

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 481
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Short Title: Parental Consent/Abortion.

(Public)

Sponsors: Representatives Decker, Hayes, Gardner; Aldridge, Baker, Barbee, Brawley, J. Brown, Buchanan, Cansler, Capps, Carpenter, Cocklereece, Creech, Culp, Daughtry, Davis, Dickson, Dockham, Eddins, Edwards, Ellis, Esposito, Fox, Gray, Hiatt, Hightower, Hill, Holmes, Howard, R. Hunter, Hurley, Ives, Justus, Kiser, Linney, McAllister, McComas, McCombs, McMahan, K. Miller, Miner, Mitchell, Morgan, Nichols, Nye, Owens, Pate, Pulley, Rayfield, Reynolds, Robinson, Russell, Sexton, Sherrill, Snowden, Tallent, Thompson, Tolson, Weatherly, C. Wilson, G. Wilson, and Wood.

Referred to: Judiciary I.

March 16, 1995

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PARENTAL OR JUDICIAL CONSENT 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. PARENTAL OR JUDICIAL CONSENT FOR ABORTION.

"§ 90-21.6. Definitions.

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

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

4 (2) 'Abortion' means the use or prescription of any instrument, medicine,
5 drug, or any other substance or device with intent to terminate the
6 pregnancy of a woman known to be pregnant, for reasons other than to
7 save the life or preserve the health of an unborn child, to remove a dead
8 unborn child, or to deliver an unborn child prematurely, by accepted
9 medical procedures in order to preserve the health of both the mother
10 and the unborn child.

11 **"§ 90-21.7. Parental consent required.**

12 (a) No physician licensed to practice medicine in North Carolina shall perform an
13 abortion upon an unemancipated minor unless the physician or agent thereof or another
14 physician or agent thereof first obtains the written consent of the minor and of:

15 (1) A parent with custody of the minor;

16 (2) The legal guardian of the minor; or

17 (3) A parent with whom the minor is living.

18 (b) The pregnant minor may petition, on her own behalf or by guardian ad litem,
19 the district court judge assigned to the juvenile proceedings in the district court where the
20 minor resides or where she is physically present for a waiver of the parental consent
21 requirement if:

22 (1) Neither of the parents nor the legal guardian is available to the physician
23 performing the abortion or the physician's agent or the referring
24 physician or the agent thereof within a reasonable time or manner;

25 (2) All of the persons from whom consent must be obtained pursuant to this
26 section refuse to consent to the performance of an abortion; or

27 (3) The minor elects not to seek consent of the person from whom consent
28 is required.

29 **"§ 90-21.8. Procedure for waiver of parental consent.**

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

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

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

38 (d) Court proceedings under this section shall be confidential and shall be given
39 precedence over other pending matters necessary to ensure that the court may reach a
40 decision promptly. In no case shall the court fail to rule within seven days of the time of
41 filing the application. This time limitation may be extended at the request of the minor.
42 At the hearing, the court shall hear evidence relating to the emotional development,
43 maturity, intellect, and understanding of the minor; the nature, possible consequences,

1 and alternatives to the abortion; and any other evidence that the court may find useful in
2 determining whether the parental consent requirement shall be waived.

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

4 (1) That the minor is mature and well-informed enough to make the
5 abortion decision on her own;

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

8 (3) That the minor is a victim of rape or of felonious incest under G.S. 14-
9 178.

10 (f) The court shall make written findings of fact and conclusions of law supporting
11 its decision and shall order that a confidential record of the evidence be maintained. If
12 the court finds that the minor has been a victim of incest, whether felonious or
13 misdemeanor, it shall advise the Director of the Department of Social Services of its
14 findings for further action pursuant to Article 44 of Chapter 7A of the General Statutes.

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

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

19 **"§ 90-21.9. Medical emergency exception.**

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

25 **"§ 90-21.10. Penalty.**

26 Any person who intentionally performs an abortion with knowledge that, or with
27 reckless disregard as to whether, the person upon whom the abortion is to be performed is
28 an unemancipated minor, and who intentionally or knowingly fails to conform to any
29 requirement of Part 2 of this Article shall be guilty of a Class 1 misdemeanor."

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

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

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

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

41 "(16) A proceeding involving consent for an abortion on an unemancipated
42 minor pursuant to Article 1A, Part 2 of Chapter 90 of the General

1 Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to this
2 proceeding."

3 Sec. 5. This act becomes effective October 1, 1995.