

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.; requiring ultrasounds for all patients;
 17 requiring that live ultrasound images be reviewed and
 18 explained to the patient; requiring that all other
 19 provisions in s. 390.0111, F.S., be complied with if the
 20 patient declines to view her live ultrasound images;
 21 providing for severability; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

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

27 390.0111 Termination of pregnancies.--

28 (3) CONSENTS REQUIRED.--A termination of pregnancy may not

29 | be performed or induced except with the voluntary and informed
30 | written consent of the pregnant woman or, in the case of a
31 | mental incompetent, the voluntary and informed written consent
32 | of her court-appointed guardian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

93
94 Nothing in this paragraph is intended to prohibit a physician
95 from providing any additional information which the physician
96 deems material to the woman's informed decision to terminate her
97 pregnancy.

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

109 (c) Violation of this subsection by a physician
110 constitutes grounds for disciplinary action under s. 458.331 or
111 s. 459.015. Substantial compliance or reasonable belief that
112 complying with the requirements of informed consent would

113 threaten the life or health of the patient is a defense to any
 114 action brought under this paragraph.

115 Section 2. Paragraph (d) of subsection (3) of section
 116 390.012, Florida Statutes, is amended to read:

117 390.012 Powers of agency; rules; disposal of fetal
 118 remains.--

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

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

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

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

131 3. The appropriate laboratory tests, including:

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

135 b. A test for anemia.

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

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

139 4. An ultrasound evaluation for all patients ~~who elect to~~
 140 ~~have an abortion after the first trimester.~~ The rules shall

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

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

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

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