

Pre-abortion ultrasound mandate progresses to Utah House

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The question of whether a woman should have to undergo a pre-abortion ultrasound — even against her will — came before a panel of Utah lawmakers in a sprawling debate that ranged from the state's capital punishment law to the past uses of lobotomy.

The ultrasound bill, HB364, ultimately moved forward Tuesday, after the House Judiciary Committee heard testimony that spanned two hearings, beginning last week and concluding with the vote.

The panel heard from advocates who argued women need to see sonogram images and hear a fetal heartbeat to make an informed decision on terminating a pregnancy, a stance based on a Kentucky law that the Supreme Court recently declined to review.

"Had I been given the chance to view my baby on ultrasound, I would have seen that at 9 to 10 weeks' gestation, he looked like a little gummy bear, with distinguishable arms and legs, a head and a torso," Dusty Johns, a nurse and anti-abortion activist who terminated a pregnancy about 20 years ago, told lawmakers last week.

But the American Civil Liberties Union of Utah and Planned Parenthood Association of Utah have decried Rep. Steve Christiansen's proposal as medically unnecessary; abortion rights advocates call it a mandate intended to shame women as they're making a personal health care decision.

OB-GYN Marcela Smid testified that women already receive an ultrasound prior to an abortion in preparation for the procedure. A mandate for an additional sonogram at least 72 hours before an abortion would have no purpose and would go against the standard of care, she said. "You all are very good at practicing law. You are not as good at practicing medicine," said Smid, representing the Utah chapter of the American College of Obstetricians and Gynecologists. "And we respectfully ask that you allow us to practice medicine and provide patients with the best information with our medical knowledge."

Smid forcefully rejected the suggestion that women right now are "routinely" denied the option of viewing their ultrasounds. "Providers do not routinely deny patients their medical information. Ever," she said.

Under Christiansen's proposal, a physician or technician performing one of the mandated ultrasounds would have to describe "the presence and location of each unborn child in the uterus," display the images so that a woman can see them and make the fetal heartbeat audible to the woman, if possible.

The bill stipulates that nothing would prevent a woman from "averting her eyes" from the ultrasound images or asking the physician to lower the volume of the heartbeat.

A physician would not be allowed to perform an abortion unless a woman presents a completed form demonstrating she has met the ultrasound requirement. Doctors who

disregard the mandate would be liable for fines up to \$100,000 for the first offense and \$250,000 for each subsequent offense, according to the proposal.

The state currently offers women free ultrasounds if they are considering an abortion. The legislation would allow the Utah Department of Health to begin charging a “reasonable fee” for the newly mandated sonograms, although free ultrasounds would still be available at one of several pregnancy resource centers scattered across the state. Most, if not all, of the centers are explicitly opposed to abortion, according to their websites.

A Utah Medical Association representative last week expressed concerns about the bill, explaining that turning up the volume on an ultrasound can harm a fetus and cause miscarriage or birth defects. Since then, Christiansen, R-West Jordan, has altered the bill so the sonogram operator is only required to make a fetal heartbeat audible if it’s “medically safe.”

Still, critics of the proposal said the government has no business intruding on health care, questioning whether the state mandates any other medical procedure. In response, Rep. Brady Brammer claimed that the state does require pregnancy tests for female inmates before an execution.

“I think that it’s an apt analogy,” the Highland Republican said Tuesday. “I would wonder what the opponents of this bill would feel about if that mother wanted the child to die with them as part of the execution. Would that be her choice?”

And Rep. Eric Hutchings, R-Kearns, argued that the definition of “medically necessary” depends on whether mental health is a factor, noting that lobotomies were once deemed “tremendously effective” at treating mental illness. Medical providers at the time overlooked the damage to a person’s faculties, he said, but health care has since evolved to take a person’s mental well-being into consideration.

Taking that more holistic view, an ultrasound could be considered medically necessary as a way of preventing a woman from suffering mental distress from an abortion, he said.

Rep. Steve Waldrip, R-Eden, said while he respected Christiansen’s goal, he was concerned the approach was “heavy-handed” and voted against advancing it. Ultimately, the committee decided 6-5 to give the legislation a favorable recommendation and send it to the House floor.