
ENGROSSED SENATE BILL 5255

State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker, Hargrove, Zarelli, Stevens, Hochstatter, Morton, Schow, Roach, Anderson, Benton and Oke

Read first time 01/21/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to parental notification for abortions; and adding
2 a new chapter to Title 70 RCW.

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

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

1 It is the intent of the legislature to further the legitimate and
2 compelling state interests of protecting minor children against their
3 own immaturity, fostering the family structure and preserving it as a
4 viable social unit, and protecting the rights of parents to rear minor
5 children who are members of their household.

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

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

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

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

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

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

24 (2) If neither of the parents nor the legal guardian is available
25 within a reasonable time or manner, or cannot be located after a
26 reasonable effort has been made to locate a parent or guardian, or the
27 parties who must be notified pursuant to this section refuse to accept
28 notification of the performance of an abortion, or the minor elects not
29 to notify those to whom notification is required, then the pregnant
30 minor may petition, on her own behalf or by next friend, the superior
31 court of any county of this state for a waiver of the notification
32 requirement of this section under the procedures of section 4 of this
33 act. The physician performing the abortion shall explain to the patient
34 the term "emancipated minor" and shall ask the patient if she is or is
35 not an emancipated minor. The patient shall inform the physician
36 whether she is or is not an emancipated minor.

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

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

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

13 (4) Court proceedings under this section shall be confidential,
14 shall be conducted in the judge's chambers, and shall be given
15 precedence over other pending matters as is necessary to ensure that
16 the court may reach a decision promptly, but in no case may the court
17 fail to rule within four court days from the time of application,
18 unless extended at the request of the minor.

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 5.** The requirements of section 3 of this act
2 shall not apply when, in the best medical judgment of a physician based
3 on the facts of the particular case, a medical emergency exists that so
4 complicates the pregnancy as to require an immediate abortion.

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

9 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
10 constitute a new chapter in Title 70 RCW.

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