

2 **SB 5255** - S AMD - 218  
3 By Senator Swecker

4 WITHDRAWN 3/19/97

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that: (1) Minor  
8 children often lack the ability to make fully informed choices that  
9 take into account both the immediate and long-range consequences of  
10 their actions; (2) the medical, physiological, emotional, and  
11 psychological consequences of abortion are serious and can be lasting,  
12 particularly when the patient is a minor child; (3) the capacity to  
13 become pregnant and the capacity for mature judgment, concerning  
14 whether to obtain an abortion, are not logically related; (4) parents  
15 ordinarily possess information essential to a physician's exercise of  
16 his or her best medical judgment concerning the parent's minor child;  
17 and (5) a parent who is aware that his or her minor daughter is having  
18 an abortion may better ensure that she receives adequate medical  
19 attention subsequent to her abortion. The legislature further finds  
20 that parental consultation is desirable and in the best interest of the  
21 minor child.

22 It is the intent of the legislature to further the legitimate and  
23 compelling state interests of protecting minor children against their  
24 own immaturity, fostering the family structure and preserving it as a  
25 viable social unit, and protecting the rights of parents to rear minor  
26 children who are members of their household.

27 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
28 otherwise, the following definitions apply throughout this chapter.

- 29 (1) "Minor" means any person under the age of eighteen years.  
30 (2) "Emancipated minor" means any minor who is or has been married,  
31 or has by court order otherwise been freed from the care, custody, and  
32 control of her parents or legal guardian.  
33 (3) "Abortion" means the use of any instrument, medicine, drug, or  
34 other substance or device with intent to terminate the pregnancy of a  
35 female known to be pregnant.

1 (4) "Next friend" means one acting for the benefit of a minor or  
2 another person who is unable to look after her own interest. The next  
3 friend is not a party to the action, but is an officer of the court who  
4 serves without being regularly appointed as a guardian ad litem.

5 NEW SECTION. **Sec. 3.** (1) Except in a medical emergency requiring  
6 immediate medical action, no abortion shall be performed upon an  
7 unemancipated, pregnant minor unless she has first given her written  
8 consent to the abortion and has also notified a parent or her legal  
9 guardian.

10 (2) If neither of the parents nor the legal guardian is available  
11 within a reasonable time or manner, or cannot be located after a  
12 reasonable effort has been made to locate a parent or guardian, or the  
13 parties who must be notified pursuant to this section refuse to accept  
14 notification of the performance of an abortion, or the minor elects not  
15 to notify those to whom notification is required, then the pregnant  
16 minor may petition, on her own behalf or by next friend, the superior  
17 court of any county of this state for a waiver of the notification  
18 requirement of this section under the procedures of section 5 of this  
19 act. The physician performing the abortion shall explain to the patient  
20 the term "emancipated minor" and shall ask the patient if she is or is  
21 not an emancipated minor. The patient shall inform the physician  
22 whether she is or is not an emancipated minor.

23 NEW SECTION. **Sec. 4.** (1) The requirements and procedures under  
24 this chapter are available and apply to unemancipated, pregnant minors  
25 whether or not they are residents of this state. The basic juvenile  
26 court act, chapter 13.04 RCW, shall not apply to proceedings or  
27 procedures conducted under this chapter.

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

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

35 (4) Court proceedings under this section shall be confidential,  
36 shall be conducted in the judge's chambers, and shall be given  
37 precedence over other pending matters as is necessary to ensure that

1 the court may reach a decision promptly, but in no case may the court  
2 fail to rule within four court days from the time of application,  
3 unless extended at the request of the minor.

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

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

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

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

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

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

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

24 NEW SECTION. **Sec. 5.** The requirements of section 4 of this act  
25 shall not apply when, in the best medical judgment of a physician based  
26 on the facts of the particular case, a medical emergency exists that so  
27 complicates the pregnancy as to require an immediate abortion.

28 NEW SECTION. **Sec. 6.** Any person who intentionally performs an  
29 abortion with knowledge, reckless disregard, or gross negligence, as to  
30 whether the person upon whom the abortion is to be performed is an  
31 unemancipated, pregnant minor, or any person who fails to conform to  
32 any requirement of this chapter is guilty of a gross misdemeanor.

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

1           NEW SECTION.   **Sec. 8.**   Sections 1 through 7 of this act shall  
2 constitute a new chapter in Title 70 RCW."

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6  
7           On page 1, line 1 of the title, after "RCW;" insert "and" and after  
"penalties" strike the remainder of the title

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EFFECT OF AMENDMENT: Removes the requirement that both parents receive notification and deletes the section that relates to collection and reporting of statistical data. Provides that proceedings under this chapter be conducted in the judge's chambers, makes appointment of a guardian ad litem permissive, defines "next friend" and removes the emergency clause.