



715312

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
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The Committee on Rules (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (3), (4), (5), and (6) of  
section 390.01114, Florida Statutes, are redesignated as  
subsections (4), (6), (7), and (8), respectively, new  
subsections (3) and (5) are added to that section, and  
subsection (1), paragraph (b) of present subsection (3), and  
present subsections (4), (5), and (6) are amended, to read:

390.01114 Parental Notice of and Consent for Abortion Act.-



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12 (1) SHORT TITLE.—This section may be cited as the “Parental  
13 Notice of and Consent for Abortion Act.”

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

18 (4) ~~(3)~~ NOTIFICATION REQUIRED.—

19 (b) Notice is not required if:

20 1. In the physician’s good faith clinical judgment, a  
21 medical emergency exists and there is insufficient time for the  
22 attending physician to comply with the notification  
23 requirements. If a medical emergency exists, the physician shall  
24 make reasonable attempts, whenever possible, without endangering  
25 the minor, to contact the parent or legal guardian, and may  
26 proceed, but must document reasons for the medical necessity in  
27 the patient’s medical records. The physician shall provide  
28 notice directly, in person or by telephone, to the parent or  
29 legal guardian, including details of the medical emergency and  
30 any additional risks to the minor. If the parent or legal  
31 guardian has not been notified within 24 hours after the  
32 termination of the pregnancy, the physician shall provide notice  
33 in writing, including details of the medical emergency and any  
34 additional risks to the minor, signed by the physician, to the  
35 last known address of the parent or legal guardian of the minor,  
36 by first-class mail and by certified mail, return receipt  
37 requested, with delivery restricted to the parent or legal  
38 guardian;

39 2. Notice is waived in writing by the person who is  
40 entitled to notice and such waiver is notarized, dated not more



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41 than 30 days before the termination of pregnancy, and contains a  
42 specific waiver of the right of the parent or legal guardian to  
43 notice of the minor's termination of pregnancy;

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

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

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

50 (5) PARENTAL CONSENT REQUIRED.—

51 (a) A physician must obtain written consent from a parent  
52 or legal guardian before performing or inducing the termination  
53 of a pregnancy of a minor.

54 1. The consenting parent or legal guardian shall provide to  
55 the physician a copy of a government-issued proof of  
56 identification and written documentation establishing that he or  
57 she is the lawful parent or legal guardian of the minor. The  
58 parent or legal guardian shall certify in a signed, dated, and  
59 notarized document, initialed on each page, that he or she  
60 consents to the termination of the pregnancy of the minor. The  
61 document must include the following statement, which must  
62 precede the signature of the parent or guardian: "I, (insert  
63 name of parent or legal guardian), am the (select "parent" or  
64 "legal guardian," as appropriate) of (insert name of minor) and  
65 give consent for (insert name of physician) to perform or induce  
66 a termination of pregnancy on her. Under penalties of perjury, I  
67 declare that I have read the foregoing statement and that the  
68 facts stated in it are true." A copy of the parent's or legal  
69 guardian's government-issued proof of identification



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70 establishing that he or she is the minor's lawful parent or  
71 legal guardian must be attached to the notarized document.

72 2. The physician shall keep a copy of the proof of  
73 identification of the parent or legal guardian and the certified  
74 statement in the medical file of the minor for 5 years after the  
75 minor reaches the age of 18 years, but in no event less than 7  
76 years.

77 3. A physician receiving consent from a parent or guardian  
78 under this section shall execute for inclusion in the medical  
79 record of the minor an affidavit stating: "I, (insert name of  
80 physician), certify that, according to my best information and  
81 belief, a reasonable person under similar circumstances would  
82 rely on the information presented by both the minor and her  
83 parent or legal guardian as sufficient evidence of identity."

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

85 1. Notification is not required as provided in subparagraph  
86 (4) (b)1., subparagraph (4) (b)3., subparagraph (4) (b)4., or  
87 subparagraph (4) (b)5.;

88 2. Notification is not required due to the existence of a  
89 waiver as provided in subparagraph (4) (b)2., if that waiver is  
90 signed by the minor's parent or legal guardian, is notarized, is  
91 dated within 30 days before the termination of the pregnancy,  
92 contains a specific waiver of the right of the parent or legal  
93 guardian to consent to the minor's termination of pregnancy, and  
94 a copy of a government-issued proof of identification and  
95 written documentation establishing that the person who signed  
96 the waiver is the lawful parent or legal guardian, as  
97 applicable, of the minor, is attached to the waiver;

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



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99           4. In the physician's good faith clinical judgment, a  
100 medical emergency exists and there is insufficient time for the  
101 attending physician to comply with the consent requirement. If a  
102 medical emergency exists, the physician must make reasonable  
103 attempts, whenever possible, and without endangering the minor,  
104 to contact the parent or legal guardian of the minor, and may  
105 proceed, but must document reasons for the medical necessity in  
106 the minor patient's medical records. The physician shall inform  
107 the parent or legal guardian, in person or by telephone, within  
108 24 hours after the termination of the pregnancy of the minor,  
109 including details of the medical emergency that necessitated the  
110 termination of the pregnancy without the parent's or legal  
111 guardian's consent. The physician shall also provide this  
112 information in writing to the parent or legal guardian at his or  
113 her last known address, by first-class mail or by certified  
114 mail, return receipt requested, with delivery restricted to the  
115 parent or legal guardian.

