

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1424

5 By: Representatives Harris, Lundstrum  
6

## For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE PARENTAL INVOLVEMENT  
9 ENHANCEMENT ACT; TO REPEAL THE PARENTAL NOTIFICATION  
10 PROVISIONS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO ESTABLISH THE PARENTAL INVOLVEMENT  
13 ENHANCEMENT ACT; AND TO REPEAL THE  
14 PARENTAL NOTIFICATION PROVISIONS.  
15  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code Title 20, Chapter 16, Subchapter 8 is amended  
22 to read as follows:

23 Subchapter 8 – Abortion – Parental ~~Notification~~ Involvement  
24 Enhancement Act  
25

26 ~~20-16-801. Consent required.~~

27 ~~Except as otherwise provided in §§ 20-16-804 and 20-16-805, no person~~  
28 ~~may perform an abortion upon an unemancipated minor or upon a woman for whom~~  
29 ~~a guardian or custodian has been appointed because of a finding of~~  
30 ~~incompetency unless the person or the person's agent first obtains the~~  
31 ~~written consent of either parent or the legal guardian or custodian.~~  
32

33 ~~20-16-802. Definitions.~~

34 ~~As used in this subchapter:~~

35 ~~(1) "Abortion" means the intentional termination of the~~  
36 ~~pregnancy of a woman known to be pregnant with an intention other than to~~



1 ~~increase the probability of a live birth or to remove a dead or dying fetus;~~  
 2 ~~(2) "Medical emergency" means a condition that, on the basis of~~  
 3 ~~the physician's good faith clinical judgment, so complicates the medical~~  
 4 ~~condition of a pregnant woman as to necessitate the immediate abortion of her~~  
 5 ~~pregnancy to avert her death or for which a delay will create serious risk of~~  
 6 ~~substantial and irreversible impairment of a major bodily function;~~

7 ~~(3) "Minor" means an individual under eighteen (18) years of~~  
 8 ~~age;~~

9 ~~(4) "Parent" means:~~

10 ~~(A) Either parent of the pregnant woman if they are both~~  
 11 ~~living;~~

12 ~~(B) One (1) parent of the pregnant woman if only one (1)~~  
 13 ~~is living or if the second one cannot be located through reasonably diligent~~  
 14 ~~effort; or~~

15 ~~(C) The court-appointed guardian or custodian if the~~  
 16 ~~pregnant woman has one; and~~

17 ~~(5) "Unemancipated minor" means a minor who is under the care,~~  
 18 ~~eustody, and control of her parent or parents.~~

19  
 20 ~~20-16-803. Manner of consent.~~

21 ~~(a) The person who performs the abortion or his or her agent shall~~  
 22 ~~obtain or be provided with the written consent from either parent or legal~~  
 23 ~~guardian.~~

24 ~~(b) The written consent shall include, but not be limited to, the~~  
 25 ~~following information:~~

26 ~~(1) The name and birthdate of the minor or incompetent woman;~~

27 ~~(2) The name of the parent or legal guardian;~~

28 ~~(3) A statement from the parent or legal guardian that he or she~~  
 29 ~~is aware that the minor desires an abortion and that he or she does consent~~  
 30 ~~to the abortion;~~

31 ~~(4) The date; and~~

32 ~~(5) The notarized signature of the parent or legal guardian.~~

33 ~~(c) A notarized signature is not required if the person who performs~~  
 34 ~~the abortion or his or her agent witnesses the signature of the parent or~~  
 35 ~~legal guardian and signs the written consent as a witness.~~

36 ~~(d) Prior to signing the written consent as a witness, the person who~~

1 ~~performs the abortion or his or her agent shall obtain from the parent or~~  
2 ~~legal guardian positive proof of identification in the form of a valid photo~~  
3 ~~identification card.~~

4 ~~(c) A photocopy of the proof of identification and the written consent~~  
5 ~~statement shall be maintained in the minor's or incompetent woman's medical~~  
6 ~~records for a period of five (5) years from the date of the abortion.~~

