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LEGISLATIVE ACTION

Senate

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House

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Floor: 3/F/2R

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Senator Farmer moved the following:

1 **Senate Substitute for Amendment (909932) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 390.01117, Florida Statutes, is created
7 to read:

8 390.01117 Parental consent for abortion.-

9 (1) SHORT TITLE.-This section may be cited as the "Parental
10 Consent for Abortion Act."

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



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12 (a) "Consent" means a notarized written statement signed by
13 a minor and either her mother, her father, or her legal guardian
14 declaring that the minor is pregnant, that she intends to seek
15 an abortion, and that her mother, father, or legal guardian, as
16 applicable, consents to the abortion.

17 (b) "Minor" means an unemancipated person younger than 18
18 years of age.

19 (c) "Statement of veto of abortion" means a written
20 statement signed by a minor and either her mother, her father,
21 or her legal guardian declaring that the minor is pregnant, that
22 she desires an abortion, and that her mother, father, or legal
23 guardian, as applicable, objects to the abortion, including a
24 detailed explanation by the minor's mother, father, or legal
25 guardian of the reasons for his or her veto of the abortion.

26 (3) CONSENT OF ONE PARENT OR LEGAL GUARDIAN REQUIRED.—A
27 physician may not perform an abortion on a minor unless the
28 physician has been presented with consent as defined in this
29 section.

30 (4) EXCEPTIONS.—Consent is not required under subsection
31 (3) if:

32 (a) The attending physician certifies in the minor's
33 medical record that a medical emergency, as defined in s.
34 390.01114(2)(d), exists and there is insufficient time to obtain
35 consent;

36 (b) The attending physician certifies in the minor's
37 medical record that the minor's parent or legal guardian has
38 failed to fully and properly complete a statement of veto of
39 abortion within the required time limit established in
40 subsection (5); or



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41 (c) Consent is waived under subsection (7).

42 (5) PROCEDURE FOR STATEMENT OF VETO OF ABORTION.—

43 (a) A minor may request written documentation of a parent's
44 or legal guardian's decision to veto an abortion in the form of
45 a statement of veto of abortion.

46 (b) A parent or legal guardian who vetoes a minor's
47 abortion must complete and sign the statement of veto of
48 abortion within 3 days after the minor requests the statement. A
49 parent's or legal guardian's failure to fully and properly
50 complete a statement of veto of abortion within the required 3-
51 day timeframe constitutes a waiver of the parent's or legal
52 guardian's ability to veto the minor's abortion.

53 (c) Forms for a statement of veto of abortion shall be made
54 available to a minor both online and in print by all of the
55 following entities:

- 56 1. Any abortion provider.
57 2. Any crisis pregnancy center.
58 3. Any school counselor.
59 4. Any court participating in the judicial waiver process.
60 5. The Florida Department of Health.

61 (6) DUTIES AND LIABILITIES ASSOCIATED WITH STATEMENTS OF
62 VETO OF ABORTION.—

63 (a) A parent or legal guardian who has completed a
64 statement of veto of abortion is financially responsible for all
65 medical costs associated with the continuation of a pregnancy as
66 a result of the parent's or legal guardian's objection to the
67 abortion, including, but not limited to, all of the following:

- 68 1. Medical appointments, procedures, and equipment.
69 2. Prescription medication.



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70 3. Nonprescription medication.

71 4. Vitamins or nutritional supplements.

72 5. Psychological care.

73 6. Psychiatric care.

74 (b) A parent or legal guardian who has completed a
75 statement of veto of abortion is financially responsible for all
76 education costs ordinarily or customarily related to a child
77 born as a result of the parent's or legal guardian's objection
78 to the abortion, including, but not limited to, all of the
79 following:

80 1. Costs associated with child care, such as day care or
81 babysitting.

82 2. Pre-kindergarten.

83 3. Private education tuition and fees.

84 4. Parochial education tuition and fees.

85 5. Educational supplies, such as notebooks, pens, pencils,
86 and backpacks.

87 6. Tutoring.

88 7. College or university tuition at a private or public
89 institution.

90 8. Special education programs.

