

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.; creating the  
6           Parental Notice of Abortion Act; providing a  
7           short title; defining terms; prohibiting the  
8           performing or inducement of a termination of  
9           pregnancy upon a minor without specified  
10          notice; providing disciplinary action for  
11          violation; prescribing notice requirements;  
12          providing exceptions; prescribing a procedure  
13          for judicial waiver of notice; providing for  
14          notice of right to counsel; providing for  
15          issuance of a court order authorizing consent  
16          to a termination of pregnancy without  
17          notification; providing for dismissal of  
18          petitions; requiring the issuance of written  
19          findings of fact and legal conclusions;  
20          providing for confidential and closed hearings;  
21          providing for expedited appeal; providing for  
22          waiver of filing fees and court costs;  
23          precluding assumption of certain expenses by  
24          counties; requesting the Supreme Court to adopt  
25          rules; requiring the Supreme Court to report  
26          annually to the Governor and the Legislature;  
27          providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Section 390.01115, Florida Statutes, is  
2 repealed.

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

5           390.01114 Parental Notice of Abortion Act.--

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

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

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

11           (b) "Child abuse" has the meaning ascribed in s.  
12 39.0015(3).

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

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

24           (e) "Sexual abuse" has the meaning ascribed in s.  
25 39.01.

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

27           (3) NOTIFICATION REQUIRED.--

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

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

10 (b) Notice is not required if:

11 1. In the physician's good-faith clinical judgment, a  
12 medical emergency exists and there is insufficient time for  
13 the attending physician to comply with the notification  
14 requirements. If a medical emergency exists, the physician may  
15 proceed but must document reasons for the medical necessity in  
16 the patient's medical records;

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

19 3. Notice is waived by the minor who is or has been  
20 married or has had the disability of nonage removed under s.  
21 743.015 or a similar statute of another state;

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

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

25 (c) Violation of this subsection by a physician  
26 constitutes grounds for disciplinary action under s. 458.331  
27 or s. 459.015.

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

29 (a) A minor may petition any circuit court for a  
30 waiver of the notice requirements of subsection (3) and may  
31 participate in proceedings on her own behalf. The petition may

1 be filed under a pseudonym or through the use of initials, as  
2 provided by court rule. The petition must include a statement  
3 that the petitioner is pregnant and notice has not been  
4 waived. The court shall advise the minor that she has a right  
5 to court-appointed counsel and shall provide her with counsel  
6 upon her request at no cost to the minor.

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

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

25 (d) If the court finds, by clear and convincing  
26 evidence, that there is evidence of child abuse or sexual  
27 abuse of the petitioner by one or both of her parents or her  
28 guardian, or that the notification of a parent or guardian is  
29 not in the best interest of the petitioner, the court shall  
30 issue an order authorizing the minor to consent to the  
31 performance or inducement of a termination of pregnancy

1 without the notification of a parent or guardian. If the court  
2 finds evidence of child abuse or sexual abuse of the minor  
3 petitioner by any person, the court shall report the evidence  
4 of child abuse or sexual abuse of the petitioner, as provided  
5 in s. 39.201. If the court does not make the finding specified  
6 in this paragraph or paragraph (c), it must dismiss the  
7 petition.

8 (e) A court that conducts proceedings under this  
9 section shall provide for a written transcript of all  
10 testimony and proceedings and issue written and specific  
11 factual findings and legal conclusions supporting its decision  
12 and shall order that a confidential record be maintained, as  
13 required under s. 390.01116. At the hearing, the court shall  
14 hear evidence relating to the emotional development, maturity,  
15 intellect, and understanding of the minor, and all other  
16 relevant evidence. All hearings under this section, including  
17 appeals, shall remain confidential and closed to the public,  
18 as provided by court rule.

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

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

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

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1           (5) PROCEEDINGS.--The Supreme Court is requested to  
2 adopt rules and forms for petitions to ensure that proceedings  
3 under subsection (4) are handled expeditiously and in a manner  
4 that will satisfy the requirements of state and federal  
5 courts. The Supreme Court is also requested to adopt rules to  
6 ensure that the hearings protect the minor's confidentiality  
7 and the confidentiality of the proceedings.

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

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