7  
8 ~~20-16-804. Judicial relief from requirement.~~

9 ~~Notwithstanding the provisions of §§ 20-16-801 and 20-16-803, if a~~  
10 ~~pregnant minor or incompetent woman elects not to obtain the consent of one~~  
11 ~~(1) or both parents or guardian or custodian, then:~~

12 ~~(1)(A) Any judge of a circuit court, upon petition or motion and~~  
13 ~~after an appropriate hearing, shall authorize a physician to perform the~~  
14 ~~abortion if the judge determines that the pregnant minor or incompetent woman~~  
15 ~~is mature and capable of giving informed consent to the proposed abortion.~~

16 ~~(B) If the judge determines that the pregnant minor or~~  
17 ~~incompetent woman is not mature or if the pregnant woman does not claim to be~~  
18 ~~mature, the judge shall determine whether the performance of an abortion upon~~  
19 ~~her without consent of her parents, guardian, or custodian would be in her~~  
20 ~~best interests and shall authorize a physician to perform the abortion~~  
21 ~~without the consent if the judge concludes that the pregnant minor or~~  
22 ~~incompetent woman's best interests would be served by such an action;~~

23 ~~(2)(A) Such a pregnant minor or incompetent woman may~~  
24 ~~participate in proceedings in the court on her own behalf. However, the court~~  
25 ~~shall advise her that she has a right to court-appointed counsel and upon her~~  
26 ~~request shall provide her with such counsel.~~

27 ~~(B) The minor or incompetent person shall have the right~~  
28 ~~to file her petition in the circuit court using a pseudonym or using solely~~  
29 ~~her initials;~~

30 ~~(3) Court proceedings under this section shall be confidential~~  
31 ~~and shall ensure the anonymity of the minor or incompetent person. All court~~  
32 ~~proceedings under this section shall be sealed, and all documents related to~~  
33 ~~this petition shall be confidential and shall not be available to the public;~~

34 ~~(4) These proceedings shall be given precedence over other~~  
35 ~~pending matters to the extent necessary to ensure that the court reaches a~~  
36 ~~decision promptly and without delay so as to serve the best interests of the~~

~~pregnant minor or incompetent woman;~~

~~(5) The judge shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained, including the judge's own findings and conclusions;~~

~~(6)(A) An expedited confidential appeal shall be available to any such pregnant minor or incompetent woman for whom the court denies an order authorizing an abortion without consent.~~

~~(B) An order authorizing an abortion without consent shall not be subject to appeal; and~~

~~(7) No filing fees shall be required of any such pregnant minor or incompetent woman at either the trial or the appellate level.~~

~~20-16-805. Limitations on requirement.~~

~~Consent shall not be required under this subchapter if:~~

~~(1) The attending physician certifies in the pregnant minor or incompetent woman's medical record that there is a medical emergency and there is insufficient time to obtain the required consent; or~~

~~(2) A judicial bypass is obtained under § 20-16-804.~~

~~20-16-806. Penalty.~~

~~(a) The performance of an abortion in violation of this subchapter shall be a Class A misdemeanor and shall be grounds for a civil action by a person whose consent is required.~~

~~(b) Nothing in this subchapter shall be construed to allow the charging or conviction of a woman with any criminal offense in the death of her own unborn child in utero.~~

~~20-16-807. Legislative intent.~~

~~This subchapter is not intended to create and shall not be construed to create an affirmative right to legal abortion.~~

~~20-16-808. When consent of parent not required.~~

~~Consent under this subchapter shall not be required to be obtained from a parent if:~~

~~(1) Both of the parents' whereabouts are unknown; or~~

1           ~~(2)(A) If the minor has only one (1) living parent and the minor~~  
 2 ~~states by affidavit that the parent has committed incest with the minor, has~~  
 3 ~~raped the minor, or has otherwise sexually abused the minor.~~

