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LEGISLATIVE ACTION

Senate

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House

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.