

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

652W0489

HOUSE BILL NO. 1130

Introduced by: Representatives Rasmussen, Beal, Bolin, Brunner, Campbell, Craig, Deusch, DiSanto, Feickert, Haggar (Don), Harrison, Haugaard, Heinemann (Leslie), Hickey, Hunt, Kaiser, Klumb, Langer, Latterell, Novstrup (Al), Peterson (Kent), Qualm, Schaefer, Schoenbeck, Schoenfish, Schrempp, Stalzer, Stevens, Verchio, Westra, Wiik, and Zikmund and Senators Haggar (Jenna), Brown, Ewing, Heineman (Phyllis), Hunhoff (Bernie), Jensen (Phil), Lederman, Monroe, Olson, Otten (Ernie), Peterson (Jim), Rampelberg, Rave, Rusch, Solano, and Van Gerpen

1 FOR AN ACT ENTITLED, An Act to prohibit an abortion provider from accepting payment
2 for an abortion prior to the end of the required informed consent period.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-56 be amended to read as follows:

5 34-23A-56. No surgical or medical abortion may be scheduled except by a licensed
6 physician and only after the physician physically and personally meets with the pregnant mother,
7 consults with her, and performs an assessment of her medical and personal circumstances. Only
8 after the physician completes the consultation and assessment complying with the provisions
9 of §§ 34-23A-53 to 34-23A-62, inclusive, may the physician schedule a surgical or medical
10 abortion, but in no instance may the physician schedule such surgical or medical abortion to take
11 place in less than seventy-two hours from the completion of such consultation and assessment
12 except in a medical emergency as set forth in § 34-23A-10.1 and subdivision 34-23A-1(5). No



1 Saturday, Sunday, or annually recurring holiday, as specifically named in § 1-5-1, may be
2 included or counted in the calculation of the seventy-two hour minimum time period between
3 the initial physician consultation and assessment and the time of the scheduled abortion
4 procedure. No physician may have the pregnant mother sign a consent for the abortion on the
5 day of this initial consultation and no physician, abortion provider, hospital, or clinic, at which
6 the physician performs an abortion, may accept payment or accept a commitment for payment
7 for an abortion until a consent is signed after full compliance with the provisions of §§ 34-23A-
8 53 to 34-23A-62, inclusive. No physician may take a signed consent from the pregnant mother
9 unless the pregnant mother is in the physical presence of the physician and except on the day
10 the abortion is scheduled, and only after complying with the provisions of §§ 34-23A-53 to 34-
11 23A-62, inclusive, as they pertain to the initial consultation, and only after complying with the
12 provisions of subdivisions 34-23A-10.1(1) and (2). During the initial consultation between the
13 physician and the pregnant mother, prior to scheduling a surgical or medical abortion, the
14 physician shall:

- 15 (1) Do an assessment of the pregnant mother's circumstances to make a reasonable
16 determination whether the pregnant mother's decision to submit to an abortion is the
17 result of any coercion or pressure from other persons. In conducting that assessment,
18 the physician shall obtain from the pregnant mother the age or approximate age of the
19 father of the unborn child, and the physician shall consider whether any disparity in
20 age between the mother and father is a factor when determining whether the pregnant
21 mother has been subjected to pressure, undue influence, or coercion;
- 22 (2) Provide the written disclosure required by subdivision 34-23A-10.1(1) and discuss
23 them with her to determine that she understands them;
- 24 (3) Provide the pregnant mother with the names, addresses, and telephone numbers of

1 all pregnancy help centers that are registered with the South Dakota Department of
2 Health pursuant to §§ 34-23A-53 to 34-23A-62, inclusive, and provide her with
3 written instructions that set forth the following:

4 (a) That prior to the day of any scheduled abortion the pregnant mother must have
5 a consultation at a pregnancy help center at which the pregnancy help center
6 shall inform her about what education, counseling, and other assistance is
7 available to help the pregnant mother keep and care for her child, and have a
8 private interview to discuss her circumstances that may subject her decision
9 to coercion;

10 (b) That prior to signing a consent to an abortion, the physician shall first obtain
11 from the pregnant mother, a written statement that she obtained a consultation
12 with a pregnancy help center, which sets forth the name and address of the
13 pregnancy help center, the date and time of the consultation, and the name of
14 the counselor at the pregnancy help center with whom she consulted;

15 (4) Conduct an assessment of the pregnant mother's health and circumstances to
16 determine if any of the following preexisting risk factors associated with adverse
17 psychological outcomes following an abortion are present in her case:

18 (a) Coercion;

19 (b) Pressure from others to have an abortion;

20 (c) The pregnant mother views an abortion to be in conflict with her personal or
21 religious values;

22 (d) The pregnant mother is ambivalent about her decision to have an abortion, or
23 finds the decision of whether to have an abortion difficult and she has a high
24 degree of decisional distress;

- 1 (e) That the pregnant mother has a commitment to the pregnancy or prefers to
- 2 carry the child to term;
- 3 (f) The pregnant mother has a medical history that includes a pre-abortion mental
- 4 health or psychiatric problem; and
- 5 (g) The pregnant mother is twenty-two years old or younger.

6 The physician making the assessment shall record in the pregnant mother's medical
7 records, on a form created for such purpose, each of the risk factors associated with
8 adverse psychological outcomes following an abortion listed in this subdivision that
9 are present in her case and which are not present in her case;

10 (4A) Inquire into whether the pregnant mother knows the sex of her unborn child and if
11 so, whether the mother is seeking an abortion due to the sex of the unborn child.

12 (5) The physician shall identify for the pregnant mother and explain each of the risk
13 factors associated with adverse psychological outcomes following an abortion listed
14 in subdivision (4) which are present in her case;

15 (6) The physician shall advise the pregnant mother of each risk factor associated with
16 adverse psychological outcomes following an abortion listed in subdivision 34-23A-
17 56(4) which the physician determines are present in her case and shall discuss with
18 the pregnant mother, in such a manner and detail as is appropriate, so that the
19 physician can certify that the physician has made a reasonable determination that the
20 pregnant mother understands the information imparted, all material information about
21 the risk of adverse psychological outcomes known to be associated with each of the
22 risk factors found to be present;

23 (7) In the event that no risk factor is determined to be present, the physician shall include
24 in the patient's records a statement that the physician has discussed the information

1 required by the other parts of this section and that the physician has made a
2 reasonable determination that the mother understands the information in question;
3 (8) Records of the assessments, forms, disclosures, and instructions performed and given
4 pursuant to this section shall be prepared by the physician and maintained as a
5 permanent part of the pregnant mother's medical records.