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1 A bill to be entitled
2 An act relating to abortion; amending s. 390.0111,
3 F.S.; reclassifying the criminal offense for a
4 specified violation; amending s. 390.01114, F.S.;
5 revising the short title; prohibiting physicians from
6 performing or inducing the termination of the
7 pregnancy of a minor unless specified requirements are
8 satisfied; requiring a physician to obtain written
9 consent from a minor's parent or legal guardian before
10 performing or inducing a termination of the pregnancy
11 of a minor; requiring the consenting parent or legal
12 guardian to provide specified proof of identification
13 and a specified document to the physician; providing
14 requirements for the document; providing exceptions to
15 such consent requirement; providing criminal penalties
16 for physicians; revising provisions relating to the
17 procedures for judicial waiver to conform to changes
18 made by the act; amending s. 27.511, F.S.; conforming
19 a provision to changes made by the act; amending s.
20 743.065, F.S.; conforming a provision to changes made
21 by the act; providing severability; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (e) of subsection (12) of section
27 390.0111, Florida Statutes, is amended to read:

28 390.0111 Termination of pregnancies.—

29 (12) INFANTS BORN ALIVE.—

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30 (e) A person who violates this subsection commits a felony
31 of the third ~~misdemeanor of the first~~ degree, punishable as
32 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. This
33 subsection shall not be construed as a specific provision of law
34 relating to a particular subject matter that would preclude
35 prosecution of a more general offense, regardless of the
36 penalty.

37 Section 2. Present subsections (3), (4), (5), and (6) of
38 section 390.01114, Florida Statutes, are redesignated as
39 subsections (4), (6), (7), and (8), respectively, new
40 subsections (3) and (5) are added to that section, and
41 subsection (1), paragraph (b) of present subsection (3), and
42 present subsections (4), (5), and (6) are amended, to read:

43 390.01114 Parental Notice of and Consent for Abortion Act.-

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

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 (b) Notice is not required if:

52 1. In the physician's good faith clinical judgment, a
53 medical emergency exists and there is insufficient time for the
54 attending physician to comply with the notification
55 requirements. If a medical emergency exists, the physician shall
56 make reasonable attempts, whenever possible, without endangering
57 the minor, to contact the parent or legal guardian, and may
58 proceed, but must document reasons for the medical necessity in

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59 the patient's medical records. The physician shall provide
60 notice directly, in person or by telephone, to the parent or
61 legal guardian, including details of the medical emergency and
62 any additional risks to the minor. If the parent or legal
63 guardian has not been notified within 24 hours after the
64 termination of the pregnancy, the physician shall provide notice
65 in writing, including details of the medical emergency and any
66 additional risks to the minor, signed by the physician, to the
67 last known address of the parent or legal guardian of the minor,
68 by first-class mail and by certified mail, return receipt
69 requested, with delivery restricted to the parent or legal
70 guardian;

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

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

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

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

82 (5) PARENTAL CONSENT REQUIRED.-

83 (a) A physician must obtain written consent from a parent
84 or legal guardian before performing or inducing the termination
85 of a pregnancy of a minor.

86 1. The consenting parent or legal guardian shall provide to
87 the physician a copy of a government-issued proof of

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88 identification. The parent or legal guardian shall certify in a
89 signed, dated, and notarized document, initialed on each page,
90 that he or she consents to the termination of the pregnancy of
91 the minor. The document must include the following statement,
92 which must precede the signature of the parent or guardian: "I,
93 (insert name of parent or legal guardian), am the (select
94 "parent" or "legal guardian," as appropriate) of (insert name of
95 minor) and give consent for (insert name of physician) to
96 perform or induce a termination of pregnancy on her. Under
97 penalties of perjury, I declare that I have read the foregoing
98 statement and that the facts stated in it are true." A copy of
99 the parent's or legal guardian's government-issued proof of
100 identification must be attached to the notarized document.

101 2. The physician shall keep a copy of the proof of
102 identification of the parent or legal guardian and the certified
103 statement in the medical file of the minor for 5 years after the
104 minor reaches the age of 18 years, but in no event less than 7
105 years.

