

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 The Committee on Health Care Services offered the following:

13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

17 Section 1. SHORT TITLE.--This act may be cited as the
18 "Parental Notice of Abortion Act."

19 Section 2. Section 390.011, Florida Statutes, is
20 amended to read:

21 390.011 Definitions.--As used in this chapter, the
22 term:

23 (1) "Abortion" means the termination of human
24 pregnancy with an intention other than to produce a live birth
25 or to remove a dead fetus.

26 (2) "Abortion clinic" or "clinic" means any facility
27 in which abortions are performed. The term does not include:

28 (a) A hospital; or

29 (b) A physician's office, provided that the office is
30 not used primarily for the performance of abortions.

31 (3) "Actual notice" means the giving of notice

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1 directly, in person, or by telephone.

2 (4)(3) "Agency" means the Agency for Health Care
3 Administration.

4 (5) "Child abuse and neglect" shall have the same
5 meaning as defined in s. 415.503(3) and, as used in this
6 chapter, shall refer to the commission of acts set forth in s.
7 415.503(3) against a minor by a family member as defined in s.
8 440.13(1)(b).

9 (6) "Constructive notice" means notice by certified
10 mail to the last known address of the parent or legal guardian
11 of a minor, with delivery deemed to have occurred 48 hours
12 after the certified notice is mailed.

13 (7)(4) "Department" means the Department of Health.

14 (8)(5) "Hospital" means a facility licensed under
15 chapter 395.

16 (9) "Medical emergency" means a condition that, on the
17 basis of a physician's good faith clinical judgment, so
18 complicates the medical condition of a pregnant woman as to
19 necessitate the immediate termination of her pregnancy to
20 avert her death, or for which a delay in the termination of
21 her pregnancy will create serious risk of substantial and
22 irreversible impairment of a major bodily function.

23 (10)(6) "Physician" means a physician licensed under
24 chapter 458 or chapter 459 or a physician practicing medicine
25 or osteopathic medicine in the employment of the United
26 States.

27 (11) "Sexual abuse" shall have the same meaning as
28 defined in s. 415.503(15) and, as used in this chapter, shall
29 refer to the commission of acts set forth in s. 415.503(15)
30 against a minor by a family member as defined in s.
31 440.13(1)(b).

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1 ~~(13)~~(7) "Third trimester" means the weeks of pregnancy
2 after the 24th week of pregnancy.

3 Section 3. Section 390.0111, Florida Statutes, is
4 amended to read:

5 390.0111 Termination of pregnancies.--

6 (1) TERMINATION IN THIRD TRIMESTER; WHEN ALLOWED.--No
7 termination of pregnancy shall be performed on any human being
8 in the third trimester of pregnancy unless:

9 (a) Two physicians certify in writing to the fact
10 that, to a reasonable degree of medical probability, the
11 termination of pregnancy is necessary to save the life or
12 preserve the health of the pregnant woman; or

13 (b) The physician certifies in writing to the medical
14 necessity for legitimate emergency medical procedures for
15 termination of pregnancy in the last trimester, and another
16 physician is not available for consultation.

17 (2) PERFORMANCE BY PHYSICIAN REQUIRED.--No termination
18 of pregnancy shall be performed at any time except by a
19 physician.

20 (3) CONSENTS REQUIRED.--A termination of pregnancy may
21 not be performed or induced except with the voluntary and
22 informed written consent of the pregnant woman or, in the case
23 of a mental incompetent person, the voluntary and informed
24 written consent of her court-appointed guardian.

25 (a) Except in the case of a medical emergency, consent
26 to a termination of pregnancy is voluntary and informed only
27 if:

28 1. The physician who is to perform the procedure, or
29 the referring physician, has, at a minimum, orally, in person,
30 informed the woman of:

31 a. The nature and risks of undergoing or not

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1 undergoing the proposed procedure that a reasonable patient
2 would consider material to making a knowing and willful
3 decision of whether to terminate a pregnancy.

