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HOUSE BILL 3237

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Ahern, O'Brien, Schindler, Haler, Crouse, Miloscia, McCune, Sump, Chandler, Roach, Warnick, Dunn, and Kristiansen

Read first time 01/25/08. Referred to Committee on Health Care & Wellness.

1            AN ACT Relating to establishing the woman's right to know act of  
2 2008; adding a new section to chapter 9.02 RCW; creating new sections;  
3 and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** This act may be known and cited as the  
6 woman's right to know act.

7            NEW SECTION.    **Sec. 2.** The legislature finds that:

8            (1) Women and girls often obtain abortions without a full  
9 understanding of the potential physical and mental health consequences  
10 to themselves and the unborn baby they are carrying.

11            (2) It is essential to the psychological and physical well-being of  
12 a woman considering an abortion that she receive complete and accurate  
13 information on her alternatives.

14            (3) The knowledgeable exercise of a woman's decision to have an  
15 abortion depends on the extent to which the woman receives sufficient  
16 information to make an informed choice between two alternatives:  
17 Giving birth or having an abortion.

1 (4) The United States supreme court has recognized that the  
2 decision to abort "...is an important, and often a stressful one, and  
3 it is desirable and imperative that it be made with full knowledge of  
4 its nature and consequences" (*Planned Parenthood v. Danforth*, 428 U.S.  
5 52, 67 (1976)) and that "The medical, emotional, and psychological  
6 consequences of an abortion are serious and can be lasting..." (*H.L.*  
7 *v. Matheson*, 450 U.S. 398, 411 (1981)).

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.02 RCW  
9 to read as follows:

10 (1) No abortion shall be performed except with the voluntary and  
11 informed consent of the woman upon whom the abortion is to be  
12 performed. Except in the case of a medical emergency requiring the  
13 immediate termination of a pregnancy to avert death or substantial and  
14 irreversible impairment of a major bodily function, consent to an  
15 abortion is voluntary and informed if and only if:

16 (a) At least twenty-four hours before the abortion, the physician  
17 who is to perform the abortion, or the referring physician, has orally  
18 and in person informed the woman of:

19 (i) The name of the physician who will perform the abortion;

20 (ii) Medically accurate information that a reasonable person would  
21 consider material to the decision of whether or not to undergo the  
22 abortion, including (A) a description of the proposed abortion  
23 procedure, (B) the immediate and long-term medical risks associated  
24 with the proposed abortion method, and (C) alternatives to the  
25 abortion;

26 (iii) The probable gestational age of the unborn child at the time  
27 the abortion is to be performed, the probable anatomical and  
28 physiological characteristics of the unborn child at the time the  
29 abortion is to be performed, and that the abortion will end the life of  
30 the unborn child; and

31 (iv) The probable medical risks associated with carrying her unborn  
32 child to term;

33 (b) At least twenty-four hours before the abortion, the physician  
34 who is to perform the abortion, or the referring physician, has orally  
35 and in person informed the pregnant woman that:

36 (i) There are printed materials and an informational video  
37 available published by the department of health that describe abortion

1 procedures, that describe the unborn child at various stages from  
2 conception to natural birth and that list agencies that provide  
3 alternatives to abortion, that she has a right to review the printed  
4 materials and informational video, and that a copy of the printed  
5 materials and informational video will be provided to her free of  
6 charge if she chooses to review them;

7 (ii) Medical assistance benefits may be available for prenatal  
8 care, childbirth, and neonatal care, and that more detailed information  
9 on the availability of such assistance is contained in the printed  
10 materials and informational video provided her as published by the  
11 department of health;

12 (iii) The father of the unborn child is liable to assist in the  
13 support of her child, even in instances where he has offered to pay for  
14 the abortion. In the case of rape, this information may be omitted;  
15 and

16 (iv) The pregnant woman must certify in writing, before the  
17 abortion can be performed, that the information required to be provided  
18 under this section was provided to her, that she did or did not review  
19 the printed materials or informational video, and that she understands  
20 what an abortion is and the medical risks associated with the abortion,  
21 or, in the event of a medical emergency requiring the immediate  
22 termination of a pregnancy to avert death or to avert substantial and  
23 irreversible impairment of a major bodily function, the physician  
24 performing the abortion provides the woman with a certification signed  
25 by the performing physician that describes the nature of the medical  
26 emergency and the circumstances that necessitated the waiving of the  
27 informed consent requirements of this section.

28 (2) A physician shall not require or obtain a payment, in full or  
29 in part, until the twenty-four hour reflection period under this  
30 section has expired.

31 (3) Within ninety days of the effective date of this act, the  
32 department of health shall cause to be printed materials and an  
33 informational video in English and Spanish that is easily  
34 comprehensible at a sixth grade level and that describes the anatomical  
35 and physiological characteristics of an unborn child at various stages  
36 from conception to natural birth, describes the various methods of  
37 abortion used to terminate the life of an unborn child, lists  
38 alternatives to abortion, and provides a comprehensive list of the

1 addresses and phone numbers of agencies that offer alternatives to  
2 abortion and services to assist a woman through pregnancy, upon  
3 childbirth, and while the child is dependent, including but not limited  
4 to adoption agencies. The video shall, in addition to the information  
5 described in this section, show an ultrasound of the heartbeat of an  
6 unborn child at four to five weeks gestational age, at six to eight  
7 weeks gestational age, and each month thereafter until viability.  
8 Abortion providers shall purchase copies of the printed materials and  
9 informational video published by the department of health at cost.  
10 Copies of the printed materials and informational video published by  
11 the department of health shall be available in appropriate numbers for  
12 free to others upon request.

13 (4) Any physician who violates the provisions of this section is  
14 guilty of unprofessional conduct and his or her license for the  
15 practice of medicine and surgery shall be subject to suspension or  
16 revocation.

17 (5) Any physician who performs an abortion without first obtaining  
18 the certification required by subsection (1)(b)(iv) of this section or  
19 with knowledge or reason to know that the informed consent of the woman  
20 has not been obtained is for the first offense guilty of a misdemeanor  
21 and for each subsequent offense is guilty of a gross misdemeanor. No  
22 physician is guilty of violating this section for failure to furnish  
23 the information required by subsection (1)(b)(iv) of this section if he  
24 or she can demonstrate, by a preponderance of the evidence, that he or  
25 she reasonably believed that furnishing the information would have  
26 resulted in a severely adverse effect on the physical or mental health  
27 of the patient.

28 (6) Any physician who complies with the provisions of this section  
29 may not be held civilly liable to his or her patient or the patient's  
30 representative for failure to obtain informed consent to the abortion.

31 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
32 preservation of the public peace, health, morals, or safety, or support  
33 of the state government and its existing public institutions, and takes  
34 effect immediately.

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