

By Senator Farmer

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1 A bill to be entitled
2 An act relating to informed consent for termination of
3 pregnancy; amending s. 390.0111, F.S.; deleting the
4 requirement that a physician be physically present in
5 the same room when informing a pregnant woman of
6 specified information for purposes of obtaining
7 informed consent for termination of a pregnancy;
8 deleting the requirement that such information be
9 provided within a specified timeframe; deleting the
10 requirement that a physician perform an ultrasound on
11 a pregnant woman and inform her of the probable
12 gestational age of the fetus for purposes of obtaining
13 informed consent for a termination of pregnancy;
14 conforming provisions to changes made by the act;
15 amending s. 390.01112, F.S.; conforming a provision to
16 changes made by the act; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (3) of section 390.0111, Florida
21 Statutes, is amended to read:

22 390.0111 Termination of pregnancies.—

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

29 (a) Except in the case of a medical emergency, consent to a

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30 termination of pregnancy is voluntary and informed only if:

31 1. The physician who is to perform the procedure, or the
32 referring physician, has, at a minimum, orally, ~~while physically~~
33 ~~present in the same room, and at least 24 hours before the~~
34 ~~procedure,~~ informed the woman of:

35 a. The nature and risks of undergoing or not undergoing the
36 proposed procedure which ~~that~~ a reasonable patient would
37 consider material to making a knowing and willful decision of
38 whether to terminate a pregnancy.

39 b. ~~The probable gestational age of the fetus, verified by~~
40 ~~an ultrasound, at the time the termination of pregnancy is to be~~
41 ~~performed.~~

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

47 (II) ~~The person performing the ultrasound must offer the~~
48 ~~woman the opportunity to view the live ultrasound images and~~
49 ~~hear an explanation of them. If the woman accepts the~~
50 ~~opportunity to view the images and hear the explanation, a~~
51 ~~physician or a registered nurse, licensed practical nurse,~~
52 ~~advanced practice registered nurse, or physician assistant~~
53 ~~working in conjunction with the physician must contemporaneously~~
54 ~~review and explain the images to the woman before the woman~~
55 ~~gives informed consent to having an abortion procedure~~
56 ~~performed.~~

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

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59 ~~of her right and offered an opportunity to view the images and~~
60 ~~hear the explanation. If the woman declines, the woman shall~~
61 ~~complete a form acknowledging that she was offered an~~
62 ~~opportunity to view and hear the explanation of the images but~~
63 ~~that she declined that opportunity. The form must also indicate~~
64 ~~that the woman's decision was not based on any undue influence~~
65 ~~from any person to discourage her from viewing the images or~~
66 ~~hearing the explanation and that she declined of her own free~~
67 ~~will.~~

68 ~~(IV) Unless requested by the woman, the person performing~~
69 ~~the ultrasound may not offer the opportunity to view the images~~
70 ~~and hear the explanation and the explanation may not be given~~
71 ~~if, at the time the woman schedules or arrives for her~~
72 ~~appointment to obtain an abortion, a copy of a restraining~~
73 ~~order, police report, medical record, or other court order or~~
74 ~~documentation is presented which provides evidence that the~~
75 ~~woman is obtaining the abortion because the woman is a victim of~~
76 ~~rape, incest, domestic violence, or human trafficking or that~~
77 ~~the woman has been diagnosed as having a condition that, on the~~
78 ~~basis of a physician's good faith clinical judgment, would~~
79 ~~create a serious risk of substantial and irreversible impairment~~
80 ~~of a major bodily function if the woman delayed terminating her~~
81 ~~pregnancy.~~

82 ~~e.~~ The medical risks to the woman and fetus of carrying the
83 pregnancy to term.

84
85 ~~The physician may provide the information required in this~~
86 ~~subparagraph within 24 hours before the procedure if requested~~
87 ~~by the woman at the time she schedules or arrives for her~~

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88 ~~appointment to obtain an abortion and if she presents to the~~
89 ~~physician a copy of a restraining order, police report, medical~~
90 ~~record, or other court order or documentation evidencing that~~
91 ~~she is obtaining the abortion because she is a victim of rape,~~
92 ~~incest, domestic violence, or human trafficking.~~

93 2. Printed materials prepared and provided by the
94 department have been provided to the pregnant woman, if she
95 chooses to view these materials, including:

96 a. A description of the fetus, including a description of
97 the various stages of development.

98 b. A list of entities that offer alternatives to
99 terminating the pregnancy.

100 c. Detailed information on the availability of medical
101 assistance benefits for prenatal care, childbirth, and neonatal
102 care.

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

106

107 Nothing in this paragraph is intended to prohibit a physician
108 from providing any additional information that ~~which~~ the
109 physician deems material to the woman's informed decision to
110 terminate her pregnancy.

111 (b) If a medical emergency exists and a physician cannot
112 comply with the requirements for informed consent, a physician
113 may terminate a pregnancy if he or she has obtained at least one
114 corroborative medical opinion attesting to the medical necessity
115 for emergency medical procedures and to the fact that, to a
116 reasonable degree of medical certainty, the continuation of the

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117 pregnancy would threaten the life of the pregnant woman. If a
118 second physician is not available for a corroborating opinion,
119 the physician may proceed but must ~~shall~~ document reasons for
120 the medical necessity in the patient's medical records.

121 (c) Violation of this subsection by a physician constitutes
122 grounds for disciplinary action under s. 458.331 or s. 459.015.
123 Substantial compliance or reasonable belief that complying with
124 the requirements of informed consent would threaten the life or
125 health of the patient is a defense to any action brought under
126 this paragraph.

127 Section 2. Subsection (2) of section 390.01112, Florida
128 Statutes, is amended to read:

129 390.01112 Termination of pregnancies during viability.—

130 (2) Before performing a termination of pregnancy, a
131 physician must determine if the fetus is viable by, at a
132 minimum, performing a medical examination of the pregnant woman
133 and, to the maximum extent possible through reasonably available
134 tests and an ~~the~~ ultrasound ~~required under s. 390.0111(3)~~, an
135 examination of the fetus. The physician must document in the
136 pregnant woman's medical file the physician's determination and
137 the method, equipment, fetal measurements, and any other
138 information used to determine the viability of the fetus.

139 Section 3. This act shall take effect upon becoming a law.