91 (c) A parent or legal guardian who has completed a
92 statement of veto of abortion is financially responsible for all
93 costs ordinarily and customarily related to providing food and
94 housing for a child born as a result of the parent's or legal
95 guardian's veto of abortion, including, but not limited to, all
96 of the following:

97 1. Rent or mortgage for a living space.

98 2. Disposable or reusable diapers.



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99 3. Clothing.

100 4. Food.

101 5. Hygiene items, such as toothbrushes, toothpaste, or
102 sanitary napkins.

103 (7) PROCEDURE FOR JUDICIAL WAIVER OF CONSENT.—

104 (a) A minor may petition any circuit court in the district
105 in which the minor resides for a waiver of the right of the
106 mother, father, or legal guardian to veto an abortion and may
107 participate in proceedings on her own behalf. The petition must
108 include a statement that the minor is pregnant and is
109 unemancipated, that a parent or a legal guardian of the minor
110 has vetoed her right to an abortion, and that the minor wishes
111 to obtain an abortion regardless of the express veto of her
112 parent or legal guardian. The circuit court shall advise the
113 minor that she has a right to court-appointed counsel and shall
114 provide her with counsel upon her request. The court also may
115 appoint a guardian ad litem for the minor. A guardian ad litem
116 appointed under this subsection must maintain the
117 confidentiality of the minor's identity.

118 (b) Court proceedings under this section shall be
119 confidential and must ensure the anonymity of the minor. All
120 court proceedings under this section shall be sealed. The minor
121 may file her petition in the court using a pseudonym or using
122 solely her initials. All documents related to this petition
123 shall be confidential and may not be made available to the
124 public. These proceedings shall be given precedence over other
125 pending matters to the extent necessary to ensure that the court
126 reaches a decision promptly. The court shall rule, and issue
127 written findings of fact and conclusions of law, within 3



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128 business days after the petition is filed, except that the 3-
129 business-day limitation may be extended at the request of the
130 minor.

131 1. If the court fails to rule within the 3-business-day
132 period and an extension has not been requested, the minor may
133 immediately petition for a hearing upon the expiration of the 3-
134 business-day period to the chief judge of the circuit, who must
135 ensure that a hearing is held within 48 hours after receipt of
136 the minor's petition and that an order is entered within 24
137 hours after the hearing.

138 2. If the circuit court does not grant a judicial waiver of
139 consent, the minor has the right to an appeal. An appellate
140 court must rule within 7 days after receipt of the appeal, but a
141 ruling may be remanded with further instruction, in which case a
142 ruling must be made within 3 business days after the remand. The
143 reason for overturning a ruling on appeal must be based on abuse
144 of discretion by the court and may not be based on the weight of
145 the evidence presented to the circuit court, since the
146 proceeding is a nonadversarial proceeding.

147 (c) If the court finds, by clear and convincing evidence,
148 that the minor is sufficiently mature to decide whether to
149 terminate her pregnancy, the court shall issue an order
150 authorizing the minor to obtain an abortion without the consent
151 of a parent or legal guardian. If the court does not make the
152 finding specified in this paragraph, paragraph (d), or paragraph
153 (e), it must dismiss the petition. The court shall consider
154 whether there may be any undue influence by another on the
155 minor's decision to have an abortion and all of the following
156 factors concerning the minor:



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157 1. Age.

158 2. Overall intelligence.

159 3. Emotional development and stability.

160 4. Credibility and demeanor as a witness.

161 5. Ability to accept responsibility.

162 6. Ability to assess both the immediate and long-range
163 consequences of her choices.

164 7. Ability to understand and explain the medical risks of
165 terminating her pregnancy and to apply that understanding to her
166 decision.

