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LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (12) of section
390.0111, Florida Statutes, is amended to read:

390.0111 Termination of pregnancies.—

(12) INFANTS BORN ALIVE.—

(e) A person who violates this subsection commits a felony
of the third ~~misdemeanor of the first~~ degree, punishable as
provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. This



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12 subsection shall not be construed as a specific provision of law
13 relating to a particular subject matter that would preclude
14 prosecution of a more general offense, regardless of the
15 penalty.

16 Section 2. Subsections (3), (4), (5), and (6) of section
17 390.01114, Florida Statutes, are renumbered as subsections (4),
18 (6), (7), and (8), respectively, subsection (1), paragraph (b)
19 of present subsection (3), and present subsections (4), (5), and
20 (6) are amended, and new subsections (3) and (5) are added to
21 that section, to read:

22 390.01114 Parental Notice of and Consent for Abortion Act.-

23 (1) SHORT TITLE.-This section may be cited as the "Parental
24 Notice of and Consent for Abortion Act."

25 (3) TERMINATION OF THE PREGNANCY OF A MINOR.-A physician
26 may not perform or induce the termination of a pregnancy of a
27 minor unless the physician has complied with the notice and
28 consent requirements of this section.

29 (4)~~(3)~~ NOTIFICATION REQUIRED.-

30 (b) Notice is not required if:

31 1. In the physician's good faith clinical judgment, a
32 medical emergency exists and there is insufficient time for the
33 attending physician to comply with the notification
34 requirements. If a medical emergency exists, the physician shall
35 make reasonable attempts, whenever possible, without endangering
36 the minor, to contact the parent or legal guardian, and may
37 proceed, but must document reasons for the medical necessity in
38 the patient's medical records. The physician shall provide
39 notice directly, in person or by telephone, to the parent or
40 legal guardian, including details of the medical emergency and



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41 any additional risks to the minor. If the parent or legal
42 guardian has not been notified within 24 hours after the
43 termination of the pregnancy, the physician shall provide notice
44 in writing, including details of the medical emergency and any
45 additional risks to the minor, signed by the physician, to the
46 last known address of the parent or legal guardian of the minor,
47 by first-class mail and by certified mail, return receipt
48 requested, with delivery restricted to the parent or legal
49 guardian;

50 2. Notice is waived in writing by the person who is
51 entitled to notice and such waiver is notarized, dated not more
52 than 30 days before the termination of pregnancy, and contains a
53 specific waiver of the right of the parent or legal guardian to
54 notice of the minor's termination of pregnancy;

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

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

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

61 (5) PARENTAL CONSENT REQUIRED.—

62 (a) A physician must obtain written consent from a parent
63 or legal guardian before performing or inducing the termination
64 of a pregnancy of a minor.

65 1. The consenting parent or legal guardian shall provide to
66 the physician a copy of a government-issued proof of
67 identification and written documentation establishing that he or
68 she is the lawful parent or legal guardian of the minor. The
69 parent or legal guardian shall certify in a signed, dated,



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70 notarized statement, initialed on each page, that he or she
71 consents to the termination of a pregnancy of the minor, and
72 must include the following statement which must precede the
73 signature of the parent or guardian: "I, (insert name of parent
74 or legal guardian), am the parent or legal guardian of (insert
75 name of minor) and give consent for (insert name of physician)
76 to perform or induce a termination of pregnancy. Under penalties
77 of perjury, I declare that I have read the foregoing statement
78 and that the facts stated in it are true."

79 2. The physician shall keep a copy of the proof of
80 identification of the parent or legal guardian and the certified
81 statement in the medical file of the minor for 5 years after the
82 minor reaches the age of 18 years, but in no event less than 7
83 years.

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

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

92 1. Notification is not required under subparagraphs

93 (4) (b) 1. and 3.-5.;

94 2. Notification is not required under subparagraph

95 (4) (b) 2., and the waiver contains a specific waiver of a parent
96 or legal guardian to consent to the minor's termination of
97 pregnancy and the parent or legal guardian provides a copy of a
98 government-issued proof of identification and written



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99 documentation establishing that he or she is the lawful parent
100 or legal guardian of the minor;

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

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

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



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128 2. It is a defense to prosecution that a minor
129 misrepresented her age or identity to a physician by displaying
130 a driver license or identification card issued by the state or
131 another state that indicated that the minor was over 18 years of
132 age and that the appearance of the minor was such that a
133 reasonably prudent person would believe that the minor was not
134 under the age of 18 years. The defense does not apply if the
135 physician is shown to have had independent knowledge of the
136 minor's actual age or identity or failed to use due diligence in
137 determining the minor's age or identity.

138 (6)-(4) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.-

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

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



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

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

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

- 182 1. The minor's:
 - 183 a. Age.
 - 184 b. Overall intelligence.
 - 185 c. Emotional development and stability.



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



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215 1. Provide for a written transcript of all testimony and
216 proceedings;

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

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

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

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

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

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

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



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244 (8) ~~(6)~~ REPORT.—The Supreme Court, through the Office of the
245 State Courts Administrator, shall report by February 1 of each
246 year to the Governor, the President of the Senate, and the
247 Speaker of the House of Representatives on the number of
248 petitions filed under subsection (6) ~~(4)~~ for the preceding year,
249 and the timing and manner of disposal of such petitions by each
250 circuit court. For each petition resulting in a waiver of the
251 requirements of this section ~~notice~~, the reason for the waiver
252 shall be included in the report.

253 Section 3. Paragraph (a) of subsection (6) of section
254 27.511, Florida Statutes, is amended to read:

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

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

272 Section 4. If any provision of this act or its application



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

278 Section 5. This act shall take effect July 1, 2020.

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

281 And the title is amended as follows:

282 Delete everything before the enacting clause
283 and insert:

284 A bill to be entitled
285 An act relating to abortion; amending s. 390.0111,
286 F.S.; reclassifying a criminal offense for a specified
287 violation; amending s. 390.01114, F.S.; requiring a
288 physician to obtain notarized written consent of a
289 minor's parent or legal guardian before inducing or
290 performing a termination of a pregnancy on the minor;
291 providing exceptions to such consent requirement;
292 providing criminal penalties; revising provisions
293 relating to the procedures for judicial waiver to
294 conform to changes made by the act; amending s.
295 27.511, F.S.; conforming a provision to changes made
296 by the act; providing severability; providing an
297 effective date.