



841564

LEGISLATIVE ACTION

Senate	.	House
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Floor: 2/AD/2R	.	Floor: SA2/C
04/28/2010 12:39 PM	.	04/30/2010 11:39 AM
	.	

Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Between lines 433 and 434
insert:

Section 9. Subsection (3) of section 390.0111, Florida
Statutes, is amended 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



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14 termination of pregnancy is voluntary and informed only if:

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

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

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

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

30 (II) The person performing the ultrasound must allow the
31 woman to view the live ultrasound images, and a physician or a
32 registered nurse, licensed practical nurse, advanced registered
33 nurse practitioner, or physician assistant working in
34 conjunction with the physician must contemporaneously review and
35 explain the live ultrasound images to the woman prior to the
36 woman giving informed consent to having an abortion procedure
37 performed. However, this sub-sub-subparagraph does not apply if,
38 at the time the woman schedules or arrives for her appointment
39 to obtain an abortion, a copy of a restraining order, police
40 report, medical record, or other court order or documentation is
41 presented that evidences that the woman is obtaining the
42 abortion because the woman is a victim of rape, incest, domestic



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43 violence, or human trafficking or that the woman has been
44 diagnosed as having a condition that, on the basis of a
45 physician's good faith clinical judgment, would create a serious
46 risk of substantial and irreversible impairment of a major
47 bodily function if the woman delayed terminating her pregnancy.

48 (III) The woman has a right to decline to view the
49 ultrasound images after she is informed of her right and offered
50 an opportunity to view them. If the woman declines to view the
51 ultrasound images, the woman shall complete a form, as
52 determined by department rule, acknowledging that she was
53 offered an opportunity to view her ultrasound but that she
54 rejected that opportunity. The form must also indicate that the
55 woman's decision not to view the ultrasound was not based on any
56 undue influence from any third party to discourage her from
57 viewing the images and that she declined to view the images of
58 her own free will.

59 c. The medical risks to the woman and fetus of carrying the
60 pregnancy to term.

61 2. Printed materials prepared and provided by the
62 department have been provided to the pregnant woman, if she
63 chooses to view these materials, including:

64 a. A description of the fetus, including a description of
65 the various stages of development.

66 b. A list of entities ~~agencies~~ that offer alternatives to
67 terminating the pregnancy.

68 c. Detailed information on the availability of medical
69 assistance benefits for prenatal care, childbirth, and neonatal
70 care.

71 3. The woman acknowledges in writing, before the



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72 termination of pregnancy, that the information required to be
73 provided under this subsection has been provided.

74
75 Nothing in this paragraph is intended to prohibit a physician
76 from providing any additional information which the physician
77 deems material to the woman's informed decision to terminate her
78 pregnancy.

79 (b) In the event a medical emergency exists and a physician
80 cannot comply with the requirements for informed consent, a
81 physician may terminate a pregnancy if he or she has obtained at
82 least one corroborative medical opinion attesting to the medical
83 necessity for emergency medical procedures and to the fact that
84 to a reasonable degree of medical certainty the continuation of
85 the pregnancy would threaten the life of the pregnant woman. In
86 the event no second physician is available for a corroborating
87 opinion, the physician may proceed but shall document reasons
88 for the medical necessity in the patient's medical records.

89 (c) Violation of this subsection by a physician constitutes
90 grounds for disciplinary action under s. 458.331 or s. 459.015.
91 Substantial compliance or reasonable belief that complying with
92 the requirements of informed consent would threaten the life or
93 health of the patient is a defense to any action brought under
94 this paragraph.

95 Section 10. Paragraph (d) of subsection (3) of section
96 390.012, Florida Statutes, is amended to read:

97 390.012 Powers of agency; rules; disposal of fetal
98 remains.—

99 (3) For clinics that perform or claim to perform abortions
100 after the first trimester of pregnancy, the agency shall adopt



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101 rules pursuant to ss. 120.536(1) and 120.54 to implement the
102 provisions of this chapter, including the following:

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

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

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

111 3. The appropriate laboratory tests, including:

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

115 b. A test for anemia.

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

118 d. Other tests as indicated from the physical examination.

119 4. An ultrasound evaluation for all patients ~~who elect to~~
120 ~~have an abortion after the first trimester.~~ The rules shall
121 require that if a person who is not a physician performs an
122 ultrasound examination, that person shall have documented
123 evidence that he or she has completed a course in the operation
124 of ultrasound equipment as prescribed in rule. The physician,
125 registered nurse, licensed practical nurse, advanced registered
126 nurse practitioner, or physician assistant shall review and
127 explain, ~~at the request of the patient,~~ the live ultrasound
128 images ~~evaluation results,~~ including an estimate of the probable
129 gestational age of the fetus, with the patient before the



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130 abortion procedure is performed, unless the patient declines
131 pursuant to s. 390.0111. If the patient declines to view the
132 live ultrasound images, the applicable rules established by the
133 department shall require that s. 390.0111 be complied with in
134 all other respects.

135 5. That the physician is responsible for estimating the
136 gestational age of the fetus based on the ultrasound examination
137 and obstetric standards in keeping with established standards of
138 care regarding the estimation of fetal age as defined in rule
139 and shall write the estimate in the patient's medical history.
140 The physician shall keep original prints of each ultrasound
141 examination of a patient in the patient's medical history file.

142
143 ===== T I T L E A M E N D M E N T =====

144 And the title is amended as follows:

145 Delete line 18

146 and insert:

147 reports of licensed birth center facilities; amending
148 s. 390.0111, F.S.; requiring that an ultrasound be
149 performed on any woman obtaining an abortion;
150 specifying who must perform an ultrasound; requiring
151 that the ultrasound be reviewed with the patient prior
152 to the woman giving informed consent; specifying who
153 must review the ultrasound with the patient; requiring
154 that the woman certify in writing that she declined to
155 review the ultrasound and did so of her own free will
156 and without undue influence; providing an exemption
157 from the requirement to view the ultrasound for women
158 who are the victims of rape, incest, domestic



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159 violence, or human trafficking or for women who have a
160 serious medical condition necessitating the abortion;
161 revising requirements for written materials; amending
162 s. 390.012, F.S.; requiring ultrasounds for all
163 patients; requiring that live ultrasound images be
164 reviewed and explained to the patient; requiring that
165 all other provisions in s. 390.0111, F.S., be complied
166 with if the patient declines to view her live
167 ultrasound images; amending s.