167 (d) If the court finds, by a preponderance of the evidence,
168 that the petitioner is the victim of child abuse or sexual
169 abuse, as those terms are defined in s. 390.01114(2), inflicted
170 by one or both of her parents or her legal guardian, or finds,
171 by clear and convincing evidence, that requiring the consent of
172 a parent or legal guardian is not in the best interest of the
173 petitioner, the court shall issue an order authorizing the minor
174 to obtain an abortion without the consent of a parent or legal
175 guardian. The best-interest standard does not include financial
176 best interest or financial considerations or the potential
177 financial impact on the minor or her family if she does not
178 terminate the pregnancy. If the court finds evidence of child
179 abuse or sexual abuse of the petitioner by any person, the court
180 shall report the evidence of child abuse or sexual abuse of the
181 petitioner, as provided in s. 39.201. If the court does not make
182 the finding specified in this paragraph, paragraph (c), or
183 paragraph (e), it must dismiss the petition.

184 (e) If the court finds, by a preponderance of the evidence,
185 that a statement of veto of abortion is based predominantly on



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186 the philosophical views of the parent or legal guardian, and not
187 on the best interest of the minor, the court shall grant a
188 judicial waiver of consent.

189 (f) A court that conducts proceedings under this section
190 shall:

191 1. Provide for a written transcript of all testimony and
192 proceedings;

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

197 3. Order that a confidential record be maintained.

198 (g) All hearings under this section, including appeals,
199 shall remain confidential and closed to the public, as provided
200 by court rule.

201 (h) An expedited appeal shall be made available, as the
202 Supreme Court provides by rule, to any minor to whom the circuit
203 court denies a waiver of consent. An order authorizing an
204 abortion without parental consent is not subject to appeal.

205 (i) Filing fees or court costs may not be required of any
206 minor who petitions a court for a waiver of consent under this
207 subsection at either the trial or the appellate level.

208 (j) A county is not required to pay the salaries, costs, or
209 expenses of any counsel appointed by the court under this
210 subsection.

211 (8) RULEMAKING.—The Supreme Court is requested to adopt
212 rules and forms for statements of veto of abortion and for
213 petitions for judicial waiver to ensure that proceedings under
214 subsections (6) and (7) are handled expeditiously and in a



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215 manner consistent with this section. The Supreme Court is also
216 requested to adopt rules to ensure that the hearings protect the
217 confidentiality of the minor's identity and the confidentiality
218 of the proceedings.

219 (9) CRIMINAL PENALTIES AND CIVIL REMEDIES.-

220 (a) Any person who willfully and intentionally performs an
221 abortion with knowledge that, or with reckless disregard as to
222 whether, the minor upon whom the abortion is to be performed is
223 unemancipated without obtaining the required consent commits a
224 misdemeanor of the first degree, punishable as provided in s.
225 775.082 or s. 775.083. It is a defense to prosecution under this
226 section that the minor falsely represented her age or identity
227 to the physician to be at least 18 years of age by displaying an
228 apparently valid governmental record of identification such that
229 a careful and prudent person under similar circumstances would
230 have relied on the representation. The defense does not apply if
231 the physician is shown to have had independent knowledge of the
232 minor's actual age or identity or failed to use due diligence in
233 determining her age or identity.

234 (b) Any person not authorized to provide consent under this
235 section who provides consent commits a misdemeanor of the first
236 degree, punishable as provided in s. 775.082 or s. 775.083.

237 (c) Failure to obtain consent from a person from whom
238 consent is required under this section is prima facie evidence
239 of failure to obtain consent and of interference with family
240 relations in appropriate civil actions. Such prima facie
241 evidence does not apply to any issue other than failure to
242 obtain consent from the parent or legal guardian and
243 interference with family relations in appropriate civil actions.



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244 The civil action may be based on a claim that the act was a
245 result of negligence, gross negligence, wantonness, willfulness,
246 intention, or other legal standard of care. Exemplary damages
247 may be awarded in appropriate civil actions relevant to
248 violations of this section.

249 (d) Failure to comply with the requirements of this section
250 constitutes grounds for disciplinary action under each
251 respective practice act and under s. 456.072.

252 (e) An individual whose pregnancy has continued as a result
253 of her parent's or legal guardian's objection to an abortion may
254 petition a court to recover any expenses provided in subsection
255 (6) which have not been paid directly by the parent or legal
256 guardian who completed the statement of veto of abortion.

