WEST virginia legislature

2021 regular session

Introduced

House Bill 3265

By Delegate Pritt

[Introduced March 16, 2021; Referred to the Committee on Health and Human Resources then the Judiciary]

A BILL to amend and reenact §16-2I-2 of the Code of West Virginia, 1931, as amended, relating to mandating an ultrasound imaging procedure prior to an abortion.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2I. WOMENS RIGHT TO KNOW ACT.

§16-2I-2. Informed consent.

No abortion may be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if, and only if:

(a) The female is told the following, by telephone or in person, by the physician or the licensed health care professional to whom the responsibility has been delegated by the physician who is to perform the abortion at least 24 hours before the abortion:

(1) The particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies and infertility;

(2) The probable gestational age of the embryo or fetus at the time the abortion is to be performed; and

(3) The medical risks associated with carrying her child to term.

The information required by this subsection may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied by the female to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician and whatever other relevant information is reasonably available to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician or licensed health care professional to whom the responsibility has been delegated by the physician is able to ask questions of the female and the female is able to ask questions of the physician or the licensed health care professional to whom the responsibility has been delegated by the physician.

If a physical examination, tests or the availability of other information to the physician or other licensed health care professional to whom the responsibility has been delegated by the physician subsequently indicate, in the medical judgment of the physician or the licensed health care professional to whom the responsibility has been delegated by the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time before the performance of the abortion procedure.

Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator.

(b) The female is informed, by telephone or in person, by the physician who is to perform the abortion, or by an agent of the physician, at least 24 hours before the abortion procedure:

(1) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care through governmental or private entities;

(2) That the father, if his identity can be determined, is liable to assist in the support of her child based upon his ability to pay even in instances in which the father has offered to pay for the abortion;

(3) That she has the right to review the printed materials described in section three of this article, that these materials are available on a state-sponsored website and the website address; and

(4) That the female will be presented with a form which she will be required to execute prior to the abortion procedure that is available pursuant to section three of this article, and that the form to be presented will inform her of the opportunity to view the ultrasound image and her right to view or decline to view the ultrasound image, if an ultrasound is performed.

The physician or an agent of the physician shall orally inform the female that the materials have been provided by the State of West Virginia and that they describe the embryo or fetus and list agencies and entities which offer alternatives to abortion.

If the female chooses to view the materials other than on the website, then they shall either be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by first class mail in an unmarked envelope.

The information required by this subsection may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her.

(c) The form required pursuant to subdivision (4), subsection (b) of this section shall include the following information: (1) ~~It is a females decision whether or not to~~ The female shall undergo ~~any~~ ultrasound imaging procedure in consultation with her health care provider; (2) ~~if an ultrasound is performed in conjunction with the performance of an abortion procedure~~ the female has the right to view or to decline to view the image; and (3) that the woman has been previously informed of her opportunity to view the ultrasound image and her right to view or decline to view the ultrasound image. The woman shall certify her choice on this form prior to the abortion procedure being performed.

The female shall certify in writing, before the abortion, that the information described in subsections (a) and (b) of this section has been provided to her and that she has been informed of her opportunity to review the information referred to in subdivision (3), subsection (b) of this section.

Before performing the abortion procedure, the physician who is to perform the abortion or the physician’s agent shall obtain a copy of the executed certification required by the provisions of subsections (b) and (c) of this section.

NOTE: The purpose of this bill is to mandate ultrasound imaging procedure prior to an abortion.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.