

Bill No. CS for SB 1598

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Bronson moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	Delete everything after the enacting clause		
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16	and insert:		
17	Section 1. Section 390.01115, Florida Statutes, is		
18	created to read:		
19	<u>390.01115 Parental Notice of Abortion Act.--</u>		
20	<u>(1) SHORT TITLE.--This section may be cited as the</u>		
21	<u>"Parental Notice of Abortion Act."</u>		
22	<u>(2) DEFINITIONS.--As used in this section, the term:</u>		
23	<u>(a) "Actual notice" means notice that is given</u>		
24	<u>directly, in person, or by telephone.</u>		
25	<u>(b) "Child abuse" has the meaning ascribed in s.</u>		
26	<u>39.0015(3) and refers to the acts of child abuse against a</u>		
27	<u>minor by a family member as defined in s. 741.28(2).</u>		
28	<u>(c) "Constructive notice" means notice that is given</u>		
29	<u>by certified mail to the last known address of the parent or</u>		
30	<u>legal guardian of a minor, with delivery deemed to have</u>		
31	<u>occurred 48 hours after the certified notice is mailed.</u>		

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

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

11 (3) NOTIFICATION REQUIRED.--

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

24 (b) Notice is not 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. If a medical emergency exists,
28 the physician may proceed but must document reasons for the
29 medical necessity in the patient's medical records;

30 2. Notice is waived in writing by the person who is
31 entitled to notice;

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

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

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

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

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

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

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

31 (c) If the court finds, by clear evidence, that the

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

8 (d) If the court finds, by clear evidence, that there
9 is evidence of child abuse or sexual abuse of the petitioner
10 by one or both of her parents or her guardian, or that the
11 notification of a parent or guardian is not in the best
12 interest of the petitioner, the court shall issue an order
13 authorizing the minor to consent to the performance or
14 inducement of a termination of pregnancy without the
15 notification of a parent or guardian. If the court does not
16 make the finding specified in this paragraph or paragraph (c),
17 it must dismiss the petition.

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

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

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

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

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

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

20 Section 2. Any member of the Legislature of the State
21 of Florida who sponsored or cosponsored this act has the right
22 to intervene in any legal action challenging the
23 constitutionality of this act.

24 Section 3. If any provision of this act or the
25 application thereof to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or
27 applications of the act which can be given effect without the
28 invalid provision or application, and to this end the
29 provisions of this act are declared severable.

30 Section 4. This act shall take effect July 1, 1999.

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

2 And the title is amended as follows:

3 Delete everything before the enacting clause,

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5 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; allowing legislative sponsors

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 of this act to intervene in certain legal

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 actions; providing for severability; providing

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 an effective date.

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1 WHEREAS, the Legislature finds that immature minors
2 often lack the ability to make fully informed choices that
3 take into account both immediate and long-range consequences,
4 and

5 WHEREAS, the unique medical, emotional, and
6 psychological consequences of abortion are sometimes serious
7 and can be lasting, particularly when the patient is immature,
8 and

9 WHEREAS, the capacity to become pregnant and the
10 capacity for mature judgment concerning the wisdom of an
11 abortion are not necessarily related, and

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

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

18 WHEREAS, parental consultation is usually desirable and
19 in the best interests of the minor, and

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

28 WHEREAS, further legislative purposes are to ensure
29 that parents are able to meet their high duty to seek out and
30 follow medical advice pertaining to their children, stay
31 apprised of the medical needs and physical condition of their

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1 children, and recognize complications that might arise
2 following medical procedures or services, to preserve the
3 right of parents to pursue a civil action on behalf of their
4 child before expiration of the statute of limitations period,
5 if a facility or physician commits medical malpractice that
6 results in injury to a child, and to prevent, detect, and
7 prosecute batteries, rapes, and other crimes committed upon
8 minors, and

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

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