257 (f) Any legal expenses and attorney fees incurred while
258 recovering expenses provided in subsection (6) by an individual
259 whose pregnancy has continued as a result of her parent's or
260 legal guardian's objection to an abortion shall be paid by the
261 parent or legal guardian who completed the statement of veto of
262 abortion.

263 (g) An individual whose pregnancy has continued as a result
264 of her parent's or legal guardian's objection to an abortion is
265 entitled to financial compensation from the parent or legal
266 guardian who completed a statement of veto of abortion for any
267 physical, emotional, psychological, or financial damage incurred
268 as a result of the continuation of pregnancy.

269 (h) Any legal expenses and attorney fees incurred while
270 pursuing compensation under paragraph (g) shall be paid by the
271 parent or legal guardian who completed the statement of veto of
272 abortion.



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273 (10) CONSTRUCTION.—
274 (a) This section may not be construed to create or
275 recognize a right to abortion.
276 (b) This section may not be construed to limit the common
277 law rights of parents or legal guardians.
278 (c) By enacting this section, the Legislature does not
279 intend to make lawful an abortion that is currently unlawful.
280 (d) This section may not be construed to grant a parent or
281 legal guardian who completes a statement of veto of abortion any
282 right to make or influence decisions regarding a child born as a
283 result of the continuation of pregnancy.

284 (11) SEVERABILITY.—Any provision of this section held to be
285 invalid or unenforceable by its terms, or as applied to any
286 person or circumstance, shall be construed so as to give it the
287 maximum effect permitted by law, unless such holding is one of
288 utter invalidity or unenforceability, in which event such
289 provision shall be deemed severable and may not affect the
290 remainder hereof or the application of such provision to other
291 persons not similarly situated or to other, dissimilar
292 circumstances.

293 Section 2. This act shall take effect July 1, 2020.

294
295 ===== T I T L E A M E N D M E N T =====

296 And the title is amended as follows:

297 Delete everything before the enacting clause
298 and insert:

299 A bill to be entitled
300 An act relating to parental consent for abortion;
301 creating s. 390.01117, F.S.; providing a short title;



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302 defining terms; prohibiting a physician from
303 performing an abortion on a minor unless the physician
304 has been presented with consent from the minor's
305 parent or legal guardian, as appropriate; providing
306 exceptions; authorizing a minor to request a parent or
307 legal guardian document his or her veto of an abortion
308 in a specified form; requiring the parent or legal
309 guardian to complete and sign the form within a
310 specified timeframe; requiring certain entities to
311 make the form available online and in printed format;
312 providing duties and liabilities for a parent or legal
313 guardian who completes the form; authorizing a minor
314 to petition any circuit court in the district in which
315 the minor resides for a waiver of consent required to
316 obtain an abortion; requiring a specified statement to
317 be included in the petition; providing for court-
318 appointed counsel and confidentiality; requiring the
319 court to give precedence to waiver of consent
320 proceedings and requiring a court to rule within a
321 specified timeframe; providing for an extension of
322 time at the request of the minor; authorizing a minor
323 to petition for a hearing upon the expiration of the
324 time allowed and requiring the chief judge of the
325 circuit to ensure that a hearing is held and that an
326 order is entered within specified timeframes;
327 providing for appeals within a specified timeframe;
328 requiring the court to dismiss the petition if it does
329 not make specified findings; requiring the court to
330 consider undue influence on the minor's decision and



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331 specified factors; requiring the court to report any
332 findings of evidence of child abuse or sexual abuse of
333 the petitioner; requiring the court to grant a
334 judicial waiver of consent under certain
335 circumstances; requiring a court to provide for a
336 written transcript of waiver of consent proceedings
337 and to include certain findings and conclusions in its
338 order; prohibiting filing fees or costs for a minor
339 who petitions the court for a waiver of consent;
340 specifying that a county is not required to pay the
341 salaries, costs, or expenses of certain court-
342 appointed counsel; requesting the Supreme Court to
343 adopt certain rules and forms relating to waiver of
344 consent proceedings; providing criminal penalties,
345 disciplinary action, and civil remedies; providing
346 construction and severability; providing an effective
347 date.