H-1014.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1493**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Shea, Scott, Taylor, McCaslin, Holy, G. Hunt, Wilson, Young, Hayes, Haler, Griffey, Rodne, Van Werven, Condotta, Klippert, Muri, and Short

AN ACT Relating to requiring parental notification for abortion; adding a new section to chapter 9.02 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec.**  A new section is added to chapter 9.02 RCW to read as follows:

(1) Except in a medical emergency, or except as provided in this section, if a pregnant woman is less than eighteen years of age and not emancipated, or if she has been adjudged an incapacitated person, a physician shall not perform an abortion upon her unless at least forty-eight hours before the abortion, in the case of a woman who is less than eighteen years of age, he or she first notifies one of her parents; or, in the case of a woman who is an incapacitated person, he or she first notifies one of her guardians. In the case of a pregnancy that is the result of incest where the father is a party to the incestuous act, the physician need only notify the pregnant woman's mother or guardian.

(2) If both parents have died or are otherwise unavailable to the physician within at least twenty-four hours, notification of the pregnant woman's guardian or guardians is sufficient. If the pregnant woman's parents are divorced, notification of the parent having custody is sufficient. If neither parent nor the guardian is available to the physician within twenty-four hours, notification of any adult person standing in loco parentis is sufficient.

(3) If the pregnant woman elects not to allow the notification of either of her parents or of her guardian, the superior court in which the applicant resides or in which the abortion is sought shall, upon petition or motion, after an appropriate hearing, authorize a physician to perform the abortion if the court determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion, and has, in fact, given such consent.

(4) If the court determines that the pregnant woman is not mature and capable of giving informed consent or if the pregnant woman does not claim to be mature and capable of giving informed consent, the court shall determine whether the performance of an abortion upon her would be in her best interests. If the court determines that the performance of an abortion would be in the best interests of the woman, it shall authorize a physician to perform the abortion.

(5) The pregnant woman may participate in proceedings in the court on her own behalf and the court may appoint a guardian ad litem to assist her. The court shall, however, advise her that she has a right to court-appointed counsel, and shall provide her with such counsel unless she wishes to appear with private counsel or has knowingly and intelligently waived representation by counsel.

(6)(a) Court proceedings under this section are confidential and shall be given such precedence over other pending matters as will ensure that the court may reach a decision promptly and without delay in order to serve the best interests of the pregnant woman. In no case shall the court fail to rule within three business days of the date of application. A court that conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting its decision and shall, upon the initial filing of the minor's petition for judicial authorization of an abortion, order a sealed record of the petition, pleadings, submissions, transcripts, exhibits, orders, evidence, and any other written material to be maintained which shall include its own findings and conclusions.

(b) The application to the court shall be accompanied by a nonnotarized verification stating that the information therein is true and correct to the best of the applicant's knowledge, and the application shall set forth the following facts:

(i) The initials of the pregnant woman;

(ii) The age of the pregnant woman;

(iii) The names and addresses of each parent, guardian or, if the minor's parents are deceased and no guardian has been appointed, any other person standing in loco parentis to the minor;

(iv) That the pregnant woman has been fully informed of the risks and consequences of the abortion;

(v) Whether the pregnant woman is of sound mind and has sufficient intellectual capacity to consent to the abortion;

(vi) A prayer for relief asking the court to either grant the pregnant woman full capacity for the purpose of personal consent to the abortion, or to give judicial consent to the abortion under subsection (4) of this section based upon a finding that the abortion is in the best interest of the pregnant woman;

(vii) That the pregnant woman is aware that any false statements made in the application are punishable by law; and

(viii) The signature of the pregnant woman. If necessary to serve the interest of justice, the family court shall refer the pregnant woman to the appropriate personnel for assistance in preparing the application.

(c) The name of the pregnant woman shall not be entered on any docket that is subject to public inspection. All persons shall be excluded from hearings under this section except the applicant and such other persons whose presence is specifically requested by the applicant or her guardian.

(d) At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the pregnant woman, the fact and duration of her pregnancy, the nature, possible consequences, and alternatives to the abortion, and any other evidence that the court may find useful in determining whether the pregnant woman should be granted full capacity for the purpose of consenting to the abortion or whether the abortion is in the best interest of the pregnant woman. The court shall also notify the pregnant woman at the hearing that it must rule on her application within three business days of the date of its filing and that, should the court fail to rule in favor of her application within the allotted time, she has the right to appeal to the superior court.

(7) Except in a medical emergency, no parent, guardian, or other person standing in loco parentis shall coerce a minor or incapacitated woman to undergo an abortion. Any minor or incapacitated woman who is threatened with such coercion may apply to the superior court for relief. The court shall provide the minor or incapacitated woman with counsel, give the matter expedited consideration, and grant such relief as may be necessary to prevent such coercion. Should a minor be denied the financial support of her parents by reason of her refusal to undergo abortion, she shall be considered emancipated for purposes of eligibility for assistance benefits.

(8) No filing fees shall be required of any woman availing herself of the procedures provided by this section. An expedited confidential appeal shall be available to any pregnant woman whom the court fails to grant an order authorizing an abortion within the time specified in this section. Any court to which an appeal is taken under this section shall give prompt and confidential attention thereto and shall rule thereon within five business days of the filing of the appeal. The supreme court may issue such rules as may further assure that the process provided in this section is conducted in such a manner as will ensure confidentiality and sufficient precedence over other pending matters to ensure promptness of disposition.

(9) Any person who performs an abortion upon a woman who is an unemancipated minor or incapacitated person to whom this section applies either with knowledge that she is a minor or incapacitated person to whom this section applies, or with reckless disregard or negligence as to whether she is a minor or incapacitated person to whom this section applies, and who intentionally, knowingly, or recklessly fails to conform to any requirement of this section is guilty of unprofessional conduct and his or her license for the practice of medicine and surgery shall be suspended for a period of at least three months. Nothing in this section shall be construed to limit the common law rights of parents.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, morals, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**