



Bill No. CS for SB 1598

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1 occurred 48 hours after the certified notice is mailed.

2 (d) "Medical emergency" means a condition that, on the  
3 basis of a physician's good-faith clinical judgment, so  
4 complicates the medical condition of a pregnant woman as to  
5 necessitate the immediate termination of her pregnancy to  
6 avert her death, or for which a delay in the termination of  
7 her pregnancy will create serious risk of substantial and  
8 irreversible impairment of a major bodily function.

9 (e) "Sexual abuse" has the meaning ascribed in s.  
10 39.01 and refers to the acts of sexual abuse against a minor  
11 by a family member as defined in s. 741.28(2).

12 (3) NOTIFICATION REQUIRED.--

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

25 (b) Notice is not required if:

26 1. A medical emergency exists and there is  
27 insufficient time for the attending physician to comply with  
28 the notification requirements. If a medical emergency exists,  
29 the physician may proceed but must document reasons for the  
30 medical necessity in the patient's medical records;

31 2. Notice is waived in writing by the person who is

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1 entitled to notice;

2 3. Notice is waived by the minor who is or has been  
3 married or has had the disability of nonage removed under s.  
4 743.015 or a similar statute of another state;

5 4. Notice is waived by the patient because the patient  
6 has a minor child dependent on her; or

7 5. Notice is waived under subsection (4).

8 (c) Violation of this subsection by a physician  
9 constitutes grounds for disciplinary action under s. 458.331  
10 or s. 459.015.

11 (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.--

12 (a) A minor may petition any circuit court for a  
13 waiver of the notice requirements of subsection (3) and may  
14 participate in proceedings on her own behalf. The petition  
15 must include a statement that the petitioner is pregnant and  
16 notice has not been waived. The court may appoint a guardian  
17 ad litem for her. A guardian ad litem appointed under this  
18 subsection shall act to maintain the confidentiality of the  
19 proceedings. The circuit court shall advise the minor that she  
20 has a right to court-appointed counsel and shall provide her  
21 with counsel upon her request.

22 (b) Court proceedings under this subsection must be  
23 given precedence over other pending matters to the extent  
24 necessary to ensure that the court reaches a decision  
25 promptly. The court shall rule, and issue written findings of  
26 fact and conclusions of law, within 48 hours after the  
27 petition is filed, except that the 48-hour limitation may be  
28 extended at the request of the minor. If the court fails to  
29 rule within the 48-hour period and an extension has not been  
30 requested, the petition is granted, and the notice requirement  
31 is waived.

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1           (c) If the court finds, by clear evidence, that the  
 2 minor is sufficiently mature to decide whether to terminate  
 3 her pregnancy, the court shall issue an order authorizing the  
 4 minor to consent to the performance or inducement of a  
 5 termination of pregnancy without the notification of a parent  
 6 or guardian. If the court does not make the finding specified  
 7 in this paragraph or paragraph (d), it must dismiss the  
 8 petition.

9           (d) If the court finds, by clear evidence, that there  
 10 is evidence of child abuse or sexual abuse of the petitioner  
 11 by one or both of her parents or her guardian, or that the  
 12 notification of a parent or guardian is not in the best  
 13 interest of the petitioner, the court shall issue an order  
 14 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 (c),  
 18 it must dismiss the petition.

19           (e) A court that conducts proceedings under this  
 20 section shall provide for a written transcript of all  
 21 testimony and proceedings and issue written and specific  
 22 factual findings and legal conclusions supporting its decision  
 23 and shall order that a confidential record of the evidence and  
 24 the judge's findings and conclusions be maintained. At the  
 25 hearing, the court shall hear evidence relating to the  
 26 emotional development, maturity, intellect, and understanding  
 27 of the minor.

28           (f) An expedited confidential appeal shall be  
 29 available, as the Supreme Court provides by rule, to any minor  
 30 to whom the circuit court denies a waiver of notice. An order  
 31 authorizing a termination of pregnancy without notice is not

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1 subject to appeal.

2 (g) No filing fees or court costs shall be required of  
3 any pregnant minor who petitions a court for a waiver of  
4 parental notification under this subsection at either the  
5 trial or the appellate level.

6 (h) No county shall be obligated to pay the salaries,  
7 costs, or expenses of any counsel appointed by the court under  
8 this subsection.

9 (5) PROCEEDINGS.--The Supreme Court is requested to  
10 adopt rules and forms for petitions to ensure that proceedings  
11 under subsection (4) are handled expeditiously and in a manner  
12 that will satisfy the requirements of state and federal  
13 courts.

14 (6) REPORT.--The Supreme Court, through the Office of  
15 the State Courts Administrator, shall report by February 1 of  
16 each year to the Governor, the President of the Senate, and  
17 the Speaker of the House of Representatives on the number of  
18 petitions filed under subsection (4) for the preceding year,  
19 and the timing and manner of disposal of such petitions by  
20 each circuit court.

21 Section 2. If any provision of this act or the  
22 application thereof to any person or circumstance is held  
23 invalid, the invalidity shall not affect other provisions or  
24 applications of the act which can be given effect without the  
25 invalid provision or application, and to this end the  
26 provisions of this act are declared severable.

27 Section 3. This act shall take effect July 1, 1999.  
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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 Delete everything before the enacting clause,

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3 and insert:

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A bill to be entitled

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An act relating to termination of pregnancies;

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creating s. 390.01115, F.S.; providing a short

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title; defining terms; 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; prescribing notice requirements;

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providing exceptions; prescribing procedure for

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judicial waiver of notice; providing for notice

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of right to counsel; providing for issuance of

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a court order authorizing consent to a

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termination of pregnancy without notification;

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providing for dismissal of petitions; requiring

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the issuance of written findings of fact and

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legal conclusions; providing for expedited

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appeal; providing for waiver of filing fees and

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court costs; precluding assumption of certain

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expenses by counties; requesting the Supreme

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Court to adopt rules; requiring the Supreme

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Court to report annually to the Governor and

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the Legislature; providing for severability;

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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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1           WHEREAS, the unique medical, emotional, and  
2 psychological consequences of abortion are sometimes serious  
3 and can be lasting, particularly when the patient is immature,  
4 and

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

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

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

14           WHEREAS, parental consultation is usually desirable and  
15 in the best interests of the minor, and

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

24           WHEREAS, further legislative purposes are to ensure  
25 that parents are able to meet their high duty to seek out and  
26 follow medical advice pertaining to their children, stay  
27 apprised of the medical needs and physical condition of their  
28 children, and recognize complications that might arise  
29 following medical procedures or services, to preserve the  
30 right of parents to pursue a civil action on behalf of their  
31 child before expiration of the statute of limitations period,

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1 if a facility or physician commits medical malpractice that  
2 results in injury to a child, and to prevent, detect, and  
3 prosecute batteries, rapes, and other crimes committed upon  
4 minors, and

5 WHEREAS, previous legislation requiring the consent of  
6 parents before a physician performed an abortion on their  
7 daughter was struck down by the Florida Supreme Court on the  
8 basis of the constitutional right of privacy, in the case of  
9 In Re: T.W., and this legislation is designed to extend the  
10 protection of the law to minor girls and their parents in  
11 accordance with the State Constitution, NOW, THEREFORE,

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