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CHAMBER ACTION

Senate

House

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Floor: 4a/WD/2R
4/29/2008 10:34 AM



1 Senator Webster moved the following amendment to substitute
2 amendment (856752):

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4 Senate Amendment (with title amendment)

5 Delete lines 5 through 67
6 and insert:

7 Delete lines 26 through 182
8 and insert:

9 Section 1. Subsection (3) of section 390.0111, Florida
10 Statutes, is amended to read:

11 390.0111 Termination of pregnancies.--

12 (3) CONSENTS REQUIRED.--A termination of pregnancy may not
13 be performed or induced except with the voluntary and informed
14 written consent of the pregnant woman or, in the case of a mental
15 incompetent, the voluntary and informed written consent of her
16 court-appointed guardian.



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17 (a) Except in the case of a medical emergency, consent to a  
18 termination of pregnancy is voluntary and informed only if:

19 1. The physician who is to perform the procedure, or the  
20 referring physician, has, at a minimum, orally, in person,  
21 informed the woman of:

22 a. The nature and risks of undergoing or not undergoing the  
23 proposed procedure that a reasonable patient would consider  
24 material to making a knowing and willful decision of whether to  
25 terminate a pregnancy.

26 b. The probable gestational age of the fetus, verified by  
27 an ultrasound, at the time the termination of pregnancy is to be  
28 performed.

29 (I) The ultrasound must be performed by the physician who  
30 is to perform the abortion or by a person having documented  
31 evidence that he or she has completed a course in the operation  
32 of ultrasound equipment as prescribed by rule and who is working  
33 in conjunction with the physician.

34 (II) The person performing the ultrasound must allow the  
35 woman to view the live ultrasound images, and a physician or a  
36 registered nurse, licensed practical nurse, advanced registered  
37 nurse practitioner, or physician assistant working in conjunction  
38 with the physician must contemporaneously review and explain the  
39 live ultrasound images to the woman prior to the woman giving  
40 informed consent to having an abortion procedure performed.

41 However, this sub-sub-subparagraph does not apply if, at the time  
42 the woman schedules or arrives for her appointment to obtain an  
43 abortion, a copy of a restraining order, police report, medical  
44 record, or other court order or documentation is presented that  
45 evidences that the woman is obtaining the abortion because the  
46 woman is a victim of rape, incest, domestic violence, or human



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47 | trafficking or that the woman has been diagnosed with a condition  
48 | that, on the basis of a physician's good faith clinical judgment,  
49 | would create a serious risk of substantial and irreversible  
50 | impairment of a major bodily function if the woman delayed  
51 | terminating her pregnancy.

52 |       (III) The woman has a right to decline to view the  
53 | ultrasound images after she is informed of her right and offered  
54 | an opportunity to view them. If the woman declines to view the  
55 | ultrasound images, the woman shall complete a form acknowledging  
56 | that she was offered an opportunity to view her ultrasound but  
57 | that she rejected that opportunity. The form must also indicate  
58 | that the woman's decision not to view the ultrasound was not  
59 | based on any undue influence from any third party to discourage  
60 | her from viewing the images and that she declined to view the  
61 | images of her own free will.

62 |       c. The medical risks to the woman and fetus of carrying the  
63 | pregnancy to term.

64 |       2. Printed materials prepared and provided by the  
65 | department have been provided to the pregnant woman, if she  
66 | chooses to view these materials, including:

67 |       a. A description of the fetus, including a description of  
68 | the various stages of development.

69 |       b. A list of entities ~~agencies~~ that offer alternatives to  
70 | terminating the pregnancy.

71 |       c. Detailed information on the availability of medical  
72 | assistance benefits for prenatal care, childbirth, and neonatal  
73 | care.

74 |       3. The woman acknowledges in writing, before the  
75 | termination of pregnancy, that the information required to be  
76 | provided under this subsection has been provided.



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77  
78 Nothing in this paragraph is intended to prohibit a physician  
79 from providing any additional information which the physician  
80 deems material to the woman's informed decision to terminate her  
81 pregnancy.

82 (b) In the event a medical emergency exists and a physician  
83 cannot comply with the requirements for informed consent, a  
84 physician may terminate a pregnancy if he or she has obtained at  
85 least one corroborative medical opinion attesting to the medical  
86 necessity for emergency medical procedures and to the fact that  
87 to a reasonable degree of medical certainty the continuation of  
88 the pregnancy would threaten the life of the pregnant woman. In  
89 the event no second physician is available for a corroborating  
90 opinion, the physician may proceed but shall document reasons for  
91 the medical necessity in the patient's medical records.

