

IN THE SENATE

SENATE BILL NO. 1243

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABORTION; AMENDING SECTION 18-609, IDAHO CODE, TO REQUIRE CER-
2 TAIN INFORMATION ABOUT THE RIGHT TO OBSERVE HEARTBEAT MONITORING OF THE
3 UNBORN CHILD AND ABOUT WHERE FURTHER INFORMATION CAN BE OBTAINED CON-
4 CERNING CHEMICAL ABORTIONS, INCLUDING ANY INTERVENTIONS THAT MAY AF-
5 FECT THEIR EFFECTIVENESS OR RESULT IN ABORTION REVERSALS, TO BE POSTED
6 ON THE WEBSITE OF THE DEPARTMENT OF HEALTH AND WELFARE, TO REQUIRE
7 PHYSICIANS OR THEIR AGENTS TO INFORM PATIENTS ABOUT THE AVAILABILITY
8 OF ULTRASOUND TO OBSERVE THE UNBORN CHILD'S HEARTBEAT MONITORING; AND
9 PROVIDING SEVERABILITY.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 18-609, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 18-609. PHYSICIANS AND HOSPITALS NOT TO INCUR CIVIL LIABILITY -- CON-
15 SENT TO ABORTION -- NOTICE. (1) Any physician may perform an abortion not
16 prohibited by this act and any hospital or other facility described in sec-
17 tion 18-608, Idaho Code, may provide facilities for such procedures without,
18 in the absence of negligence, incurring civil liability therefor to any per-
19 son including, but not limited to, the pregnant patient and the prospective
20 father of the fetus to have been born in the absence of abortion, if informed
21 consent for such abortion has been duly given by the pregnant patient.

22 (2) In order to provide assistance in assuring that the consent to an
23 abortion is truly informed consent, the director of the department of health
24 and welfare shall publish easily comprehended, nonmisleading and medically
25 accurate printed material to be made available at no expense to physicians,
26 hospitals or other facilities providing abortion and abortion-related ser-
27 vices, and which shall contain the following:

28 (a) Descriptions of the services available to assist a woman through
29 a pregnancy, at childbirth and while the child is dependent, including
30 adoption services, a comprehensive list of the names, addresses, and
31 telephone numbers of public and private agencies that provide such ser-
32 vices and financial aid available;

33 (b) Descriptions of the physical characteristics of a normal fetus, de-
34 scribed at two (2) week intervals, beginning with the fourth week and
35 ending with the twenty-fourth week of development, accompanied by sci-
36 entificallly verified photographs of a fetus during such stages of de-
37 velopment. The description shall include information about physiolog-
38 ical and anatomical characteristics;

39 (c) Descriptions of the abortion procedures used in current medical
40 practices at the various stages of growth of the fetus and any reason-
41 able foreseeable complications and risks to the mother, including those
42 related to subsequent childbearing;

1 (d) A list, compiled by the department of health and welfare, of health
2 care providers, facilities and clinics that offer to perform ultra-
3 sounds free of charge and that have contacted the department annually
4 with a request to be included in the list. The list shall be arranged
5 geographically and shall include the name, address, hours of operation,
6 telephone number and e-mail address of each entity; ~~and~~

7 (e) A statement that the patient has a right to view an ultrasound im-
8 age and to ~~hear the heart tone~~ observe the heartbeat monitoring of her
9 unborn child and that she may obtain an ultrasound free of charge. The
10 statement shall indicate that printed materials required by the pro-
11 visions of this section contain a list, compiled by the department of
12 health and welfare, of health care providers, facilities and clinics
13 that offer to perform such ultrasounds free of charge; ~~and~~

14 (f) Information directing the patient where to obtain further infor-
15 information and assistance in locating a health care provider whom she can
16 consult about chemical abortion, including the interventions, if any,
17 that may affect the effectiveness or reversal of a chemical abortion,
18 and informs the patient that if she wants to consult with such health
19 care providers, she should contact those health care providers before
20 she takes the abortifacient.

21 (3) (a) The department of health and welfare shall develop and maintain
22 a stable internet website, that may be part of an existing website, to
23 provide the information described in subsection (2) of this section. No
24 information regarding persons using the website shall be collected or
25 maintained. The department of health and welfare shall monitor the web-
26 site on a weekly basis to prevent and correct tampering.

