

HB 1127

2011

1 A bill to be entitled
2 An act relating to abortions; amending s. 390.0111, F.S.;
3 requiring that an ultrasound be performed on a woman
4 obtaining an abortion; specifying who must perform an
5 ultrasound; requiring that the ultrasound be reviewed with
6 the patient before the woman gives informed consent for
7 the abortion procedure; 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 the
13 victims of rape, incest, domestic violence, or human
14 trafficking or for women who have a serious medical
15 condition necessitating the abortion; revising
16 requirements for written materials; amending s. 390.012,
17 F.S.; requiring an ultrasound for all patients regardless
18 of when the abortion is performed; requiring that live
19 ultrasound images be reviewed and explained to the
20 patient; requiring that all other provisions in s.
21 390.0111, F.S., be complied with if the patient declines
22 to view her live ultrasound images; providing for
23 severability; providing an effective date.

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

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

29 | 390.0111 Termination of pregnancies.—

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
 36 | a 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
 41 | the 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

HB 1127

2011

57 explain the live ultrasound images to the woman before the woman
58 gives informed consent to having an abortion procedure
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 which provides evidence that the woman is obtaining
64 the abortion because the woman is a victim of rape, incest,
65 domestic violence, or human trafficking or that the woman has
66 been 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
81 the 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:

HB 1127

2011

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

111 (c) Violation of this subsection by a physician
112 constitutes grounds for disciplinary action under s. 458.331 or

113 s. 459.015. Substantial compliance or reasonable belief that
 114 complying with the requirements of informed consent would
 115 threaten the life or health of the patient is a defense to any
 116 action brought under this paragraph.

117 Section 2. Paragraph (d) of subsection (3) of section
 118 390.012, Florida Statutes, is amended to read:

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

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

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

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

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

133 3. The appropriate laboratory tests, including:

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

137 b. A test for anemia.

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

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

HB 1127

2011

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

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

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

HB 1127

2011

169

Section 4. This act shall take effect July 1, 2011.