4           ~~(B) The attending physician shall report the abuse as~~  
 5 ~~provided under the Child Maltreatment Act, § 12-18-101 et seq.~~

6  
 7           ~~20-16-809. When consent is not required.~~

8           ~~A minor shall not be required to obtain consent under this subchapter~~  
 9 ~~if the guardianship or custody order has expired or is otherwise no longer in~~  
 10 ~~effect.~~

11  
 12           ~~20-16-810. Additional information reported by abortion providers.~~

13           ~~(a) In addition to other information reported by an abortion provider~~  
 14 ~~to the Department of Health, the following information shall be reported for~~  
 15 ~~each induced termination of pregnancy:~~

16                   ~~(1) Whether parental consent was required;~~

17                   ~~(2) Whether parental consent was obtained; and~~

18                   ~~(3) Whether a judicial bypass was obtained.~~

19           ~~(b) The department shall revise its forms utilized by abortion~~  
 20 ~~providers to report an induced termination of pregnancy by including the~~  
 21 ~~reporting of information required by this section.~~

22  
 23           20-16-801. Title.

24           This subchapter shall be known and may be cited as the “Parental  
 25 Involvement Enhancement Act”.

26  
 27           20-16-802. Legislative findings and purpose.

28           (a) The General Assembly finds that:

29                   (1) Immature minors often lack the ability to make fully  
 30 informed choices that take into account both immediate and long-range  
 31 consequences;

32                   (2) The medical, emotional, and psychological consequences of  
 33 abortion are sometimes serious and can be lasting, particularly when the  
 34 minor is immature;

35                   (3) The capacity to become pregnant and the capacity for mature  
 36 judgment concerning the wisdom of an abortion are not necessarily related;

1           (4) Parents ordinarily possess information essential to a  
 2 physician's exercise of his or her best medical judgment concerning the minor  
 3 daughter;

4           (5) Parents who are aware that their minor daughter has had an  
 5 abortion may better ensure that she receives adequate medical attention after  
 6 her abortion; and

7           (6) Parental consultation is usually desirable and in the best  
 8 interests of the minor.

9           (b) Based on the findings in subsection (a) of this section, the  
 10 General Assembly's purposes in enacting this enhancement to the State of  
 11 Arkansas's parental notice law are to further the important and compelling  
 12 state interests of:

13           (1) Protecting minors against their own immaturity;

14           (2) Fostering family unity and preserving the family as a viable  
 15 social unit;

16           (3) Protecting the constitutional rights of parents to rear  
 17 children who are members of their household;

18           (4) Reducing teenage pregnancy and abortion; and

19           (5) In light of the foregoing statements of purpose, allowing  
 20 for judicial bypasses of the parental notice requirement to be made only in  
 21 exceptional or rare circumstances.

22  
 23           20-16-803. Definitions.

24           As used in this subchapter:

25           (1)(A) "Abortion" means the act of using or prescribing an  
 26 instrument, medicine, drug, or any other substance, device, or means with the  
 27 intent to terminate the clinically diagnosable pregnancy of a woman, with  
 28 knowledge that the termination by those means will with reasonable likelihood  
 29 cause the death of the unborn child.

30           (B) An act under subdivision (1)(A) of this section is not  
 31 an abortion if the act is performed with the intent to:

32           (i) Save the life or preserve the health of the  
 33 unborn child;

34           (ii) Remove a dead unborn child caused by  
 35 spontaneous abortion; or

36           (iii) Remove an ectopic pregnancy;

1           (2) "Coercion" means restraining or dominating the choice of a  
2 pregnant woman by force, threat of force, or deprivation of food and shelter;

3           (3) "Consent" means:

4           (A) In the case of a pregnant woman who is less than  
5 eighteen (18) years of age, a notarized written statement signed by the  
6 pregnant woman and her mother, father, or legal guardian declaring that the  
7 pregnant woman intends to seek an abortion and that her mother, father, or  
8 legal guardian consents to the abortion; or