116           (c)1. A physician who intentionally or recklessly performs  
117 or induces, or attempts to perform or induce, a termination of a  
118 pregnancy of a minor without obtaining the required consent  
119 pursuant to this subsection commits a felony of the third  
120 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
121 775.084. A penalty may not be assessed against the minor upon  
122 whom a termination of pregnancy is performed or induced or upon  
123 whom a termination of pregnancy is attempted to be performed or  
124 induced.

125           2. It is a defense to prosecution that a minor  
126 misrepresented her age or identity to a physician by displaying  
127 a driver license or identification card issued by the state or



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128 another state which indicated that the minor was 18 years of age  
129 or older and that the appearance of the minor was such that a  
130 reasonably prudent person would believe that the minor was not  
131 under 18 years of age. To use the defense, a physician must  
132 provide a copy of the driver license or identification card used  
133 by the minor. The defense does not apply if the physician is  
134 shown to have had independent knowledge of the minor's actual  
135 age or identity or to have failed to use due diligence in  
136 determining the minor's age or identity.

137 (6)-(4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.-

138 (a) A minor may petition any circuit court in which the  
139 minor resides for a waiver of the ~~notice~~ requirements of this  
140 section subsection (3) and may participate in proceedings on her  
141 own behalf. The petition may be filed under a pseudonym or  
142 through the use of initials, as provided by court rule. The  
143 petition must include a statement that the petitioner is  
144 pregnant and that the requirements of this section have notice  
145 ~~has~~ not been waived. The court shall advise the minor that she  
146 has a right to court-appointed counsel ~~and shall provide her~~  
147 ~~with counsel upon her request~~ at no cost to the minor. The court  
148 shall, upon request, provide counsel for the minor at least 24  
149 hours before the court proceeding.

150 (b)1. Court proceedings under this section subsection must  
151 be given precedence over other pending matters to the extent  
152 necessary to ensure that the court reaches a decision promptly.  
153 The court shall rule, and issue written findings of fact and  
154 conclusions of law, within 3 business days after the petition is  
155 filed, except that the 3-business-day limitation may be extended  
156 at the request of the minor. If the court fails to rule within



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157 the 3-business-day period and an extension has not been  
158 requested, the minor may immediately petition for a hearing upon  
159 the expiration of the 3-business-day period to the chief judge  
160 of the circuit, who must ensure a hearing is held within 48  
161 hours after receipt of the minor's petition and an order is  
162 entered within 24 hours after the hearing.

163 2. If the circuit court does not grant judicial waiver of  
164 the requirements of this section ~~notice~~, the minor has the right  
165 to appeal. An appellate court must rule within 7 days after  
166 receipt of appeal, but a ruling may be remanded with further  
167 instruction for a ruling within 3 business days after the  
168 remand. The reason for overturning a ruling on appeal must be  
169 based on abuse of discretion by the court and may not be based  
170 on the weight of the evidence presented to the circuit court  
171 since the proceeding is a nonadversarial proceeding.

172 (c) If the court finds, by clear and convincing evidence,  
173 that the minor is sufficiently mature to decide whether to  
174 terminate her pregnancy, the court shall issue an order  
175 authorizing the minor to consent to the performance or  
176 inducement of a termination of the pregnancy ~~without the~~  
177 ~~notification of a parent or guardian~~. If the court does not make  
178 the finding specified in this paragraph or paragraph (d), it  
179 must dismiss the petition. Factors the court shall consider  
180 include:

- 181 1. The minor's:
  - 182 a. Age.
  - 183 b. Overall intelligence.
  - 184 c. Emotional development and stability.
  - 185 d. Credibility and demeanor as a witness.



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186 e. Ability to accept responsibility.  
187 f. Ability to assess both the immediate and long-range  
188 consequences of the minor's choices.  
189 g. Ability to understand and explain the medical risks of  
190 terminating her pregnancy and to apply that understanding to her  
191 decision.  
192 2. Whether there may be any undue influence by another on  
193 the minor's decision to have an abortion.  
194 (d) If the court finds, by a preponderance of the evidence,  
195 that the petitioner is the victim of child abuse or sexual abuse  
196 inflicted by one or both of her parents or her guardian, or by  
197 clear and convincing evidence that the requirements of this  
198 section are ~~notification of a parent or guardian is~~ not in the  
199 best interest of the petitioner, the court shall issue an order  
200 authorizing the minor to consent to the performance or  
201 inducement of a termination of the pregnancy ~~without the~~  
202 ~~notification of a parent or guardian~~. The best-interest standard  
203 does not include financial best interest or financial  
204 considerations or the potential financial impact on the minor or  
205 the minor's family if the minor does not terminate the  
206 pregnancy. If the court finds evidence of child abuse or sexual  
207 abuse of the minor petitioner by any person, the court shall  
208 report the evidence of child abuse or sexual abuse of the  
209 petitioner, as provided in s. 39.201. If the court does not make  
210 the finding specified in this paragraph or paragraph (c), it  
211 must dismiss the petition.  
212 (e) A court that conducts proceedings under this section  
213 shall:  
214 1. Provide for a written transcript of all testimony and





