
HOUSE BILL 1700

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Hochstatter, Hargrove, Fuhrman, Chandler, Padden, Morton, Beck, Riley and Paris.

Read first time February 6, 1991. Referred to Committee on Health Care.

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

1 become pregnant and the capacity for mature judgment, concerning
2 whether to obtain an abortion, are not logically related; (4) parents
3 ordinarily possess information essential to a physician's exercise of
4 his or her best medical judgment concerning the parent's minor child;
5 and (5) parents who are aware that their minor daughter is having an
6 abortion may better ensure that she receives adequate medical attention
7 subsequent to her abortion. The legislature further finds that
8 parental consultation is desirable and in the best interest of the
9 minor child.

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

15 NEW SECTION. **Sec. 3.** For purposes of this chapter, the
16 definitions of the following terms are:

17 (1) "Minor" means any person under the age of eighteen years;

18 (2) "Emancipated minor" means any minor who is or has been married,
19 or has by court order otherwise been freed from the care, custody, and
20 control of her parents or legal guardian;

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

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

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

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

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

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

27 (3) The minor may participate in proceedings in the court on her
28 own behalf, and the court shall appoint a guardian ad litem for her.

1 The court shall advise her that she has a right to court-appointed
2 counsel and shall provide her with counsel upon her request.

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 6.** The requirements of section 4 of this
29 act shall not apply when, in the best medical judgment of a physician

1 based on the facts of the particular case, a medical emergency exists
2 that so complicates the pregnancy as to require an immediate abortion.

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

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

17 (1) That notification was provided pursuant to section 4(2) of this
18 act;

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

21 (3) That notification was not necessary pursuant to the medical
22 emergency exception of section 6 of this act.

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

26 The department shall adopt rules necessary to secure the
27 confidentiality of the unemancipated, pregnant minor and her parents or
28 guardian. The department shall report annually to the legislature all

1 statistical data gathered under this chapter and shall report any
2 recommendations it has to further the purposes of this chapter.

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

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

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