosure.

6 9 2. This section shall not be construed to conceal the
6 10 identity of witnesses from the defendant.

6 11 3. A person who knowingly violates the confidentiality
6 12 requirements of this section relating to court proceedings and
6 13 documents is guilty of a simple misdemeanor.

6 14 Sec. 7. EFFECTIVE DATES.

6 15 1. The provisions of this Act requiring the department of
6 16 public health to publish information described in section
6 17 146A.3, subsection 2, as enacted in this Act, by October 1,
6 18 2009, being deemed of immediate importance, take effect upon
6 19 enactment.

6 20 2. The remainder of this Act takes effect October 1, 2009.

6 21 EXPLANATION

6 22 This bill establishes new Code chapter 146A, relating to
6 23 informed consent prior to an abortion. The Code chapter is
6 24 known and cited as the "Woman's Right to Know Act".

6 25 The bill specifies the required informed consent
6 26 provisions, including provision of certain information to a
6 27 woman by the physician or an agent of the physician, required
6 28 certification by the woman of provision to the woman of the
6 29 required information, receipt of the certification by the
6 30 physician prior to the performance of an abortion, and receipt
6 31 of documentation by the physician regarding the offering of an
6 32 active ultrasound, prior to the performance of an abortion.
6 33 The bill requires the department of public health to publish
6 34 information by October 1, 2009, relating to options for
6 35 managing a pregnancy. The bill authorizes the department to
7 1 establish and maintain an internet site to provide the
7 2 information.

7 3 The bill also provides for alternatives to providing
7 4 informed consent in the case of a medical emergency.
7 5 The bill establishes a criminal penalty of a simple
7 6 misdemeanor for a person who knowingly or recklessly performs
7 7 or attempts to perform an abortion in violation of the new
7 8 Code chapter. The bill prohibits the imposition of a criminal
7 9 penalty against a woman upon whom an abortion is performed or
7 10 attempted to be performed, and prohibits the imposition of a
7 11 criminal penalty against a woman for failure to comply with
7 12 certification requirements if the department has not made the
7 13 printed materials available as required. The bill also
7 14 provides for protection of confidentiality of a woman relative
7 15 to criminal court proceedings relating to an action under the
7 16 new Code chapter.
7 17 The provisions relating to the department of public health
7 18 publishing information as prescribed in the bill take effect
7 19 upon enactment. The remainder of the bill takes effect
7 20 October 1, 2009.
7 21 LSB 2144YH 83
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