

HB 1968 -- CONSENT FOR ABORTION FOR A MINOR

SPONSOR: Anderson

This bill changes the laws regarding consent for abortion for a minor.

Except in the case of medical emergency and in addition to any other requirements under Chapter 188, RSMo, no physician must perform an abortion upon a minor unless the physician first obtains the notarized written consent of both the minor and one of her parents or her legal guardian. The physician must keep the consent of the parent or legal guardian in the medical file of the minor for five years past the age of majority of the minor, but in no event less than seven years.

The physician must obtain from the parent or legal guardian entitled to consent government-issued proof of identity of the parent or legal guardian and written documentation that establishes that the parent or legal guardian is the lawful parent or legal guardian of the minor. The physician must keep a copy of the proof of identification and the written documentation that establishes the relationship of the parent or legal guardian to the minor in the medical file of the minor for five years past the age of majority of the minor, but in no event less than seven years. Any physician receiving parental consent under these provisions must execute for inclusion in the medical record of the minor an affidavit as specified in the bill.

Consent must not be required if the attending physician certifies in the minor's medical record that a medical emergency, as defined in Section 188.039, exists and there is insufficient time to obtain the required consent; except that, the attending physician must, within 24 hours after completion of the abortion, notify one of the parents or the legal guardian of the minor in the manner provided in these provisions that a medical emergency abortion was performed on the minor and of the circumstances that warranted the emergency.

Unless the minor gives notice of her intent to seek a judicial waiver under these provisions, the attending physician must verbally inform the parent or legal guardian of the minor within 24 hours after the performance of a medical emergency abortion that an abortion was performed on the minor. The attending physician must also inform the parent or legal guardian of the basis for the certification of the physician required under these provisions and provide details regarding any additional risks to the minor or incompetent woman. The attending physician must also send a written notice of the performed abortion by certified mail, restricted delivery, return receipt requested, to the last known

address of the parent or legal guardian. If the minor gives notice to the attending physician of her intent to seek a judicial waiver, the physician must file a notice with any judge of a court of competent jurisdiction that the minor has given the notice and must provide the information the physician would have been required to provide the parent or legal guardian under these provisions if the minor had not given notice of her intent to seek a judicial waiver.

The court must expeditiously schedule a confidential conference with notice to the minor and the physician. If the minor is unable to participate in the proceedings, the court must advise the minor that she has the right to court-appointed counsel and must, upon her request, provide the minor with counsel. If the minor is unable to participate, the court must appoint counsel on behalf of the minor. After an appropriate hearing, the court, taking into account the medical condition of the minor, must set a deadline by which the minor must file a petition or motion under these provisions. The court may subsequently extend the deadline in light of the medical condition of the minor or other equitable considerations. If the minor does not file a petition or motion by the deadline in the court or another court of competent jurisdiction with a copy filed in that court, the court must direct that the clerk of the court provide the notice to a parent or legal guardian.

The minor must petition a court in the county in which the pregnant minor resides for a waiver of the consent requirement. Prior to any court proceedings addressing a petition for judicial waiver, the court in its discretion may require the minor to participate in an evaluation and counseling session with a mental health professional from the Department of Mental Health. The evaluation must be confidential and scheduled expeditiously. The evaluation and counseling session must be for the purpose of developing a trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose.

A form created by the department must be used by physicians to obtain the consent required prior to performing an abortion on a minor who is not emancipated.

A consent statement must be signed by the minor.

A physician declaration must be signed by the physician stating that the physician or the physician's assistant has explained the procedure and the contents of this form to the minor and her parent or legal guardian, as required, and has answered all questions. In

addition, to the best of the physician's knowledge, the minor and her parent or legal guardian have been adequately informed and have consented to the procedure. A parental consent statement must be signed by the parent or legal guardian.

A page for the parent's or legal guardian's signature which must be notarized by a notary public must be required. Any additional information that must be provided to a woman under the laws of Missouri in order for a physician to obtain her informed consent prior to performing an abortion must apply to consent under these provisions.

This bill is the same as HB 81 (2015).