



SPONSOR: Sen. Richardson & Rep. Collins
Sens. Hocker, Lawson; Rep. Hilovsky

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 317

ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE OFFER OF AN ULTRASOUND AND AUSCULTATION SERVICES BEFORE TERMINATING A PREGNANCY.

1 WHEREAS, true consent to what happens to oneself is the exercise of a choice, and that entails an opportunity to
2 evaluate knowledgeably the options available and the risks attendant upon each, *Canterbury v. Spence*, 464 F.2d 772; and

3 WHEREAS, courts have ruled that as the patient must bear the expense, pain, and suffering of any injury from
4 medical treatment, a patient's right to know all material facts pertaining to the proposed treatment cannot be dependent
5 upon the standards of the medical profession, *Cooper v. Roberts*, 286 A.2d 647, *Wilkinson v. Vesey*, 295 A.2d 676; and

6 WHEREAS, courts have ruled that as the patient must bear the expense, pain, and suffering of any injury from
7 medical treatment, a patient's right to know all material facts pertaining to the proposed treatment cannot be dependent
8 upon the standards of the medical profession, *Cooper v. Roberts*, 286 A.2d 647, *Wilkinson v. Vesey*, 295 A.2d 676; and

9 WHEREAS, though the physician may feel strongly about the correct course of action, "it is the prerogative of the
10 patient, not the physician, to determine for himself/herself the direction in which his/her interests lie," and that requires full
11 disclosure of the nature of the procedure and all the risks and alternatives which a reasonable patient would need to make an
12 informed choice, *Canterbury v. Spence*, 464 F.2d 772; and

13 WHEREAS, even complications occurring only 1% of the time must be disclosed. *Canterbury v. Spence*, 464 F.2d
14 772, *Wilson v. Scoll*, 412 SW2d 299; and

15 WHEREAS, an informed choice is better than withholding information at a critical time in a woman's life,
16 especially since there is a risk of serious physical and psychological complications for women; and

17 WHEREAS, since it is the responsibility of legislators to do all they can to ensure a person's safety, part of that
18 responsibility includes ensuring that women are provided with timely information to make the best decisions to ensure their
19 safety and well-being; and

20 WHEREAS, the General Assembly finds that ultrasound requirements serve an essential medical purpose in
21 confirming the presence, location, and gestational age of a pregnancy; and

22 WHEREAS, the General Assembly finds that ultrasound requirements also serve an essential medical purpose in
23 diagnosing ectopic pregnancies which, if left undiagnosed, can result in infertility or even fatal blood loss; and

24 WHEREAS, the General Assembly finds that it is critical to the psychological and physical well-being of a woman
25 considering an abortion that she receives complete and accurate information on the reality and status of her pregnancy and
26 of her unborn child; and

27 WHEREAS, the U.S. Supreme Court found in 1976 that the decision to abort “is an important, and often a
28 stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences,”
29 *Planned Parenthood v. Danforth*, 428 U.S. 52; and

30 WHEREAS, the U.S. Supreme Court in 2022 sent policymaking decisions about abortion back to the states, *Dobbs*
31 *v. Jackson Women's Health Org.*, 142 S. Ct. 2228; and

32 WHEREAS, the purpose of this Act is to ensure that every woman considering an abortion receives complete
33 information on the reality and status of her pregnancy and of her unborn child; and

34 WHEREAS, this Act is intended to be consistent with the U.S. Supreme Court finding that “the risk that a woman
35 may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully
36 informed.” *Planned Parenthood v. Casey*, 505 U.S. 833.

37 NOW, THEREFORE:

38 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

39 Section 1. Amend Subchapter IX, Chapter 17, Title 24 of the Delaware Code by making deletions as shown by
40 strike through and insertions as shown by underline as follows:

41 § 1791A. Ultrasound and auscultation services before termination of human pregnancy.

42 (a)(1) Except in the case of a medical emergency, a health-care practitioner, or an agent of the health-care
43 practitioner, must offer the patient ultrasound imaging and auscultation of fetal heart tone services before terminating a
44 pregnancy. The ultrasound image and auscultation services offered must include all of the following:

45 a. An active ultrasound image, of a quality consistent with standard medical practice, that the patient may
46 view that includes all of the following:

47 1. Dimensions of the fetus.

48 2. An accurate portrayal of any external members and internal organs.

49 b. An auscultation of fetal heart tone, of a quality consistent with standard medical practice, that the
50 patient may hear.

51 (2) For purposes of this section:

52 a. “Health-care practitioner” means an individual who may act under § 1790 of this title to terminate,
53 attempt to terminate, or assist in the termination of a human pregnancy, including by prescribing medication.

54 b. “Medical emergency” means that condition which, on the basis of the health-care practitioner or other
55 medically authorized person’s good faith clinical judgment, so complicates the medical condition of the pregnant
56 patient as to necessitate the immediate termination of her pregnancy to avert her death or for which delay will
57 create serious risk of substantial and irreversible impairment of a major bodily function.

58 (3) The patient may choose not to view the ultrasound image or listen to the fetal heart tone.

59 (b) Before terminating a pregnancy, a health-care practitioner must obtain the patient’s signature on a form
60 indicating that the patient was offered ultrasound image and auscultation services under this section.

61 (c) Proof of compliance with this section is required for accreditation under § 122(3)z. of Title 16.

62 Section 2. This Act is known as “The Woman’s Right to Know Act”.

SYNOPSIS

This Act requires a health-care practitioner to offer a patient ultrasound imaging and auscultation of fetal heart tone services before terminating a pregnancy. The patient is free to choose not to view the ultrasound or listen to the auscultation of fetal heart tone.

This Act is known as "The Woman's Right to Know Act."

Author: Senator Richardson