

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 122

Short Title: Teen Pregnancy Legislation.

(Public)

Sponsors: Senators Martin of Guilford; Tally and Smith.

Referred to: Children and Youth.

February 6, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE COUNSELING AND EDUCATIONAL SERVICES TO ADOLESCENT PARENTS AND THEIR FAMILIES AND FOR ADOLESCENTS THAT TERMINATE THEIR PREGNANCIES AND TO PROVIDE FAMILY-ORIENTED PROCEDURES FOR NOTIFICATION OF PREGNANCY TERMINATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 108A of the General Statutes is amended by adding new sections to read:

"§ 108A-74. Adolescent pregnancy programs; purpose.

It is the intent of the General Assembly and the purpose of this Article to create within the Department of Social Services a system of educational and counseling services to adolescent parents and their families that will encourage behaviors and the utilization of resources most likely to reduce subsequent adolescent pregnancies and to provide the parents and their children with the best opportunities to be productive and contributing members of society. It is the further intent of the General Assembly and the further purpose of this Article to create a pattern of notification of intended termination of an adolescent minor's pregnancy that will both encourage preservation of the healthy family unit and protect the minor from family harm if the particular family unit is determined by the court to be unhealthy for the minor.

For purposes of this Article, 'minor' means an unemancipated minor, one who is under 18, and who has not been married or has not been emancipated pursuant to Article 56 of Chapter 7A of the General Statutes. For purposes of G.S. 108A-74.2, 'parent' implies 'parents', 'guardian', or 'guardians,' if appropriate, except in the cases in which a

1 divorce or separation has resulted in one parent being designated by court order as the
2 custodial parent and the issue is either whether to return the minor to the custody of her
3 parent or whether parental consent for an abortion is required. In these cases 'parent'
4 means 'custodial parent'.

5 **"§ 108A-74.1. Program for counselors of adolescent parents and their families and**
6 **for adolescents who chose to terminate their pregnancies.**

7 (a) The Division of Social Services shall establish a program and curriculum
8 designed to prepare counselors and other appropriate personnel for counseling
9 adolescent fathers and mothers and their families and adolescents who chose to
10 terminate their pregnancies in a manner that is likely to:

- 11 (1) Positively change behavior consistent with reducing subsequent
12 pregnancies;
- 13 (2) Prepare the mother and father for healthy and productive life-styles;
- 14 (3) Encourage the mother and father to maximize their education, job, and
15 citizenship skills;
- 16 (4) Prepare all parties for positive and healthy family interaction and
17 communication; and
- 18 (5) Better inform the mother and father relative to parenting skills.

19 (b) The Division of Social Services may contract with public schools, with State
20 institutions of higher education, including those of the Department of Community
21 Colleges, with private and independent colleges and universities, and with private,
22 nonprofit community organizations, to conduct the program and curriculum created by
23 this section.

24 **"§ 108A-74.2. Services and procedures for pregnant minors and their families.**

25 (a) Minors at least 17 years of age shall be subject to the following requirements:

- 26 (1) Parental Notice. No parental notice is required for a minor at least 17
27 years of age to have an abortion. The Division and county departments
28 of social services shall undertake appropriate measures to ensure that
29 any provider of services, advice, or counseling to a minor related to
30 her pregnancy shall advise and encourage her to consult with her
31 parent. Any such providers of services shall inform the pregnant
32 minor how to contact the Division or the county department of social
33 services, and shall offer assistance in making the initial contact.
- 34 (2) Parental Custody. The Division shall ensure that a pregnant minor who
35 is 17 years of age or older is notified that she can request the Division
36 that she not be returned to her parent's custody pending the abortion
37 under the procedure provided in subsection (b) of this section.
- 38 (3) Parental Consent. No parental consent is required for a minor at least
39 17 years of age to have an abortion.

40 (b) Minors at least 15 years of age but less than 17 years of age shall be subject
41 to the following requirements:

- 42 (1) Parental Notice. In the event that the Division or any representative of
43 any county department of social services is notified that a minor under
44 the age of 17 intends to have an abortion, the Division or the county

1 department shall notify the minor's parent of the minor's intent to have
2 an abortion. The Division shall execute an acknowledgement that
3 parental notification has occurred, and if the minor decides to proceed
4 with the abortion, the Division shall send this acknowledgement to the
5 medical provider performing the abortion.

6 (2) Parental Custody. The Division shall ensure that the pregnant minor
7 who is 15 years of age or older is notified that she can request the
8 Division that she not be returned to her parent's custody pending the
9 abortion. The Division shall handle this request expeditiously. The
10 Division shall grant the request only if it finds that:

11 a. Her parent would be likely to cause her significant physical or
12 emotional harm, or that there is a history of child abuse or
13 neglect by the parent;

14 b. Upon the minor's return to her parent's custody, the father of the
15 minor's child is likely to be a resident of the same household as
16 is the minor, or he is likely to have access to the same
17 household to the extent that this access could be detrimental to
18 the minor's interest; or

19 c. The medical consequences of the minor's returning to her
20 parent's custody would be detrimental to the minor's health.