9           (B) In the case of a pregnant woman who is an incompetent  
10 person, a notarized written statement signed by the pregnant woman's guardian  
11 declaring that the guardian consents to the performance of an abortion upon  
12 the pregnant woman;

13           (4) "Emancipated minor" means a person less than eighteen (18)  
14 years of age who is or has been married or who has been legally emancipated;

15           (5) "Incompetent" means a person who has been adjudged a  
16 disabled person and has had a guardian appointed for her;

17           (6) "Medical emergency" means a condition that, on the basis of  
18 the physician's good-faith clinical judgment, complicates the medical  
19 condition of a pregnant woman so as to necessitate the immediate abortion of  
20 her pregnancy to avert her death or for which a delay will create serious  
21 risk of substantial and irreversible impairment of a major bodily function;

22           (7) "Minor" means an individual under eighteen (18) years of  
23 age;

24           (8) "Parent" means:

25           (A) Either parent of the pregnant woman if both parents  
26 are living;

27           (B) One (1) parent of the pregnant woman if only one (1)  
28 is living or if the second parent cannot be located through reasonably  
29 diligent effort; or

30           (C) The court-appointed guardian or custodian if the  
31 pregnant woman has one;

32           (9) "Physician" means a person licensed to practice medicine in  
33 this state, including a medical doctor or doctors of osteopathy; and

34           (10) "Pregnant woman" means a pregnant minor or pregnant  
35 incompetent woman.

36

1           20-16-804. Notarized consent.

2           Except as otherwise provided in §§ 20-16-807 and 20-16-809, a physician  
3 shall not perform an abortion upon an unemancipated minor or upon a woman  
4 for whom a guardian or custodian has been appointed because of a finding of  
5 incompetency unless the physician first obtains the written consent of either  
6 parent or the legal guardian or custodian.

7  
8           20-16-805. Manner of consent.

9           (a) A physician shall not perform an abortion upon a pregnant woman  
10 unless:

11                   (1) In the case of a woman who is less than eighteen (18) years  
12 of age, he or she obtains the notarized written consent of both the pregnant  
13 woman and one (1) of her parents or her legal guardian; or

14                   (2) In the case of woman who is an incompetent person, the  
15 physician first obtains the notarized written consent of her legal guardian.

16           (b) The notarized written consent shall include without limitation the  
17 following information:

18                   (1) The name and birthdate of the minor or incompetent woman;

19                   (2) The name of the parent or legal guardian;

20                   (3) A statement from the parent or legal guardian that he or she  
21 is aware that the minor or incompetent woman desires an abortion and that he  
22 or she does consent to the abortion; and

23                   (4) The date.

24  
25           20-16-806. Proof of identification and relationship to pregnant woman.

26           (a) The physician who performs the abortion shall obtain from the  
27 parent or legal guardian entitled to consent:

28                   (1) Positive proof of identification in the form of a valid  
29 government-issued photo identification card;

30                   (2) Written documentation that establishes that the parent or  
31 legal guardian is the lawful parent or legal guardian of the pregnant woman.

32           (b) A photocopy of the proof of identification of the parent or legal  
33 guardian and the written documentation that establishes the relationship of  
34 the parent or legal guardian to the pregnant woman shall be kept in the  
35 medical file of the pregnant woman for five (5) years past the age of  
36 majority of the pregnant woman, but in no event less than seven (7) years.



1       (c) The physician who performs the abortion after receiving parental  
2 consent under this subchapter shall execute for inclusion in the medical  
3 record of the pregnant woman an affidavit stating the following: "I, (Insert  
4 the name of physician who performed the abortion), certify that according to  
5 my best information and belief, a reasonable person under similar  
6 circumstances would rely on the information presented by both the pregnant  
7 woman and her parent or legal guardian as sufficient evidence of identity and  
8 relationship."

9  
10       20-16-807. Notice postemergency.

