

HOUSE BILL No. 5103

September 28, 1989, Introduced by Reps. Griffin, Niederstadt, Ciaramitaro, Hertel, Barnik, Bennett, Bandstra, Muxlow, Weeks, Emmons, O'Neill, Hillegonds, Stopczynski, Strand, Scott, Honigman, Rocca, DeLange, Spaniola, Giese, Porreca, Pridnia, Sikkema, Wartner, Hoffman, Camp, Randall, Mathieu, Nye, Owen, Oxender, Sofio, Ouwinga, Alley, Allen, Palamara, Van Singel, Keith, Jaye, Webb, Willis Bullard, Kosteva, Walberg, DeMars, O'Connor, Richard A. Young, Trim, Maynard, Gnodtke, Hoekman, Ostling, Law, Hickner, Jacobetti and London and referred to the Committee on Public Health.

A bill to require parental consent for abortions performed on unemancipated minors and to provide a judicial alternative to parental consent; to provide for certain rights, powers, and duties of individuals and courts; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 parental rights restoration act".

3 Sec. 2. As used in this act:

4 (a) "Abortion" means the intentional destruction of the life
5 of an embryo or fetus in his or her mother's womb or the inten-
6 tional termination of the pregnancy of a mother with an intention
7 other than to increase the probability of a live birth or to
8 remove a dead or dying unborn child.

1 (b) "Emancipated" means that term as used in Act No. 293 of
2 the Public Acts of 1968, being sections 722.1 to 722.6 of the
3 Michigan Compiled Laws.

4 (c) "Emergency" means a situation in which continuation of
5 the pregnancy of the minor would create an immediate threat and
6 grave risk to the life or health of the minor, as certified in
7 writing by a physician.

8 (d) "Juvenile court" means the juvenile division of the pro-
9 bate court.

10 (e) "Minor" means a person under the age of 18 years who is
11 not emancipated.

12 Sec. 3. (1) Except as otherwise provided in this act, a
13 person shall not perform an abortion on a minor without first
14 obtaining the written consent of both parents, or the legal
15 guardian, of the minor.

16 (2) If the minor's parents are divorced, or 1 parent is not
17 available in a reasonable time or manner to give his or her con-
18 sent to the abortion, the written consent of the parent with cus-
19 tody or of the parent who is available satisfies subsection (1).

20 (3) If a parent whose consent is required, or the legal
21 guardian, is not available or refuses to give his or her consent,
22 or if the minor elects not to seek consent of the parents or
23 legal guardian, the minor may petition the juvenile court pursu-
24 ant to section 4 for a waiver of the parental consent requirement
25 of this section.

1 Sec. 4. (1) The juvenile court has jurisdiction of
2 proceedings related to a minor's petition for a waiver of
3 parental consent.

4 (2) The court shall ensure that procedures, including appeal
5 procedures, pursuant to this act are completed with anonymity and
6 sufficient expedition to provide an effective opportunity for the
7 minor to obtain an abortion, in accordance with all of the
8 following:

9 (a) A minor may file a petition for waiver of parental con-
10 sent in the juvenile court of any county, regardless of whether
11 the minor resides in that county.

12 (b) The juvenile court shall provide the minor with assist-
13 ance in preparing and filing the petition for waiver of parental
14 consent.

15 (c) A minor may file a petition for waiver of parental con-
16 sent under this act on her own behalf or through a next friend.
17 The minor shall use initials or some other means of assuring ano-
18 nymity in the petition.

19 (d) A ruling on a petition for waiver of parental consent
20 filed pursuant to this act shall be made within 48 hours after
21 the petition is filed, excluding weekends and legal holidays.

22 (e) A hearing on a petition for waiver of parental consent
23 under this act shall be closed to the public. All records of
24 procedures related to the waiver of parental consent under this
25 act are confidential.

26 (f) The juvenile court that hears the petition shall issue
27 and make a part of the confidential record its specific written

1 findings of fact and conclusions of law in support of its
2 ruling.

3 (g) A minor is not required to pay a fee for procedures
4 under this act.

5 (3) Unless the juvenile court determines that a minor is
6 already represented by an attorney, it shall appoint an attorney
7 to represent the minor in procedures under this act.

8 (4) The juvenile court shall grant a waiver of parental con-
9 sent if it finds either of the following:

10 (a) The minor is sufficiently mature and well-enough
11 informed to make the decision regarding abortion independently of
12 her parents or legal guardian.

13 (b) The abortion would be in the best interests of the
14 minor.

15 (5) A minor who is denied a waiver under this section has a
16 right to an expedited, anonymous appeal.

17 Sec. 5. The requirements of section 3 do not apply to an
18 abortion performed pursuant to an emergency.

19 Sec. 6. The requirements and procedures of this act apply
20 regardless of whether the minor is a resident of this state.

21 Sec. 7. (1) A person who intentionally performs an abortion
22 in violation of this act is guilty of a misdemeanor.

23 (2) A person's failure to obtain parental consent pursuant
24 to this act is prima facie evidence of his or her failure to
25 obtain informed consent or of his or her interference with family
26 relations in appropriate civil actions. A juvenile court shall

1 not construe the law of this state to preclude exemplary damages
2 in a civil action related to violations of this act.

3 (3) This act does not limit the common law rights of
4 parents.