21 Upon such a finding, the Division shall notify the parent pursuant to
22 subdivision (1) of this subsection, if required, that the Division intends
23 to retain custody of the minor pending a decision whether an abortion
24 shall be performed or pending the performance of the abortion. This
25 notification shall be made personally or through the office of the
26 sheriff in the county in which the parent resides. The parent has the
27 right to initiate a hearing before the clerk of court to require parental
28 consent prior to the abortion.

29 (3) Parental Consent. Within two working days after they receive notice as
30 provided in subdivision (1) of this subsection, the parent of a minor at
31 least 15 years of age but less than 17 years of age may initiate a
32 hearing before the clerk of court in the county in which the parent
33 resides to require parental consent to the abortion. This hearing shall
34 be conducted within five working days of the filing of the petition for
35 hearing with the clerk of court. The only issues for consideration
36 before the clerk of court shall be the maturity and mental competency
37 of the pregnant minor. If the clerk of court finds that she is not
38 sufficiently mature, or if he finds that she is mentally incompetent, the
39 abortion cannot be performed without the written consent of the parent
40 unless the Division demonstrates to the clerk of court that:

41 a. The minor's parent would be likely to cause her significant
42 physical or emotional harm or that there is a history of child
43 abuse or neglect by either parent; or

44 b. The pregnancy arose from incest.

1 In these two cases, consent is not required. If the clerk of court determines
2 that the minor is sufficiently mature and is mentally competent, or if
3 the parent does not petition for a hearing, the minor may proceed to
4 have the abortion. In those cases, the Division shall execute an
5 acknowledgement that the parental consent requirement has been
6 waived and that the parent has been notified. The Division shall
7 deliver the acknowledgement to the medical provider performing the
8 abortion. Receipt of the acknowledgement is sufficient for a medical
9 provider to proceed with the abortion, pursuant to G.S. 90-21.5.

10 (c) Minors less than 15 years of age shall fulfill the following requirements:

11 (1) Parental Notice. In the event that the Division or any representative of
12 any county department of social services is notified that a minor under
13 the age of 15 intends to have an abortion, the Division or the county
14 department shall notify the minor's parent of the minor's intent to have
15 an abortion and comply with the other procedures set out in
16 subdivision (b)(1) of this section.

17 (2) Parental Custody. The procedure for removal from parental custody set
18 out in subdivision (b)(2) of this section is not available to a minor
19 under the age of 15.

20 (3) Parental Consent. The Division shall ensure that, if the minor is less
21 than 15 years of age, consent of her parent is required as prescribed by
22 G.S. 90-21.5 before the abortion is performed. However, as set out in
23 G.S. 90-21.5, parental consent is not required if the Division
24 demonstrates to the Clerk of Court that:

- 25 a. The minor's parent would be likely to cause her significant
26 physical or emotional harm or that there is a history of child
27 abuse or neglect by either parent; or
28 b. The pregnancy arose from incest.

29 (d) In all cases in which a minor's pregnancy is known to the Division of Social
30 Services or any county department of social services, the Division shall provide all
31 reasonable opportunities for the pregnant minor and her parents to confer about the
32 pregnancy and the options, shall offer assistance by its personnel, or other persons, and
33 shall offer facilities at which the conference can occur, when appropriate. The Division
34 shall provide these opportunities and services regardless of whether the minor returns
35 home or remains in the custody of the Division. The Division shall ensure that all
36 persons, organizations, or agencies known to it or to any county department of social
37 services to be advising any pregnant minor, consulting with her, or making services
38 available to her relative to abortion are provided with the particulars of G.S. 90-21.5,
39 and shall encourage the minor to discuss the matter with her parents.

40 "§ 108A-74.3. Education, health, and other programs for adolescent parents and
41 children.

42 The Division of Social Services shall establish and administer programs and services
43 for adolescent parents and children to provide opportunities, educational and other, to
44 adolescent parents and children, to enable all parties involved to become productive and

1 contributing members of society, to reduce the number of subsequent pregnancies to the
2 same adolescent parents, and to break the cycle of poverty for many economically or
3 socially disadvantaged youth.

4 These programs shall include:

- 5 (1) Educational opportunities for the mother and father to advance,
6 through vocational and technical training or through a four year
7 institution of higher education, and assistance in encouraging and
8 preparing them to take advantage of these opportunities. These
9 educational opportunities shall include payment of tuition and fees and
10 a stipend of one hundred dollars (\$100.00) per month during two years
11 of continuous enrollment at one of the State's Community Colleges, at
12 one of the constituent institutions of The University of North Carolina,
13 or at one of the State's private and independent colleges and
14 universities accredited by the Southern Association of Colleges and
15 Schools, provided that the student participates in a Division approved
16 program of counseling, parenting, and educational and citizenship
17 education while enrolled. The institution shall receive tuition and fees
18 payment from the Division upon certification of enrollment. This
19 certification shall be done quarterly or per semester depending on the
20 institution. Stipends shall be paid directly to the student as long as the
21 student's certification from the institution remains current;
- 22 (2) Health care for the mother and her child, including prenatal care and
23 annual physicals for preventive purposes; and
- 24 (3) Child care and early childhood development that is adequate and
25 appropriate to enhance the chances that the child will have meaningful
26 future opportunities.

