

ENROLLED
CS/HB 1127

2011 Legislature

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; providing that failure
17 to comply with the requirements of the section constitutes
18 grounds for disciplinary action; requiring rulemaking;
19 amending s. 390.012, F.S.; requiring an ultrasound for all
20 patients regardless of when the abortion is performed;
21 requiring the agency to adopt rules requiring clinics to
22 comply with s. 390.0111, F.S.; deleting provisions
23 relating to reviewing ultrasound evaluation results, to
24 conform to changes made by the act; providing for
25 severability; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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ENROLLED
CS/HB 1127

2011 Legislature

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.

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

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

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

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

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

(II) The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and

ENROLLED
CS/HB 1127

2011 Legislature

57 hear an explanation of them. If the woman accepts the
58 opportunity to view the images and hear the explanation, a
59 physician or a registered nurse, licensed practical nurse,
60 advanced registered nurse practitioner, or physician assistant
61 working in conjunction with the physician must contemporaneously
62 review and explain the images to the woman before the woman
63 gives informed consent to having an abortion procedure
64 performed.

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

76 (IV) Unless requested by the woman, the person performing
77 the ultrasound may not offer the opportunity to view the images
78 and hear the explanation and the explanation may not be given
79 if, at the time the woman schedules or arrives for her
80 appointment to obtain an abortion, a copy of a restraining
81 order, police report, medical record, or other court order or
82 documentation is presented which provides evidence that the
83 woman is obtaining the abortion because the woman is a victim of
84 rape, incest, domestic violence, or human trafficking or that

ENROLLED

CS/HB 1127

2011 Legislature

85 the woman has been diagnosed as having a condition that, on the
86 basis of a physician's good faith clinical judgment, would
87 create a serious risk of substantial and irreversible impairment
88 of a major bodily function if the woman delayed terminating her
89 pregnancy.

90 c. The medical risks to the woman and fetus of carrying
91 the pregnancy to term.

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

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

97 b. A list of entities ~~agencies~~ that offer alternatives to
98 terminating the pregnancy.

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

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

105
106 Nothing in this paragraph is intended to prohibit a physician
107 from providing any additional information which the physician
108 deems material to the woman's informed decision to terminate her
109 pregnancy.

110 (b) ~~If in the event~~ a medical emergency exists and a
111 physician cannot comply with the requirements for informed
112 consent, a physician may terminate a pregnancy if he or she has

ENROLLED
CS/HB 1127

2011 Legislature

113 obtained at least one corroborative medical opinion attesting to
114 the medical necessity for emergency medical procedures and to
115 the fact that to a reasonable degree of medical certainty the
116 continuation of the pregnancy would threaten the life of the
117 pregnant woman. If a ~~In the event no~~ second physician is not
118 available for a corroborating opinion, the physician may proceed
119 but shall document reasons for the medical necessity in the
120 patient's medical records.

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

127 (12) FAILURE TO COMPLY.—Failure to comply with the
128 requirements of this section constitutes grounds for
129 disciplinary action under each respective practice act and under
130 s. 456.072.

131 (13) RULES.—The applicable boards, or the department if
132 there is no board, shall adopt rules necessary to implement the
133 provisions of this section.

134 Section 2. Paragraph (d) of subsection (3) of section
135 390.012, Florida Statutes, is amended to read:

136 390.012 Powers of agency; rules; disposal of fetal
137 remains.—

138 (3) For clinics that perform or claim to perform abortions
139 after the first trimester of pregnancy, the agency shall adopt
140 rules pursuant to ss. 120.536(1) and 120.54 to implement the

ENROLLED
CS/HB 1127

2011 Legislature

provisions of this chapter, including the following:

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

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

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

3. The appropriate laboratory tests, including:

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

b. A test for anemia.

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

d. Other tests as indicated from the physical examination.

4. An ultrasound evaluation for all patients ~~who elect to have an abortion after the first trimester.~~ The rules shall require that if a person who is not a physician performs an ultrasound examination, that person shall have documented evidence that he or she has completed a course in the operation of ultrasound equipment as prescribed in rule. The rules shall require clinics to be in compliance with s. 390.0111. ~~The physician, registered nurse, licensed practical nurse, advanced registered nurse practitioner, or physician assistant shall review, at the request of the patient, the ultrasound evaluation results, including an estimate of the probable gestational age~~

ENROLLED
CS/HB 1127

2011 Legislature

169 ~~of the fetus, with the patient before the abortion procedure is~~
170 ~~performed.~~

171 5. That the physician is responsible for estimating the
172 gestational age of the fetus based on the ultrasound examination
173 and obstetric standards in keeping with established standards of
174 care regarding the estimation of fetal age as defined in rule
175 and shall write the estimate in the patient's medical history.
176 The physician shall keep original prints of each ultrasound
177 examination of a patient in the patient's medical history file.

178 Section 3. If any provision of this act or the application
179 thereof to any person or circumstance is held invalid, the
180 invalidity does not affect other provisions or applications of
181 the act which can be given effect without the invalid provision
182 or application, and to this end the provisions of this act are
183 severable.

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