

1 SB49  
2 114956-1  
3 By Senator Erwin  
4 RFD: Judiciary  
5 First Read: 12-JAN-10  
6 PFD: 12/14/2009

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8 SYNOPSIS: Under existing law, prior to an abortion  
9 the physician who is to perform the abortion is  
10 required to perform an ultrasound on the unborn  
11 child. The mother has the right to view the  
12 ultrasound and must fill out a form acknowledging  
13 that she saw the ultrasound or was given the  
14 opportunity to view the ultrasound.

15 This bill would require an explanation of  
16 the results of the ultrasound be given to the  
17 mother and the images of the ultrasound be  
18 displayed.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT

23  
24 Relating to abortions; to amend Section 26-23A-4,  
25 Code of Alabama 1975, to extend further the requirements  
26 regarding the performance of an ultrasound prior to an  
27 abortion.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 26-23A-4, Code of Alabama 1975,  
3 is amended to read as follows:

4 "§26-23A-4.

5 "Except in the case of a medical emergency, no  
6 abortion shall be performed or induced without the voluntary  
7 and informed consent of the woman upon whom the abortion is to  
8 be performed or induced. Except in the case of a medical  
9 emergency, consent to an abortion is voluntary and informed if  
10 and only if:

11 "(a) At least 24 hours before the abortion, the  
12 physician who is to perform the abortion, the referring  
13 physician, or a qualified person has informed and provided the  
14 woman in person, or by return receipt certified mail  
15 restricted delivery, and if by mail, again in person prior to  
16 the abortion, a copy of the printed materials in Section  
17 26-23A-5 which list agencies that offer assistance, adoption  
18 agencies, development of the unborn child, methods and risks  
19 of abortion and childbirth, father's obligations, and  
20 alternatives to abortion. Mailing of the materials in Section  
21 26-23A-5 may be arranged by telephone.

22 "(b) Prior to an abortion, the physician who is to  
23 perform the abortion, the referring physician, or a qualified  
24 person has informed the woman in person:

25 "(1) The name of the physician who will perform the  
26 abortion in writing or a business card.

1           "(2) The nature of the proposed abortion method and  
2 associated risks and alternatives that a reasonable patient  
3 would consider material to the decision of whether or not to  
4 undergo the abortion.

5           "(3) The probable gestational age of the unborn  
6 child at the time the abortion is to be performed, and the  
7 probable anatomical and physiological characteristics of the  
8 unborn child at the time the abortion is to be performed. If  
9 the unborn child is viable or has reached a gestational age of  
10 more than 19 weeks, that:

11           "a. The unborn child may be able to survive outside  
12 the womb.

13           "b. The woman has the right to request the physician  
14 to use the method of abortion that is most likely to preserve  
15 the life of the unborn child, provided such abortion is not  
16 otherwise prohibited by law.

17           "c. If the unborn child is born alive, the attending  
18 physician has the legal obligation to take all reasonable  
19 steps necessary to maintain the life and health of the child.

20           "(4) The physician who is to perform the abortion or  
21 the referring physician is required to:

22           "a. Perform ~~perform~~ an ultrasound on the unborn  
23 child before the abortion. ~~The woman has a right to view the~~  
24 ~~ultrasound before an abortion. The woman shall complete a~~  
25 ~~required form to acknowledge that she either saw the~~  
26 ~~ultrasound image of her unborn child or that she was offered~~  
27 ~~the opportunity and rejected it.~~

1           "b. Provide an explanation of the results of the  
2 ultrasound.

3           "c. Display the ultrasound images so that the  
4 pregnant woman may view them.

5           "d. Provide a medical description of the ultrasound  
6 images, which shall include the dimensions of the embryo or  
7 fetus and the presence of external members and internal  
8 organs, if present and viewable.

9           "Nothing in this subdivision shall be construed to  
10 prevent a pregnant woman from averting her eyes from the  
11 ultrasound images required to be provided to and reviewed with  
12 her. Neither the physician nor the pregnant woman shall be  
13 subject to any penalty if she refuses to look at the presented  
14 ultrasound images.

15           "(5) She has the right to view the videotape and  
16 ultrasound of her unborn child as described in Section  
17 26-23A-6.

18           "(6) Any need for anti-Rh immune globulin therapy,  
19 and if she is Rh negative, the likely consequences of refusing  
20 such therapy and the cost of the therapy.

21           "(7) She cannot be forced or required by anyone to  
22 have an abortion. She is free to withhold or withdraw her  
23 consent for an abortion without affecting her right to future  
24 care or treatment and without the loss of any state or  
25 federally funded benefits to which she might otherwise be  
26 entitled.

1           "(c) The woman shall complete and sign a form that  
2 she has received the information of subsections (a) and (b),  
3 and does provide her informed consent for an abortion on her  
4 unborn child.

5           "(d) Prior to the performance of an abortion, the  
6 physician who is to perform the abortion or his or her agent  
7 shall receive the signed receipt of the certified mail dated  
8 24 hours before the abortion, if mailed, and the signed forms  
9 that she has received the information of subsections (a) and  
10 (b) before the abortion, had the opportunity to view the video  
11 and the ultrasound of her unborn child, and provided her  
12 informed consent for an abortion. The abortion facility shall  
13 retain the signed receipt, signed forms, and the ultrasound in  
14 the woman's medical file for the time required by law, but not  
15 less than four years."

16           Section 2. This act shall become effective on the  
17 first day of the third month following its passage and  
18 approval by the Governor, or its otherwise becoming law.