

By the Committee on Health Regulation; and Senator Storms

588-03807-11

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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; specifying who must  
5           perform an ultrasound; requiring that the ultrasound  
6           be reviewed with the patient before the woman gives  
7           informed consent for the abortion procedure;  
8           specifying who must review the ultrasound with the  
9           patient; requiring that the woman certify in writing  
10          that she declined to review the ultrasound and did so  
11          of her own free will and without undue influence;  
12          providing an exemption from the requirement to view  
13          the ultrasound for women who are the victims of rape,  
14          incest, domestic violence, or human trafficking or for  
15          women who have a serious medical condition  
16          necessitating the abortion; revising requirements for  
17          written materials; amending s. 390.012, F.S.;  
18          requiring an ultrasound for all patients regardless of  
19          when the abortion is performed; requiring that live  
20          ultrasound images be reviewed and explained to the  
21          patient; requiring that all other provisions in s.  
22          390.0111, F.S., be complied with if the patient  
23          declines to view her live ultrasound images; providing  
24          for severability; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. Subsection (3) of section 390.0111, Florida  
29           Statutes, is amended to read:

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30 390.0111 Termination of pregnancies.—

31 (3) CONSENTS REQUIRED.—A termination of pregnancy may not  
32 be performed or induced except with the voluntary and informed  
33 written consent of the pregnant woman or, in the case of a  
34 mental incompetent, the voluntary and informed written consent  
35 of her court-appointed guardian.

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

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

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

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

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

53 (II) The person performing the ultrasound must allow the  
54 woman to view the live ultrasound images, and a physician or a  
55 registered nurse, licensed practical nurse, advanced registered  
56 nurse practitioner, or physician assistant working in  
57 conjunction with the physician must contemporaneously review and  
58 explain the live ultrasound images to the woman before the woman

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59 gives informed consent to having an abortion procedure  
60 performed. However, this sub-sub-subparagraph does not apply if,  
61 at the time the woman schedules or arrives for her appointment  
62 to obtain an abortion, a copy of a restraining order, police  
63 report, medical record, or other court order or documentation is  
64 presented which provides evidence that the woman is obtaining  
65 the abortion because the woman is a victim of rape, incest,  
66 domestic violence, or human trafficking or that the woman has  
67 been diagnosed as having a condition that, on the basis of a  
68 physician's good faith clinical judgment, would create a serious  
69 risk of substantial and irreversible impairment of a major  
70 bodily function if the woman delayed terminating her pregnancy.

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

81 c. The medical risks to the woman and fetus of carrying the  
82 pregnancy to term.

83 2. Printed materials prepared and provided by the  
84 department have been provided to the pregnant woman, if she  
85 chooses to view these materials, including:

86 a. A description of the fetus, including a description of  
87 the various stages of development.

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88           b. A list of entities ~~agencies~~ that offer alternatives to  
89 terminating the pregnancy.

90           c. Detailed information on the availability of medical  
91 assistance benefits for prenatal care, childbirth, and neonatal  
92 care.

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

96  
97 Nothing in this paragraph is intended to prohibit a physician  
98 from providing any additional information which the physician  
99 deems material to the woman's informed decision to terminate her  
100 pregnancy.

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

112           (c) Violation of this subsection by a physician constitutes  
113 grounds for disciplinary action under s. 458.331 or s. 459.015.  
114 Substantial compliance or reasonable belief that complying with  
115 the requirements of informed consent would threaten the life or  
116 health of the patient is a defense to any action brought under

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117 this paragraph.

118 Section 2. Paragraph (d) of subsection (3) of section  
119 390.012, Florida Statutes, is amended to read:

120 390.012 Powers of agency; rules; disposal of fetal  
121 remains.—

122 (3) For clinics that perform or claim to perform abortions  
123 after the first trimester of pregnancy, the agency shall adopt  
124 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
125 provisions of this chapter, including the following:

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

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

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

134 3. The appropriate laboratory tests, including:

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

138 b. A test for anemia.

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

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

142 4. An ultrasound evaluation for all patients ~~who elect to~~  
143 ~~have an abortion after the first trimester.~~ The rules shall  
144 require that if a person who is not a physician performs an  
145 ultrasound examination, that person shall have documented

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146 evidence that he or she has completed a course in the operation  
147 of ultrasound equipment as prescribed in rule. The physician,  
148 registered nurse, licensed practical nurse, advanced registered  
149 nurse practitioner, or physician assistant shall review and  
150 explain, ~~at the request of the patient,~~ the live ultrasound  
151 images ~~evaluation results,~~ including an estimate of the probable  
152 gestational age of the fetus, with the patient before the  
153 abortion procedure is performed, unless the patient declines  
154 pursuant to s. 390.0111. If the patient declines to view the  
155 live ultrasound images, the rules shall require that s. 390.0111  
156 be complied with in all other respects.

157 5. That the physician is responsible for estimating the  
158 gestational age of the fetus based on the ultrasound examination  
159 and obstetric standards in keeping with established standards of  
160 care regarding the estimation of fetal age as defined in rule  
161 and shall write the estimate in the patient's medical history.  
162 The physician shall keep original prints of each ultrasound  
163 examination of a patient in the patient's medical history file.

164 Section 3. If any provision of this act or its application  
165 to any person or circumstance is held invalid, the invalidity  
166 does not affect other provisions or applications of the act  
167 which can be given effect without the invalid provision or  
168 application, and to this end the provisions of this act are  
169 severable.

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