

1 A bill to be entitled
 2 An act relating to abortion; amending s. 390.0111, F.S.;
 3 requiring a 24-hour waiting period before a physician may
 4 perform or induce an abortion on an adult or on certain
 5 minor patients; providing for exception in the case of a
 6 medical emergency; amending s. 390.01114, F.S.; revising
 7 provisions relating to parental notice of abortion;
 8 providing exceptions; requiring appointment of a guardian
 9 ad litem for a minor petitioning for a waiver of the
 10 notice requirements; specifying factors to be considered
 11 in determining whether a minor is sufficiently mature to
 12 waive the notice requirements; revising provisions
 13 relating to confidentiality of hearings; providing for
 14 severability; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (12) is added to section 390.0111,
 19 Florida Statutes, to read:

20 390.0111 Termination of pregnancies.--

21 (12) WAITING PERIOD FOR ABORTION.--No physician shall
 22 perform or induce an abortion on a minor patient where notice is
 23 not required pursuant to s. 390.01114(3)(b) or on an adult
 24 patient unless, at least 24 hours prior thereto, a treating
 25 physician has conferred with the patient, or her court-appointed
 26 guardian if she is mentally incompetent, pursuant to the
 27 requirements set forth in subsection (3). If a medical emergency

CS/HB 1497

2007

28 as defined in s. 390.01114(2)(d) exists, then this subsection
29 shall not apply.

30 Section 2. Paragraph (a) of subsection (3) and paragraphs
31 (a), (c), and (e) of subsection (4) of section 390.01114,
32 Florida Statutes, are amended to read:

33 390.01114 Parental Notice of Abortion Act.--

34 (3) NOTIFICATION REQUIRED.--

35 (a)1.a. Actual notice shall be provided by the physician
36 performing or inducing the termination of pregnancy before the
37 performance or inducement of the termination of the pregnancy of
38 a minor. The notice may be given by a referring physician. The
39 physician who performs or induces the termination of pregnancy
40 must receive the written statement of the referring physician
41 certifying that the referring physician has given notice. If
42 actual notice is provided by telephone, the physician must
43 actually speak with the parent or guardian and must record in
44 the minor's medical file the name of the parent or guardian
45 provided notice, the phone number dialed, and the date and time
46 of the call.

47 b. If actual notice is not possible after a reasonable
48 effort has been made, the physician performing or inducing the
49 termination of pregnancy or the referring physician must give
50 constructive notice. If constructive notice is given, the
51 physician must document that notice by placing copies of any
52 document related to the constructive notice, including, but not
53 limited to, a copy of the letter and the return receipt, in the
54 minor's medical file.

55 2. Notice given under this subsection by the physician
56 performing or inducing the termination of pregnancy must include
57 the name and address of the facility providing the termination
58 of pregnancy and the name of the physician providing notice.
59 Notice given under this subsection by a referring physician must
60 include the name and address of the facility where he or she is
61 referring the minor and the name of the physician providing
62 notice. ~~If actual notice is provided by telephone, the physician~~
63 ~~must actually speak with the parent or guardian, and must record~~
64 ~~in the minor's medical file the name of the parent or guardian~~
65 ~~provided notice, the phone number dialed, and the date and time~~
66 ~~of the call. If constructive notice is given, the physician must~~
67 ~~document that notice by placing copies of any document related~~
68 ~~to the constructive notice, including, but not limited to, a~~
69 ~~copy of the letter and the return receipt, in the minor's~~
70 ~~medical file.~~

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

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

82 minor. The court shall appoint a guardian ad litem for the
83 minor.

84 (c) If the court finds, by clear and convincing evidence,
85 that the minor is sufficiently mature to decide whether to
86 terminate her pregnancy, the court shall issue an order
87 authorizing the minor to consent to the performance or
88 inducement of a termination of pregnancy without the
89 notification of a parent or guardian.

90 1. Factors a court shall consider when determining whether
91 a child is sufficiently mature include, but are not limited to,
92 the following:

93 a. Whether the minor is mature enough to make her abortion
94 decision, as evidenced by:

95 (I) The minor's age.

96 (II) The minor's credibility and demeanor as a witness.

97 (III) The minor's ability to accept responsibility; and

98 b. Whether the minor is well informed enough to make the
99 decision on her own, as evidenced by the minor's:

100 (I) Overall intelligence.

101 (II) Emotional development.

102 (III) Ability to assess both the immediate and long range
103 consequences of her choices.

104 (IV) Ability to understand and explain the medical
105 consequences of terminating her pregnancy and to apply that
106 understanding to her decision.

107 2. The court should also take into consideration whether
108 there has been any undue influence by another on the minor's
109 decision to have an abortion.

CS/HB 1497

2007

110

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

113 (e) A court that conducts proceedings under this section
114 shall:

115 1. Provide for a written transcript of all testimony and
116 proceedings.

117 2. Issue a written final order containing all factual
118 findings and legal conclusions, including factual findings and
119 legal conclusions as to whether the petitioner is sufficiently
120 mature based on the factors set forth in subparagraph(c)1.

121 3. Order that a confidential record be maintained as
122 required under s. 390.01116. All hearings under this section,
123 including appeals, shall remain confidential and closed to the
124 public, as provided by court rule ~~A court that conducts~~
125 ~~proceedings under this section shall provide for a written~~
126 ~~transcript of all testimony and proceedings and issue written~~
127 ~~and specific factual findings and legal conclusions supporting~~
128 ~~its decision and shall order that a confidential record be~~
129 ~~maintained, as required under s. 390.01116. At the hearing, the~~
130 ~~court shall hear evidence relating to the emotional development,~~
131 ~~maturity, intellect, and understanding of the minor, and all~~
132 ~~other relevant evidence. All hearings under this section,~~
133 ~~including appeals, shall remain confidential and closed to the~~
134 ~~public, as provided by court rule.~~

135 Section 3. If any provision of this act or the application
136 thereof to any person or circumstance is held invalid, the
137 invalidity does not affect other provisions or applications of

CS/HB 1497

2007

138 | the act which can be given effect without the invalid provision
139 | or application, and to this end the provisions of this act are
140 | declared severable.

141 | Section 4. This act shall take effect July 1, 2007.