



730184

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/AD/2R

.

05/04/2011 11:36 AM

.

.

---

Senator Storms moved the following:

**Senate Amendment (with title amendment)**

Delete lines 28 - 169

and insert:

Section 1. Subsection (3) of section 390.0111, Florida Statutes, is amended, and subsections (12) and (13) are added to that section, to read:

390.0111 Termination of pregnancies.—

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



730184

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

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 offer the  
32 woman the opportunity to view the live ultrasound images and  
33 hear an explanation of them. If the woman accepts the  
34 opportunity to view the images and hear the explanation, a  
35 physician or a registered nurse, licensed practical nurse,  
36 advanced registered nurse practitioner, or physician assistant  
37 working in conjunction with the physician must contemporaneously  
38 review and explain the images to the woman before the woman  
39 gives informed consent to having an abortion procedure  
40 performed.

41 (III) The woman has a right to decline to view and hear the  
42 explanation of the live ultrasound images after she is informed



730184

43 of her right and offered an opportunity to view the images and  
44 hear the explanation. If the woman declines, the woman shall  
45 complete a form acknowledging that she was offered an  
46 opportunity to view and hear the explanation of the images but  
47 that she declined that opportunity. The form must also indicate  
48 that the woman's decision was not based on any undue influence  
49 from any person to discourage her from viewing the images or  
50 hearing the explanation and that she declined of her own free  
51 will.

52 (IV) Unless requested by the woman, the person performing  
53 the ultrasound may not offer the opportunity to view the images  
54 and hear the explanation and the explanation may not be given,  
55 if, at the time the woman schedules or arrives for her  
56 appointment to obtain an abortion, a copy of a restraining  
57 order, police report, medical record, or other court order or  
58 documentation is presented which provides evidence that the  
59 woman is obtaining the abortion because the woman is a victim of  
60 rape, incest, domestic violence, or human trafficking or that  
61 the woman has been diagnosed as having a condition that, on the  
62 basis of a physician's good faith clinical judgment, would  
63 create a serious risk of substantial and irreversible impairment  
64 of a major bodily function if the woman delayed terminating her  
65 pregnancy.

66 c. The medical risks to the woman and fetus of carrying the  
67 pregnancy to term.

68 2. Printed materials prepared and provided by the department  
69 have been provided to the pregnant woman, if she chooses to view  
70 these materials, including:

71 a. A description of the fetus, including a description of



730184

72 the various stages of development.

73 b. A list of entities ~~agencies~~ that offer alternatives to  
74 terminating the pregnancy.

75 c. Detailed information on the availability of medical  
76 assistance benefits for prenatal care, childbirth, and neonatal  
77 care.

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

81  
82 Nothing in this paragraph is intended to prohibit a physician  
83 from providing any additional information that ~~which~~ the  
84 physician deems material to the woman's informed decision to  
85 terminate her pregnancy.

86 (b) If ~~In the event~~ a medical emergency exists and a  
87 physician cannot comply with the requirements for informed  
88 consent, a physician may terminate a pregnancy if he or she has  
89 obtained at least one corroborative medical opinion attesting to  
90 the medical necessity for emergency medical procedures and to  
91 the fact that to a reasonable degree of medical certainty the  
92 continuation of the pregnancy would threaten the life of the  
93 pregnant woman. If a ~~In the event no~~ second physician is not  
94 available for a corroborating opinion, the physician may proceed  
95 but shall document reasons for the medical necessity in the  
96 patient's medical records.

97 (c) Violation of this subsection by a physician constitutes  
98 grounds for disciplinary action under s. 458.331 or s. 459.015.  
99 Substantial compliance or reasonable belief that complying with  
100 the requirements of informed consent would threaten the life or



730184

101 health of the patient is a defense to any action brought under  
102 this paragraph.

103 (12) DISCIPLINARY ACTION.—Failure to comply with the  
104 requirements of this section shall constitute grounds for  
105 disciplinary action under each respective practice act and under  
106 s. 456.072.

107 (13) RULES.—The applicable boards, or the department where  
108 there is no board, shall adopt rules necessary to administer the  
109 provisions of this section.

110 Section 2. Paragraph (d) of subsection (3) of section  
111 390.012, Florida Statutes, is amended to read:

112 390.012 Powers of agency; rules; disposal of fetal  
113 remains.—

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  
129 tests for pregnancy performed before the abortion procedure.



730184

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.

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 rules shall  
140 require clinics to ensure compliance with s. 390.0111. The  
141 ~~physician, registered nurse, licensed practical nurse, advanced~~  
142 ~~registered nurse practitioner, or physician assistant shall~~  
143 ~~review, at the request of the patient, the ultrasound evaluation~~  
144 ~~results, including an estimate of the probable gestational age~~  
145 ~~of the fetus, with the patient before the abortion procedure is~~  
146 ~~performed.~~

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

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



730184

159 severable.

160

161 ===== T I T L E A M E N D M E N T =====

162 And the title is amended as follows:

163 Delete lines 2 - 24

164 and insert:

165 An act relating to abortions; amending s. 390.0111,  
166 F.S.; requiring that an ultrasound be performed on a  
167 woman obtaining an abortion; specifying who must  
168 perform an ultrasound; requiring that the ultrasound  
169 be reviewed with the patient before the woman gives  
170 informed consent for the abortion procedure;  
171 specifying who must review the ultrasound with the  
172 patient; requiring that the woman certify in writing  
173 that she declined to review the ultrasound and did so  
174 of her own free will and without undue influence;  
175 providing an exemption from the requirement to view  
176 the ultrasound for women who are the victims of rape,  
177 incest, domestic violence, or human trafficking or for  
178 women who have a serious medical condition  
179 necessitating the abortion; revising requirements for  
180 written materials; providing that failure to comply  
181 with the requirements of the act are grounds for  
182 disciplinary action; requiring rulemaking; amending s.  
183 390.012, F.S.; requiring an ultrasound for all  
184 patients regardless of when the abortion is performed;  
185 requiring that live ultrasound images be reviewed and  
186 explained to the patient; requiring the agency to  
187 adopt rules requiring clinics to ensure compliance



730184

188  
189

with s. 390.0111, F.S.; providing for severability;  
providing an effective date.