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Short Title: Consent for Minor's Abortion.

(Public)

Sponsors:

Referred to:

January 26, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CONSENT FROM A PARENT OR A COUNTY
DEPARTMENT OF SOCIAL SERVICES FOR AN UNEMANCIPATED
MINOR'S ABORTION.

The General Assembly of North Carolina enacts:

Section 1. Article 1A of Chapter 90 of the General Statutes is amended by
designating all the existing language as "Part 1." and by adding a new Part to read:

"PART 2.

"CONSENT FOR MINOR'S ABORTION.

"§ 90-21.6. Definitions.

For the purposes of Part 2 only of this Article, unless the context clearly requires otherwise:

(a) 'Unemancipated minor' means any person under the age of 18 who has not been married or has not been emancipated pursuant to Article 56 of Chapter 7A of the General Statutes.

(b) 'Abortion' means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child or mother after live birth, or to remove a dead fetus.

"§ 90-21.7. Parental consent required.

1 (a) No physician licensed to practice medicine in North Carolina shall perform
2 an abortion upon an unemancipated minor unless he or his agent or another physician or
3 his agent, first obtains the written consent of the minor and of:

- 4 (1) A parent with custody of the minor;
- 5 (2) The legal guardian of the minor; or
- 6 (3) A parent with whom the minor is living.

7 (b) The parent or guardian of the unemancipated minor, in making the decision to
8 give or deny consent, shall consider each of the following:

- 9 (1) Evidence relating to the emotional development, maturity, intellect,
10 and understanding of the minor;
- 11 (2) The nature, possible consequences, and alternatives to abortion;
- 12 (3) The quality of the relationship between the minor and the putative
13 father;
- 14 (4) The relationship between the parent or guardian and the minor;
- 15 (5) The relationship between the minor and the minor's siblings;
- 16 (6) The motivation of the minor to have an abortion;
- 17 (7) The minor's feelings about being a parent;
- 18 (8) The minor's understanding of children and their needs;
- 19 (9) The financial station of the mother and putative father and maternal
20 grandparents and their ability and willingness to support the child;
- 21 (10) The ability and willingness of the parent or guardian or maternal
22 grandparents to personally and financially provide for the health,
23 education, and welfare of the unborn child;
- 24 (11) The probability that the unborn child may become a ward of the State;
25 and
- 26 (12) Any other evidence that may be useful in determining whether the
27 minor should be granted majority rights for the purpose of consenting
28 to the abortion or whether the abortion is in the best interests of the
29 minor.

30 (c) The pregnant minor may petition, on her own behalf or through a guardian **ad**
31 **litem**, the district court judge assigned to juvenile proceedings in the district court
32 where the minor resides or where she is physically present for a review of the decision
33 of the parent or guardian to deny consent.

34 **"§ 90-21.8. Procedure for waiver of parental consent.**

35 (a) The requirements and procedures under Part 2 of this Article are available
36 and apply to unemancipated minors seeking treatment in this State.

37 (b) The court shall ensure that the minor or her guardian **ad litem** are given
38 assistance in preparing and filing the petition and shall ensure that the minor's identity is
39 kept confidential.

40 (c) The minor may participate in the proceedings in court on her own behalf or
41 through a guardian **ad litem**. The court shall advise her that she has a right to court-
42 appointed counsel and shall provide her with counsel upon her request.

43 (d) Court proceedings under this Part shall be confidential and shall be given the
44 precedence over other pending matters necessary to ensure that the court may reach a

1 decision promptly. In no case shall the court fail to rule within five days of the time of
2 filing the petition. This time limitation may be extended at the request of the minor.

3 (e) The sole determination by the court shall be whether or not the parent or
4 guardian adequately considered the guidelines pursuant to G.S. 90-21.7(b). The court
5 shall make written findings of fact and conclusions of law supporting its decision and
6 shall order that a confidential record of the evidence be maintained. If the court
7 determines that the parent or guardian did not adequately consider the guidelines, the
8 court shall refer the entire matter to the local county department of social services for
9 such action as they determine appropriate. The local county department of social
10 services shall consider the factors set out in subsection (b) of G.S. 90-21.7 in
11 determining the appropriate course of action.

12 (f) Upon referral by the district court to the local county department of social
13 services, the parental consent requirement shall be waived if the local county
14 department of social services finds either:

15 (1) That the minor is sufficiently mature and well-informed to make the
16 abortion decision on her own;

17 (2) That it would be in the minor's best interests that parental consent not
18 be required; or

19 (3) That the minor is a victim of felonious incest under G.S. 14-178.

20 (g) If the minor requests in her petition, no summons or other notice may be
21 served upon the parents, guardian, or custodian of the minor.

22 (h) No court costs shall be required of any minor who avails herself of the
23 procedures provided by this Part.

24 **"§ 90-21.9. Medical emergency exception.**

25 The requirements of parental consent prescribed by G.S. 90-21.7(a) shall not
26 apply when, in the best medical judgment of the physician based on the facts of the case
27 before him, a medical emergency exists that so complicates the pregnancy as to require
28 an immediate abortion, or when the conditions prescribed by G.S. 90-21.1(4) are met.

29 **"§ 90-21.10. Penalty.**

30 Any person who intentionally performs an abortion with knowledge that, or with
31 reckless disregard as to whether, the person upon whom the abortion is to be performed
32 is an unemancipated minor, and who intentionally or knowingly fails to conform to any
33 requirement of Part 2 of this Article shall be guilty of a misdemeanor."

34 Sec. 2. Appeals. An expedited confidential appeal is available to any
35 unemancipated minor, parent, or legal guardian from the decision of the district court or
36 ruling of the county department of social services. Because time may be of the essence
37 regarding the performance of the abortion, the Supreme Court of North Carolina is
38 hereby granted jurisdiction and directed to promulgate rules to ensure that appeals under
39 Part 2 of this Article are handled in an expeditious and confidential manner.

40 Sec. 3. G.S. 7A-523(a) is amended by adding a new subdivision to read:

41 "(7) Proceedings involving consent for an abortion on an unemancipated
42 minor pursuant to Part 2 of Article 1A of Chapter 90 of the General
43 Statutes."

44 Sec. 4. G.S. 7A-451(a) is amended by adding a new subdivision to read:

1 "(16) A proceeding involving consent for an abortion on an unemancipated
2 minor pursuant to Part 2 of Article 1A of Chapter 90 of the General
3 Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to
4 this proceeding."

5 Sec. 5. Funding to implement the provisions of this act shall be determined
6 and appropriated by the General Assembly.

7 Sec. 6. This act shall become effective October 1, 1989.