27 (b) As used in this section, "stable internet website" means a website
28 that, to the extent reasonably practicable, is safeguarded from having
29 its content altered other than by the department of health and welfare.

30 (c) When a pregnant patient contacts a physician by telephone or visit
31 and inquires about obtaining an abortion, the physician or the physi-
32 cian's agent before or while scheduling an abortion-related appoint-
33 ment must provide the woman with the address of the state-sponsored in-
34 ternet website on which the printed materials described in subsection
35 (2) of this section may be viewed as required in subsection (2) of this
36 section.

37 (4) Except in the case of a medical emergency, no abortion shall be
38 performed unless, prior to the abortion, the attending physician or the
39 attending physician's agent certifies in writing that the materials pro-
40 vided by the director have been provided to the pregnant patient at least
41 twenty-four (24) hours before the performance of the abortion. If the ma-
42 terials are not available from the director of the department of health and
43 welfare, no certification shall be required. The attending physician, or
44 the attending physician's agent, shall provide any other information re-
45 quired under this act.

46 (5) Except in the case of medical emergency, no abortion shall be per-
47 formed unless, prior to an initial consultation or any testing, and not less
48 than twenty-four (24) hours prior to the performance of the abortion, the
49 woman is informed by telephone or in person, by the physician who is to per-
50 form the abortion or by an agent of the physician, that ultrasound imaging

1 and ~~heart tone~~ heartbeat monitoring are available to the woman enabling the
2 pregnant woman to view her unborn child or ~~listen to~~ observe the heartbeat
3 of the unborn child. The physician or agent of the physician shall inform
4 the pregnant woman that the website and printed materials described in sub-
5 section (2) (d), ~~and~~ (e) and (f) of this section contain telephone numbers,
6 addresses and e-mail addresses of facilities that offer such services at no
7 cost. If the woman contacts the abortion facility by e-mail, the physician
8 or agent of the physician shall inform the woman of the requirements of this
9 subsection by e-mail with the required information in a larger font than the
10 rest of the e-mail. No fee for an abortion shall be collected prior to pro-
11 viding the information required in this subsection.

12 (6) All physicians or their agents who use ultrasound equipment in the
13 performance of an abortion shall inform the patient that she has the right
14 to view the ultrasound image of her unborn child before an abortion is per-
15 formed. If the patient requests to view the ultrasound image, she shall be
16 allowed to view it before an abortion is performed. The physician or agent
17 shall also offer to provide the patient with a physical picture of the ultra-
18 sound image of her unborn child prior to the performance of the abortion, and
19 shall provide it if requested by the patient. In addition to providing the
20 material, the attending physician may provide the pregnant patient with such
21 other information which in the attending physician's judgment is relevant to
22 the pregnant patient's decision as to whether to have the abortion or carry
23 the pregnancy to term.

24 (7) Within thirty (30) days after performing any abortion without cer-
25 tification and delivery of the materials, the attending physician, or the
26 attending physician's agent, shall cause to be delivered to the director of
27 the department of health and welfare, a report signed by the attending physi-
28 cian, preserving the patient's anonymity, denoting the medical emergency
29 that excused compliance with the duty to deliver the materials. The director
30 of the department of health and welfare shall compile the information annu-
31 ally and report to the public the total number of abortions performed in the
32 state where delivery of the materials was excused; provided that any infor-
33 mation so reported shall not identify any physician or patient in any manner
34 which would reveal their identities.

35 (8) If section 18-608(3), Idaho Code, applies to the abortion to be per-
36 formed and the pregnant patient is an adult and for any reason unable to give
37 a valid consent thereto, the requirement for that pregnant patient's consent
38 shall be met as required by law for other medical or surgical procedures and
39 shall be determined in consideration of the desires, interests and welfare
40 of the pregnant patient.

41 (9) The knowing failure of the attending physician to perform any one
42 (1) or more of the acts required under subsection (7) of this section or
43 section 39-261, Idaho Code, is grounds for discipline pursuant to section
44 54-1814(6), Idaho Code, and shall subject the physician to assessment of a
45 civil penalty of one hundred dollars (\$100) for each month or portion thereof
46 that each such failure continues, payable to the vital statistics unit of the
47 department of health and welfare, but such failure shall not constitute a
48 criminal act.

49 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
50 to be severable and if any provision of this act or the application of such

1 provision to any person or circumstance is declared invalid for any reason,
2 such declaration shall not affect the validity of the remaining portions of
3 this act.