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LEGISLATIVE ACTION

Senate

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House

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Floor: 6/F/2R

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01/29/2020 04:34 PM

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Senator Berman moved the following:

Senate Amendment (with directory and title amendments)

Delete lines 44 - 145

and insert:

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

(a) "Actual notice" means notice that is given directly, in person or by telephone, to a parent or ~~legal~~ guardian of a minor, by a physician, at least 48 hours before the inducement or performance of a termination of pregnancy, and documented in the minor's files.

(b) "Child abuse" means abandonment, abuse, harm, mental



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12 injury, neglect, physical injury, or sexual abuse of a child as
13 those terms are defined in ss. 39.01, 827.04, and 984.03.

14 (c) "Constructive notice" means notice that is given in
15 writing, signed by the physician, and mailed at least 72 hours
16 before the inducement or performance of the termination of
17 pregnancy, to the last known address of the parent or ~~legal~~
18 guardian of the minor, by first-class mail and by certified
19 mail, return receipt requested, and delivery restricted to the
20 parent or ~~legal~~ guardian. After the 72 hours have passed,
21 delivery is deemed to have occurred.

22 (d) "Guardian" means, with respect to a minor seeking
23 notice or consent under this section, one of the following
24 individuals:

25 1. The minor's biological mother or father.

26 2. The minor's stepmother or stepfather.

27 3. If the child is a ward, as defined in 744.102(22), the
28 guardian appointed by the state for the minor.

29 4. The minor's grandmother or grandfather.

30 5. The minor's aunt or uncle.

31 6. Any trusted adult or relative with whom the minor has
32 lived for at least 6 months.

33 7. A mental health professional identified in s. 490.003(7)
34 or (8) or s. 491.003(13).

35 (e)-~~(d)~~ "Medical emergency" means a condition that, on the
36 basis of a physician's good faith clinical judgment, so
37 complicates the medical condition of a pregnant woman as to
38 necessitate the immediate termination of her pregnancy to avert
39 her death, or for which a delay in the termination of her
40 pregnancy will create serious risk of substantial and



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41 irreversible impairment of a major bodily function.

42 (g)~~(e)~~ "Sexual abuse" has the meaning ascribed in s. 39.01.

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

44 (3) TERMINATION OF THE PREGNANCY OF A MINOR.—A physician
45 may not perform or induce the termination of a pregnancy of a
46 minor unless the physician has complied with the notice and
47 consent requirements of this section.

48 (4)~~(3)~~ NOTIFICATION REQUIRED.—

49 (a) Actual notice shall be provided by the physician
50 performing or inducing the termination of pregnancy before the
51 performance or inducement of the termination of the pregnancy of
52 a minor. The notice may be given by a referring physician. The
53 physician who performs or induces the termination of pregnancy
54 must receive the written statement of the referring physician
55 certifying that the referring physician has given notice. If
56 actual notice is not possible after a reasonable effort has been
57 made, the physician performing or inducing the termination of
58 pregnancy or the referring physician must give constructive
59 notice. Notice given under this subsection by the physician
60 performing or inducing the termination of pregnancy must include
61 the name and address of the facility providing the termination
62 of pregnancy and the name of the physician providing notice.
63 Notice given under this subsection by a referring physician must
64 include the name and address of the facility where he or she is
65 referring the minor and the name of the physician providing
66 notice. If actual notice is provided by telephone, the physician
67 must actually speak with the parent or guardian, and must record
68 in the minor's medical file the name of the parent or guardian
69 provided notice, the phone number dialed, and the date and time



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70 of the call. If constructive notice is given, the physician must
71 document that notice by placing copies of any document related
72 to the constructive notice, including, but not limited to, a
73 copy of the letter and the return receipt, in the minor's
74 medical file. Actual notice given by telephone shall be
75 confirmed in writing, signed by the physician, and mailed to the
76 last known address of the parent or ~~legal~~ guardian of the minor,
77 by first-class mail and by certified mail, return receipt
78 requested, with delivery restricted to the parent or ~~legal~~
79 guardian.

