

By Senator Webster

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1 A bill to be entitled

2 An act relating to abortion; amending s. 390.0111, F.S.;

3 requiring that an ultrasound be performed on any woman

4 obtaining an abortion; specifying who must perform an

5 ultrasound; requiring that the ultrasound be reviewed with

6 the patient prior to the woman giving informed consent;

7 specifying who must review the ultrasound with the

8 patient; requiring that the woman certify in writing that

9 she declined to review the ultrasound and did so of her

10 own free will and without undue influence; providing an

11 exemption from the requirement to view the ultrasound for

12 women who are the victims of rape, incest, domestic

13 violence, or human trafficking or for women who have a

14 serious medical condition necessitating the abortion;

15 revising requirements for written materials; amending s.

16 390.012, F.S.; conforming cross-references; requiring

17 ultrasounds for all patients; requiring that live

18 ultrasound images be reviewed and explained to the

19 patient; requiring that all other provisions in s.

20 390.0111, F.S., be complied with if the patient declines

21 to view her live ultrasound images; providing for

22 severability; providing an effective date.

23

24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Subsection (3) of section 390.0111, Florida

27 Statutes, is amended to read:

28 390.0111 Termination of pregnancies.--

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29 (3) CONSENTS REQUIRED.--A termination of pregnancy may not
30 be performed or induced except with the voluntary and informed
31 written consent of the pregnant woman or, in the case of a mental
32 incompetent, the voluntary and informed written consent of her
33 court-appointed guardian.

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

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

39 a. The nature and risks of undergoing or not undergoing the
40 proposed procedure that a reasonable patient would consider
41 material to making a knowing and willful decision of whether to
42 terminate a pregnancy.

43 b. The probable gestational age of the fetus, verified by
44 an ultrasound, at the time the termination of pregnancy is to be
45 performed.

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

51 (II) The person performing the ultrasound must allow the
52 woman to view the live ultrasound images, and a physician or a
53 registered nurse, licensed practical nurse, advanced registered
54 nurse practitioner, or physician assistant working in conjunction
55 with the physician must contemporaneously review and explain the
56 live ultrasound images to the woman prior to the woman giving
57 informed consent to having an abortion procedure performed.

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58 However, this sub-sub-subparagraph does not apply if, at the time
59 the woman schedules or arrives for her appointment to obtain an
60 abortion, a copy of a restraining order, police report, medical
61 record, or other court order or documentation is presented that
62 evidences that the woman is obtaining the abortion because the
63 woman is a victim of rape, incest, domestic violence, or human
64 trafficking or that the woman has been diagnosed with a condition
65 that, on the basis of a physician's good faith clinical judgment,
66 would create a serious risk of substantial and irreversible
67 impairment of a major bodily function if the woman delayed
68 terminating her pregnancy.

69 (III) The woman has a right to decline to view the
70 ultrasound images after she is informed of her right and offered
71 an opportunity to view them. If the woman declines to view the
72 ultrasound images, the woman shall complete a form acknowledging
73 that she was offered an opportunity to view her ultrasound but
74 that she rejected that opportunity. The form must also indicate
75 that the woman's decision not to view the ultrasound was not
76 based on any undue influence from any third party to discourage
77 her from viewing the images and that she declined to view the
78 images of her own free will.

79 c. The medical risks to the woman and fetus of carrying the
80 pregnancy to term.

81 2. Printed materials prepared and provided by the
82 department have been provided to the pregnant woman, if she
83 chooses to view these materials, including:

84 a. A description of the fetus, including a description of
85 the various stages of development.

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86 b. A list of entities ~~agencies~~ that offer alternatives to
87 terminating the pregnancy.

88 c. Detailed information on the availability of medical
89 assistance benefits for prenatal care, childbirth, and neonatal
90 care.

91 3. The woman acknowledges in writing, before the
92 termination of pregnancy, that the information required to be
93 provided under this subsection has been provided.

94

95 Nothing in this paragraph is intended to prohibit a physician
96 from providing any additional information which the physician
97 deems material to the woman's informed decision to terminate her
98 pregnancy.

99 (b) In the event a medical emergency exists and a physician
100 cannot comply with the requirements for informed consent, a
101 physician may terminate a pregnancy if he or she has obtained at
102 least one corroborative medical opinion attesting to the medical
103 necessity for emergency medical procedures and to the fact that
104 to a reasonable degree of medical certainty the continuation of
105 the pregnancy would threaten the life of the pregnant woman. In
106 the event no second physician is available for a corroborating
107 opinion, the physician may proceed but shall document reasons for
108 the medical necessity in the patient's medical records.

109 (c) Violation of this subsection by a physician constitutes
110 grounds for disciplinary action under s. 458.331 or s. 459.015.
111 Substantial compliance or reasonable belief that complying with
112 the requirements of informed consent would threaten the life or
113 health of the patient is a defense to any action brought under
114 this paragraph.

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115 Section 2. Subsection (1) and paragraph (d) of subsection
116 (3) of section 390.012, Florida Statutes, are amended to read:
117 390.012 Powers of agency; rules; disposal of fetal
118 remains.--

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

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

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

128 (c) The rules shall provide for:

129 1. The performance of pregnancy termination procedures only
130 by a licensed physician.

131 2. The making, protection, and preservation of patient
132 records, which shall be treated as medical records under chapter
133 458.

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

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

141 1. A medical history including reported allergies to
142 medications, antiseptic solutions, or latex; past surgeries; and
143 an obstetric and gynecological history.

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

146 3. The appropriate laboratory tests, including:

147 a. ~~For an abortion in which an ultrasound examination is~~
148 ~~not performed before the abortion procedure,~~ Urine or blood tests
149 for pregnancy performed before the abortion procedure.

150 b. A test for anemia.

151 c. Rh typing, unless reliable written documentation of
152 blood type is available.

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

154 4. An ultrasound evaluation for all patients ~~who elect to~~
155 ~~have an abortion after the first trimester.~~ The rules shall
156 require that if a person who is not a physician performs an
157 ultrasound examination, that person shall have documented
158 evidence that he or she has completed a course in the operation
159 of ultrasound equipment as prescribed in rule. The physician,
160 registered nurse, licensed practical nurse, advanced registered
161 nurse practitioner, or physician assistant shall review and
162 explain ~~, at the request of the patient,~~ the live ultrasound
163 images evaluation results, including an estimate of the probable
164 gestational age of the fetus, with the patient before the
165 abortion procedure is performed, unless the patient declines
166 pursuant to s. 390.0111. If the patient declines to view the live
167 ultrasound images, the rules shall require that s. 390.0111 be
168 complied with in all other respects.

169 5. That the physician is responsible for estimating the
170 gestational age of the fetus based on the ultrasound examination
171 and obstetric standards in keeping with established standards of
172 care regarding the estimation of fetal age as defined in rule and

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173 shall write the estimate in the patient's medical history. The
174 physician shall keep original prints of each ultrasound
175 examination of a patient in the patient's medical history file.

176 Section 3. If any provision of this act or the application
177 thereof to any person or circumstance is held invalid, the
178 invalidity does not affect other provisions or applications of
179 the act which can be given effect without the invalid provision
180 or application, and to this end the provisions of this act are
181 severable.

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