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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/28/2023	.	
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The Committee on Fiscal Policy (Berman) recommended the following:

**Senate Amendment (with directory and title amendments)**

Between lines 224 and 225  
insert:

(3) CONSENT ~~CONSENTS~~ REQUIRED.—Except in the case of a medical emergency as provided in paragraph (b), 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.



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11           (a) ~~Except in the case of a medical emergency,~~ Consent to a  
12 termination of pregnancy is voluntary and informed only if:

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

17           a. The nature and risks of undergoing or not undergoing the  
18 proposed procedure that a reasonable patient would consider  
19 material to making a knowing and willful decision of whether to  
20 terminate a pregnancy.

21           b. The probable gestational age of the fetus, verified by  
22 an ultrasound, at the time the termination of pregnancy is to be  
23 performed.

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

29           (II) The person performing the ultrasound must offer the  
30 woman the opportunity to view the live ultrasound images and  
31 hear an explanation of them. If the woman accepts the  
32 opportunity to view the images and hear the explanation, a  
33 physician or a registered nurse, licensed practical nurse,  
34 advanced practice registered nurse, or physician assistant  
35 working in conjunction with the physician must contemporaneously  
36 review and explain the images to the woman before the woman  
37 gives informed consent to having an abortion procedure  
38 performed.

39           (III) The woman has a right to decline to view and hear the



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

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

64 c. The medical risks to the woman and fetus of carrying the  
65 pregnancy to term.

66  
67 ~~The physician may provide the information required in this~~  
68 ~~subparagraph within 24 hours before the procedure if requested~~



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69 ~~by the woman at the time she schedules or arrives for her~~  
70 ~~appointment to obtain an abortion and if she presents to the~~  
71 ~~physician a copy of a restraining order, police report, medical~~  
72 ~~record, or other court order or documentation evidencing that~~  
73 ~~she is obtaining the abortion because she is a victim of rape,~~  
74 ~~incest, domestic violence, or human trafficking.~~

75       2. Printed materials prepared and provided by the  
76 department have been provided to the pregnant woman, if she  
77 chooses to view these materials, including:

78           a. A description of the fetus, including a description of  
79 the various stages of development.

80           b. A list of entities that offer alternatives to  
81 terminating the pregnancy.

82           c. Detailed information on the availability of medical  
83 assistance benefits for prenatal care, childbirth, and neonatal  
84 care.

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

88  
89 Nothing in this paragraph is intended to prohibit a physician  
90 from providing any additional information which the physician  
91 deems material to the woman's informed decision to terminate her  
92 pregnancy.

93       (b) If a medical emergency exists and a physician cannot  
94 comply with the requirements for informed consent, a physician  
95 may terminate a pregnancy if he or she has obtained at least one  
96 corroborative medical opinion attesting to the medical necessity  
97 for emergency medical procedures and to the fact that to a



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98 reasonable degree of medical certainty the continuation of the  
99 pregnancy would threaten the life of the pregnant woman. If a  
100 second physician is not available for a corroborating opinion,  
101 the physician may proceed but shall document reasons for the  
102 medical necessity in the patient's medical records.

103 (c) Violation of this subsection by a physician constitutes  
104 grounds for disciplinary action under s. 458.331 or s. 459.015.  
105 Substantial compliance or reasonable belief that complying with  
106 the requirements of informed consent would threaten the life or  
107 health of the patient is a defense to any action brought under  
108 this paragraph.

109  
110 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

111 And the directory clause is amended as follows:

112 Delete line 180

113 and insert:

114 Section 3. Subsections (1), (2), (3), (10), and (13) of  
115 section

116  
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete line 33

120 and insert:

121 any other courier or shipping service; deleting a  
122 requirement that a physician provide certain  
123 information to a pregnant woman at least 24 hours  
124 before an abortion procedure; conforming