

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Seiler offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 390.01115, Florida Statutes, is
6 repealed.

7 Section 2. Section 390.01114, Florida Statutes, is created
8 to read:

9 390.01114 Parental Notice of Abortion Act.--

10 (1) SHORT TITLE.--This section may be cited as the
11 "Parental Notice of Abortion Act."

12 (2) DEFINITIONS.--As used in this section, the term:

13 (a) "Actual notice" means notice that is given directly,
14 in person, or by telephone.

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15 (b) "Child abuse" has the meaning ascribed in s.
16 39.0015(3).

17 (c) "Constructive notice" means notice that is given by
18 certified mail to the last known address of the parent or legal
19 guardian of a minor, with delivery deemed to have occurred 48
20 hours after the certified notice is mailed.

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

28 (e) "Sexual abuse" has the meaning ascribed in s. 39.01.

29 (f) "Minor" means a person under the age of 18 years.

30 (3) NOTIFICATION REQUIRED.--

31 (a) A termination of pregnancy may not be performed or
32 induced upon a minor unless the physician performing or inducing
33 the termination of pregnancy has given at least 48 hours' actual
34 notice to one parent or to the legal guardian of the pregnant
35 minor of his or her intention to perform or induce the
36 termination of pregnancy. The notice may be given by a referring
37 physician. The physician who performs the termination of
38 pregnancy must receive the written statement of the referring
39 physician certifying that the referring physician has given
40 notice. If actual notice is not possible after a reasonable
41 effort has been made, the physician performing or inducing the

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42 termination of pregnancy or the referring physician must give 48
43 hours' constructive notice.

44 (b) Notice is not required if:

45 1. In the physician's good-faith clinical judgment, a
46 medical emergency exists and there is insufficient time for the
47 attending physician to comply with the notification
48 requirements. If a medical emergency exists, the physician may
49 proceed but must document reasons for the medical necessity in
50 the patient's medical records;

51 2. Notice is waived in writing by the person who is
52 entitled to notice;

53 3. Notice is waived by the minor who is or has been
54 married or has had the disability of nonage removed under s.
55 743.015 or a similar statute of another state;

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

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

59 (c) Violation of this subsection by a physician
60 constitutes grounds for disciplinary action under s. 458.331 or
61 s. 459.015.

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

63 (a) A minor may petition any circuit court for a waiver of
64 the notice requirements of subsection (3) and may participate in
65 proceedings on her own behalf. The petition may be filed under a
66 pseudonym or through the use of initials, as provided by court
67 rule. The petition must include a statement that the petitioner
68 is pregnant and notice has not been waived. The court shall

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69 advise the minor that she has a right to court-appointed counsel
70 and shall provide her with counsel upon her request at no cost
71 to the minor.

72 (b) Court proceedings under this subsection must be given
73 precedence over other pending matters to the extent necessary to
74 ensure that the court reaches a decision promptly. The court
75 shall rule, and issue written findings of fact and conclusions
76 of law, within 48 hours after the petition is filed, except that
77 the 48-hour limitation may be extended at the request of the
78 minor. If the court fails to rule within the 48-hour period and
79 an extension has not been requested, the petition is granted,
80 and the notice requirement is waived.

81 (c) If the court finds, by clear and convincing evidence,
82 that the minor is sufficiently mature to decide whether to
83 terminate her pregnancy, the court shall issue an order
84 authorizing the minor to consent to the performance or
85 inducement of a termination of pregnancy without the
86 notification of a parent or guardian. If the court does not make
87 the finding specified in this paragraph or paragraph (d), it
88 must dismiss the petition.

89 (d) If the court finds, by clear and convincing evidence,
90 that there is evidence of child abuse or sexual abuse of the
91 petitioner by one or both of her parents or her guardian, or
92 that the notification of a parent or guardian is not in the best
93 interest of the petitioner, the court shall issue an order
94 authorizing the minor to consent to the performance or
95 inducement of a termination of pregnancy without the

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96 notification of a parent or guardian. If the court finds
97 evidence of child abuse or sexual abuse of the minor petitioner
98 by any person, the court shall report the evidence of child
99 abuse or sexual abuse of the petitioner, as provided in s.
100 39.201. If the court does not make the finding specified in this
101 paragraph or paragraph (c), it must dismiss the petition.

102 (e) A court that conducts proceedings under this section
103 shall provide for a written transcript of all testimony and
104 proceedings and issue written and specific factual findings and
105 legal conclusions supporting its decision and shall order that a
106 confidential record be maintained, as required under s.
107 390.01116. At the hearing, the court shall hear evidence
108 relating to the emotional development, maturity, intellect, and
109 understanding of the minor, and all other relevant evidence. All
110 hearings under this section, including appeals, shall remain
111 confidential and closed to the public, as provided by court
112 rule.

113 (f) An expedited appeal shall be available, as the Supreme
114 Court provides by rule, to any minor to whom the circuit court
115 denies a waiver of notice. An order authorizing a termination of
116 pregnancy without notice is not subject to appeal.

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

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

124 (5) PROCEEDINGS.--The Supreme Court is requested to adopt
125 rules and forms for petitions to ensure that proceedings under
126 subsection (4) are handled expeditiously and in a manner that
127 will satisfy the requirements of state and federal courts. The
128 Supreme Court is also requested to adopt rules to ensure that
129 the hearings protect the minor's confidentiality and the
130 confidentiality of the proceedings.

131 (6) REPORT.--The Supreme Court, through the Office of the
132 State Courts Administrator, shall report by February 1 of each
133 year to the Governor, the President of the Senate, and the
134 Speaker of the House of Representatives on the number of
135 petitions filed under subsection (4) for the preceding year, and
136 the timing and manner of disposal of such petitions by each
137 circuit court.

138 Section 3. This act shall take effect July 1, 2005.

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

141 Remove the entire title and insert:

142 A bill to be entitled
143 An act relating to the termination of pregnancies;
144 repealing s. 390.01115, F.S., relating to the Parental
145 Notice of Abortion Act; creating s. 390.01114, F.S. ;
146 creating the Parental Notice of Abortion Act; providing a
147 short title; defining terms; prohibiting the performing or

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148 inducement of a termination of pregnancy upon a minor
149 without specified notice; providing disciplinary action
150 for violation; prescribing notice requirements; providing
151 exceptions; prescribing a procedure for judicial waiver of
152 notice; providing for notice of right to counsel;
153 providing for issuance of a court order authorizing
154 consent to a termination of pregnancy without
155 notification; providing for dismissal of petitions;
156 requiring the issuance of written findings of fact and
157 legal conclusions; providing for confidential and closed
158 hearings; providing for expedited appeal; providing for
159 waiver of filing fees and court costs; precluding
160 assumption of certain expenses by counties; requesting the
161 Supreme Court to adopt rules; requiring the Supreme Court
162 to report annually to the Governor and the Legislature;
163 providing an effective date.

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