

By Senator Storms

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1 A bill to be entitled
2 An act relating to abortions; amending s. 390.0111,
3 F.S.; requiring that an ultrasound be performed on a
4 woman obtaining an abortion; providing exceptions;
5 specifying who may perform an ultrasound; requiring
6 that the ultrasound be reviewed with the patient
7 before the woman gives informed consent for the
8 abortion procedure; specifying who may review the
9 ultrasound with the patient; requiring that the woman
10 certify in writing that she declined to review the
11 ultrasound and did so of her own free will and without
12 undue influence; providing an exemption from the
13 requirement to view the ultrasound for women who have
14 a serious medical condition necessitating the
15 abortion; revising requirements for written materials;
16 amending s. 390.012, F.S.; requiring an ultrasound for
17 all patients regardless of when the abortion is
18 performed; providing exceptions; requiring that live
19 ultrasound images be reviewed and explained to the
20 patient; requiring compliance with all other
21 provisions in s. 390.0111, F.S., if the patient
22 declines to view the live ultrasound images; providing
23 for 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.—

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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 a
36 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 the
41 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 who has 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. Such person or the physician
52 may not perform the ultrasound if, at the time the woman
53 schedules or arrives for her appointment to obtain an abortion,
54 a copy of a restraining order, police report, medical record, or
55 other court order or documentation is presented which provides
56 evidence that the woman is obtaining the abortion because she is
57 a victim of rape, incest, domestic violence, or human
58 trafficking.

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59 (II) The person performing the ultrasound must allow the
60 woman to view the live ultrasound images, and a physician,
61 registered nurse, licensed practical nurse, advanced registered
62 nurse practitioner, or physician assistant working in
63 conjunction with the physician must contemporaneously review and
64 explain the live ultrasound images to the woman before the woman
65 gives informed consent to having an abortion procedure
66 performed. However, this sub-sub-subparagraph does not apply if,
67 at the time the woman schedules or arrives for her appointment
68 to obtain an abortion, a copy of a medical record or
69 documentation is presented which provides evidence that the
70 woman has been diagnosed as having a condition that, on the
71 basis of a physician's good faith clinical judgment, would
72 create a serious risk of substantial and irreversible impairment
73 of a major bodily function if the woman delayed terminating her
74 pregnancy.

75 (III) The woman has a right to decline to view the
76 ultrasound images after she is informed of her right and offered
77 an opportunity to view them. If the woman declines to view the
78 ultrasound images, the woman shall complete a form acknowledging
79 that she was offered an opportunity to view her ultrasound but
80 that she rejected that opportunity. The form must also indicate
81 that the woman's decision not to view the ultrasound was not
82 based on any undue influence from any third party to discourage
83 her from viewing the images and that she declined to view the
84 images of her own free will.

85 c. The medical risks to the woman and fetus of carrying the
86 pregnancy to term.

87 2. Printed materials prepared and provided by the

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88 department have been provided to the pregnant woman, if she
89 chooses to view these materials, including:

90 a. A description of the fetus, including a description of
91 the various stages of development.

92 b. A list of entities ~~agencies~~ that offer alternatives to
93 terminating the pregnancy.

94 c. Detailed information on the availability of medical
95 assistance benefits for prenatal care, childbirth, and neonatal
96 care.

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

100
101 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prohibit a
102 physician from providing any additional information that ~~which~~
103 the physician deems material to the woman's informed decision to
104 terminate her pregnancy.

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

116 (c) Violation of this subsection by a physician constitutes

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grounds for disciplinary action under s. 458.331 or s. 459.015. Substantial compliance or reasonable belief that complying with the requirements of informed consent would threaten the life or health of the patient is a defense to any action brought under this paragraph.

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

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

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

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146 4. An ultrasound evaluation for each patient, except for a
147 patient who, at the time the patient schedules or arrives for
148 her appointment to obtain an abortion, presents a copy of a
149 restraining order, police report, medical record, or other court
150 order or documentation as evidence that the patient is obtaining
151 the abortion because she is a victim of rape, incest, domestic
152 violence, or human trafficking ~~all patients who elect to have an~~
153 ~~abortion after the first trimester.~~ The rules shall require that
154 if a person who is not a physician performs an ultrasound
155 examination, that person must ~~shall~~ have documented evidence
156 that he or she has completed a course in the operation of
157 ultrasound equipment as prescribed in rule. The physician,
158 registered nurse, licensed practical nurse, advanced registered
159 nurse practitioner, or physician assistant shall review and
160 explain, ~~at the request of the patient,~~ the live ultrasound
161 images ~~evaluation results,~~ including an estimate of the probable
162 gestational age of the fetus, with the patient before the
163 abortion procedure is performed, unless the patient declines to
164 view the live ultrasound images pursuant to s. 390.0111, in
165 which case the rules shall require compliance with s. 390.0111
166 in all other respects.

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

174 Section 3. If any provision of this act or its application

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175 to any person or circumstance is held invalid, the invalidity
176 does not affect other provisions or applications of the act
177 which can be given effect without the invalid provision or
178 application, and to this end the provisions of this act are
179 severable.

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