27 The Department of Human Resources shall adopt rules to administer these
28 programs consistent with the Adolescent Parenting Program model. Of the funds
29 appropriated to the Department of Human Resources, Division of Social Services, for
30 these programs each fiscal year, the Division shall ensure that sufficient funds are
31 allocated to county departments of social services to create and improve linkages
32 between educational institutions, employers, community organizations, and counseling
33 services, so that these parents can have adequate opportunities to develop to their full
34 potential, and so that these county departments of social services can purchase needed
35 services from other agencies."

36 Sec. 2. (a) There is appropriated from the General Fund to the Department of
37 Human Resources, Division of Social Services, the sum of four hundred fifty thousand
38 dollars (\$450,000) for the 1989-90 fiscal year and the sum of five million five hundred
39 thousand dollars (\$5,500,000) for the 1990-91 fiscal year to fund Section 1 of this act.
40 The funds appropriated for the 1989-90 fiscal year shall be used for planning for and for
41 the initial implementation of this act. Of the funds appropriated to the Division of
42 Social Services for the 1990-91 fiscal year, the Division shall:

- 43 (1) Use three million dollars (\$3,000,000) for the programs established
44 pursuant to G.S. 108A-74.3, as enacted by this act; and

1 (2) Allocate two million dollars (\$2,000,000) to the county departments of
2 social services to implement this act, according to the following
3 formula:

- 4 a. One-third to be allocated among the counties according to the
5 percentage of previous adolescent pregnancies occurring within
6 each county during the last two full years preceding the fiscal
7 year in which the appropriation is made for which data are
8 available;
- 9 b. One-third to be allocated among the counties according to the
10 percentage of low birth weight or premature births born to
11 adolescents during the same period; and
- 12 c. One-third to be allocated based on the counties' poverty rate as
13 determined by the most recent United States Census Data.

14 (b) There is appropriated from the General Fund to the Justice Department the
15 sum of five hundred thousand dollars (\$500,000) for the 1990-91 fiscal year, for the
16 Administrative Office of the Courts, to cover the additional expenses incurred by the
17 offices of the clerks of court in implementing this act.

18 Sec. 3. G.S. 90-21.5 is amended by adding a new subsection to read:

19 "(c) No physician licensed to practice medicine in North Carolina shall perform
20 an abortion upon an unemancipated minor unless the physician or the physician's agent
21 or another physician or physician's agent receives an executed acknowledgement from
22 the Division of Social Services that the minor's parents have been notified, if required,
23 that the parents have consented, if required, or that the parents' consent has been waived
24 and that the parents have been notified, if required. The acknowledgments the
25 physician shall receive prior to the performing of an abortion are those prescribed by
26 G.S.108A-74.2 and set out in subdivisions (1) and (2) of this subsection. If an
27 unemancipated minor, defined for purposes of this section as a person under the age of
28 18 who has not been married or has not been emancipated pursuant to Article 56 of
29 Chapter 7A of the General Statutes seeks advice or counseling regarding abortion, or an
30 abortion, from any such physician, the physician shall notify the minor that she should
31 consult with the Division or with her county department of social services about the
32 programs available to her and her family and about the need for written
33 acknowledgements from the Division should she desire to have an abortion.

34 The physician shall notify her that:

- 35 (1) If she is less than 15 years of age, she shall have her parents' consent to
36 the abortion, as evidenced to the physician by a written
37 acknowledgment from the Division of Social Services, unless she
38 receives a waiver pursuant to G.S. 108A-74.2, in which case she shall
39 have a written acknowledgement delivered to the physician by the
40 Division that her parents have been notified of her intent to have an
41 abortion, pursuant to G.S. 108A-74.2 but that parental consent is not
42 required;
- 43 (2) If she is at least 15 years of age but less than 17, she shall have a
44 written acknowledgement delivered to the physician from the Division

1 that her parents have been notified of her intent to have an abortion
2 and that parental consent has not been required as a result of the
3 hearing prescribed pursuant to G.S. 108A-74.2(b) and available for
4 parents of minors of at least 15 years of age but less than 17 years of
5 age, who seek to demonstrate that the minor is not sufficiently mature
6 or mentally competent to have an abortion without parental consent.

7 The requirements of receipt of Division of Social Services' acknowledgement of
8 parental notification and consent shall not apply when, in the best medical judgment of
9 the physician based on the facts of the case before him, a medical emergency exists that
10 so complicates the pregnancy as to require an immediate abortion, or when the
11 conditions prescribed in G.S.90-21.1(4) are met. Any person who intentionally
12 performs an abortion with knowledge that, or with reckless disregard as to whether, the
13 person upon whom the abortion is to be performed is a minor, and who intentionally or
14 knowingly fails to conform, to any requirement of this subsection is guilty of a
15 misdemeanor."

16 Sec. 4. This act shall become effective July 1, 1989.