

By Senator Dockery

15-1580-05

1 A bill to be entitled
2 An act relating to the termination of
3 pregnancies; repealing s. 390.01115, F.S.,
4 relating to the Parental Notice of Abortion
5 Act; creating s. 390.01114, F.S.; reenacting
6 the Parental Notice of Abortion Act without
7 modification; providing a short title; defining
8 terms; prohibiting the performing or inducement
9 of a termination of pregnancy upon a minor
10 without specified notice; providing
11 disciplinary action for violation; prescribing
12 notice requirements; providing exceptions;
13 prescribing a procedure for judicial waiver of
14 notice; providing for notice of right to
15 counsel; providing for issuance of a court
16 order authorizing consent to a termination of
17 pregnancy without notification; providing for
18 dismissal of petitions; requiring the issuance
19 of written findings of fact and legal
20 conclusions; providing for expedited appeal;
21 providing for waiver of filing fees and court
22 costs; precluding assumption of certain
23 expenses by counties; requesting the Supreme
24 Court to adopt rules; requiring the Supreme
25 Court to report annually to the Governor and
26 the Legislature; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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31 repealed.

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

3 390.01114 Parental Notice of Abortion Act.--

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

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

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

9 (b) "Child abuse" has the meaning ascribed in s.
10 39.0015(3) and refers to the acts of child abuse against a
11 minor by a family member as defined in s. 741.28.

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

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

23 (e) "Sexual abuse" has the meaning ascribed in s.
24 39.01 and refers to the acts of sexual abuse against a minor
25 by a family member as defined in s. 741.28.

26 (3) NOTIFICATION REQUIRED.--

27 (a) A termination of pregnancy may not be performed or
28 induced upon a minor unless the physician performing or
29 inducing the termination of pregnancy has given at least 48
30 hours' actual notice to one parent or to the legal guardian of
31 the pregnant minor of his or her intention to perform or

1 induce the termination of pregnancy. The notice may be given
2 by a referring physician. The physician who performs the
3 termination of pregnancy must receive the written statement of
4 the referring physician certifying that the referring
5 physician has given notice. If actual notice is not possible
6 after a reasonable effort has been made, the physician or his
7 or her agent must give 48 hours' constructive notice.

8 (b) Notice is not required if:

9 1. A medical emergency exists and there is
10 insufficient time for the attending physician to comply with
11 the notification requirements. If a medical emergency exists,
12 the physician may proceed but must document reasons for the
13 medical necessity in the patient's medical records;

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

16 3. Notice is waived by the minor who is or has been
17 married or has had the disability of nonage removed under s.
18 743.015 or a similar statute of another state;

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

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

22 (c) Violation of this subsection by a physician
23 constitutes grounds for disciplinary action under s. 458.331
24 or s. 459.015.

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

26 (a) A minor may petition any circuit court for a
27 waiver of the notice requirements of subsection (3) and may
28 participate in proceedings on her own behalf. The petition
29 must include a statement that the petitioner is pregnant and
30 notice has not been waived. The court may appoint a guardian
31 ad litem for her. A guardian ad litem appointed under this

1 subsection shall act to maintain the confidentiality of the
2 proceedings. The circuit court shall advise the minor that she
3 has a right to court-appointed counsel and shall provide her
4 with counsel upon her request.

5 (b) Court proceedings under this subsection must be
6 given precedence over other pending matters to the extent
7 necessary to ensure that the court reaches a decision
8 promptly. The court shall rule, and issue written findings of
9 fact and conclusions of law, within 48 hours after the
10 petition is filed, except that the 48-hour limitation may be
11 extended at the request of the minor. If the court fails to
12 rule within the 48-hour period and an extension has not been
13 requested, the petition is granted, and the notice requirement
14 is waived.

15 (c) If the court finds, by clear evidence, that the
16 minor is sufficiently mature to decide whether to terminate
17 her pregnancy, the court shall issue an order authorizing the
18 minor to consent to the performance or inducement of a
19 termination of pregnancy without the notification of a parent
20 or guardian. If the court does not make the finding specified
21 in this paragraph or paragraph (d), it must dismiss the
22 petition.

23 (d) If the court finds, by clear evidence, that there
24 is evidence of child abuse or sexual abuse of the petitioner
25 by one or both of her parents or her guardian, or that the
26 notification of a parent or guardian is not in the best
27 interest of the petitioner, the court shall issue an order
28 authorizing the minor to consent to the performance or
29 inducement of a termination of pregnancy without the
30 notification of a parent or guardian. If the court does not
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1 make the finding specified in this paragraph or paragraph (c),
2 it must dismiss the petition.

3 (e) A court that conducts proceedings under this
4 section shall provide for a written transcript of all
5 testimony and proceedings and issue written and specific
6 factual findings and legal conclusions supporting its decision
7 and shall order that a confidential record of the evidence and
8 the judge's findings and conclusions be maintained. At the
9 hearing, the court shall hear evidence relating to the
10 emotional development, maturity, intellect, and understanding
11 of the minor.

12 (f) An expedited confidential appeal shall be
13 available, as the Supreme Court provides by rule, to any minor
14 to whom the circuit court denies a waiver of notice. An order
15 authorizing a termination of pregnancy without notice is not
16 subject to appeal.

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

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

24 (5) PROCEEDINGS.--The Supreme Court is requested to
25 adopt rules and forms for petitions to ensure that proceedings
26 under subsection (4) are handled expeditiously and in a manner
27 that will satisfy the requirements of state and federal
28 courts.

29 (6) REPORT.--The Supreme Court, through the Office of
30 the State Courts Administrator, shall report by February 1 of
31 each year to the Governor, the President of the Senate, and

1 the Speaker of the House of Representatives on the number of
2 petitions filed under subsection (4) for the preceding year,
3 and the timing and manner of disposal of such petitions by
4 each circuit court.

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

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8 SENATE SUMMARY

9 Reenacts the Parental Notice of Abortion Act without
10 modification.

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