Minnesota lawmakers this year made the most significant change to the state's abortion policy in nearly two decades. Although it took an unusual path this session, and it had been squashed in previous years, the “Women’s Right to Know” bill eventually was passed by large majorities in both legislative chambers and then signed hours later by Republican Gov. Tim Pawlenty. The new law began taking effect July 1.

“I’ve tried to get that bill [passed] for a number of years,” says Minnesota Sen. Jim Vickerman, a Democrat from Tracy, whose past attempts were stymied twice by the vetoes of former Gov. Jesse Ventura. “The legislation doesn’t stop abortion. It just says, ‘Wait a minute and stop and think first.’ It’s a good deal. It’s a right to know. I just had surgery on my ear and got information on that beforehand.”

Minnesota’s law will require doctors to tell women the probable gestational age of the fetus, as well as provide information on the medical risks of abortion and childbirth. Doctors also must refer women seeking an abortion to a Web site, to be developed by the Minnesota Health Department, that will include pictures of and information on fetal development. One apparently unique aspect of the Minnesota law is that it requires information on the possible pain a fetus experiences during an abortion to be shared with patients.

Effective Aug. 1, women will have to wait 24 hours after reading the information before undergoing an abortion procedure. Patients also will need to certify that they have been furnished with the information, and they will be able to sue their doctors for failing to provide it.

As expected with any bill dealing with such a hot-button issue, the Women’s Right to Know legislation has engendered quite a bit of attention and controversy. First, the road to legislative passage was unusual. Leaders in the House, which is controlled by Republicans, attached the measure to an unrelated bill on circuses that already had been passed by the Democrat-led Senate. Parliamentary rules required senators to either approve the bill without amendments or send it to a conference committee. Some opponents of the proposed abortion changes argued unsuccessfully to send it to a conference committee; in the end, a substantial majority of lawmakers passed the legislation.

As has happened in other states, opponents of right-to-know laws have promised lawsuits, arguing that the Minnesota measure places an undue burden on women and abortion providers while also violating physicians’ free speech and privacy rights. The Web site also will be monitored closely to determine whether it provides “impartial” information.

Michigan has had the Informed Consent for Abortion Act since 1993. In 2000, the law was amended to provide the information it requires on a Web site sponsored by the Michigan Department of Community Health.

The site directs women through a series of Web pages that they must access at least 24 hours prior to undergoing an abortion procedure. The information includes a written summary of the abortion procedure the woman is planning to undergo, pictures and descriptions of fetal development corresponding to the likely gestational age, and prenatal care and parenting information.

At the end of the series of Web links, a form confirming that the woman has been presented with the three sets of information can be accessed. The form automatically inserts the date and time that it was accessed, along with when the women can undergo an abortion procedure (24 hours later). The form is valid for two weeks and must be printed out, signed and presented to the physician.

A number of states have informed consent/waiting period abortion laws, but some are not in effect because of court orders. Indiana’s law, passed in 1995, was on hold until very recently due to judicial challenges. This past February, the U.S. Supreme Court declined without comment to hear a challenge to the state law. Although challenges are still ongoing, a judge decided in May not to extend an order blocking the measure. As a result, at least 18 hours before the procedure is performed, women are required to have in-person counseling on the abortion’s risks. Abortion providers also must provide information to patients.

New proposal in Michigan

Lawmakers in Michigan have tried to address another concern of abortion opponents — the practice of “D&X” (dilation and extraction), more commonly known as partial-birth abortion. Laws passed in 1996 and 1999 to outlaw the procedure in the state were struck down as unconstitutional.

This year, the Legal Birth Definition Act has been introduced. Rather then addressing the procedure directly, this legislation would define a “perinate” as a legally born person. Any “live” human being (for example, one that demonstrates certain defined biological functions) that has any portion of the body vaginally delivered would be considered a “perinate.” Physicians would need to make reasonable attempts to keep the perinate alive.

“There is a rational basis for the state to declare a partially born child to be legally born,” argues Michigan Sen. Michelle McManus, a Republican from Lake Leelanau.

“Current law fails to provide clear legal protections to children as they are being born. While Roe vs. Wade is the law of the land, it is vital to clarify the difference between ‘born’ and ‘unborn’ children, as the state clearly has a compelling interest in protecting the life of a born person.”

While Roe vs. Wade established that a fully born child is afforded full constitutional rights, proponents of the Michigan proposal say, the U.S. Supreme Court never defined birth, nor did it bar the states from defining when a person is considered “born” for legal purposes.

McManus says her legislation is a straightforward attempt to clarify the ambiguities. Since D&X involves partially removing a fetus from the womb (normally in the second trimester of development, but it can be used in the third trimester), the procedure would be illegal on any fetus that demonstrates the biological functions outlined in the legislation.

The measure is being opposed on several grounds. First, it does not contain exceptions for a pregnancy that endangers the life or health of a woman. Opponents also say the legislation could be interpreted to apply to any stage of gestation, adding that medical services should not be decided by lawmakers. Those decisions should instead be made by doctors based on standard medical practices, they contend.

Democratic Gov. Jennifer Granholm has said she will veto any legislation that does not contain adequate protections for a pregnant woman’s health. Proponents of the legislation have said they are prepared to launch a petition drive so that the issue can be decided by a direct vote of the people.

Meanwhile, movement at the federal level may very well eliminate the need for state action. In June, the U.S. House passed legislation that would ban partial-birth abortions, a bill that was previously vetoed twice by then-President Bill Clinton. President George Bush, though, has said he would sign the ban.