
HOUSE BILL 2845

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Casada, Stevens, Foreman, Morris, Chandler, Van Luven, McMorris, Padden, Fuhrman, Talcott and Backlund

Read first time 01/26/94. Referred to Committee on Judiciary.

1 AN ACT Relating to parental notification for abortions; adding a
2 new chapter to Title 70 RCW; prescribing penalties; and declaring an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act is necessary for the immediate
6 preservation of the public peace, health, morals, and safety, the
7 support of the state government and its existing public institutions,
8 and shall take effect immediately.

9 NEW SECTION. **Sec. 2.** The legislature finds that: (1) Minor
10 children often lack the ability to make fully informed choices that
11 take into account both the immediate and long-range consequences of
12 their actions; (2) the medical, physiological, emotional, and
13 psychological consequences of abortion are serious and can be lasting,
14 particularly when the patient is a minor child; (3) the capacity to
15 become pregnant and the capacity for mature judgment, concerning
16 whether to obtain an abortion, are not logically related; (4) parents
17 ordinarily possess information essential to a physician's exercise of
18 his or her best medical judgment concerning the parent's minor child;

1 and (5) parents who are aware that their minor daughter is having an
2 abortion may better ensure that she receives adequate medical attention
3 subsequent to her abortion. The legislature further finds that
4 parental consultation is desirable and in the best interest of the
5 minor child.

6 It is the intent of the legislature to further the legitimate and
7 compelling state interests of protecting minor children against their
8 own immaturity, fostering the family structure and preserving it as a
9 viable social unit, and protecting the rights of parents to rear minor
10 children who are members of their household.

11 NEW SECTION. **Sec. 3.** Unless the context clearly requires
12 otherwise, the following definitions apply throughout this chapter.

13 (1) "Minor" means any person under the age of eighteen years.

14 (2) "Emancipated minor" means any minor who is or has been married,
15 or has by court order otherwise been freed from the care, custody, and
16 control of her parents or legal guardian.

17 (3) "Abortion" means the use of any instrument, medicine, drug, or
18 other substance or device with intent to terminate the pregnancy of a
19 female known to be pregnant.

20 NEW SECTION. **Sec. 4.** (1) Except in a medical emergency requiring
21 immediate medical action, no abortion shall be performed upon an
22 unemancipated, pregnant minor unless she has first given her written
23 consent to the abortion and has also notified both her parents or her
24 legal guardian.

25 (2) If the minor's parents are divorced, or one parent is not
26 available in a reasonable time or manner, or cannot be located after a
27 reasonable effort has been made to locate the parent, then the
28 notification of the parent with custody, or of the parent who is
29 available, shall be sufficient.

30 (3) If neither of the parents nor the legal guardian is available
31 within a reasonable time or manner, or cannot be located after a
32 reasonable effort has been made to locate the parents or guardian, or
33 the parties who must be notified pursuant to this section refuse to
34 accept notification of the performance of an abortion, or the minor
35 elects not to notify those to whom notification is required, then the
36 pregnant minor may petition, on her own behalf or by next friend, the
37 superior court of any county of this state for a waiver of the

1 notification requirement of this section under the procedures of
2 section 5 of this act. The physician performing the abortion shall
3 explain to the patient the term "emancipated minor" and shall ask the
4 patient if she is or is not an emancipated minor. The patient shall
5 inform the physician whether she is or is not an emancipated minor.

6 NEW SECTION. **Sec. 5.** (1) The requirements and procedures under
7 this chapter are available and apply to unemancipated, pregnant minors
8 whether or not they are residents of this state. The basic juvenile
9 court act, chapter 13.04 RCW, shall not apply to proceedings or
10 procedures conducted under this chapter.

11 (2) The court shall ensure that the minor or her next friend is
12 given assistance in preparing and filing the petition, and shall ensure
13 that the minor's identity is kept confidential.

14 (3) The minor may participate in proceedings in the court on her
15 own behalf, and the court shall appoint a guardian ad litem for her.
16 The court shall advise her that she has a right to court-appointed
17 counsel and shall provide her with counsel upon her request.

18 (4) Court proceedings under this section shall be confidential and
19 shall be given precedence over other pending matters as is necessary to
20 ensure that the court may reach a decision promptly, but in no case may
21 the court fail to rule within four court days from the time of
22 application, unless extended at the request of the minor.

23 (5) The notification requirement shall be waived if the court finds
24 either:

25 (a) That the minor is sufficiently mature and sufficiently well-
26 informed to make the abortion decision on her own; or

27 (b) That the performance of the abortion would be in the minor's
28 best interest.

29 (6) A court that conducts proceedings under this section shall
30 issue written and specific findings of fact and conclusions of law
31 supporting its decision and shall order that a confidential record of
32 the evidence be maintained.

33 (7) An expedited, confidential appeal shall be available, as the
34 supreme court shall provide by rule, to any minor or guardian ad litem,
35 but in no case may the court of appeals fail to rule within seven court
36 days from the time the notice of appeal has been filed, unless extended
37 at the request of the minor.

1 (8) The supreme court is requested to adopt any rules necessary to
2 ensure that proceedings under this chapter are handled in an
3 expeditious and confidential manner.

4 (9) No fees may be required of any minor who avails herself of the
5 procedures provided by this section.

6 NEW SECTION. **Sec. 6.** The requirements of section 4 of this act
7 shall not apply when, in the best medical judgment of a physician based
8 on the facts of the particular case, a medical emergency exists that so
9 complicates the pregnancy as to require an immediate abortion.

10 NEW SECTION. **Sec. 7.** To develop statistical data relating to the
11 protection of parental rights and to the protection of unemancipated,
12 pregnant minors, a report shall be filed with the department of social
13 and health services on a form prescribed by the department whenever an
14 abortion is performed upon an unemancipated, pregnant minor. The
15 report shall be signed by the physician who performed the abortion and
16 shall be transmitted to the department no later than ten days following
17 the end of the month in which the abortion is performed. The report
18 form shall not identify the minor by name, but by an individual number
19 to be noted in the minor's permanent record in the possession of the
20 physician.

21 The report shall indicate that notification was provided in
22 accordance with the requirements of section 4(1) of this act or, if not
23 so obtained, shall indicate:

24 (1) That notification was provided under section 4(2) of this act;

25 (2) That notification was not necessary because the minor obtained
26 waiver of notification pursuant to section 4(3) of this act; or

27 (3) That notification was not necessary under the medical emergency
28 exception of section 6 of this act.

29 If notification was not necessary pursuant to the medical emergency
30 exception of section 6 of this act, the report shall also indicate the
31 medical indications on which the physician's judgment was based.

32 The department shall adopt rules necessary to secure the
33 confidentiality of the unemancipated, pregnant minor and her parents or
34 guardian. The department shall report annually to the legislature all
35 statistical data gathered under this chapter and shall report any
36 recommendations it has to further the purposes of this chapter.

1 NEW SECTION. **Sec. 8.** Any person who intentionally performs an
2 abortion with knowledge, reckless disregard, or gross negligence, as to
3 whether the person upon whom the abortion is to be performed is an
4 unemancipated, pregnant minor, or any person who fails to conform to
5 any requirement of this chapter is guilty of a gross misdemeanor.

6 NEW SECTION. **Sec. 9.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act shall
11 constitute a new chapter in Title 70 RCW.

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