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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/23/2015 12:01 PM

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Senator Clemens moved the following:

1 **Senate Substitute for Amendment (465434) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (a) of subsection (3) of section
7 390.0111, Florida Statutes, is amended to read:

8 390.0111 Termination of pregnancies.—

9 (3) CONSENTS REQUIRED.—A termination of pregnancy may not
10 be performed or induced except with the voluntary and informed
11 written consent of the pregnant woman or, in the case of a



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12 mental incompetent, the voluntary and informed written consent
13 of her court-appointed guardian.

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

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

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

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

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

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



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41 performed.

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

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

67 c. The medical risks to the woman and fetus of carrying the
68 pregnancy to term.

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70 The physician may provide the information required in this
71 subparagraph within 24 hours before the procedure if requested
72 by the woman at the time she schedules or arrives for her
73 appointment to obtain an abortion and if she presents to the
74 physician a copy of a restraining order, police report, medical
75 record, or other court order or documentation evidencing that
76 she is obtaining the abortion because she is a victim of rape,
77 incest, domestic violence, or human trafficking. The woman may
78 waive the requirements of this subparagraph if she attests that
79 she is aware of the risk and has had 24 hours to consider her
80 decision to terminate the pregnancy. If a woman exercises her
81 right to waive the state-mandated delay, her health care
82 provider is not subject to any criminal, civil or administrative
83 penalties for failure to secure consent 24 hours in advance of
84 the procedure. The woman's signed acknowledgement that she has
85 exercised her right to waive certain requirements is sufficient
86 proof of provider compliance. This subsection does not alter the
87 health care provider's duty to obtain voluntary and informed
88 consent as otherwise required by this section.

89 2. Printed materials prepared and provided by the
90 department have been provided to the pregnant woman, if she
91 chooses to view these materials, including:

92 a. A description of the fetus, including a description of
93 the various stages of development.

94 b. A list of entities that offer alternatives to
95 terminating the pregnancy.

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



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

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

107 Section 2. For the purpose of incorporating the amendment
108 made by this act to section 390.0111, Florida Statutes, in a
109 reference thereto, paragraph (d) of subsection (3) of section
110 390.012, Florida Statutes, is reenacted to read:

111 390.012 Powers of agency; rules; disposal of fetal
112 remains.—

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

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

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

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

125 3. The appropriate laboratory tests, including:

126 a. Urine or blood tests for pregnancy performed before the
127 abortion procedure.



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128 b. A test for anemia.
129 c. Rh typing, unless reliable written documentation of
130 blood type is available.
131 d. Other tests as indicated from the physical examination.
132 4. An ultrasound evaluation for all patients. The rules
133 shall require that if a person who is not a physician performs
134 an ultrasound examination, that person shall have documented
135 evidence that he or she has completed a course in the operation
136 of ultrasound equipment as prescribed in rule. The rules shall
137 require clinics to be in compliance with s. 390.0111.
138 5. That the physician is responsible for estimating the
139 gestational age of the fetus based on the ultrasound examination
140 and obstetric standards in keeping with established standards of
141 care regarding the estimation of fetal age as defined in rule
142 and shall write the estimate in the patient's medical history.
143 The physician shall keep original prints of each ultrasound
144 examination of a patient in the patient's medical history file.
145 Section 3. This act shall take effect July 1, 2015.

147 ===== T I T L E A M E N D M E N T =====

148 And the title is amended as follows:

149 Delete everything before the enacting clause
150 and insert:

151 A bill to be entitled
152 An act relating to informed patient consent; amending
153 s. 390.0111, F.S.; revising conditions for the
154 voluntary and informed consent to a termination of
155 pregnancy; reenacting s. 390.012(3)(d), F.S., relating
156 to Agency for Health Care Administration rules



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157 regarding medical screening and evaluation of abortion
158 clinic patients, to incorporate the amendment made by
159 this act to s. 390.0111, F.S., in a reference thereto;
160 providing an effective date.