

1st Sub. H.B. 85

ABORTION BY A MINOR - PARENTAL NOTIFICATION AND CONSENT

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

JANUARY 26, 2006 5:04 PM

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

1. *Page 2, Lines 37 through 44:*

- 37 ▶ requires that at least 24 hours before a physician performs an abortion on a minor,
38 the physician shall notify a parent or guardian of the minor that the minor intends to
39 have an abortion, unless:
- 40 • a medical emergency exists;
 - 41 • the parent or guardian abused the woman or caused the woman's pregnancy by
42 engaging in incest with the woman; ~~{or}~~
 - 43 • the parent or guardian has not assumed responsibility for the minor's care and
44 upbringing; or
 - **the minor obtains the right, by court order, to consent to an abortion without parental consent;**

2. *Page 2, Lines 50 through 53:*

- 50 ▶ requires that a minor obtain parental consent before obtaining an abortion unless:
- 51 • the minor obtains the right, by court order, to consent to an abortion without
52 parental consent; ~~{or}~~
 - 53 • a medical emergency exists; or
 - **the physician who performs the abortion reports that the parent or guardian has abused the minor or caused the minor's pregnancy by engaging in incest with the minor;**

3. *Page 2, Lines 57 through 61:*

- 57 ▶ provides that a court shall order that a minor may consent to an abortion without
58 parental consent only if the court finds by a preponderance of the evidence that:
- 59 • the minor is mature and capable of giving informed consent to the abortion and
60 has given her informed consent; ~~{or}~~
 - 61 • 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;**

4. Page 4, Line 118 through Page 5, Line 134:

118 (4) A physician is not required to comply with Subsection (3) if:
119 (a) subject to Subsection (5)(a):
120 (i) a medical condition exists that, on the basis of the physician's good faith clinical
121 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
122 abortion of her pregnancy to avert:
123 (A) the minor's death; or
124 (B) a serious risk of substantial and irreversible impairment of a major bodily function
125 of the minor; and
126 (ii) there is not sufficient time to give the notice required under Subsection (3) before it
127 is necessary to terminate the minor's pregnancy in order to avert the minor's death or
128 impairment described in Subsection (4)(a)(i);
129 (b) subject to Subsection (5)(b):
130 (i) the minor is pregnant as a result of incest to which the parent or guardian was a
131 party; or
132 (ii) the parent or guardian has abused the minor; ~~{or}~~
133 (c) subject to Subsection (5)(b), the parent or guardian has not assumed responsibility
134 for the minor's care and upbringing ~~{.}~~ ~~; or~~
(d) the court enters an order under Subsection 76-7-304.5(5)(b).

5. Page 5, Line 147 through Page 6, Line 160:

147 (2) In addition to the other requirements of this part, an abortion may not be performed
148 on a minor unless:
149 (a) the minor obtains the informed written consent of a parent or guardian of the minor;
150 (b) the minor is granted the right, by court order under Subsection (5)(b), to consent to
151 the abortion without obtaining consent from a parent or guardian; ~~{or}~~
152 (c) (i) a medical condition exists that, on the basis of the physician's good faith clinical
153 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
154 abortion of her pregnancy to avert:
155 (A) the minor's death; or
156 (B) a serious risk of substantial and irreversible impairment of a major bodily function
157 of the minor; and
158 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor
159 under Subsection (3) before it is necessary to terminate the minor's pregnancy in order to avert
160 the minor's death or impairment described in Subsection (2)(c)(i) ~~{.}~~ ~~; or~~
(d) subject to Subsection (7)(a):
(i) the physician who performs the abortion complies with Subsection (7)(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.

6. Page 6, Lines 169 through 175:

169 (b) After considering the evidence presented at the hearing, the court shall order that
170 the minor may obtain an abortion without the consent of a parent or guardian of the minor if
171 the court finds by a preponderance of the evidence that:

172 (i) the minor:

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

174 (B) is mature and capable of giving informed consent to the abortion; ~~{-or-}~~

175 (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.

7. Page 6, Line 182:

182 this section.

(7) (a) The exception described in Subsection (2)(d) does not apply if there is a parent or guardian of the minor who has not engaged in the conduct described in Subsection (2)(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 (2)(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.