

1 A bill to be entitled
 2 An act relating to parental notification of abortion;
 3 amending s. 390.01114, F.S.; requiring a specified waiting
 4 period after notice; revising provisions relating to
 5 notice; providing exceptions; requiring appointment of a
 6 guardian ad litem for minor petitioning for waiver of
 7 notice requirements; specifying factors to be considered
 8 in determining whether a minor is sufficiently mature to
 9 waive notice requirements; revising provisions relating to
 10 confidentiality of hearings; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Paragraph (a) of subsection (3) and paragraphs
 15 (a), (c), and (e) of subsection (4) of section 390.01114,
 16 Florida Statutes, are amended to read:

17 390.01114 Parental Notice of Abortion Act.--

18 (3) NOTIFICATION REQUIRED.--

19 (a)1.a. Actual notice shall be provided by the physician
 20 performing or inducing the termination of pregnancy at least 24
 21 hours before the performance or inducement of the termination of
 22 the pregnancy of a minor. The notice may be given by a referring
 23 physician. The physician who performs or induces the termination
 24 of pregnancy must receive the written statement of the referring
 25 physician certifying that the referring physician has given
 26 notice. If actual notice is provided by telephone, the physician
 27 must actually speak with the parent or guardian and must record
 28 in the minor's medical file the name of the parent or guardian

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29 provided notice, the phone number dialed, and the date and time
30 of the call.

31 b. If actual notice is not possible after a reasonable
32 effort has been made, the physician performing or inducing the
33 termination of pregnancy or the referring physician must give
34 constructive notice. The abortion may be performed 24 hours
35 after the delivery of the constructive notice. Unless proof of
36 delivery is otherwise sooner established, such notice shall be
37 deemed delivered 48 hours after mailing. If constructive notice
38 is given, the physician must document that notice by recording
39 the time of mailing and placing copies of any document related
40 to the constructive notice, including, but not limited to, a
41 copy of the letter and the return receipt, in the minor's
42 medical file.

43 c. The waiting period provided in this subparagraph shall
44 not apply if the person notified indicates that he or she has
45 been previously informed that the minor was seeking an abortion
46 or if the person so notified has not been previously informed
47 and he or she clearly expresses that he or she does not wish to
48 consult with the minor.

49 2. Notice given under this subsection by the physician
50 performing or inducing the termination of pregnancy must include
51 the name and address of the facility providing the termination
52 of pregnancy and the name of the physician providing notice.
53 Notice given under this subsection by a referring physician must
54 include the name and address of the facility where he or she is
55 referring the minor and the name of the physician providing
56 notice. ~~If actual notice is provided by telephone, the physician~~

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57 ~~must actually speak with the parent or guardian, and must record~~
58 ~~in the minor's medical file the name of the parent or guardian~~
59 ~~provided notice, the phone number dialed, and the date and time~~
60 ~~of the call. If constructive notice is given, the physician must~~
61 ~~document that notice by placing copies of any document related~~
62 ~~to the constructive notice, including, but not limited to, a~~
63 ~~copy of the letter and the return receipt, in the minor's~~
64 ~~medical file.~~

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

66 (a) A minor may petition any circuit court in a judicial
67 circuit within the jurisdiction of the District Court of Appeal
68 in which she resides for a waiver of the notice requirements of
69 subsection (3) and may participate in proceedings on her own
70 behalf. The petition may be filed under a pseudonym or through
71 the use of initials, as provided by court rule. The petition
72 must include a statement that the petitioner is pregnant and
73 notice has not been waived. The court shall advise the minor
74 that she has a right to court-appointed counsel and shall
75 provide her with counsel upon her request at no cost to the
76 minor. The court shall appoint a guardian ad litem for the
77 minor.

78 (c) If the court finds, by clear and convincing evidence,
79 that the minor is sufficiently mature to decide whether to
80 terminate her pregnancy, the court shall issue an order
81 authorizing the minor to consent to the performance or
82 inducement of a termination of pregnancy without the
83 notification of a parent or guardian. Factors a court shall

84 consider when determining whether a child is sufficiently mature
 85 include, but are not limited to, the following:

- 86 1. The minor's:
 - 87 a. Age.
 - 88 b. Overall intelligence.
 - 89 c. Emotional stability.
 - 90 d. Credibility and demeanor as a witness.
 - 91 e. Ability to accept responsibility.
 - 92 f. Ability to assess the future impact of her present
 93 choices.
 - 94 g. Ability to understand and explain the medical
 95 consequences of abortion and apply that understanding to her
 96 decision.

97 2. Whether there has been any undue influence by another
 98 on the minor's decision to have an abortion.

100 If the court does not make the finding specified in this
 101 paragraph or paragraph (d), it must dismiss the petition.

102 (e) A court that conducts proceedings under this section
 103 shall:

- 104 1. Provide for a written transcript of all testimony and
 105 proceedings.
- 106 2. Issue a written final order containing all factual
 107 findings and legal conclusions, including factual findings and
 108 legal conclusions as to whether the petitioner is sufficiently
 109 mature based on the factors as set forth in subparagraphs (c) 1.
 110 and 2.

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111 3. Order that a confidential record be maintained as
112 required under s. 390.01116. All hearings under this section,
113 including appeals, shall remain confidential and closed to the
114 public, as provided by court rule ~~A court that conducts~~
115 ~~proceedings under this section shall provide for a written~~
116 ~~transcript of all testimony and proceedings and issue written~~
117 ~~and specific factual findings and legal conclusions supporting~~
118 ~~its decision and shall order that a confidential record be~~
119 ~~maintained, as required under s. 390.01116. At the hearing, the~~
120 ~~court shall hear evidence relating to the emotional development,~~
121 ~~maturity, intellect, and understanding of the minor, and all~~
122 ~~other relevant evidence. All hearings under this section,~~
123 ~~including appeals, shall remain confidential and closed to the~~
124 ~~public, as provided by court rule.~~

125 Section 2. This act shall take effect July 1, 2007.