4 b. The probable gestational age of the fetus at the
5 time the termination of pregnancy is to be performed.

6 c. The medical risks to the woman and fetus of
7 carrying the pregnancy to term.

8 2. Printed materials prepared and provided by the
9 department have been provided to the pregnant woman, if she
10 chooses to view these materials, including:

11 a. A description of the fetus.

12 b. A list of agencies that offer alternatives to
13 terminating the pregnancy.

14 c. Detailed information on the availability of medical
15 assistance benefits for prenatal care, childbirth, and
16 neonatal care.

17 3. The woman acknowledges in writing, before the
18 termination of pregnancy, that the information required to be
19 provided under this subsection has been provided.

20
21 Nothing in this paragraph is intended to prohibit a physician
22 from providing any additional information which the physician
23 deems material to the woman's informed decision to terminate
24 her pregnancy.

25 (b) In the event a medical emergency exists and a
26 physician cannot comply with the requirements for informed
27 consent, a physician may terminate a pregnancy if he or she
28 has obtained at least one corroborative medical opinion
29 attesting to the medical necessity for emergency medical
30 procedures and to the fact that to a reasonable degree of
31 medical certainty the continuation of the pregnancy would

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1 threaten the life of the pregnant woman. In the event no
2 second physician is available for a corroborating opinion, the
3 physician may proceed but shall document reasons for the
4 medical necessity in the patient's medical records.

5 (c) Violation of this subsection by a physician
6 constitutes grounds for disciplinary action under s. 458.331
7 or s. 459.015. Substantial compliance or reasonable belief
8 that complying with the requirements of informed consent would
9 threaten the life or health of the patient is a defense to any
10 action brought under this paragraph.

11 (4) NOTIFICATION REQUIRED.--

12 (a) A termination of pregnancy may not be performed or
13 induced upon a minor unless the person performing or inducing
14 the termination of pregnancy has given at least 48 hours
15 actual notice to one parent or to the legal guardian of the
16 pregnant minor of his or her intention to perform or induce
17 the termination of pregnancy. The notice may be given by a
18 referring physician. The person who performs the termination
19 of pregnancy must receive the written statement of the
20 referring physician certifying that the referring physician
21 has given notice. If actual notice is not possible after a
22 reasonable effort, the person or his or her agent must give 48
23 hours constructive notice.

24 (b) Notice shall not be required if:

25 1. A medical emergency exists and there is
26 insufficient time for the attending physician to comply with
27 the notification requirements. In the event a medical
28 emergency exists, the physician may terminate the pregnancy if
29 he or she has obtained at least one corroborative medical
30 opinion attesting to the medical necessity for emergency
31 medical procedures. In the event no second physician is

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1 available for a corroborating opinion, the physician may
2 proceed but shall document reasons for the medical necessity
3 in the patient's medical records;

4 2. Notice is waived in writing by the person who is
5 entitled to notice;

6 3. Notice is waived if the minor is or has been
7 married or has the disability of nonage removed pursuant to s.
8 743.015, or similar statutes of other states; or

9 4. Notice is waived under the provisions of subsection
10 (5).

11 (c) Violation of this subsection by a physician
12 constitutes grounds for disciplinary action under s. 458.331
13 or s. 459.015.

14 (5) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.--

15 (a) A minor may petition any circuit court for a
16 waiver of the notice requirements of subsection (4) and may
17 participate in proceedings on her own behalf. The petition
18 shall include a statement that the complainant is pregnant and
19 notice has not been waived. The court may appoint a guardian
20 ad litem for her. Any guardian ad litem appointed under this
21 subsection shall act to maintain the confidentiality of the
22 proceedings. The circuit court shall advise the minor that she
23 has a right to court-appointed counsel and shall provide her
24 with counsel upon her request.

