



386098

CHAMBER ACTION

Senate

House

.
.
.
.
.

Floor: 1/PD/2R
4/24/2008 3:52 PM



1 Senator Webster moved the following **amendment**:

2
3 **Senate Amendment (with directory and title amendments)**

4 Delete after the enacting clause

5 and insert:

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

8 390.0111 Termination of pregnancies.--

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

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



386098

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

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

23 b. The probable gestational age of the fetus, verified by
24 an ultrasound, at the time the termination of pregnancy is to be
25 performed.

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

31 (II) The person performing the ultrasound must allow the
32 woman to view the live ultrasound images, and a physician or a
33 registered nurse, licensed practical nurse, advanced registered
34 nurse practitioner, or physician assistant working in conjunction
35 with the physician must contemporaneously review and explain the
36 live ultrasound images to the woman prior to the woman giving
37 informed consent to having an abortion procedure performed.
38 However, this sub-sub-subparagraph does not apply if, at the time
39 the woman schedules or arrives for her appointment to obtain an
40 abortion, a copy of a restraining order, police report, medical
41 record, or other court order or documentation is presented that
42 evidences that the woman is obtaining the abortion because the
43 woman is a victim of rape, incest, domestic violence, or human
44 trafficking or that the woman has been diagnosed with a condition
45 that, on the basis of a physician's good faith clinical judgment,



386098

46 would create a serious risk of substantial and irreversible
47 impairment of a major bodily function if the woman delayed
48 terminating her pregnancy.

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

59 c. The medical risks to the woman and fetus of carrying the
60 pregnancy to term.

61 2. Printed materials prepared and provided by the
62 department have been provided to the pregnant woman, if she
63 chooses to view these materials, including:

64 a. A description of the fetus, including a description of
65 the various stages of development.

66 b. A list of entities ~~agencies~~ that offer alternatives to
67 terminating the pregnancy.

68 c. Detailed information on the availability of medical
69 assistance benefits for prenatal care, childbirth, and neonatal
70 care.

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

74



386098

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

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

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

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

97 | 390.012 Powers of agency; rules; disposal of fetal
98 | remains.--

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

103 | (a) The rules shall be reasonably related to the
104 | preservation of maternal health of the clients.



386098

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

108 (c) The rules shall provide for:

109 1. The performance of pregnancy termination procedures only
110 by a licensed physician.

111 2. The making, protection, and preservation of patient
112 records, which shall be treated as medical records under chapter
113 458.

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

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

121 1. A medical history including reported allergies to
122 medications, antiseptic solutions, or latex; past surgeries; and
123 an obstetric and gynecological history.

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

126 3. The appropriate laboratory tests, including:

127 a. ~~For an abortion in which an ultrasound examination is~~
128 ~~not performed before the abortion procedure,~~ Urine or blood tests
129 for pregnancy performed before the abortion procedure.

130 b. A test for anemia.

131 c. Rh typing, unless reliable written documentation of
132 blood type is available.

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



386098

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

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

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

162 Section 4. This act shall take effect July 1, 2008.
163



386098

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

165 | And the title is amended as follows:

166 | Delete everything before the enacting clause
167 | and insert:

168 | A bill to be entitled
169 | An act relating to abortion; amending s. 390.0111, F.S.;
170 | requiring that an ultrasound be performed on any woman
171 | obtaining an abortion; specifying who must perform an
172 | ultrasound; requiring that the ultrasound be reviewed with
173 | the patient prior to the woman giving informed consent;
174 | specifying who must review the ultrasound with the
175 | patient; requiring that the woman certify in writing that
176 | she declined to review the ultrasound and did so of her
177 | own free will and without undue influence; providing an
178 | exemption from the requirement to view the ultrasound for
179 | women who are the victims of rape, incest, domestic
180 | violence, or human trafficking or for women who have a
181 | serious medical condition necessitating the abortion;
182 | revising requirements for written materials; amending s.
183 | 390.012, F.S.; conforming cross-references; requiring
184 | ultrasounds for all patients; requiring that live
185 | ultrasound images be reviewed and explained to the
186 | patient; requiring that all other provisions in s.
187 | 390.0111, F.S., be complied with if the patient declines
188 | to view her live ultrasound images; providing for
189 | severability; providing an effective date.