

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 209**

Introduced by Albrecht, 17; Arch, 14; Bostelman, 23; Brewer, 43; Brieese, 41; Clements, 2; Erdman, 47; Geist, 25; Gragert, 40; Halloran, 33; Hansen, B., 16; Hilgers, 21; Kolterman, 24; La Grone, 49; Linehan, 39; Lowe, 37; McDonnell, 5; Murman, 38; Quick, 35; Scheer, 19; Slama, 1.

Read first time January 11, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to abortion; to amend sections 28-327 and
- 2 28-327.01, Reissue Revised Statutes of Nebraska; to provide
- 3 requirements for provision of information regarding reversal of the
- 4 effects of medication abortion; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-327, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 28-327 No abortion shall be performed except with the voluntary and  
4 informed consent of the woman upon whom the abortion is to be performed.  
5 Except in the case of an emergency situation, consent to an abortion is  
6 voluntary and informed only if:

7 (1) The woman is told the following by the physician who is to  
8 perform the abortion, by the referring physician, or by a physician  
9 assistant or registered nurse licensed under the Uniform Credentialing  
10 Act who is an agent of either physician, at least twenty-four hours  
11 before the abortion:

12 (a) The particular medical risks associated with the particular  
13 abortion procedure to be employed including, when medically accurate, the  
14 risks of infection, hemorrhage, perforated uterus, danger to subsequent  
15 pregnancies, and infertility;

16 (b) The probable gestational age of the unborn child at the time the  
17 abortion is to be performed;

18 (c) The medical risks associated with carrying her child to term;  
19 and

20 (d) That she cannot be forced or required by anyone to have an  
21 abortion and is free to withhold or withdraw her consent for an  
22 abortion; -

23 (e) That it may be possible to reverse the effects of a medication  
24 abortion if she changes her mind, but that time is of the essence; and

25 (f) That information on and assistance with reversing the effects of  
26 a medication abortion are available on the web site of the Department of  
27 Health and Human Services.

28 The person providing the information specified in this subdivision  
29 to the person upon whom the abortion is to be performed shall be deemed  
30 qualified to so advise and provide such information only if, at a  
31 minimum, he or she has had training in each of the following subjects:

1 Sexual and reproductive health; abortion technology; contraceptive  
2 technology; short-term counseling skills; community resources and  
3 referral; and informed consent. The physician or the physician's agent  
4 may provide this information by telephone without conducting a physical  
5 examination or tests of the patient, in which case the information  
6 required to be supplied may be based on facts supplied by the patient and  
7 whatever other relevant information is reasonably available to the  
8 physician or the physician's agent;

9 (2) The woman is informed by telephone or in person, by the  
10 physician who is to perform the abortion, by the referring physician, or  
11 by an agent of either physician, at least twenty-four hours before the  
12 abortion:

13 (a) The name of the physician who will perform the abortion;

14 (b) That medical assistance benefits may be available for prenatal  
15 care, childbirth, and neonatal care;

16 (c) That the father is liable to assist in the support of her child,  
17 even in instances in which the father has offered to pay for the  
18 abortion;

19 (d) That she has the right to review the printed materials described  
20 in section 28-327.01. The physician or his or her agent shall orally  
21 inform the woman that the materials have been provided by the Department  
22 of Health and Human Services and that they describe the unborn child, ~~and~~  
23 list agencies which offer alternatives to abortion, and provide  
24 information on the possibility of reversing the effects of a medication  
25 abortion. If the woman chooses to review the materials, they shall either  
26 be given to her at least twenty-four hours before the abortion or mailed  
27 to her at least seventy-two hours before the abortion by certified mail,  
28 restricted delivery to addressee, which means the postal employee can  
29 only deliver the mail to the addressee. The physician and his or her  
30 agent may disassociate themselves from the materials and may comment or  
31 refrain from commenting on them as they choose; and

