

HB 1236 -- Negligence when Performing an Abortion

Sponsor: Davis

This bill establishes the Negligent Screening Act which identifies criteria for medical negligence when an abortion is performed and certain considerations have not been met. Unless medically necessary, before an abortion can be performed or recommended by a treating physician, the following must have occurred:

(1) The pregnant woman must be evaluated by a qualified person to identify evidence of a coerced abortion or the presence of other risk factors;

(2) The evaluation must be presented to the pregnant woman and the performing physician in writing including a checklist identifying the positive and negative results for each risk factor. If any risk factor is identified, the qualified person must inform the pregnant woman of complications associated with an abortion;

(3) The qualified person must provide a written statement to the pregnant woman and the treating physician certifying that the pregnant woman understands the significance of those risk factors and the associated complications with abortions; and

(4) The treating physician has documented in a permanent record that either there is more statistical evidence to prove that the risk factors identified for the pregnant woman are negligible risks or that continuing the pregnancy does or does not put the pregnant woman at physical or mental risk.

Failing to follow the requirements of the act will result in monetary liabilities of \$10,000 for each violation, and a wrongful death lawsuit can be filed against the abortion provider for the death of the pregnant woman's unborn child. Civil actions against an abortion provider for violation of the act must be filed within two years of the violation. Violations will not result in grounds for criminal negligence charges or the loss of a person's medical license.

The act does not create the right to have an abortion or change laws making unlawful abortions legal or lawful abortions illegal.