

By the Committee on Health Regulation; and Senator Storms

588-2379-07

1                                   A bill to be entitled  
2           An act relating to parental notice of abortion;  
3           amending s. 390.01114, F.S.; providing that in  
4           a hearing relating to waiving the requirement  
5           for parental notice, the court consider certain  
6           additional factors, including whether the  
7           minor's decision to terminate her pregnancy was  
8           due to intimidation or undue influence;  
9           providing for severability; providing an  
10          effective date.  
11  
12 Be It Enacted by the Legislature of the State of Florida:  
13  
14          Section 1. Subsection (4) of section 390.01114,  
15 Florida Statutes, is amended to read:  
16          390.01114 Parental Notice of Abortion Act.--  
17          (4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.--  
18          (a) A minor may petition any circuit court in a  
19 judicial circuit within the jurisdiction of the District Court  
20 of Appeal in which the minor ~~she~~ resides for a waiver of the  
21 notice requirements of subsection (3) and may participate in  
22 proceedings on her own behalf. The petition may be filed under  
23 a pseudonym or through the use of initials, as provided by  
24 court rule. The petition must include a statement that the  
25 petitioner is pregnant and notice has not been waived. The  
26 court shall appoint a guardian ad litem for the minor to  
27 represent the minor's best interests. The court shall advise  
28 the minor that she has a right to court-appointed counsel and  
29 shall provide her with counsel upon her request at no cost to  
30 the minor.  
31

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

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

- 20           1. The minor's:
  - 21           a. Age.
  - 22           b. Overall intelligence.
  - 23           c. Emotional stability.
  - 24           d. Credibility and demeanor as a witness.
  - 25           e. Ability to accept responsibility.
  - 26           f. Ability to assess the future consequences of her  
27 choices.
  - 28           g. Ability to understand and explain the medical  
29 consequences of terminating her pregnancy and to apply that  
30 understanding to her decision.

1           2. Whether there has been any intimidation or undue  
2 influence on the minor's decision to terminate her pregnancy.

3           (d) If the court finds, by a preponderance of the  
4 evidence, that the petitioner is the victim ~~there is evidence~~  
5 of child abuse or sexual abuse inflicted ~~of the petitioner~~ by  
6 one or both of her parents or her guardian, or that the  
7 notification of a parent or guardian is not in the best  
8 interest of the petitioner, the court shall issue an order  
9 authorizing the minor to consent to the performance or  
10 inducement of a termination of pregnancy without the  
11 notification of a parent or guardian. If the court finds  
12 evidence of child abuse or sexual abuse of the minor  
13 petitioner by any person, the court shall report the evidence  
14 of child abuse or sexual abuse of the petitioner, as provided  
15 in s. 39.201. If the court does not make the finding specified  
16 in this paragraph ~~or paragraph (c)~~, it must dismiss the  
17 petition.

18           (e) A court that conducts proceedings under this  
19 section shall:

20           1. Provide for a written transcript of all testimony  
21 and proceedings; ~~and~~

22           2. Issue a final witten order containing and specific  
23 factual findings and legal conclusions supporting its  
24 decision, including factual findings and legal conclusions  
25 relating to the maturity of the minor as provided under  
26 paragraph (c); and shall

27           3. Order that a confidential record be maintained, as  
28 required under s. 390.01116. At the hearing, the court shall  
29 hear evidence relating to the emotional development, maturity,  
30 intellect, and understanding of the minor, and all other  
31 relevant evidence.

1           (f) All hearings under this section, including  
2 appeals, shall remain confidential and closed to the public,  
3 as provided by court rule.

4           (g)(f) An expedited appeal shall be made available, as  
5 the Supreme Court provides by rule, to any minor to whom the  
6 circuit court denies a waiver of notice. An order authorizing  
7 a termination of pregnancy without notice is not subject to  
8 appeal.

9           (h)(g) ~~No~~ Filing fees or court costs may not ~~shall~~ be  
10 required of any pregnant minor who petitions a court for a  
11 waiver of parental notification under this subsection at  
12 either the trial or the appellate level.

13           (i)(h) ~~A~~ ~~No~~ county is not ~~shall be~~ obligated to pay  
14 the salaries, costs, or expenses of any counsel appointed by  
15 the court under this subsection.

16           Section 2. If any provision of this act or its  
17 application to any individual or circumstance is held invalid,  
18 the invalidity does not affect other provisions or  
19 applications of this act which can be given effect without the  
20 invalid provision or application, and to this end the  
21 provisions of this act are severable.

22           Section 3. This act shall take effect upon becoming a  
23 law.

24  
25           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
26           COMMITTEE SUBSTITUTE FOR  
27           Senate Bill 1602

28           The committee substitute provides if any part of this act is  
29 held invalid, it does not affect the other parts of the act,  
30 as the provisions of this act are severable.  
31