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

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

114 1. Notification is not required as provided in subparagraph
115 (4) (b) 1., subparagraph (4) (b) 3., subparagraph (4) (b) 4., or
116 subparagraph (4) (b) 5.;

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117 2. Notification is not required due to the existence of a
118 waiver as provided in subparagraph (4)(b)2., if that waiver is
119 signed by the minor's parent or legal guardian, is notarized, is
120 dated within 30 days before the termination of the pregnancy,
121 contains a specific waiver of the right of the parent or legal
122 guardian to consent to the minor's termination of pregnancy, and
123 a copy of the parent's or legal guardian's government-issued
124 proof of identification is attached to the waiver;

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

126 4. In the physician's good faith clinical judgment, a
127 medical emergency exists and there is insufficient time for the
128 attending physician to comply with the consent requirement. If a
129 medical emergency exists, the physician must make reasonable
130 attempts, whenever possible, and without endangering the minor,
131 to contact the parent or legal guardian of the minor, and may
132 proceed, but must document reasons for the medical necessity in
133 the minor patient's medical records. The physician shall inform
134 the parent or legal guardian, in person or by telephone, within
135 24 hours after the termination of the pregnancy of the minor,
136 including details of the medical emergency that necessitated the
137 termination of the pregnancy without the parent's or legal
138 guardian's consent. The physician shall also provide this
139 information in writing to the parent or legal guardian at his or
140 her last known address, by first-class mail or by certified
141 mail, return receipt requested, with delivery restricted to the
142 parent or legal guardian.

143 (c)1. A physician who intentionally or recklessly performs
144 or induces, or attempts to perform or induce, a termination of a
145 pregnancy of a minor without obtaining the required consent

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146 pursuant to this subsection commits a felony of the third
147 degree, punishable as provided in s. 775.082, s. 775.083, or s.
148 775.084. A penalty may not be assessed against the minor upon
149 whom a termination of pregnancy is performed or induced or upon
150 whom a termination of pregnancy is attempted to be performed or
151 induced.

152 2. It is a defense to prosecution that a minor
153 misrepresented her age or identity to a physician by displaying
154 a driver license or identification card issued by the state or
155 another state which indicated that the minor was 18 years of age
156 or older and that the appearance of the minor was such that a
157 reasonably prudent person would believe that the minor was not
158 under 18 years of age. To use the defense, a physician must
159 provide a copy of the driver license or identification card used
160 by the minor. The defense does not apply if the physician is
161 shown to have had independent knowledge of the minor's actual
162 age or identity or to have failed to use due diligence in
163 determining the minor's age or identity.

164 (6) ~~(4)~~ PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.

165 (a) A minor may petition any circuit court in which the
166 minor resides for a waiver of the ~~notice~~ requirements of this
167 section subsection ~~(3)~~ and may participate in proceedings on her
168 own behalf. The petition may be filed under a pseudonym or
169 through the use of initials, as provided by court rule. The
170 petition must include a statement that the petitioner is
171 pregnant and that the requirements of this section have notice
172 ~~has~~ not been waived. The court shall advise the minor that she
173 has a right to court-appointed counsel ~~and shall provide her~~
174 ~~with counsel upon her request~~ at no cost to the minor. The court

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175 shall, upon request, provide counsel for the minor at least 24
176 hours before the court proceeding.

177 (b)1. Court proceedings under this section ~~subsection~~ must
178 be given precedence over other pending matters to the extent
179 necessary to ensure that the court reaches a decision promptly.
180 The court shall rule, and issue written findings of fact and
181 conclusions of law, within 3 business days after the petition is
182 filed, except that the 3-business-day limitation may be extended
183 at the request of the minor. If the court fails to rule within
184 the 3-business-day period and an extension has not been
185 requested, the minor may immediately petition for a hearing upon
186 the expiration of the 3-business-day period to the chief judge
187 of the circuit, who must ensure a hearing is held within 48
188 hours after receipt of the minor's petition and an order is
189 entered within 24 hours after the hearing.

190 2. If the circuit court does not grant judicial waiver of
191 the requirements of this section ~~notice~~, the minor has the right
192 to appeal. An appellate court must rule within 7 days after
193 receipt of appeal, but a ruling may be remanded with further
194 instruction for a ruling within 3 business days after the
195 remand. The reason for overturning a ruling on appeal must be
196 based on abuse of discretion by the court and may not be based
197 on the weight of the evidence presented to the circuit court
198 since the proceeding is a nonadversarial proceeding.

199 (c) If the court finds, by clear and convincing evidence,
200 that the minor is sufficiently mature to decide whether to
201 terminate her pregnancy, the court shall issue an order
202 authorizing the minor to consent to the performance or
203 inducement of a termination of the pregnancy ~~without the~~

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204 ~~notification of a parent or guardian.~~ If the court does not make
205 the finding specified in this paragraph or paragraph (d), it
206 must dismiss the petition. Factors the court shall consider
207 include:

208 1. The minor's:

209 a. Age.

210 b. Overall intelligence.

211 c. Emotional development and stability.

212 d. Credibility and demeanor as a witness.