11       (a)(1) Consent is not required under this subchapter if the attending  
12 physician certifies in the medical record of the pregnant woman that a  
13 medical emergency exists and there is insufficient time to obtain the  
14 required consent.

15               (2) However, within twenty-four (24) hours after the completion  
16 of the abortion, the physician shall notify one (1) of the parents or the  
17 legal guardian of the minor or incompetent woman in the manner provided in  
18 this subchapter that a medical emergency abortion was performed on the  
19 pregnant woman and of the circumstances that warranted invocation of this  
20 section.

21       (b)(1) Unless the minor or incompetent woman gives notice of her  
22 intent to seek a judicial waiver under § 20-16-809, the physician shall  
23 verbally inform the parent or legal guardian of the minor or incompetent  
24 woman within twenty-four (24) hours after the performance of a medical  
25 emergency abortion that an abortion was performed on the minor or incompetent  
26 woman.

27               (2) The physician shall:

28                       (A) Inform the parent or legal guardian of the basis for  
29 the certification of the physician required under subsection (a) of this  
30 section and provide details regarding any additional risks to the pregnant  
31 woman; and

32                       (B) Send a written notice of the performed abortion to the  
33 last known address of the parent or legal guardian by certified mail with  
34 restricted delivery and return receipt requested.

35       (c) If the minor or incompetent woman gives notice to the physician of  
36 her intent to seek a judicial waiver under this subchapter, the physician

1 shall:

2 (1) File a notice with a judge of a court that the minor has  
3 given notice; and

4 (2) Provide the information to the court that the physician  
5 would have been required to provide to the parent or legal guardian under  
6 subsection (b) of this section if the minor or incompetent woman had not  
7 given her intent to seek a judicial waiver.

8 (d)(1) The court shall expeditiously schedule a confidential  
9 conference with notice to the minor or incompetent woman and the physician.

10 (2) If the minor or incompetent woman is able to participate in  
11 the proceedings, the court shall advise the minor or incompetent woman that  
12 she has the right to a court-appointed counsel and, upon her request, shall  
13 provide the minor or incompetent with a court-appointed counsel.

14 (3) If the minor or incompetent woman is unable to participate  
15 in the proceedings, the court shall appoint counsel on behalf of the minor or  
16 incompetent woman.

17 (e)(1) After an appropriate hearing, the court, taking into account  
18 the medical condition of the minor or incompetent woman, shall set a deadline  
19 by which the minor or incompetent woman may file a petition or motion under  
20 this subchapter.

21 (2) The court may subsequently extend the deadline in light of  
22 the medical condition of the minor or incompetent woman or other equitable  
23 considerations.

24 (3) If the minor or incompetent woman does not file a petition  
25 or motion by the deadline, either in the court or in another court with a  
26 copy filed in the original court, the court shall direct that the court clerk  
27 provide the notice to the parent or legal guardian.

28  
29 20-16-808. Venue.

30 The pregnant woman may petition a circuit court in the county in which  
31 she resides for a waiver of the consent requirement.

32  
33 20-16-809. Judicial relief from requirement.

34 (a) The requirements and procedures of this subchapter are available  
35 to a pregnant woman regardless of whether the woman is a resident of the  
36 state.

1           (b) Notwithstanding the provisions of §§ 20-16-803 – 20-16-806, if a  
2 pregnant minor or incompetent woman does not wish to obtain the consent of  
3 one (1) or both parents of guardian or custodian, then:

4           (1)(A) The pregnant woman may petition a circuit court for a  
5 waiver of the consent requirement and may participate in the proceedings on  
6 her own behalf.

7           (B) However, the court shall advise the pregnant woman  
8 that she has a right to a court-appointed counsel and, upon her request,  
9 shall provide her with such counsel.

10           (C) The court may appoint a guardian ad litem for the  
11 pregnant woman.

12           (D) A guardian ad litem appointed under this subchapter  
13 shall act to maintain the confidentiality of the proceedings; and

14           (2) When the petitioner is a minor, the petition shall include a  
15 statement that the minor is pregnant and unemancipated.

