

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative [Stargel](#) 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6 repealed.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 in
14 person.

15 (b) "Child abuse" has the meaning as in s. 827.03.

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16 (c) "Constructive notice" means notice that is given by
17 mail deposited with overnight delivery guaranteed, return
18 receipt requested, with delivery restricted to a parent or legal
19 guardian with signature confirmation of receipt or, in the event
20 of a refusal to provide signature confirmation by the addressee,
21 by proof provided by the overnight carrier of the addressee's
22 refusal.

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

30 (e) "Minor" means a person under the age of 18 years.

31 (f) "Sexual abuse" has the meaning in s. 39.01.

32 (g) "Telephone notice" means notice provided to a parent or
33 legal guardian over the telephone during a live conversation
34 with a physician authorized to provide notice. Telephone notice
35 does not include voice or text messages on voicemail, answering
36 machines, or answering services.

37 (3) NOTIFICATION REQUIRED.--

38 (a) 1. a. A termination of pregnancy may not be induced or
39 performed upon a minor unless the physician inducing or
40 performing the termination of pregnancy has provided actual
41 notice of the physician's intention to induce or perform the
42 termination of pregnancy to one parent or to the legal guardian

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43 of the pregnant minor at least 48 hours prior to the
44 commencement of the inducement or performance of the termination
45 of pregnancy whichever occurs first. If actual notice is not
46 possible after exhausting all reasonable efforts, telephone
47 notice or constructive notice must be provided at least 48 hours
48 prior to the commencement of the inducement or performance of
49 the termination of pregnancy whichever occurs first. A
50 referring physician may give notice in compliance with this
51 section if the referring physician provides, and the physician
52 who is to perform the termination of pregnancy receives, a
53 written statement of the referring physician certifying that the
54 referring physician has given notice and specifying whether
55 actual, telephone or constructive notice was provided. A
56 physician providing telephone notice or constructive notice
57 shall document the reasonable efforts made to provide actual
58 notice and such records shall be kept with the minor's medical
59 records.

60 b. A physician giving telephone notice to a parent or legal
61 guardian must also provide constructive notice within 24 hours.
62 The physician providing telephone notice must verify the
63 identity of the parent or legal guardian by documenting the name
64 of the parent or legal guardian, the area code and telephone
65 number called, and the date and time the parent or legal
66 guardian was contacted by telephone. The physician must
67 maintain such documentation in a log maintained with the minor's
68 medical records.

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69 c. In all instances where constructive notice is provided
70 and the physician does not receive the return receipt within 30
71 days of mailing, the physician shall document the minor's name
72 and date of birth, the date the termination of pregnancy was
73 performed or induced, the name and address of the minor's parent
74 or legal guardian, and that termination of pregnancy services
75 were performed. The physician inducing or performing the
76 termination of pregnancy must maintain such records until the
77 minor reaches 21 years of age or for 10 years, whichever occurs
78 first.

79 2. Notice required under this subsection must include the
80 name and address of the facility performing the termination of
81 pregnancy, the name of the physician providing notice, the name
82 of the physician performing the termination of pregnancy, and
83 when the inducement or performance of the termination of
84 pregnancy is scheduled to be commenced.

85 (b) Prior Notice is not required if:

86 1. In the physician's good-faith clinical judgment, a
87 medical emergency exists and there is insufficient time for the
88 attending physician to comply with the notification
89 requirements. If a medical emergency exists, the physician may
90 proceed but must document reasons for the medical necessity in
91 the patient's medical records and must thereafter provide notice
92 as described in subsection (3) as soon as possible, but in any
93 event, not to exceed 24 hours after the procedure is performed;

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94 2. Notice is waived by the minor who is or has been
95 married or has had the disability of nonage removed under s.
96 743.015 or a similar statute of another state;

97 3. Notice is waived by the patient because the patient is
98 the parent of a minor child dependent on her; or

99 4. Notice is waived under subsection (4).

100 (c) Violation of this subsection by a physician
101 constitutes grounds for disciplinary action under s. 458.331 or
102 s. 459.015.

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

104 (a) A minor may file a petition in a single court of the
105 judicial circuit in which the minor resides for a waiver of the
106 notice requirements of subsection (3) and may participate in
107 proceedings on her own behalf. The petition may be filed under a
108 pseudonym or through the use of initials, as provided by court
109 rule. The petition must include a statement that the minor is
110 pregnant and that a petition for waiver has not been denied by
111 another court of competent jurisdiction. A minor has a right to
112 counsel pursuant to this subsection. The court shall advise the
113 minor of such right and appoint counsel upon her request at no
114 cost to the minor.

115 (b) Court proceedings under this subsection must be given
116 precedence over other pending matters to the extent necessary to
117 ensure that the court reaches a decision promptly. The court
118 shall issue its ruling no later than 5 days from the date the
119 minor's petition is filed.

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120 (c) If the court finds, by clear and convincing evidence,
121 that the minor is sufficiently mature to decide whether to
122 terminate her pregnancy, the court shall issue an order
123 authorizing the minor to consent to the inducement or
124 performance of a termination of pregnancy without the
125 notification of a parent or legal guardian. In determining
126 whether a minor is sufficiently mature, the court shall consider
127 evidence relating to the emotional development, maturity,
128 intellect, and understanding of the minor, and all other
129 relevant evidence. If the court does not make the finding
130 specified in this paragraph or paragraph (d), it must dismiss
131 the petition.

132 (d) If the court finds, by a preponderance of the
133 evidence, that there is evidence of child abuse or sexual abuse
134 of the petitioner by one or both of her parents or her legal
135 guardian, the court shall issue an order authorizing the minor
136 to consent to the inducement or performance of a termination of
137 pregnancy without the notification of a parent or legal
138 guardian. If the court finds evidence of child abuse or a
139 violation of s.800.04, s. 794.011(2)-(5), or s. 826.04,
140 committed by any person against the petitioner, the court shall
141 report the evidence to the Department of Children and Family
142 Services or the appropriate law enforcement agency. If the court
143 does not make the finding specified in this paragraph or
144 paragraph (c), it must dismiss the petition.

145 (e) A court that conducts proceedings under this section
146 shall provide for a written transcript of all testimony and

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147 proceedings and issue written and specific factual findings and
148 legal conclusions supporting its decision and shall order that a
149 confidential record be maintained, as required under s.
150 390.01116. All hearings under this section, including appeals,
151 shall remain confidential and closed to the public, as provided
152 by court rule.

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

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

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

164 (5) REPORT.--The Supreme Court, through the Office of the
165 State Courts Administrator, shall report by February 1 of each
166 year to the Governor, the President of the Senate, and the
167 Speaker of the House of Representatives on the number of
168 petitions filed under subsection (4) for the preceding year, and
169 the timing and manner of disposal of such petitions by each
170 circuit court.

171 Section 3. This act shall take effect upon the adoption of
172 rules and forms by the Supreme Court, but no later than July 1,
173 2005.

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===== T I T L E A M E N D M E N T =====
Remove the entire title and insert:
An act relating to the termination of pregnancies;
repealing s. 390.01115, F.S., relating to the Parental
Notice of Abortion Act; creating s. 390.01114, F.S.;
creating the Parental Notice of Abortion Act; providing a
short title; defining terms; prohibiting the performing or
inducement of a termination of pregnancy upon a minor
without specified notice; providing disciplinary action
for violation; prescribing notice requirements; providing
exceptions; prescribing a procedure for judicial waiver of
notice; providing for notice of right to counsel;
providing for issuance of a court order authorizing
consent to a termination of pregnancy without
notification; providing for dismissal of petitions;
requiring the issuance of written findings of fact and
legal conclusions; providing for confidential and closed
hearings; providing for expedited appeal; providing for
waiver of filing fees and court costs; precluding
assumption of certain expenses by counties; requiring the
Supreme Court to report annually to the Governor and the
Legislature; providing a contingent effective date.

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