

H.B. 85

ABORTION BY A MINOR - PARENTAL NOTIFICATION AND CONSENT

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

JANUARY 24, 2006

9:01 AM

Representative **David Litvack** proposes the following amendments:

1. *Page 1, Line 29 through Page 2, Line 37:*

- 29 ▶ requires that at least 24 hours before a physician performs an abortion on a minor,
30 the physician shall notify a parent or guardian of the minor that the minor intends to
31 have an abortion, unless:
- 32 • a medical emergency exists;
 - 33 • the physician reports that the parent or guardian abused the woman or caused
34 the woman's pregnancy by engaging in incest with the woman; ~~{or}~~
 - 35 • the parent or guardian has not assumed responsibility for the minor's care and
36 upbringing; or
 - **the minor obtains the right, by court order, to consent to an abortion without parental consent;**
- 37 ▶ provides that, in a medical emergency, except when it is necessary to immediately

2. *Page 2, Lines 42 through 46*

a. House Committee Amendments

b. 1-18-2006:

- 42 ▶ requires that a minor obtain parental consent before obtaining an abortion unless:
- 43 • the minor obtains the right, by court order, to consent to an abortion without
44 parental consent; ~~{or}~~
 - 45 • a medical emergency exists; or
 - **the physician who performs the abortion reports that the parent or guardian abused the minor or caused the minor's pregnancy by engaging in incest with the minor;**
- 46 ▶ establishes a procedure for a court to determine whether a minor should be granted

3. *Page 2, Lines 51 through 56*

House Committee Amendments

1-18-2006:

- 51 ▶ provides that a court shall order that a minor may consent to an abortion without
52 parental consent only if the court finds ~~H~~→ by a preponderance of the evidence ←~~H~~ that:
- 53 • the minor is mature and capable of giving informed consent to the abortion and
54 has given her informed consent; ~~{or}~~

- 55 • an abortion would be in the minor's best interest; or
 • each parent of the minor has abused the minor, engaged in incest with the minor, or
 has not assumed responsibility for the minor's care and upbringing;
56 ▶ establishes expedited, confidential, appellate procedures;

4. *Page 4, Lines 103 through 120:*

- 103 (3) Subject to Subsection (4), at least 24 hours before a physician performs an abortion
104 on a minor, the physician shall notify a parent or guardian of the minor that the minor intends
105 to have an abortion.
106 (4) A physician is not required to comply with Subsection (3) if:
107 (a) subject to Subsection (6)(a):
108 (i) a medical condition exists that poses a significant threat of harm to the life or health
109 of the minor; and
110 (ii) there is not sufficient time to give the notice required under Subsection (3) before it
111 is necessary to terminate the minor's pregnancy in order to prevent the threatened harm
112 described in Subsection (4)(a)(i);
113 (b) subject to Subsection (6)(b):
114 (i) the physician complies with Subsection (5); and
115 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a
116 party; or
117 (B) the parent or guardian has abused the minor; {or}
118 (c) subject to Subsection (6)(b), the parent or guardian has not assumed responsibility
119 for the minor's care and upbringing {-} ; or
 (d) a court enters an order under Subsection 76-7-304.5(6)(b).
120 (5) If, for a reason described in Subsection (4)(b)(ii)(A) or (B), a physician does not

5. *Page 5, Lines 136 through 146*

a. House Committee Amendments

b. 1-18-2006:

- 136 (2) In addition to the other requirements of this part, an abortion may not be performed
137 on a minor unless:
138 (a) the minor obtains the informed written consent of a parent or guardian of the minor;
139 (b) the minor is granted the right, by court order under Subsection (6), to consent to the
140 abortion without obtaining consent from a parent or guardian; {-or}
141 (c) (i) a medical condition exists that poses a significant threat of harm to the life or
142 health of a pregnant minor; and
143 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor
144 under Subsection (3) before it is necessary to terminate the minor's pregnancy in order to
145 prevent the threatened harm described in Subsection (2)(c)(i) {-} ; or

- (d) subject to Subsection (9)(a):
- (i) the physician who performs the abortion complies with Subsection (9)(b); and
- (ii) (A) the minor is pregnant as a result of incest to which a parent or guardian of the minor was a party; or
- (B) a parent or guardian of the minor has abused the minor.

146 (3) A pregnant minor who wants to have an abortion may choose:

6. Page 6, Line 180 through Page 7, Line 187
a. House Committee Amendments
b. 1-18-2006:

180 (b) After considering the evidence presented at the hearing, the court shall order that
181 the minor may consent to an abortion without the consent of a parent or guardian of the minor
182 if the court finds ~~it~~ by a preponderance of the evidence ~~that~~ that:

183 (i) the minor:

184 (A) has given her informed consent to the abortion; and

185 (B) is mature and capable of giving informed consent to the abortion: ~~{or}~~

186 (ii) an abortion would be in the minor's best interest ~~{-}~~ ; or

(iii) each parent or guardian of the minor:

(A) has abused the minor;

(B) has engaged in incest with the minor; or

(C) has not assumed responsibility for the minor's care and upbringing.

187 (c) If the court does not make the finding described in Subsection (6)(b), the court shall

7. Page 7, Line 212 through Page 8, Line 213:

212 this section.

(9) (a) The exception described in Subsection (3)(d) does not apply if there is a parent or guardian of the minor who has not engaged in the conduct described in Subsection (3)(d)(ii) with respect to the minor, unless the parent or guardian has not assumed responsibility for the minor's care and upbringing.

(b) If, for a reason described in Subsection (3)(d)(ii), a physician does not comply with Subsections (2)(a) or (b), the physician shall report the incest or abuse to the Division of Child and Family Services within the Department of Human Services.

213 Section 4. Section **76-7-305** is amended to read: