

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 516

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABORTION; AMENDING SECTION 18-609, IDAHO CODE, TO PROVIDE THAT
2 THE DEPARTMENT OF HEALTH AND WELFARE SHALL COMPILE A LIST OF PROVIDERS
3 THAT PERFORM FREE ULTRASOUNDS, TO PROVIDE THAT THE DEPARTMENT SHALL
4 STATE THAT A PATIENT HAS THE RIGHT TO OBTAIN A FREE ULTRASOUND, VIEW
5 AN ULTRASOUND IMAGE AND HEAR HEART TONE MONITORING, TO PROVIDE THAT
6 NO ABORTION SHALL BE PERFORMED UNLESS THE WOMAN IS INFORMED THAT UL-
7 TRASOUND IMAGING AND HEART TONE MONITORING ARE AVAILABLE AND TO MAKE A
8 TECHNICAL CORRECTION.
9

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

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

13 18-609. PHYSICIANS AND HOSPITALS NOT TO INCUR CIVIL LIABILITY -- CON-
14 SENT TO ABORTION -- NOTICE. (1) Any physician may perform an abortion not
15 prohibited by this act and any hospital or other facility described in sec-
16 tion 18-608, Idaho Code, may provide facilities for such procedures without,
17 in the absence of negligence, incurring civil liability therefor to any per-
18 son including, but not limited to, the pregnant patient and the prospective
19 father of the fetus to have been born in the absence of abortion, if informed
20 consent for such abortion has been duly given by the pregnant patient.

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

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

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

38 (c) Descriptions of the abortion procedures used in current medical
39 practices at the various stages of growth of the fetus and any reason-
40 able foreseeable complications and risks to the mother, including those
41 related to subsequent ~~child bearing~~ 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 image
8 and to hear the heart tone monitoring of her unborn child and that she
9 may obtain an ultrasound free of charge. The statement shall indicate
10 that printed materials required by the provisions of this section con-
11 tain a list, compiled by the department of health and welfare, of health
12 care providers, facilities and clinics that offer to perform such ul-
13 trasounds free of charge.

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

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

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

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

39 (5) Except in the case of medical emergency, no abortion shall be per-
40 formed unless, prior to an initial consultation or any testing, and not less
41 than twenty-four (24) hours prior to the performance of the abortion, the
42 woman is informed by telephone or in person, by the physician who is to per-
43 form the abortion or by an agent of the physician, that ultrasound imaging
44 and heart tone monitoring are available to the woman enabling the pregnant
45 woman to view her unborn child or listen to the heartbeat of the unborn child.
46 The physician or agent of the physician shall inform the pregnant woman that
47 the website and printed materials described in subsection (2) (d) and (e) of
48 this section contain telephone numbers, addresses and e-mail addresses of
49 facilities that offer such services at no cost. If the woman contacts the
50 abortion facility by e-mail, the physician or agent of the physician shall

1 inform the woman of the requirements of this subsection by e-mail with the
2 required information in a larger font than the rest of the e-mail. No fee for
3 an abortion shall be collected prior to providing the information required
4 in this subsection.

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

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

28 (78) If section 18-608(3), Idaho Code, applies to the abortion to be
29 performed and the pregnant patient is an adult and for any reason unable to
30 give a valid consent thereto, the requirement for that pregnant patient's
31 consent shall be met as required by law for other medical or surgical proce-
32 dures and shall be determined in consideration of the desires, interests and
33 welfare of the pregnant patient.

34 (89) The knowing failure of the attending physician to perform any one
35 (1) or more of the acts required under subsection (67) of this section or
36 section 39-261, Idaho Code, is grounds for discipline pursuant to section
37 54-1814(6), Idaho Code, and shall subject the physician to assessment of a
38 civil penalty of one hundred dollars (\$100) for each month or portion thereof
39 that each such failure continues, payable to the vital statistics unit of
40 the department of health and welfare, but such failure shall not constitute a
41 criminal act.