

By Senator Gardiner

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1                   A bill to be entitled  
2           An act relating to abortion; amending s. 390.0111,  
3           F.S.; requiring that an ultrasound be performed on any  
4           woman obtaining an abortion; specifying who must  
5           perform an ultrasound; requiring that the ultrasound  
6           be reviewed with the patient prior to the woman giving  
7           informed consent; specifying who must review the  
8           ultrasound with the patient; requiring that the woman  
9           certify in writing that she declined to review the  
10          ultrasound and did so of her own free will and without  
11          undue influence; providing an exemption from the  
12          requirement to view the ultrasound for women who are  
13          the victims of rape, incest, domestic violence, or  
14          human trafficking or for women who have a serious  
15          medical condition necessitating the abortion; revising  
16          requirements for written materials; amending s.  
17          390.012, F.S.; requiring ultrasounds for all patients;  
18          requiring that live ultrasound images be reviewed and  
19          explained to the patient; requiring that all other  
20          provisions in s. 390.0111, F.S., be complied with if  
21          the patient declines to view her live ultrasound  
22          images; providing for severability; providing an  
23          effective date.

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

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

29           390.0111 Termination of pregnancies.—

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

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

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

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

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

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

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

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

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

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

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

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

87 b. A list of entities ~~agencies~~ that offer alternatives to

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88 terminating the pregnancy.

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

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

95

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

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

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

116 Section 2. Paragraph (d) of subsection (3) of section

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117 390.012, Florida Statutes, is amended to read:

118 390.012 Powers of agency; rules; disposal of fetal  
119 remains.—

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

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

127 1. A medical history including reported allergies to  
128 medications, antiseptic solutions, or latex; past surgeries; and  
129 an obstetric and gynecological history.

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

132 3. The appropriate laboratory tests, including:

133 a. ~~For an abortion in which an ultrasound examination is~~  
134 ~~not performed before the abortion procedure,~~ Urine or blood  
135 tests for pregnancy performed before the abortion procedure.

136 b. A test for anemia.

137 c. Rh typing, unless reliable written documentation of  
138 blood type is available.

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

140 4. An ultrasound evaluation for all patients ~~who elect to~~  
141 ~~have an abortion after the first trimester.~~ The rules shall  
142 require that if a person who is not a physician performs an  
143 ultrasound examination, that person shall have documented  
144 evidence that he or she has completed a course in the operation  
145 of ultrasound equipment as prescribed in rule. The physician,

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146 registered nurse, licensed practical nurse, advanced registered  
147 nurse practitioner, or physician assistant shall review and  
148 explain, at the request of the patient, the live ultrasound  
149 images evaluation results, including an estimate of the probable  
150 gestational age of the fetus, with the patient before the  
151 abortion procedure is performed, unless the patient declines  
152 pursuant to s. 390.0111. If the patient declines to view the  
153 live ultrasound images, the rules shall require that s. 390.0111  
154 be complied with in all other respects.

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

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

168 Section 4. This act shall take effect July 1, 2009.