
The original instrument was prepared by Cathy Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by Greg Waddell.

DIGEST

Broome (SB 528)

Present law requires a physician to determine if an unborn child is viable prior to performing an abortion on a woman he has reason to believe is carrying an unborn child of 20 weeks or more gestational age.

Present law requires a physician intending to terminate a pregnancy of 20 or more weeks to first perform an ultrasound examination of the unborn child in order to make a finding of the gestational age, weight, and lung maturity of the unborn child.

Proposed law requires a physician intending to terminate a pregnancy to first perform an ultrasound examination of the unborn child in order to make a finding of the gestational age, weight, and lung maturity of the unborn child. Proposed law further requires that except in case of a medical emergency, consent to an abortion at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed.

Proposed law requires the obstetric ultrasound to be performed by the physician who is to perform the abortion, the referring physician, or a qualified person working in conjunction with either physician. Proposed law defines "qualified person" as a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

Proposed law requires that at least two hours prior to the woman having any part of an abortion, performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion, the referring physician, or a qualified person working in conjunction with either physician shall comply with all of the following requirements:

- (1) Perform an obstetric ultrasound on the pregnant woman and offer to simultaneously display the screen depicting the active ultrasound images so that the pregnant woman may view them.
- (2) Offer to provide a simultaneous explanation of what the ultrasound is depicting, including the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of external members and internal organs, if present and viewable.
- (3) Offer to provide the pregnant woman with a sealed envelope clearly marked "ultrasound print" that contains an ultrasound photograph or print of her unborn child of a quality

consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including external members, if present and viewable. Requires the pregnant woman to be informed that law requires that she be provided with the envelope containing the ultrasound print, but that there is no requirement that she view the print image of her unborn child.

- (4) Obtain a written certification from the woman, after the ultrasound and prior to the abortion, that the requirements of proposed law have been complied with.
- (5) Retain a copy of the written certification prescribed by proposed law. Requires the certification to be placed in the medical file of the woman and be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, requires the certification to be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. Requires the woman's medical files to be kept confidential as provided by law.

Proposed law does not prohibit a pregnant woman from averting her eyes from the active ultrasound images required to be presented to and reviewed with her, nor is she required to view the ultrasound photograph or print provided to her. Neither the physician nor the pregnant woman are subjected to any penalty if she refuses to look at the presented active ultrasound images, ultrasound photograph, or print provided to her.

Proposed law defines "medical emergency" as the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

Proposed law requires the abortion provider to certify in writing the specific medical conditions that constitute the emergency and requires such certification to be placed in the medical file of the woman and be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, then the certification is required to be kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater.

Proposed law provides that the failure by any abortion provider to comply with the provisions of proposed law constitutes a basis for professional disciplinary action provided for under law.

Proposed law provides for confidentiality in court proceedings if the woman does not give her consent to such disclosure and authorizes the court to close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted.

Present law prohibits an abortion from being performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced.

Proposed law retains present law and further stipulates consent to an abortion is voluntary and informed if and only if an ultrasound test and determination of viability are met and the requirement that at least two hours prior to the woman having any part of an abortion performed or induced, the physician, referring physician, or qualified person working in conjunction with either physician must perform an obstetric ultrasound for the purpose of preserving the woman's health and determining the viability of the unborn child.

Proposed law prohibits sanctions to the physician or the woman should the woman choose not to view the photographic print provided to her in a sealed envelope.

Proposed law requires provider to include in the woman's printed materials a comprehensive list, compiled by the DHH, of facilities that offer obstetric ultrasounds free of charge, along with an oral explanation of the provision that if the woman voluntarily chooses to obtain free ultrasound services, that ultrasound would likely be in addition to the ultrasound required by law for purposes of determining viability and preserving the woman's health, unless the free ultrasound is performed by the physician performing the abortion, the referring physician, or a qualified person working in conjunction with either physician. Proposed law requires the list to be arranged geographically and include the name, address, hours of operation, and telephone number of each entity.

Present law requires DHH to cause to be published in English certain materials geographically indexed informing women of public and private agencies available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to adoption agencies.

Proposed law retains present law and further requires DHH to maintain a separate printed listing of facilities that provide obstetric ultrasound services free of charge and requires that all materials include a web site address where the required materials can be accessed on the Internet.

Present law requires the materials to contain a toll-free 24 hour telephone number which may be called to obtain orally such list and a description of agencies in the locality of the caller and the services they offer.

Proposed law removes the requirement for the toll-free 24 hour telephone number which may be called to obtain orally such list and a description of agencies in the locality of the caller and the services they offer.

Effective August 15, 2010.

(Amends R.S. 40:1299.35.2 and 1299.35.6(B)(intro para), (B)(1)(h) and (C)(1)(a); adds R.S. 40:1299.35.6(B)(1)(i))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill.

1. Removes criminal penalties.
2. Removes provisions which provide for a basis for a civil malpractice action.
3. Removes provisions which provide for a basis of recovery for the woman for wrongful death of her unborn child.
4. Removes the mandate which requires the simultaneous display of the screen which depicts the active ultrasound images.
5. Requires the offer of rather than the requirement to provide a simultaneous explanation of what the ultrasound is depicting.
6. Requires the offer of rather than the requirement to provide the pregnant woman with a sealed envelope which contains the ultrasound print.