

ABORTION WAITING PERIOD

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE **General Description:**

This bill modifies Title 76, Chapter 7, Offenses Against the Family, relating to the required waiting period before performing an abortion.

Highlighted Provisions:

This bill:

▶ extends the waiting period for an abortion from 24 hours to 72 hours, unless an exception exists; ~~H→~~ **[and]**

▶ clarifies that the face-to-face initial consultation prior to an abortion procedure may take place anywhere in the state;

▶ states that a physician is not in violation of Section 76-7-305 if the physician provides information necessary for informed consent less than 72 hours before performing the abortion if, in the physician's professional judgment, an abortion is necessary to avert a ruptured membrane causing, or resulting from, a serious infection; and ~~←H~~

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-7-305, as last amended by Laws of Utah 2010, Chapter 314

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-7-305** is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.



28 (1) A person may not perform an abortion, unless, before performing the abortion, the
 29 physician who will perform the abortion obtains a voluntary and informed written consent from
 30 the woman on whom the abortion is performed, that is consistent with:

31 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
 32 Current Opinions; and

33 (b) the provisions of this section.

34 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
 35 informed only if:

36 (a) at least [24] 72 hours before the abortion, the physician who is to perform the
 37 abortion, the referring physician, ~~or a registered nurse, nurse practitioner,~~
 37a ~~advanced practice~~

38 registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a
 39 face-to-face consultation ~~in any location in the state~~, orally informs the woman:

40 (i) consistent with Subsection (3)(a), of:

41 (A) the nature of the proposed abortion procedure;

42 (B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the
 43 fetus; and

44 (C) the risks and alternatives to an abortion procedure or treatment;

45 (ii) of the probable gestational age and a description of the development of the unborn
 46 child at the time the abortion would be performed;

47 (iii) of the medical risks associated with carrying her child to term; and

48 (iv) except as provided in Subsection (3)(b), if the abortion is to be performed on an
 49 unborn child who is at least 20 weeks gestational age:

50 (A) that, upon the woman's request, an anesthetic or analgesic will be administered to
 51 the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child
 52 that may be caused by the particular method of abortion to be employed; and

53 (B) of any medical risks to the woman that are associated with administering the
 54 anesthetic or analgesic described in Subsection (2)(a)(iv)(A);

55 (b) at least [24] 72 hours prior to the abortion the physician who is to perform the
 56 abortion, the referring physician, or, as specifically delegated by either of those physicians,

56a ~~or a registered nurse, nurse practitioner,~~
 57 registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered
 58 nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical

59 social worker, genetic counselor, or certified social worker orally, in a face-to-face
60 consultation ~~in~~ **in any location in the state** ~~in~~, informs the pregnant woman that:

61 (i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed
62 material and an informational video that:

63 (A) provides medically accurate information regarding all abortion procedures that may
64 be used;

65 (B) describes the gestational stages of an unborn child; and

66 (C) includes information regarding public and private services and agencies available
67 to assist her through pregnancy, at childbirth, and while the child is dependent, including
68 private and agency adoption alternatives;

69 (ii) the printed material and a viewing of or a copy of the informational video shall be
70 made available to her, free of charge, on the Department of Health's website;

71 (iii) medical assistance benefits may be available for prenatal care, childbirth, and
72 neonatal care, and that more detailed information on the availability of that assistance is
73 contained in the printed materials and the informational video published by the Department of
74 Health;

75 (iv) except as provided in Subsection (3)(c):

76 (A) the father of the unborn child is legally required to assist in the support of her
77 child, even if he has offered to pay for the abortion; and

78 (B) the Office of Recovery Services within the Department of Human Services will
79 assist her in collecting child support; and

80 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,
81 upon her request;

82 (c) the information required to be provided to the pregnant woman under Subsection
83 (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face
84 consultation, prior to performance of the abortion, unless the attending or referring physician is
85 the individual who provides the information required under Subsection (2)(a);

86 (d) a copy of the printed materials published by the Department of Health has been
87 provided to the pregnant woman;

88 (e) the informational video, published by the Department of Health, has been provided
89 to the pregnant woman in accordance with Subsection (4); and

152 of the woman on whom the abortion is performed;

153 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
154 76-5-402 and 76-5-402.1;

155 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and
156 Section 76-7-102; or

157 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

158 (9) A physician who complies with the provisions of this section and Section
159 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
160 informed consent under Section 78B-3-406.

161 (10) (a) The Department of Health shall provide an ultrasound, in accordance with the
162 provisions of Subsection (2)(b), at no expense to the pregnant woman.

163 (b) A local health department shall refer a person who requests an ultrasound described
164 in Subsection (10)(a) to the Department of Health.

164a **Ĥ→ (11) A physician is not guilty of violating this section if:**

164b **(a) the physician provides the information described in Subsection (2) less than 72**
164c **hours before performing the abortion; and**

164d **(b) in the physician's professional judgment, the abortion was necessary in a case**
164e **where:**

164f **(i) a ruptured membrane, documented by the attending or referring physician,**
164g **will cause a serious infection; or**

164h **(ii) a serious infection, documented by the attending or referring physician, will**
164i **cause a ruptured membrane. ←Ĥ**

Legislative Review Note
as of 2-9-12 10:13 AM

Office of Legislative Research and General Counsel