25 (b) Court proceedings under this section shall be
26 confidential and shall ensure the anonymity of the minor. All
27 court proceedings under this section shall be sealed. The
28 minor shall have the right to file her petition in the circuit
29 court using a pseudonym or using solely her initials. All
30 documents related to this petition shall be confidential and
31 shall not be available to the public. Court proceedings under

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1 this section shall be given precedence over other pending
2 matters to the extent necessary to ensure that the court
3 reaches a decision promptly. The court shall rule, and issue
4 written findings of fact and conclusions of law, within 48
5 hours of the time that the petition was filed, except that the
6 48-hour limitation may be extended at the request of the
7 minor. If the court fails to rule within the 48-hour period
8 and an extension was not requested, then the petition shall be
9 deemed to have been granted, and the notice requirement shall
10 be waived.

11 (c) If the court finds, by clear and convincing
12 evidence, that the minor is sufficiently mature to decide
13 whether to terminate her pregnancy, the court shall issue an
14 order authorizing the minor to consent to the performance or
15 inducement of a termination of pregnancy without the
16 notification of a parent or guardian. If the court does not
17 make the finding specified in this paragraph or paragraph (d),
18 it shall dismiss the petition.

19 (d) If the court finds, by clear and convincing
20 evidence, that there is evidence of child abuse or neglect, or
21 sexual abuse of the complainant by one or both of her parents,
22 her guardian, or her custodian, or that the notification of a
23 parent or guardian is not in the best interest of the
24 complainant, the court shall issue an order authorizing the
25 minor to consent to the performance or inducement of a
26 termination of pregnancy without the notification of a parent
27 or guardian. If the court does not make the finding specified
28 in this paragraph or paragraph (c), it shall dismiss the
29 petition.

30 (e) A court that conducts proceedings under this
31 section shall issue written and specific factual findings and

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1 legal conclusions supporting its decision and shall order that
2 a confidential record of the evidence and the judge's findings
3 and conclusions be maintained. At the hearing, the court shall
4 hear evidence relating to the emotional development, maturity,
5 intellect and understanding of the minor.

6 (f) An expedited confidential appeal shall be
7 available, as the Supreme Court provides by rule, to any minor
8 to whom the circuit court denies a waiver of notice. An order
9 authorizing a termination of pregnancy without notice shall
10 not be subject to appeal.

11 (g) No filing fees shall be required of any pregnant
12 minor who petitions a court for a waiver of parental
13 notification under this subsection at either the trial or the
14 appellate level.

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16 The requirements and procedures under this subsection are
17 available to minors whether or not they are residents of this
18 state.

19 (6)(4) STANDARD OF MEDICAL CARE TO BE USED DURING
20 VIABILITY.--If a termination of pregnancy is performed during
21 viability, no person who performs or induces the termination
22 of pregnancy shall fail to use that degree of professional
23 skill, care, and diligence to preserve the life and health of
24 the fetus which such person would be required to exercise in
25 order to preserve the life and health of any fetus intended to
26 be born and not aborted. "Viability" means that stage of fetal
27 development when the life of the unborn child may with a
28 reasonable degree of medical probability be continued
29 indefinitely outside the womb. Notwithstanding the provisions
30 of this subsection, the woman's life and health shall
31 constitute an overriding and superior consideration to the

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1 concern for the life and health of the fetus when such
2 concerns are in conflict.

3 (7)~~(5)~~ EXPERIMENTATION ON FETUS PROHIBITED;
4 EXCEPTION.--No person shall use any live fetus or live,
5 premature infant for any type of scientific, research,
6 laboratory, or other kind of experimentation either prior to
7 or subsequent to any termination of pregnancy procedure except
8 as necessary to protect or preserve the life and health of
9 such fetus or premature infant.

10 (8)~~(6)~~ FETAL REMAINS.--Fetal remains shall be disposed
11 of in a sanitary and appropriate manner and in accordance with
12 standard health practices, as provided by rule of the
13 department. Failure to dispose of fetal remains in accordance
14 with department rules is a misdemeanor of the second degree,
15 punishable as provided in s. 775.082 or s. 775.083.

