

Bill No. HB 1659, 1st Eng.

Barcode 245870

CHAMBER ACTION

Senate

House

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Senator Dockery moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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 Section 390.01115, Florida Statutes, is repealed.

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

390.01114 Parental Notice of Abortion Act.--

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

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

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

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

(c) "Constructive notice" means notice that is given by certified mail to the last known address of the parent or legal guardian of a minor, with delivery deemed to have

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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.

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

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
24 performing or inducing the termination of pregnancy or the
25 referring physician must give 48 hours' constructive notice.

26 (b) Notice is not required if:

27 1. In the physician's good-faith clinical judgment, a
28 medical emergency exists and there is insufficient time for
29 the attending physician to comply with the notification
30 requirements. If a medical emergency exists, the physician may
31 proceed but must document reasons for the medical necessity in

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1 the patient's medical records;

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

4 3. Notice is waived by the minor who is or has been
5 married or has had the disability of nonage removed under s.
6 743.015 or a similar statute of another state;

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

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

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

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

14 (a) A minor may petition any circuit court for a
15 waiver of the notice requirements of subsection (3) and may
16 participate in proceedings on her own behalf. The petition may
17 be filed under a pseudonym or through the use of initials, as
18 provided by court rule. The petition must include a statement
19 that the petitioner is pregnant and notice has not been
20 waived. The court shall advise the minor that she has a right
21 to court-appointed counsel and shall provide her with counsel
22 upon her request at no cost to the minor.

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

1 is waived.

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

10 (d) If the court finds, by a preponderance of the
11 evidence, that there is evidence of child abuse or sexual
12 abuse of the petitioner by one or both of her parents or her
13 guardian, or that the notification of a parent or guardian is
14 not in the best interest of the petitioner, the court shall
15 issue an order authorizing the minor to consent to the
16 performance or inducement of a termination of pregnancy
17 without the notification of a parent or guardian. If the court
18 finds evidence of child abuse or sexual abuse of the minor
19 petitioner by any person, the court shall report the evidence
20 of child abuse or sexual abuse of the petitioner, as provided
21 in s. 39.201. If the court does not make the finding specified
22 in this paragraph or paragraph (c), it must dismiss the
23 petition.

24 (e) A court that conducts proceedings under this
25 section shall provide for a written transcript of all
26 testimony and proceedings and issue written and specific
27 factual findings and legal conclusions supporting its decision
28 and shall order that a confidential record be maintained, as
29 required under s. 390.01116. At the hearing, the court shall
30 hear evidence relating to the emotional development, maturity,
31 intellect, and understanding of the minor, and all other

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1 relevant evidence. All hearings under this section, including
2 appeals, shall remain confidential and closed to the public,
3 as provided by court rule.

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

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

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

16 (5) PROCEEDINGS.--The Supreme Court is requested to
17 adopt rules and forms for petitions to ensure that proceedings
18 under subsection (4) are handled expeditiously and in a manner
19 that will satisfy the requirements of state and federal
20 courts. The Supreme Court is also requested to adopt rules to
21 ensure that the hearings protect the minor's confidentiality
22 and the confidentiality of the proceedings. All procedures in
23 this section shall be according to the Florida Rules of
24 Juvenile Procedure unless otherwise provided by law.

25 (6) REPORT.--The Supreme Court, through the Office of
26 the State Courts Administrator, shall report by February 1 of
27 each year to the Governor, the President of the Senate, and
28 the Speaker of the House of Representatives on the number of
29 petitions filed under subsection (4) for the preceding year,
30 and the timing and manner of disposal of such petitions by
31 each circuit court.

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1 Section 3. This act shall take effect upon the
 2 adoption of rules and forms by the Supreme Court, but no later
 3 than July 1, 2005.

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

7 And the title is amended as follows:

8 Delete everything before the enacting clause

9

10 and insert:

11 A bill to be entitled

12 An act relating to the termination of

13 pregnancies; repealing s. 390.01115, F.S.,

14 relating to the Parental Notice of Abortion

15 Act; creating s. 390.01114, F.S.; creating the

16 Parental Notice of Abortion Act; providing a

17 short title; defining terms; prohibiting the

18 performing or inducement of a termination of

19 pregnancy upon a minor without specified

20 notice; providing disciplinary action for

21 violation; prescribing notice requirements;

22 providing exceptions; prescribing a procedure

23 for judicial waiver of notice; providing for

24 notice of right to counsel; providing for

25 issuance of a court order authorizing consent

26 to a termination of pregnancy without

27 notification; providing for dismissal of

28 petitions; requiring the issuance of written

29 findings of fact and legal conclusions;

30 providing for confidential and closed hearings;

31 providing for expedited appeal; providing for

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1 waiver of filing fees and court costs;
2 precluding assumption of certain expenses by
3 counties; requesting the Supreme Court to adopt
4 rules; requiring the Supreme Court to report
5 annually to the Governor and the Legislature;
6 providing a contingent effective date.

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