213 e. Ability to accept responsibility.

214 f. Ability to assess both the immediate and long-range
215 consequences of the minor's choices.

216 g. Ability to understand and explain the medical risks of
217 terminating her pregnancy and to apply that understanding to her
218 decision.

219 2. Whether there may be any undue influence by another on
220 the minor's decision to have an abortion.

221 (d) If the court finds, by a preponderance of the evidence,
222 that the petitioner is the victim of child abuse or sexual abuse
223 inflicted by one or both of her parents or her guardian, or by
224 clear and convincing evidence that the requirements of this
225 section are ~~notification of a parent or guardian~~ is not in the
226 best interest of the petitioner, the court shall issue an order
227 authorizing the minor to consent to the performance or
228 inducement of a termination of the pregnancy ~~without the~~
229 ~~notification of a parent or guardian~~. The best-interest standard
230 does not include financial best interest or financial
231 considerations or the potential financial impact on the minor or
232 the minor's family if the minor does not terminate the

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233 pregnancy. If the court finds evidence of child abuse or sexual
234 abuse of the minor petitioner by any person, the court shall
235 report the evidence of child abuse or sexual abuse of the
236 petitioner, as provided in s. 39.201. If the court does not make
237 the finding specified in this paragraph or paragraph (c), it
238 must dismiss the petition.

239 (e) A court that conducts proceedings under this section
240 shall:

241 1. Provide for a written transcript of all testimony and
242 proceedings;

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

247 3. Order that a confidential record be maintained, as
248 required under s. 390.01116.

249 (f) All hearings under this section, including appeals,
250 shall remain confidential and closed to the public, as provided
251 by court rule. Subject to a judge's availability as required
252 under s. 26.20, hearings held under this section must be held in
253 chambers or in a similarly private and informal setting within
254 the courthouse.

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

260 (h) Filing fees or court costs may not be required of any
261 pregnant minor who petitions a court for a waiver of the

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262 requirements of this section ~~parental notification under this~~
263 ~~subsection~~ at either the trial or the appellate level.

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

267 (7) ~~(5)~~ PROCEEDINGS.—The Supreme Court is requested to adopt
268 rules and forms for petitions to ensure that proceedings under
269 subsection (6) ~~(4)~~ are handled expeditiously and in a manner
270 consistent with this act. The Supreme Court is also requested to
271 adopt rules to ensure that the hearings protect the minor's
272 confidentiality and the confidentiality of the proceedings.

273 (8) ~~(6)~~ REPORT.—The Supreme Court, through the Office of the
274 State Courts Administrator, shall report by February 1 of each
275 year to the Governor, the President of the Senate, and the
276 Speaker of the House of Representatives on the number of
277 petitions filed under subsection (6) ~~(4)~~ for the preceding year,
278 and the timing and manner of disposal of such petitions by each
279 circuit court. For each petition resulting in a waiver of the
280 requirements of this section ~~notice~~, the reason for the waiver
281 shall be included in the report.

282 Section 3. Paragraph (a) of subsection (6) of section
283 27.511, Florida Statutes, is amended to read:

284 27.511 Offices of criminal conflict and civil regional
285 counsel; legislative intent; qualifications; appointment;
286 duties.—

287 (6) (a) The office of criminal conflict and civil regional
288 counsel has primary responsibility for representing persons
289 entitled to court-appointed counsel under the Federal or State
290 Constitution or as authorized by general law in civil

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291 proceedings, including, but not limited to, proceedings under s.
292 393.12 and chapters 39, 392, 397, 415, 743, 744, and 984 and
293 proceedings to terminate parental rights under chapter 63.
294 Private court-appointed counsel eligible under s. 27.40 have
295 primary responsibility for representing minors who request
296 counsel under s. 390.01114, the Parental Notice of and Consent
297 for Abortion Act; however, the office of criminal conflict and
298 civil regional counsel may represent a minor under that section
299 if the court finds that no private court-appointed attorney is
300 available.

301 Section 4. Subsection (3) of section 743.065, Florida
302 Statutes, is amended to read:

303 743.065 Unwed pregnant minor or minor mother; consent to
304 medical services for minor or minor's child valid.—

305 (3) Nothing in this section ~~act~~ shall affect the provisions
306 of chapter 390 s. 390.0111.

307 Section 5. If any provision of this act or its application
308 to any person or circumstance is held invalid, the invalidity
309 does not affect other provisions or applications of the act
310 which can be given effect without the invalid provision or its
311 application, and to this end the provisions of this act are
312 severable.

313 Section 6. This act shall take effect July 1, 2020.