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215 proceedings;

216 2. Issue a final written order containing factual findings  
217 and legal conclusions supporting its decision, including factual  
218 findings and legal conclusions relating to the maturity of the  
219 minor as provided under paragraph (c); and

220 3. Order that a confidential record be maintained, as  
221 required under s. 390.01116.

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

225 (g) An expedited appeal shall be made available, as the  
226 Supreme Court provides by rule, to any minor to whom the circuit  
227 court denies a waiver of the requirements of this section  
228 ~~notice~~. An order authorizing a termination of pregnancy under  
229 this subsection ~~without notice~~ is not subject to appeal.

230 (h) Filing fees or court costs may not be required of any  
231 pregnant minor who petitions a court for a waiver of the  
232 requirements of this section ~~parental notification under this~~  
233 ~~subsection~~ at either the trial or the appellate level.

234 (i) A county is not obligated to pay the salaries, costs,  
235 or expenses of any counsel appointed by the court under this  
236 subsection.

237 (7) ~~(5)~~ PROCEEDINGS.—The Supreme Court is requested to adopt  
238 rules and forms for petitions to ensure that proceedings under  
239 subsection (6) ~~(4)~~ are handled expeditiously and in a manner  
240 consistent with this act. The Supreme Court is also requested to  
241 adopt rules to ensure that the hearings protect the minor's  
242 confidentiality and the confidentiality of the proceedings.

243 (8) ~~(6)~~ REPORT.—The Supreme Court, through the Office of the



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244 State Courts Administrator, shall report by February 1 of each  
245 year to the Governor, the President of the Senate, and the  
246 Speaker of the House of Representatives on the number of  
247 petitions filed under subsection (6) ~~(4)~~ for the preceding year,  
248 and the timing and manner of disposal of such petitions by each  
249 circuit court. For each petition resulting in a waiver of the  
250 requirements of this section ~~notice~~, the reason for the waiver  
251 shall be included in the report.

252 Section 2. Paragraph (a) of subsection (6) of section  
253 27.511, Florida Statutes, is amended to read:

254 27.511 Offices of criminal conflict and civil regional  
255 counsel; legislative intent; qualifications; appointment;  
256 duties.—

257 (6) (a) The office of criminal conflict and civil regional  
258 counsel has primary responsibility for representing persons  
259 entitled to court-appointed counsel under the Federal or State  
260 Constitution or as authorized by general law in civil  
261 proceedings, including, but not limited to, proceedings under s.  
262 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and  
263 proceedings to terminate parental rights under chapter 63.  
264 Private court-appointed counsel eligible under s. 27.40 have  
265 primary responsibility for representing minors who request  
266 counsel under s. 390.01114, the Parental Notice of and Consent  
267 for Abortion Act; however, the office of criminal conflict and  
268 civil regional counsel may represent a minor under that section  
269 if the court finds that no private court-appointed attorney is  
270 available.

271 Section 3. If any provision of this act or its application  
272 to any person or circumstance is held invalid, the invalidity



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273 does not affect other provisions or applications of the act  
274 which can be given effect without the invalid provision or its  
275 application, and to this end the provisions of this act are  
276 severable.

277 Section 4. This act shall take effect July 1, 2020.

278  
279 ===== T I T L E A M E N D M E N T =====

280 And the title is amended as follows:

281 Delete everything before the enacting clause  
282 and insert:

283 A bill to be entitled  
284 An act relating to abortion; amending s. 390.01114,  
285 F.S.; revising the short title; prohibiting physicians  
286 from performing or inducing the termination of the  
287 pregnancy of a minor unless specified requirements are  
288 satisfied; requiring a physician to obtain written  
289 consent from a minor's parent or legal guardian before  
290 performing or inducing a termination of the pregnancy  
291 of a minor; requiring the consenting parent or legal  
292 guardian to provide specified proof of identification  
293 and a specified document to the physician; providing  
294 requirements for the document; providing exceptions to  
295 such consent requirement; providing criminal penalties  
296 for physicians; revising provisions relating to the  
297 procedures for judicial waiver to conform to changes  
298 made by the act; amending s. 27.511, F.S.; conforming  
299 a provision to changes made by the act; providing  
300 severability; providing an effective date.