92 (c) Violation of this subsection by a physician constitutes  
93 grounds for disciplinary action under s. 458.331 or s. 459.015.  
94 Substantial compliance or reasonable belief that complying with  
95 the requirements of informed consent would threaten the life or  
96 health of the patient is a defense to any action brought under  
97 this paragraph.

98 Section 2. Subsection (1) and paragraph (d) of subsection  
99 (3) of section 390.012, Florida Statutes, are amended to read:

100 390.012 Powers of agency; rules; disposal of fetal  
101 remains.--

102 (1) The agency may develop and enforce rules pursuant to  
103 ss. 390.011-390.018 ~~390.001-390.018~~ and part II of chapter 408  
104 for the health, care, and treatment of persons in abortion  
105 clinics and for the safe operation of such clinics.



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106 (a) The rules shall be reasonably related to the  
107 preservation of maternal health of the clients.

108 (b) The rules shall be in accordance with s. 797.03 and may  
109 not impose an unconstitutional burden on a woman's freedom to  
110 decide whether to terminate her pregnancy.

111 (c) The rules shall provide for:

112 1. The performance of pregnancy termination procedures only  
113 by a licensed physician.

114 2. The making, protection, and preservation of patient  
115 records, which shall be treated as medical records under chapter  
116 458.

117 (3) For clinics that perform or claim to perform abortions  
118 after the first trimester of pregnancy, the agency shall adopt  
119 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
120 provisions of this chapter, including the following:

121 (d) Rules relating to the medical screening and evaluation  
122 of each abortion clinic patient. At a minimum, these rules shall  
123 require:

124 1. A medical history including reported allergies to  
125 medications, antiseptic solutions, or latex; past surgeries; and  
126 an obstetric and gynecological history.

127 2. A physical examination, including a bimanual examination  
128 estimating uterine size and palpation of the adnexa.

129 3. The appropriate laboratory tests, including:

130 a. ~~For an abortion in which an ultrasound examination is~~  
131 ~~not performed before the abortion procedure,~~ Urine or blood tests  
132 for pregnancy performed before the abortion procedure.

133 b. A test for anemia.

134 c. Rh typing, unless reliable written documentation of  
135 blood type is available.



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136 d. Other tests as indicated from the physical examination.

137 4. An ultrasound evaluation for all patients ~~who elect to~~  
138 ~~have an abortion after the first trimester.~~ The rules shall  
139 require that if a person who is not a physician performs an  
140 ultrasound examination, that person shall have documented  
141 evidence that he or she has completed a course in the operation  
142 of ultrasound equipment as prescribed in rule. The physician,  
143 registered nurse, licensed practical nurse, advanced registered  
144 nurse practitioner, or physician assistant shall review and  
145 explain, ~~at the request of the patient,~~ the live ultrasound  
146 images ~~evaluation results~~, including an estimate of the probable  
147 gestational age of the fetus, with the patient before the  
148 abortion procedure is performed, unless the patient declines  
149 pursuant to s. 390.0111. If the patient declines to view the live  
150 ultrasound images, the rules shall require that s. 390.0111 be  
151 complied with in all other respects.

152 5. That the physician is responsible for estimating the  
153 gestational age of the fetus based on the ultrasound examination  
154 and obstetric standards in keeping with established standards of  
155 care regarding the estimation of fetal age as defined in rule and  
156 shall write the estimate in the patient's medical history. The  
157 physician shall keep original prints of each ultrasound  
158 examination of a patient in the patient's medical history file.

159 Section 3. If any provision of this act or the application  
160 thereof to any person or circumstance is held invalid, the  
161 invalidity does not affect other provisions or applications of  
162 the act which can be given effect without the invalid provision  
163 or application, and to this end the provisions of this act are  
164 severable.

165 Section 4. This act shall take effect July 1, 2008.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 72 through 80

and insert:

Delete lines 2 through 22

and insert:

An act relating to abortion; amending s. 390.0111, F.S.; requiring that an ultrasound be performed on any woman obtaining an abortion; specifying who must perform an ultrasound; requiring that the ultrasound be reviewed with the patient prior to the woman giving informed consent; specifying who must review the ultrasound with the patient; requiring that the woman certify in writing that she declined to review the ultrasound and did so of her own free will and without undue influence; providing an exemption from the requirement to view the ultrasound for women who are the victims of rape, incest, domestic violence, or human trafficking or for women who have a serious medical condition necessitating the abortion; revising requirements for written materials; amending s. 390.012, F.S.; conforming cross-references; requiring ultrasounds for all patients; requiring that live ultrasound images be reviewed and explained to the patient; requiring that all other provisions in s. 390.0111, F.S., be complied with if the patient declines to view her live ultrasound images; providing for severability; providing an effective date.