

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Polsky offered the following:

2  
3 **Substitute Amendment for Amendment (584395) (with directory**  
4 **and title amendments)**

5 Remove lines 46-142 and insert:

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

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

867003

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Amendment No.

12 (b) "Child abuse" means abandonment, abuse, harm, mental  
13 injury, neglect, physical injury, or sexual abuse of a child as  
14 those terms are defined in ss. 39.01, 827.04, and 984.03.

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

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

- 26 1. The minor's biological mother or father.
- 27 2. The minor's stepmother or stepfather.
- 28 3. If the child is a ward, as defined in s. 744.102(22),  
29 the guardian appointed by the state for the minor.
- 30 4. The minor's grandmother or grandfather.
- 31 5. The minor's aunt or uncle.
- 32 6. Any trusted adult or relative with whom the minor has  
33 lived for at least 6 months.
- 34 7. A mental health professional identified in s.  
35 490.003(7) or (8) or s. 491.003(13).

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Amendment No.

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

43        (g)~~(e)~~ "Sexual abuse" has the meaning ascribed in s.  
44 39.01.

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

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

50        (4)~~(3)~~ NOTIFICATION REQUIRED.—

51        (a) Actual notice shall be given ~~provided~~ by the physician  
52 performing or inducing the termination of pregnancy before the  
53 performance or inducement of the termination of the pregnancy of  
54 a minor. The notice may be given by a referring physician. The  
55 physician who performs or induces the termination of pregnancy  
56 must receive the written statement of the referring physician  
57 certifying that the referring physician has given notice. If  
58 actual notice is not possible after a reasonable effort has been  
59 made, the physician performing or inducing the termination of  
60 pregnancy or the referring physician must give constructive

867003

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Amendment No.

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

82 (b) Notice is not required if:

83 1. In the physician's good faith clinical judgment, a  
84 medical emergency exists and there is insufficient time for the  
85 attending physician to comply with the notification

867003

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Amendment No.

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

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

107 3. Notice is waived by the minor who is or has been  
108 married or has had the disability of nonage removed under s.  
109 743.015 or a similar statute of another state;

867003

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Amendment No.

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

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

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

116 (5) PARENTAL CONSENT REQUIRED.—

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

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

867003

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Amendment No.

135 issued proof of identification establishing that he or she is  
136 the minor's lawful parent or guardian must be attached to the  
137 notarized document.

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

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

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

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

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

867003

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Amendment No.

160 consent to the minor's termination of pregnancy, and a copy of a  
161 government-issued proof of identification and written  
162 documentation establishing that the person who signed the waiver  
163 is the lawful parent or guardian, as applicable, of the minor is  
164 attached to the waiver;

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

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

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

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Amendment No.

185 Remove lines 37-42 and insert:

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

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189 -----

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

191 Remove lines 5-11 and insert:

192 revising the short title; revising definitions and  
193 defining the term "guardian"; prohibiting physicians  
194 from performing or inducing the termination of the  
195 pregnancy of a minor unless specified requirements are  
196 satisfied; requiring a physician to obtain written  
197 consent from a minor's parent or guardian before  
198 performing or inducing a termination of the pregnancy  
199 of a minor; requiring the consenting parent or

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