1 (e) That she has the right to request a comprehensive list, compiled  
2 by the Department of Health and Human Services, of health care providers,  
3 facilities, and clinics that offer to have ultrasounds performed by a  
4 person at least as qualified as a registered nurse licensed under the  
5 Uniform Credentialing Act, including and specifying those that offer to  
6 perform such ultrasounds free of charge. The list shall be arranged  
7 geographically and shall include the name, address, hours of operation,  
8 and telephone number of each entity. If requested by the woman, the  
9 physician who is to perform the abortion, the referring physician, or his  
10 or her agent shall provide such a list as compiled by the department;

11 (3) If an ultrasound is used prior to the performance of an  
12 abortion, the physician who is to perform the abortion, the referring  
13 physician, or a physician assistant or registered nurse licensed under  
14 the Uniform Credentialing Act who is an agent of either physician, or any  
15 qualified agent of either physician, shall:

16 (a) Perform an ultrasound of the woman's unborn child of a quality  
17 consistent with standard medical practice in the community at least one  
18 hour prior to the performance of the abortion;

19 (b) Simultaneously display the ultrasound images so that the woman  
20 may choose to view the ultrasound images or not view the ultrasound  
21 images. The woman shall be informed that the ultrasound images will be  
22 displayed so that she is able to view them. Nothing in this subdivision  
23 shall be construed to require the woman to view the displayed ultrasound  
24 images; and

25 (c) If the woman requests information about the displayed ultrasound  
26 image, her questions shall be answered. If she requests a detailed,  
27 simultaneous, medical description of the ultrasound image, one shall be  
28 provided that includes the dimensions of the unborn child, the presence  
29 of cardiac activity, if present and viewable, and the presence of  
30 external members and internal organs, if present and viewable;

31 (4) At least one hour prior to the performance of an abortion, a

1 physician, psychiatrist, psychologist, mental health practitioner,  
2 physician assistant, registered nurse, or social worker licensed under  
3 the Uniform Credentialing Act has:

4 (a) Evaluated the pregnant woman to identify if the pregnant woman  
5 had the perception of feeling pressured or coerced into seeking or  
6 consenting to an abortion;

7 (b) Evaluated the pregnant woman to identify the presence of any  
8 risk factors associated with abortion;

9 (c) Informed the pregnant woman and the physician who is to perform  
10 the abortion of the results of the evaluation in writing. The written  
11 evaluation shall include, at a minimum, a checklist identifying both the  
12 positive and negative results of the evaluation for each risk factor  
13 associated with abortion and both the licensed person's written  
14 certification and the woman's written certification that the pregnant  
15 woman was informed of the risk factors associated with abortion as  
16 discussed; and

17 (d) Retained a copy of the written evaluation results in the  
18 pregnant woman's permanent record;

19 (5) If any risk factors associated with abortion were identified,  
20 the pregnant woman was informed of the following in such manner and  
21 detail that a reasonable person would consider material to a decision of  
22 undergoing an elective medical procedure:

23 (a) Each complication associated with each identified risk factor;  
24 and

25 (b) Any quantifiable risk rates whenever such relevant data exists;

26 (6) The physician performing the abortion has formed a reasonable  
27 medical judgment, documented in the permanent record, that:

28 (a) The preponderance of statistically validated medical studies  
29 demonstrates that the physical, psychological, and familial risks  
30 associated with abortion for patients with risk factors similar to the  
31 patient's risk factors are negligible risks;

1 (b) Continuance of the pregnancy would involve risk of injury to the  
2 physical or mental health of the pregnant woman greater than if the  
3 pregnancy were terminated by induced abortion; or

4 (c) Continuance of the pregnancy would involve less risk of injury  
5 to the physical or mental health of the pregnant woman than if the  
6 pregnancy were terminated by an induced abortion;

7 (7) The woman certifies in writing, prior to the abortion, that:

8 (a) The information described in subdivisions (1) and (2)(a), (b),  
9 and (c) of this section has been furnished her;

10 (b) She has been informed of her right to review the information  
11 referred to in subdivision (2)(d) of this section; and

12 (c) The requirements of subdivision (3) of this section have been  
13 performed if an ultrasound is performed prior to the performance of the  
14 abortion; and

15 (8) Prior to the performance of the abortion, the physician who is  
16 to perform the abortion or his or her agent receives a copy of the  
17 written certification prescribed by subdivision (7) of this section. The  
18 physician or his or her agent shall retain a copy of the signed  
19 certification form in the woman's medical record.

