

1 "Medical emergency" means a condition that, on the basis of
 2 a physician's good faith clinical judgment, complicates the
 3 medical condition of a pregnant woman and necessitates the
 4 immediate abortion of her pregnancy to avert her death or to
 5 avoid a serious risk of substantial and irreversible impairment
 6 of a major bodily function.

7 "Physician" means an individual licensed to practice
 8 medicine in this State.

9 **§A-2 Parental consent.** (a) A physician may not perform
 10 an abortion on a pregnant minor unless:

- 11 (1) A parent or guardian of the minor consents to the
 12 abortion;
- 13 (2) The judge of a family court having jurisdiction
 14 over the minor or the intermediate appellate
 15 court issues an order authorizing the minor to
 16 consent to the abortion as provided by section -3
 17 or -4;
- 18 (3) A family court or the intermediate appellate
 19 court, by its inaction, constructively authorizes
 20 the minor to consent to the abortion as provided
 21 by section -3 or -4; or
- 22 (4) The physician performing the abortion:



1 (A) Concludes that a medical emergency
2 exists and there is insufficient time
3 to obtain the consent required by
4 subsection (a) (1); and

5 (B) Certifies in writing to the director
6 and in the patient's medical record the
7 medical indications supporting the
8 physician's judgment that a medical
9 emergency exists and that there is
10 insufficient time to obtain the
11 required consent.

12 (b) The director shall prepare a form to be used for
13 making the certification required by subsection (a) (4).

14 (c) A physician who violates this section shall be guilty
15 of a misdemeanor.

16 **SA-3 Judicial approval.** (a) A pregnant minor who wishes
17 to have an abortion without the consent of either of her parents
18 or her guardian may file an application for a court order
19 authorizing the minor to consent to the performance of an
20 abortion without the consent of either of her parents or
21 guardian.



1 (b) The application may be filed in the family court
2 having jurisdiction for:

- 3 (1) The county in which the minor resides; or
4 (2) The county in which the hospital, clinic, or
5 facility in which the abortion would be performed
6 is located.

7 (c) The application shall be made under oath and include:

- 8 (1) A statement that the minor is pregnant;
9 (2) A statement that the minor is unmarried and is
10 under eighteen years of age;
11 (3) A statement that the minor wishes to have an
12 abortion without the consent of either of her
13 parents or a guardian; and
14 (4) A statement as to whether the minor has retained
15 an attorney and, if she has retained an attorney,
16 the name, address, and telephone number of her
17 attorney.

18 (d) The court shall appoint a guardian ad litem for the
19 minor. If the minor has not retained an attorney, the court
20 shall appoint an attorney to represent the minor. If the
21 guardian ad litem is an attorney admitted to the practice of law



1 in this State, the court may appoint the guardian ad litem to
2 serve as the minor's attorney.

3 (e) The court shall fix a time for a hearing on an
4 application filed under subsection (a) and shall keep a record
5 of all testimony and other oral proceedings in the action. The
6 court shall enter judgment on the application immediately after
7 the hearing is concluded.

8 (f) The court shall rule on an application submitted under
9 this section and shall issue written findings of fact and
10 conclusions of law not later than 5:00 p.m. on the second
11 business day after the date the application is filed with the
12 court. The minor may request an extension of that period. If
13 the court does not rule on the application and issue written
14 findings of fact and conclusions of law within the specified
15 period and an extension was not requested, the application is
16 granted and the physician may perform the abortion as if the
17 court had issued an order authorizing the minor to consent to
18 the performance of the abortion. The court shall give
19 proceedings under this section precedence over other pending
20 matters to the extent necessary to ensure that the court reaches
21 a decision promptly.



1 (g) The court shall determine by a preponderance of the
2 evidence whether requiring that consent would not be in the best
3 interest of the minor. If the court finds that the minor is
4 mature and sufficiently well-informed or that requiring consent
5 would not be in the minor's best interest, the court shall enter
6 an order authorizing the minor to consent to the performance of
7 the abortion without the consent of either of her parents or a
8 guardian and execute the required forms.

9 (h) If the court finds that the minor does not meet the
10 requirements of subsection (g), the court may not authorize the
11 minor to consent to an abortion without the consent required by
12 section -2(a)(1).

13 (i) The court may not notify a parent or guardian that the
14 minor is pregnant or that the minor wants to have an abortion.
15 The court proceedings shall be conducted in a manner that
16 protects the anonymity of the minor. The application and all
17 other court documents pertaining to the proceedings are
18 confidential and may not be made available to the public. The
19 minor may file the application using a pseudonym or using only
20 her initials.



1 (j) The clerk of the family court shall prescribe the
2 application form to be used by the minor filing an application
3 under this section.

4 (k) A filing fee is not required of, and court costs may
5 not be assessed against, a minor filing an application under
6 this section.

7 **§ -4 Appeal to intermediate appellate court.** (a) A
8 minor whose application under section -3 is denied may appeal
9 to the intermediate appellate court of this State. On receipt
10 of a notice of appeal, the clerk of the court that denied the
11 application shall deliver a copy of the notice of appeal and
12 record on appeal to the clerk of the intermediate appellate
13 court. On receipt of the notice and a record, the clerk of the
14 intermediate appellate court shall place the appeal on the
15 docket of the court.

16 (b) The intermediate appellate court shall rule on an
17 appeal under this section not later than 5:00 p.m. on the second
18 business day after the date the notice of appeal is filed. The
19 minor may request an extension of that period. If the court
20 does not rule on the appeal within the specified period and an
21 extension was not requested, the appeal is granted and the
22 physician may perform the abortion as if the court had issued an



1 order authorizing the minor to consent to the performance of the
2 abortion. The intermediate appellate court shall give
3 proceedings under this section precedence over other pending
4 matters to the extent necessary to ensure that the court reaches
5 a decision promptly.

6 (c) The clerk of the intermediate appellate court shall
7 prescribe the notice of appeal form to be used by the minor
8 appealing a judgment under this section.

9 (d) A filing fee is not required of, and court costs may
10 not be assessed against, a minor filing an appeal under this
11 section.

12 (e) A minor filing an appeal under this section may not be
13 required to post an appeal bond."

14 SECTION 2. If any provision of this Act, or the
15 application thereof to any person or circumstance is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act, which can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Abortion; Parental Consent

Description:

Prohibits physician from performing an abortion on a minor unless the minor's parents or guardian consent, a family court authorizes the minor to consent, or the physician concludes that a medical emergency exists and there is insufficient time to obtain consent.

