
SUBSTITUTE SENATE BILL 5156

State of Washington

63rd Legislature

2014 Regular Session

By Senate Law & Justice (originally sponsored by Senators Benton, Sheldon, Holmquist Newbry, Padden, Honeyford, Carrell, Hewitt, Delvin, Ericksen, Dammeier, Braun, Rivers, King, Smith, Bailey, Pearson, Shin, and Roach)

READ FIRST TIME 02/06/14.

1 AN ACT Relating to abortion notification; adding a new chapter to
2 Title 9 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 parental notification of abortion act.

6 NEW SECTION. **Sec. 2.** (1) The legislature of the state of
7 Washington finds that:

8 (a) Immature minors often lack the ability to make fully informed
9 choices that take into account both immediate and long-range
10 consequences.

11 (b) The medical, emotional, and psychological consequences of
12 abortion are sometimes serious and can be lasting, particularly when
13 the patient is immature.

14 (c) The capacity to become pregnant and the capacity for mature
15 judgment concerning the wisdom of an abortion are not necessarily
16 related.

17 (d) Parents ordinarily possess information essential to a

1 physician's exercise of his or her best medical judgment concerning
2 their child.

3 (e) Parents who are aware that their minor daughter has had an
4 abortion may better ensure that she receives adequate medical attention
5 after her abortion.

6 (f) Parental consultation is usually desirable and in the best
7 interests of the minor.

8 (2) The legislature's purpose in enacting this chapter is to
9 further the important and compelling state interests of:

10 (a) Protecting minors against their own immaturity;

11 (b) Fostering family unity and preserving the family as a viable
12 social unit;

13 (c) Protecting the constitutional rights of parents to rear
14 children who are members of their household;

15 (d) Reducing teenage pregnancy and abortion; and

16 (e) Allowing for judicial bypasses of parental notification to be
17 made only in exceptional or rare circumstances.

18 NEW SECTION. **Sec. 3.** For purposes of this chapter:

19 (1) "Abortion" means abortion as defined in RCW 9.02.170.

20 (2) "Actual notice" means the giving of notice directly, in person,
21 or by telephone.

22 (3) "Coercion" means restraining or dominating the choice of a
23 pregnant minor by force, threat of force, or deprivation of food and
24 shelter.

25 (4) "Constructive notice" means notice by certified mail to the
26 last known address of the parent or guardian with delivery deemed to
27 have occurred forty-eight hours after the certified notice is mailed.

28 (5) "Department" means the department of health.

29 (6) "Emancipated minor" means any person under eighteen years of
30 age who is or has been married or who has been legally emancipated.

31 (7) "Incompetent person" means a person who has been adjudged a
32 person with a disability and has had a guardian appointed for her under
33 Title 11 RCW.

34 (8) "Medical emergency" means a condition that, on the basis of the
35 physician's good-faith clinical judgment, complicates the medical
36 condition of a pregnant minor so as to necessitate the immediate

1 abortion of her pregnancy to avert her death or for which a delay will
2 create serious risk of substantial and irreversible impairment of a
3 major bodily function.

4 (9) "Neglect" means the failure of a parent or legal guardian to
5 supply a minor with necessary food, clothing, shelter, or medical care
6 when reasonably able to do so or the failure to protect a minor from
7 conditions or actions that imminently and seriously endanger the
8 minor's physical or mental health when reasonably able to do so.

9 (10) "Physical abuse" means any physical injury intentionally
10 inflicted by a parent or legal guardian on a minor.

11 (11) "Physician," "attending physician," or "referring physician"
12 means a person licensed to practice medicine in this state, and
13 includes medical doctors and doctors of osteopathy.

14 (12) "Pregnant minor" means a woman who is pregnant, less than
15 eighteen years of age, and not emancipated, or who has been adjudged an
16 incompetent person under Title 70 or 71 RCW.

17 (13) "Sexual abuse" means any sexual contact or sexual intercourse
18 as defined in RCW 9A.44.010 committed against a pregnant minor by a
19 parent or legal guardian.

20 NEW SECTION. **Sec. 4.** A person must not perform an abortion upon
21 a pregnant minor unless that person has given at least forty-eight
22 hours actual notice to one parent or the legal guardian of the pregnant
23 minor of his or her intention to perform the abortion. The notice may
24 be given by a referring physician. The person who performs the
25 abortion must receive the written statement of the referring physician
26 certifying that the referring physician has given notice to the parent
27 or legal guardian of the pregnant minor who is to receive the abortion.
28 If actual notice is not possible after a reasonable effort, the person
29 or his or her agent must give forty-eight hours constructive notice.

30 NEW SECTION. **Sec. 5.** Notice is not required under section 4 of
31 this act if:

32 (1) The attending physician certifies in the pregnant minor's
33 medical record that a medical emergency exists and there is
34 insufficient time to provide the required notice; or

35 (2) Notice is waived in writing by the person who is entitled to
36 notice; or

1 (3) Notice is waived under section 8 of this act.

2 NEW SECTION. **Sec. 6.** A parent, legal guardian, or any other
3 person must not coerce a pregnant minor to have an abortion performed.
4 If a pregnant minor is denied financial support by the pregnant minor's
5 parents or legal guardian due to the pregnant minor's refusal to have
6 an abortion, the pregnant minor is deemed emancipated for the purposes
7 of eligibility for public assistance benefits, except that the
8 benefits may not be used to obtain an abortion.

9 NEW SECTION. **Sec. 7.** A monthly report indicating the number of
10 notices issued under this chapter, the number of times in which
11 exceptions were made to the notice requirement under this chapter, the
12 type of exception, the pregnant minor's age, and the number of prior
13 pregnancies and prior abortions of the pregnant minor must be filed
14 with the department on forms prescribed by the department. Patient
15 names must not be used on the forms. A compilation of the data
16 reported must be made by the department on an annual basis and be
17 available to the public.