20 Sec. 2. Section 28-327.01, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 28-327.01 (1) The Department of Health and Human Services shall  
23 cause to be published the following easily comprehensible printed  
24 materials:

25 (a) Geographically indexed materials designed to inform the woman of  
26 public and private agencies and services available to assist a woman  
27 through pregnancy, upon childbirth, and while the child is dependent,  
28 including adoption agencies and agencies and services for prevention of  
29 unintended pregnancies, which materials shall include a comprehensive  
30 list of the agencies available, a description of the services they offer,  
31 and a description of the manner, including telephone numbers and

1 addresses in which such agencies may be contacted or printed materials  
2 including a toll-free, twenty-four-hour-a-day telephone number which may  
3 be called to orally obtain such a list and description of agencies in the  
4 locality of the caller and of the services they offer;

5 (b) Materials designed to inform the woman of the probable  
6 anatomical and physiological characteristics of the unborn child at two-  
7 week gestational increments from the time when a woman can be known to be  
8 pregnant to full term, including pictures or drawings representing the  
9 development of unborn children at the two-week gestational increments,  
10 and any relevant information on the possibility of the unborn child's  
11 survival. Any such pictures or drawings shall contain the dimensions of  
12 the unborn child and shall be realistic and appropriate for the stage of  
13 pregnancy depicted. The materials shall be objective, nonjudgmental, and  
14 designed to convey only accurate scientific information about the unborn  
15 child at the various gestational ages. The materials shall also contain  
16 objective information describing the methods of abortion procedures  
17 commonly employed, the medical risks commonly associated with each such  
18 procedure, the possible detrimental psychological effects of abortion,  
19 the medical risks commonly associated with abortion, and the medical  
20 risks commonly associated with carrying a child to term;~~and~~

21 (c) A comprehensive list of health care providers, facilities, and  
22 clinics that offer to have ultrasounds performed by a person at least as  
23 qualified as a registered nurse licensed under the Uniform Credentialing  
24 Act, including and specifying those that offer to perform such  
25 ultrasounds free of charge. The list shall be arranged geographically and  
26 shall include the name, address, hours of operation, and telephone number  
27 of each entity; and -

28 (d) Materials designed to inform the woman that it may be possible  
29 to reverse the effects of a medication abortion if the woman changes her  
30 mind, including directions on where to obtain further information and  
31 assistance in locating a qualified medical professional who can aid in

1 the reversal of a medication abortion.

2 (2) The printed materials shall be printed in a typeface large  
3 enough to be clearly legible.

4 (3) The printed materials required under this section shall be  
5 available from the department upon the request by any person, facility,  
6 or hospital for an amount equal to the cost incurred by the department to  
7 publish the materials.

8 (4) The Department of Health and Human Services shall make available  
9 on its Internet web site a printable publication of geographically  
10 indexed materials designed to inform the woman of public and private  
11 agencies with services available to assist a woman with mental health  
12 concerns, following a risk factor evaluation. Such services shall  
13 include, but not be limited to, outpatient and crisis intervention  
14 services and crisis hotlines. The materials shall include a comprehensive  
15 list of the agencies available, a description of the services offered,  
16 and a description of the manner in which such agencies may be contacted,  
17 including addresses and telephone numbers of such agencies, as well as a  
18 toll-free, twenty-four-hour-a-day telephone number to be provided by the  
19 department which may be called to orally obtain the names of the agencies  
20 and the services they provide in the locality of the woman. The  
21 department shall update the publication as necessary.

22 (5) The Department of Health and Human Services shall publish and  
23 make available on its web site materials designed to inform women that it  
24 may be possible to reverse the effects of a medication abortion if the  
25 woman changes her mind, including information and assistance in locating  
26 a qualified medical professional who can aid in the reversal of a  
27 medication abortion.

28 (6) The Department of Health and Human Services shall review and  
29 update the information regarding where to locate a qualified medical  
30 professional who can aid in the reversal of a medication abortion as  
31 necessary.

1           Sec. 3.   Original sections 28-327 and 28-327.01, Reissue Revised  
2 Statutes of Nebraska, are repealed.