80 (b) Notice is not required if:

81 1. In the physician's good faith clinical judgment, a
82 medical emergency exists and there is insufficient time for the
83 attending physician to comply with the notification
84 requirements. If a medical emergency exists, the physician shall
85 make reasonable attempts, whenever possible, without endangering
86 the minor, to contact the parent or ~~legal~~ guardian, and may
87 proceed, but must document reasons for the medical necessity in
88 the patient's medical records. The physician shall provide
89 notice directly, in person or by telephone, to the parent or
90 ~~legal~~ guardian, including details of the medical emergency and
91 any additional risks to the minor. If the parent or ~~legal~~
92 guardian has not been notified within 24 hours after the
93 termination of the pregnancy, the physician shall provide notice
94 in writing, including details of the medical emergency and any
95 additional risks to the minor, signed by the physician, to the
96 last known address of the parent or ~~legal~~ guardian of the minor,
97 by first-class mail and by certified mail, return receipt
98 requested, with delivery restricted to the parent or ~~legal~~



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99 guardian;

100 2. Notice is waived in writing by the person who is
101 entitled to notice and such waiver is notarized, dated not more
102 than 30 days before the termination of pregnancy, and contains a
103 specific waiver of the right of the parent or ~~legal~~ guardian to
104 notice of the minor's termination of pregnancy;

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

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

110 5. Notice is waived under subsection (6) ~~(4)~~.

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

113 (5) PARENTAL CONSENT REQUIRED.—

114 (a) A physician must obtain written consent from a parent
115 or guardian before performing or inducing the termination of a
116 pregnancy of a minor.

117 1. The consenting parent or guardian shall provide to the
118 physician a copy of a government-issued proof of identification
119 and written documentation establishing that he or she is the
120 lawful parent or guardian of the minor. The parent or guardian
121 shall certify in a signed, dated, and notarized document,
122 initialed on each page, that he or she consents to the
123 termination of the pregnancy of the minor. The document must
124 include the following statement, which must precede the
125 signature of the parent or guardian: "I, (insert name of parent
126 or guardian), am the (select "parent" or "guardian," as
127 appropriate) of (insert name of minor) and give consent for



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128 (insert name of physician) to perform or induce a termination of
129 pregnancy on her. Under penalties of perjury, I declare that I
130 have read the foregoing statement and that the facts stated in
131 it are true." A copy of the parent's or guardian's government-
132 issued proof of identification establishing that he or she is
133 the minor's lawful parent or guardian must be attached to the
134 notarized document.

135 2. The physician shall keep a copy of the proof of
136 identification of the parent or guardian and the certified
137 statement in the medical file of the minor for 5 years after the
138 minor reaches the age of 18 years, but in no event less than 7
139 years.

140 3. A physician receiving consent from a parent or guardian
141 under this section shall execute for inclusion in the medical
142 record of the minor an affidavit stating: "I, (insert name of
143 physician), certify that, according to my best information and
144 belief, a reasonable person under similar circumstances would
145 rely on the information presented by both the minor and her
146 parent or guardian as sufficient evidence of identity."

147 (b) The consent of a parent or guardian is not required if:

148 1. Notification is not required as provided in subparagraph
149 (4) (b) 1., subparagraph (4) (b) 3., subparagraph (4) (b) 4., or
150 subparagraph (4) (b) 5.;

151 2. Notification is not required due to the existence of a
152 waiver as provided in subparagraph (4) (b) 2., if that waiver is
153 signed by the minor's parent or guardian, is notarized, is dated
154 within 30 days before the termination of the pregnancy, contains
155 a specific waiver of the right of the parent or guardian to
156 consent to the minor's termination of pregnancy, and a copy of a



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157 government-issued proof of identification and written
158 documentation establishing that the person who signed the waiver
159 is the lawful parent or guardian, as applicable, of the minor is
160 attached to the waiver;

161 3. Consent is waived under subsection (6); or

162 4. In the physician's good faith clinical judgment, a
163 medical emergency exists and there is insufficient time for the
164 attending physician to comply with the consent requirement. If a
165 medical emergency exists, the physician must make reasonable
166 attempts, whenever possible, and without endangering the minor,
167 to contact the parent or guardian of the minor, and may proceed,
168 but must document reasons for the medical necessity in the minor
169 patient's medical records. The physician shall inform the parent
170 or guardian, in person or by telephone, within 24 hours after
171 the termination of the pregnancy of the minor, including details
172 of the medical emergency that necessitated the termination of
173 the pregnancy without the parent's or guardian's consent. The
174 physician shall also provide this information in writing to the
175 parent or guardian at his or her last known address, by first-
176 class mail or by certified mail, return receipt requested, with
177 delivery restricted to the parent or guardian.

178
179 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

180 And the directory clause is amended as follows:

181 Delete lines 35 - 40

182 and insert:

183 Section 2. Section 390.01114, Florida Statutes, is amended
184 to read:

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186 ===== T I T L E A M E N D M E N T =====

187 And the title is amended as follows:

188 Delete line 5

189 and insert:

190 revising the short title; revising definitions and
191 defining the term "guardian"; prohibiting physicians
192 from