16           (B) The petition shall include a statement that consent  
17 has not been waived and that the pregnant woman wishes to abort the fetus  
18 without obtaining consent under this subchapter;

19           (3) The pregnant woman shall have the right to file her petition  
20 in the circuit court using a pseudonym or using solely her initials;

21           (4)(A) The court proceedings under this section shall be  
22 confidential and shall ensure the anonymity of the minor or incompetent  
23 woman.

24           (B) All court proceedings under this section shall be  
25 sealed and all documents related to the petition shall be confidential and  
26 shall not be available to the public.

27           (5) These proceedings shall be given precedence over other  
28 pending matters to the extent necessary to ensure that the court reaches a  
29 decision promptly and without delay as to serve the best interests of the  
30 pregnant minor or incompetent woman;

31           (6) The judge shall make in writing specific factual findings  
32 and legal conclusions supporting the decision and shall order a record of the  
33 evidence to be maintained, including the findings and conclusions of the  
34 judge;

35           (7)(A) An expedited confidential appeal shall be available to  
36 any pregnant minor or incompetent woman for whom the court denies an order

1 authorizing an abortion without consent.

2 (B) An order authorizing an abortion without consent shall  
3 not be subject to appeal; and

4 (8) A filing fee shall not be required of any pregnant minor or  
5 incompetent woman at either the trial or the appellate level.

6 (b)(1)(A) If the court finds by clear and convincing evidence that the  
7 pregnant woman is both sufficiently mature and well-informed to decide  
8 whether to have an abortion, the court shall:

9 (i) Issue an order authorizing the pregnant woman to  
10 consent to the performance or inducement of an abortion without the consent  
11 of a parent or legal guardian; and

12 (ii) Execute the required forms.

13 (B) If the court does not make the findings specified in  
14 this subsection or subsection (b)(2) of this section, the court shall dismiss  
15 the petition.

16 (2)(A) If the court finds by clear and convincing evidence that  
17 the pregnant woman is the victim of physical or sexual abuse by one (1) or  
18 both of her parents or her legal guardian, or that obtaining the consent of a  
19 parent or legal guardian is not in the best interest of the pregnant woman,  
20 the court shall issue an order authorizing the pregnant woman to consent to  
21 the performance or inducement of an abortion without the consent of a parent  
22 or guardian.

23 (B) If the court does not make the findings specified in  
24 this subsection or subsection (b)(1) of this section, the court shall dismiss  
25 the petition.

26 (3) The attending physician shall report any abuse as provided  
27 in the Child Maltreatment Act, § 12-18-101 et seq.

28 (c)(1) If the pregnant woman claims to be mature and well-informed at  
29 a proceeding held under this subchapter, the pregnant woman shall prove by  
30 clear and convincing evidence that she is sufficiently mature and capable of  
31 giving informed consent without obtaining consent from or giving notice to  
32 her parent or legal guardian based on her experience level, perspective, and  
33 judgment.

34 (2) In assessing the pregnant woman's experience level, the  
35 court may consider the following relevant factors:

36 (A) The age of the pregnant woman;

1                   (B) The pregnant woman's experiences working outside the  
2 home;

3                   (C) The pregnant woman's experiences living away from  
4 home;

5                   (D) The pregnant woman's experiences traveling on her own;

6                   (E) The pregnant woman's experiences handling personal  
7 finances;

8                   (F) The pregnant woman's experiences making other  
9 significant decisions; and

10                  (G) Other relevant factors as appropriate.

11                  (3) In assessing the pregnant woman's perspective, the court may  
12 consider the following relevant factors:

13                  (A) The steps that the pregnant woman took to explore her  
14 options;

15                  (B) To what extent she considered and weighed the  
16 potential consequences of each option; and

17                  (C) Other relevant factors as appropriate.

18                  (4) In assessing the pregnant woman's judgment, the court may  
19 consider among other relevant factors, the pregnant woman's conduct since  
20 learning of her pregnancy and her intellectual ability to understand her  
21 options and to make an informed decision.