18 NEW SECTION. **Sec. 8.** (1) The requirements and procedures under
19 this section are available to a pregnant minor whether or not she is a
20 resident of this state.

21 (2) A pregnant minor may petition any superior court for a waiver
22 of the notice requirement and may participate in proceedings on her own
23 behalf. The petition must include a statement that the pregnant minor
24 is pregnant and is unemancipated. The petition must also include a
25 statement that notice has not been waived and that the pregnant minor
26 wishes to abort without giving notice under this chapter. The court
27 must appoint a guardian ad litem for her. Any guardian ad litem
28 appointed under this chapter must maintain the confidentiality of the
29 proceedings. The superior court must advise her that she has a right
30 to court-appointed counsel and provide her with counsel upon her
31 request.

32 (3) Court proceedings under this section must be confidential and
33 ensure the anonymity of the pregnant minor. All court proceedings
34 under this section must be sealed. A pregnant minor has the right to
35 file her petition in the superior court using a pseudonym or using

1 solely her initials. All documents related to the petition must be
2 confidential and not be made available to the public. These
3 proceedings must be given precedence over other pending matters to the
4 extent necessary to ensure that the court reaches a decision promptly.
5 The court must rule, and issue written findings of fact and conclusions
6 of law, within forty-eight hours of the time that the petition was
7 filed, except that the forty-eight hour limitation may be extended at
8 the request of the pregnant minor. If the court fails to rule within
9 the forty-eight hour period and an extension was not requested, then
10 the petition is deemed to have been granted, and the notice requirement
11 must be waived.

12 (4) If the court finds, by clear and convincing evidence, that the
13 pregnant minor is both sufficiently mature and well-informed to decide
14 whether to have an abortion, the court must issue an order authorizing
15 the pregnant minor to consent to the performance or inducement of an
16 abortion without the notification of a parent or guardian and the court
17 must execute the required forms. If the court does not make the
18 finding specified in this subsection or subsection (5) of this section,
19 it must dismiss the petition.

20 (5) If the court finds, by clear and convincing evidence, that the
21 pregnant minor is the victim of physical or sexual abuse by one or both
22 of her parents or her legal guardian, or that the notification of a
23 parent or guardian is not in the best interest of the pregnant minor,
24 the court must issue an order authorizing the pregnant minor to consent
25 to the performance or inducement of an abortion without the
26 notification of a parent or guardian. If the court does not make the
27 finding specified in this subsection or subsection (4) of this section,
28 it must dismiss the petition.

29 (6) A court that conducts proceedings under this section must issue
30 written and specific factual findings and legal conclusions supporting
31 its decision and order that a confidential record of the evidence and
32 the judge's findings and conclusions be maintained. At the hearing,
33 the court must hear evidence relating to the emotional development,
34 maturity, intellect, and understanding of the pregnant minor.

35 (7) An expedited confidential appeal must be available, as the
36 supreme court provides by rule, to any pregnant minor to whom the
37 superior court denies a waiver of notice. An order authorizing an
38 abortion without notice must not be subject to appeal.

1 (8) No filing fees are required of any pregnant minor who petitions
2 a court for a waiver of parental notification under this section at
3 either the trial or the appellate level.

4 NEW SECTION. **Sec. 9.** The supreme court is respectfully requested
5 to establish rules to ensure that proceedings under this chapter are
6 handled in an expeditious and confidential manner and to satisfy the
7 requirements of federal courts.

8 NEW SECTION. **Sec. 10.** (1) Any person who intentionally performs
9 an abortion with knowledge that or with reckless disregard as to
10 whether the person upon whom the abortion is to be performed is a
11 pregnant minor without providing the required notice is guilty of a
12 gross misdemeanor. It is a defense to prosecution under this section
13 that the pregnant minor falsely represented her age or identity to the
14 physician to be at least eighteen years of age by displaying an
15 apparently valid governmental record of identification such that a
16 careful and prudent person under similar circumstances would have
17 relied on the representation. The defense does not apply if the
18 physician is shown to have had independent knowledge of the pregnant
19 minor's actual age or identity or failed to use due diligence in
20 determining the pregnant minor's age or identity.

21 (2) Failure to provide a person with the notice required under this
22 chapter is prima facie evidence of failure to provide notice and of
23 interference with family relations in appropriate civil actions. The
24 prima facie evidence does not apply to any issue other than failure to
25 inform the parents or legal guardian and interference with family
26 relations in appropriate civil actions. The civil action may be based
27 on a claim that the act was a result of simple negligence, gross
28 negligence, wantonness, willfulness, intention, or other legal standard
29 of care. The laws of this state must not be construed to preclude the
30 award of exemplary damages in any appropriate civil action relevant to
31 violations of this chapter. Nothing in this chapter may be construed
32 to limit the common law rights of parents or legal guardians.

33 (3) Any person not authorized to receive notice under this chapter
34 who signs a waiver of notice under section 5(2) of this act is guilty
35 of a gross misdemeanor.

1 (4) Any person who coerces a pregnant minor to have an abortion is
2 guilty of a gross misdemeanor.

3 NEW SECTION. **Sec. 11.** (1) Nothing in this chapter may be
4 construed as creating or recognizing a right to abortion.

5 (2) It is not the intent of this chapter to make lawful an abortion
6 that is currently unlawful.

7 NEW SECTION. **Sec. 12.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 13.** The legislature, by concurrent resolution,
12 may appoint one or more of its members who is a sponsor or cosponsor of
13 this act, as a matter of right and in his or her official capacity, to
14 intervene to defend this chapter in any case in which its
15 constitutionality is challenged.

16 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act
17 constitute a new chapter in Title 9 RCW.

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