16 (9)~~(7)~~ REFUSAL TO PARTICIPATE IN TERMINATION
17 PROCEDURE.--Nothing in this section shall require any hospital
18 or any person to participate in the termination of a
19 pregnancy, nor shall any hospital or any person be liable for
20 such refusal. No person who is a member of, or associated
21 with, the staff of a hospital, nor any employee of a hospital
22 or physician in which or by whom the termination of a
23 pregnancy has been authorized or performed, who shall state an
24 objection to such procedure on moral or religious grounds
25 shall be required to participate in the procedure which will
26 result in the termination of pregnancy. The refusal of any
27 such person or employee to participate shall not form the
28 basis for any disciplinary or other recriminatory action
29 against such person.

30 (10)~~(8)~~ EXCEPTION.--The provisions of this section
31 shall not apply to the performance of a procedure which

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1 terminates a pregnancy in order to deliver a live child.

2 (11)(9) PENALTIES FOR VIOLATION.--Except as provided
3 in subsections (3), (4), and (8)(6):

4 (a) Any person who willfully performs, or actively
5 participates in, a termination of a pregnancy procedure in
6 violation of the requirements of this section commits a felony
7 of the third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 (b) Any person who performs, or actively participates
10 in, a termination of a pregnancy procedure in violation of the
11 provisions of this section which results in the death of the
12 woman commits a felony of the second degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (12) PROCEEDINGS.--The Supreme Court is requested to
15 adopt rules to ensure that proceedings under this section are
16 handled in an expeditious and confidential manner and in a
17 manner which will satisfy the requirements of state and
18 federal courts.

19 Section 4. If any provision of this act or the
20 application thereof to any person or circumstance is held
21 invalid, the invalidity shall not affect other provisions or
22 applications of the act which can be given effect without the
23 invalid provision or application, and to this end the
24 provisions of this act are declared severable.

25 Section 5. This act shall take effect upon becoming a
26 law.

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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 3, before the enacting clause

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1 remove from the bill all lines:

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3 and insert in lieu thereof:

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A bill to be entitled

5

An act relating to termination of pregnancies;

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providing a short title; amending s. 390.011,

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F.S.; defining additional terms; amending s.

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390.0111, F.S.; revising provisions relating to

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terminations of pregnancies; prohibiting the

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performing or inducement of a termination of

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pregnancy upon a minor without specified

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notice; providing disciplinary action for

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violation; providing notice requirements;

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providing exceptions; providing procedure for

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judicial waiver of notice; providing for

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confidentiality of proceedings; providing for

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issuance of a court order authorizing consent

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to a termination of pregnancy without

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notification; providing for dismissal of

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petition; requiring the issuance of written

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findings of fact and legal conclusions;

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providing for expedited confidential appeal;

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providing for waiver of filing fees; requesting

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the Supreme Court to adopt rules; providing for

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severability; providing an effective date.

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WHEREAS, the Legislature finds that immature minors

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often lack the ability to make fully informed choices that

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take into account both immediate and long-range consequences,

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and

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WHEREAS, the medical, emotional, and psychological

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1 consequences of abortion are sometimes serious and can be
2 lasting, particularly when the patient is immature, and

3 WHEREAS, the capacity to become pregnant and the
4 capacity for mature judgment concerning the wisdom of an
5 abortion are not necessarily related, and

6 WHEREAS, parents ordinarily possess information
7 essential to a physician's exercise of his or her best medical
8 judgment concerning the child, and

9 WHEREAS, parents who are aware that their minor
10 daughter has had an abortion may better ensure that she
11 receives adequate medical attention after her abortion, and

12 WHEREAS, parental consultation is usually desirable and
13 in the best interests of the minor, and

14 WHEREAS, the Legislature's purpose in enacting parental
15 notice legislation is to further the important and compelling
16 state interests of protecting minors against their own
17 immaturity, fostering family unity and preserving the family
18 as a viable social unit, protecting the constitutional rights
19 of parents to rear children who are members of their
20 household, and reducing teenage pregnancy and unnecessary
21 abortion, NOW, THEREFORE,

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