22                  (5) In assessing whether by clear and convincing evidence  
23 obtaining the consent or providing notification to the parent or legal  
24 guardian of the pregnant woman is not in her best interest, a court may not  
25 consider the potential financial impact on the pregnant woman or her family  
26 if the pregnant woman does not have an abortion.

27                  (d)(1) Prior to court proceedings addressing a petition for judicial  
28 waiver, the court may require the pregnant woman to participate in an  
29 evaluation and counseling session with a mental health professional from the  
30 Department of Health or a staff member from the Department of Human Services,  
31 or both.

32                  (2) The evaluation shall be confidential and scheduled  
33 expeditiously.

34                  (3) The evaluation and counseling session shall be to develop a  
35 trustworthy and reliable expert opinion concerning the pregnant woman's  
36 sufficiency of knowledge, insight, judgment, and maturity with regard to her

1 abortion decision in order to aid the court in its decision and to make the  
2 state's resources available to the court for this purpose.

3 (4) A person conducting a counseling session may employ  
4 information and printed materials in examining how well the pregnant woman is  
5 informed about her pregnancy, fetal development, abortion risks and  
6 consequences, and abortion alternatives.

7 (5) A person conducting a counseling session shall endeavor to  
8 verify that the pregnant woman is seeking an abortion of her own free will  
9 and is not acting under coercion, intimidation, threats, abuse, undue  
10 pressure, or extortion by any other persons.

11 (6) The results of the evaluation and counseling session shall  
12 be reported to the court by the most expeditious means, commensurate with  
13 security and confidentiality, to assure receipt by the court prior to a  
14 hearing on the pregnant woman's petition.

15  
16 20-16-810. Disclosure and consent form.

17 (a) Physicians shall use a form created by the Department of Health to  
18 obtain the consent required prior to performing an abortion on a pregnant  
19 woman.

20 (b) A form is not valid and consent is not sufficient unless:

21 (1) A parent or legal guardian initials each page of the form,  
22 indicating that he or she has read and understands the information included  
23 on that page;

24 (2) A parent or legal guardian signs the last page of the form  
25 in front of a person who is a notary public;

26 (3) The pregnant woman initials each list of risks and hazards  
27 detailed in subdivision (c)(4) of this section;

28 (4) The pregnant woman signs a consent statement described in  
29 subdivision (c)(6) of this section; and

30 (5) The physician signs a physician declaration described in  
31 subdivision (c)(7) of this section.

32 (c) The form shall include without limitation the following  
33 information:

34 (1) A description of the pregnant woman's rights, including the  
35 right to informed consent as granted by § 20-16-901 et seq.;

36 (2) A description of the parent or legal guardian's rights under

1 state law;

2 (3) A detailed description of the surgical procedures or medical  
3 procedures, or both, that are planned to be performed on the pregnant woman;

4 (4) A detailed list of the risks and hazards related to the  
5 surgical or medical procedures planned for the pregnant woman, including  
6 without limitation the following risks and hazards that may occur:

7 (A) Infection;

8 (B) Blood clots;

9 (C) Hemorrhage;

10 (D) Allergic reactions;

11 (E) A hole in the uterus or other damage to the uterus;

12 (F) Sterility;

13 (G) Injury to the bowel or bladder;

14 (H) Possible hysterectomy as a result of complication or  
15 injury during the procedure;

16 (I) Failure to remove all products of conception;

17 (J) Possible continuation of pregnancy;

18 (K) Cramping of the uterus or pelvic pain;

19 (L) Cervical laceration;

20 (M) Incompetent cervix;

21 (N) Emergency treatment for any complications; or

22 (O) Death;

23 (5) A description of additional information that shall be  
24 provided by the physician to the pregnant woman under state law;

25 (6) A consent statement signed by the pregnant woman that  
26 includes without limitation the following information individually initialed  
27 by the pregnant woman that the pregnant woman:

28 (A) Understands that the doctor is going to perform an  
29 abortion on her that will end her pregnancy and will result in the death of  
30 her unborn child;

31 (B) Is not being forced to have an abortion and that she  
32 has the choice not to have the abortion and may withdraw consent prior to the  
33 abortion;

34 (C) Gives permission for the procedure;

35 (D) Understands that there are risks and hazards that  
36 could affect her if she has the planned surgical or medical procedures;

1           (E) Has been given the opportunity to ask questions about  
2 her condition, alternative forms of treatment, risk of nontreatment, the  
3 procedures to be used, and the risks and hazards involved;

4           (F) Has been given information required by statute; and

5           (G) Has sufficient information to give informed consent;

6           (7) A physician declaration, signed by the physician, stating  
7 that:

8           (A) The physician or his or her assistant has, as  
9 required, explained the procedure and the contents of this form to the  
10 pregnant woman and her parent or legal guardian and has answered all  
11 questions; and

12           (B) To the best of the physician's knowledge, the patient  
13 and her parent or legal guardian have been adequately informed and have  
14 consented to the procedure;

15           (8) A parental consent statement that states that the signing  
16 parent or legal guardian:

17           (A) Understands that the doctor signing the physician  
18 declaration form is going to perform an abortion on the pregnant woman, which  
19 will end her pregnancy and result in the death of her unborn child; and

20           (B) Has had the opportunity to read the physician  
21 declaration form or have it read to him or her and has initialed each page;

22           (C) Had the opportunity to ask questions of the physician  
23 or the physician's assistant about the information in the physician  
24 declaration form and the surgical and medical procedures to be performed on  
25 the pregnant woman;

26           (D) Believes that he or she has sufficient information to  
27 give informed consent; and

28           (E) Affirms by the parent's or legal guardian's signature  
29 that he or she is the pregnant woman's father, mother, or legal guardian;

30           (9) A page for the parent's or legal guardian's signature that  
31 shall be notarized by a notary public; and

32           (10) Any additional information that may be provided to a woman  
33 under the laws of this state in order for a physician to obtain her informed  
34 consent prior to performing an abortion.

35  
36           20-16-811. Penalty.



1       (a) The performance of an abortion in violation of this subchapter  
2 shall be a Class A misdemeanor and shall be grounds for a civil action by a  
3 person whose consent is required.

4       (b) This subchapter does not allow the charging or conviction of a  
5 woman with any criminal offense in the death of her own unborn child in  
6 utero.

7  
8       20-16-812. Legislative intent.

9       This subchapter is not intended to create and shall not be construed to  
10 create an affirmative right to legal abortion.

11  
12       20-16-813. When consent is not required.

13       A minor shall not be required to obtain consent under this subchapter  
14 if the guardianship or custody order has expired or is otherwise no longer in  
15 effect.

16  
17       20-16-814. Additional information reported by abortion providers.

18       (a) In addition to other information reported by an abortion provider  
19 to the Department of Health, the following information shall be reported for  
20 each induced termination of pregnancy:

21               (1) Whether parental consent was required;

22               (2) Whether parental consent was obtained; and

23               (3) Whether a judicial waiver was obtained.

24       (b) The department shall revise its forms utilized by abortion  
25 providers to report an induced termination of pregnancy by including the  
26 reporting of information required by this section.

27  
28       20-16-815. Construction.

29       (a) This subchapter does not create or recognize a right to abortion.

30       (b) It is not the intention of this subchapter to make lawful an  
31 abortion that is currently unlawful.

32  
33       20-16-816. Right of intervention.

34       The General Assembly, by joint resolution, may appoint one (1) or more  
35 of its members who sponsored or cosponsored this subchapter, as a matter of  
36 right and in his or her official capacity, to intervene to defend this law in

1 any case in which its constitutionality is challenged.

2  
3 20-16-817. Effective date.

4 This subchapter takes effect on January 1, 2016.

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