

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 815

Short Title: Consent for Minor's Abortion.

(Public)

Sponsors: Senators Conder; Allran, Basnight, Block, Bryan, Carpenter, Carter, Cochrane, Forrester, Hartsell, Kincaid, Martin of Pitt, Parnell, Perdue, Plexico, Shaw, Simpson, Smith and Speed.

Referred to: Judiciary I.

April 24, 1991

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE PARENTAL OR JUDICIAL CONSENT FOR
2 UNEMANCIPATED MINOR'S ABORTION.
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4 The General Assembly of North Carolina enacts:

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

7 **"PART 2. PARENTAL OR JUDICIAL CONSENT FOR ABORTION.**

8 **"§ 90-21.6. Definitions.**

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

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

14 (b) 'Abortion' means the use or prescription of any instrument, medicine, drug or
15 any other substance or device with intent to terminate the pregnancy of a woman known
16 to be pregnant for reasons other than to save the life or preserve the health of an unborn
17 child, to remove a dead unborn child, or to deliver an unborn child prematurely, by
18 accepted medical procedures in order to preserve the health of both the mother and the
19 unborn child.

20 **"§ 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 pregnant minor may petition, on her own behalf or by guardian **ad litem**,
8 the district court judge assigned to the juvenile proceedings in the district court where
9 the minor resides or where she is physically present for a waiver of the parental consent
10 requirement if:

- 11 (1) Neither of the parents nor the legal guardian is available to the
12 physician performing the abortion or his agent or the referring
13 physician or his agent within a reasonable time or manner;
- 14 (2) All of the persons from whom consent must be obtained pursuant to
15 this section refuse to consent to the performance of an abortion; or
- 16 (3) The minor elects not to seek consent of the person from whom consent
17 is required.

18 **§ 90-21.8. Procedure for waiver of parental consent.**

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

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

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

27 (d) Court proceedings under this section shall be confidential and shall be given
28 the precedence over other pending matters necessary to ensure that the court may reach
29 a decision promptly. In no case shall the court fail to rule within seven days of the time
30 of filing the application. This time limitation may be extended at the request of the
31 minor. At the hearing, the court shall hear evidence relating to the emotional
32 development, maturity, intellect, and understanding of the minor; the nature, possible
33 consequences, and alternatives to the abortion; and any other evidence that the court
34 may find useful in determining whether the parental consent requirement shall be
35 waived.

36 (e) The parental consent requirement shall be waived if the court finds either:

- 37 (1) That the minor is mature and well-informed enough to make the
38 abortion decision on her own; or
- 39 (2) That it would be in the minor's best interests that parental consent not
40 be required; or
- 41 (3) That the minor is a victim of felonious incest under G.S. 14-178.

42 (f) The court shall make written findings of fact and conclusions of law
43 supporting its decision and shall order that a confidential record of the evidence be
44 maintained. If the court finds that the minor has been a victim of incest, whether

1 felonious or misdemeanor, it shall advise the Director of the Department of Social
2 Services of its findings for further action pursuant to Article 44 of Chapter 7A of the
3 General Statutes.

4 (g) If the female petitioner so requests in her petition, no summons or other
5 notice may be served upon the parents, guardian, or custodian of the minor female.

6 (h) No court costs shall be required of any minor who avails herself of the
7 procedures provided by this section.

8 **"§ 90-21.9. Medical emergency exception.**

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

13 **"§ 90-21.10. Penalty.**

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

18 Sec. 2. Appeals. An expedited confidential appeal is available to any
19 unemancipated minor, parent, or legal guardian from the decision of the district court.
20 Because time may be of the essence regarding the performance of the abortion, the
21 Supreme Court of North Carolina shall adopt rules to ensure that appeals under Part 2 of
22 Article 1A of Chapter 90 of the General Statutes are handled in an expeditious and
23 confidential manner.

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

25 "(8) Proceedings involving consent for an abortion on an unemancipated
26 minor pursuant to Article 1A, Part 2 of Chapter 90 of the General
27 Statutes."

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

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

33 Sec. 5. This act becomes effective October 1, 1991.