

**PARENTAL CONSENT TO ABORTION**

**AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kerry W. Gibson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the portion of the Utah Criminal Code relating to proceedings for a minor to seek a court order to obtain an abortion without consent of a parent or guardian.

**Highlighted Provisions:**

This bill:

- ▶ requires that a minor who seeks a court order to consent to an abortion without obtaining consent from a parent or guardian shall be physically present at all court and appellate proceedings related to obtaining the court order;
- ▶ requires a court to hold an expedited hearing to determine whether the order described in this bill should be granted;
- ▶ provides that the court order described in this bill may not be granted, or considered granted, based on the failure of a court to hold a hearing or determine whether the order described in this bill should be granted;
- ▶ provides that if a court fails to hold the hearing or make the determination described in the preceding paragraph in an expedited manner, the minor may seek an expedited writ of mandamus from the Utah Supreme Court to compel compliance with the requirements of this bill; and
- ▶ makes technical changes.



**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:****76-7-304.5**, as enacted by Chapter 207, Laws of Utah 2006

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **76-7-304.5** is amended to read:**76-7-304.5. Consent required for abortions performed on minors -- Hearing to allow a minor to self-consent -- Appeals.**

(1) As used in this section, "minor" is as defined in Subsection 76-7-304(1).

(2) In addition to the other requirements of this part, a physician may not perform an abortion on a minor unless:

(a) the physician obtains the informed written consent of a parent or guardian of the minor, consistent with Section 76-7-305;

(b) the minor is granted the right, by court order under Subsection (5)(b), to consent to the abortion without obtaining consent from a parent or guardian; or

(c) (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:

(A) the minor's death; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and

(ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection (3) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (2)(c)(i).

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

(a) to seek consent from a parent or guardian under Subsection (2)(a); or

(b) to seek a court order under Subsection (2)(b).

(4) If a pregnant minor fails to obtain the consent of a parent or guardian of the minor to the performance of an abortion, or if the minor chooses not to seek the consent of a parent or guardian, the minor may file a petition with the juvenile court to obtain a court order under Subsection (2)(b).

(5) (a) A hearing on a petition described in Subsection (4) shall be closed to the public.

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

(i) the minor:

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

(B) is mature and capable of giving informed consent to the abortion; or

(ii) an abortion would be in the minor's best interest.

(6) ~~[The]~~ Subject to Subsection (7), the Judicial Council shall make rules that:

(a) provide for the administration of the proceedings described in this section;

(b) provide for the appeal of a court's decision under this section;

(c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and

(d) establish procedures to expedite the hearing and appeal proceedings described in this section.

(7) (a) A minor who seeks a court order under this section to consent to an abortion without obtaining consent from a parent or guardian shall be physically present at all court and appellate proceedings related to obtaining the court order described in Subsection (2)(b).

(b) If a minor files a petition to obtain the court order described in Subsection (2)(b), the court shall hold an expedited hearing to determine whether the petition should be granted under Subsection (5).

(c) A petition to obtain the court order described in Subsection (2)(b) may not be granted, or considered granted, based on the failure of a court to hold a hearing or resolve the petition described in this Subsection (7).

(d) If a court fails to hold the hearing or resolve the petition described in this Subsection (7) in an expedited manner, the minor may seek an expedited writ of mandamus from the Utah Supreme Court to compel compliance with the requirements of this section.

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**Legislative Review Note**  
**as of 1-22-07 12:44 PM**

**Office of Legislative Research and General Counsel**

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**H.B. 139 - Parental Consent to Abortion Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*1/26/2007, 11:11:24 AM, Lead Analyst: Byrne, D.*

**Office of the Legislative Fiscal Analyst**