

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Polsky offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove lines 46-142 and insert:

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

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

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

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

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 s. 744.102(22),
28 the 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.
34 490.003(7) 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

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

39 her death, or for which a delay in the termination of her
40 pregnancy will create serious risk of substantial and
41 irreversible impairment of a major bodily function.

42 ~~(g)-(e)~~ "Sexual abuse" has the meaning ascribed in s.
43 39.01.

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

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

49 ~~(4)-(3)~~ NOTIFICATION REQUIRED.—

50 (a) Actual notice shall be provided by the physician
51 performing or inducing the termination of pregnancy before the
52 performance or inducement of the termination of the pregnancy of
53 a minor. The notice may be given by a referring physician. The
54 physician who performs or induces the termination of pregnancy
55 must receive the written statement of the referring physician
56 certifying that the referring physician has given notice. If
57 actual notice is not possible after a reasonable effort has been
58 made, the physician performing or inducing the termination of
59 pregnancy or the referring physician must give constructive
60 notice. Notice given under this subsection by the physician
61 performing or inducing the termination of pregnancy must include
62 the name and address of the facility providing the termination
63 of pregnancy and the name of the physician providing notice.

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

64 Notice given under this subsection by a referring physician must
65 include the name and address of the facility where he or she is
66 referring the minor and the name of the physician providing
67 notice. If actual notice is provided by telephone, the physician
68 must actually speak with the parent or guardian, and must record
69 in the minor's medical file the name of the parent or guardian
70 provided notice, the phone number dialed, and the date and time
71 of the call. If constructive notice is given, the physician must
72 document that notice by placing copies of any document related
73 to the constructive notice, including, but not limited to, a
74 copy of the letter and the return receipt, in the minor's
75 medical file. Actual notice given by telephone shall be
76 confirmed in writing, signed by the physician, and mailed to the
77 last known address of the parent or ~~legal~~ guardian of the minor,
78 by first-class mail and by certified mail, return receipt
79 requested, with delivery restricted to the parent or ~~legal~~
80 guardian.

81 (b) Notice is not required if:

82 1. In the physician's good faith clinical judgment, a
83 medical emergency exists and there is insufficient time for the
84 attending physician to comply with the notification
85 requirements. If a medical emergency exists, the physician shall
86 make reasonable attempts, whenever possible, without endangering
87 the minor, to contact the parent or ~~legal~~ guardian, and may
88 proceed, but must document reasons for the medical necessity in

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

89 the patient's medical records. The physician shall provide
90 notice directly, in person or by telephone, to the parent or
91 ~~legal~~ guardian, including details of the medical emergency and
92 any additional risks to the minor. If the parent or ~~legal~~
93 guardian has not been notified within 24 hours after the
94 termination of the pregnancy, the physician shall provide notice
95 in writing, including details of the medical emergency and any
96 additional risks to the minor, signed by the physician, to the
97 last known address of the parent or ~~legal~~ guardian of the minor,
98 by first-class mail and by certified mail, return receipt
99 requested, with delivery restricted to the parent or ~~legal~~
100 guardian;

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

106 3. Notice is waived by the minor who is or has been
107 married or has had the disability of nonage removed under s.
108 743.015 or a similar statute of another state;

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

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

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

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

115 (5) PARENTAL CONSENT REQUIRED.—

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

119 1. The consenting parent or guardian shall provide to the
120 physician a copy of a government-issued proof of identification
121 and written documentation establishing that he or she is the
122 lawful parent or guardian of the minor. The parent or guardian
123 shall certify in a signed, dated, and notarized document,
124 initialed on each page, that he or she consents to the
125 termination of the pregnancy of the minor. The document must
126 include the following statement, which must precede the
127 signature of the parent or guardian: "I, (insert name of parent
128 or guardian), am the (select "parent" or "guardian," as
129 appropriate) of (insert name of minor) and give consent for
130 (insert name of physician) to perform or induce a termination of
131 pregnancy on her. Under penalties of perjury, I declare that I
132 have read the foregoing statement and that the facts stated in
133 it are true." A copy of the parent's or guardian's government-
134 issued proof of identification establishing that he or she is
135 the minor's lawful parent or guardian must be attached to the
136 notarized document.

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

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

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

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

151 1. Notification is not required as provided in
152 subparagraph (4) (b)1., subparagraph (4) (b)3., subparagraph
153 (4) (b)4., or subparagraph (4) (b)5.;

154 2. Notification is not required due to the existence of a
155 waiver as provided in subparagraph (4) (b)2., if that waiver is
156 signed by the minor's parent or guardian, is notarized, is dated
157 within 30 days before the termination of the pregnancy, contains
158 a specific waiver of the right of the parent or guardian to
159 consent to the minor's termination of pregnancy, and a copy of a
160 government-issued proof of identification and written
161 documentation establishing that the person who signed the waiver

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

162 is the lawful parent or guardian, as applicable, of the minor is
163 attached to the waiver;

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

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

181
182 -----

183 **D I R E C T O R Y A M E N D M E N T**

184 Remove lines 37-42 and insert:

185 Section 2. Section 390.01114, Florida Statutes, is amended
186 to read:

584395

Approved For Filing: 2/14/2020 1:57:27 PM

Amendment No.

187
188
189
190
191
192
193
194
195
196
197
198

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

Remove lines 5-11 and insert:
revising the short title; revising definitions and
defining the term "guardian"; prohibiting physicians
from performing or inducing the termination of the
pregnancy of a minor unless specified requirements are
satisfied; requiring a physician to obtain written
consent from a minor's parent or guardian before
performing or inducing a termination of the pregnancy
of a minor; requiring the consenting parent or

584395

Approved For Filing: 2/14/2020 1:57:27 PM