

# HOUSE BILL No. 6125

November 8, 1990, Introduced by Reps. Gire, Berman, Johnson, Hart, Bryant, Gubow, Barns, Dolan, Stabenow, Jondahl, Miller, Harrison, Saunders, Joe Young, Sr., Bankes, Watkins, Kikpatrick, Crandall, Krause, Martin, Jonker, Varga, Hunter, Brown, Emerson, Knight, Bender, Leland, Murphy, Clack, Wallace and Sparks and referred to the Committee on Public Health.

A bill to regulate abortions on minors; to prescribe the rights, powers, and duties of certain individuals and of courts; to grant certain immunities; and to prescribe penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as "the  
2 family and adult involvement act".

3       Sec. 2. As used in this act:

4       (a) "Abortion" means the intentional termination of the  
5 pregnancy of a person known to be pregnant by the application of  
6 external agents, either chemical or surgical, for a purpose other  
7 than to produce a live birth or to remove a dead fetus. Abortion  
8 does not include the use or prescription of a contraceptive.

9       (b) "Adult family member" means the minor's grandparent,  
10 aunt, uncle, sister, or brother who is 25 years of age or older.

1 (c) "Counselor" means a person who is 1 or more of the  
2 following:

3 (i) A physician specializing in psychiatry who is licensed  
4 under article 15 of the public health code, being sections  
5 333.16101 to 333.18838 of the Michigan Compiled Laws.

6 (ii) A psychologist licensed under article 15 of the public  
7 health code.

8 (iii) A social worker or certified social worker registered  
9 under article 16 of the occupational code, being sections  
10 339.1601 to 339.1610 of the Michigan Compiled Laws.

11 (iv) A registered nurse licensed under article 15 of the  
12 public health code.

13 (v) A professional counselor licensed under article 15 of  
14 the public health code.

15 (d) "Emergency" means a situation in which continuation of  
16 the pregnancy of the minor would create an immediate threat and  
17 grave risk to the life or physical health of the minor, as certi-  
18 fied in writing by a physician.

19 (e) "Juvenile court" means the juvenile division of the pro-  
20 bate court.

21 (f) "Minor" means a person under the age of 18 years who is  
22 not emancipated pursuant to section 4 of Act No. 293 of the  
23 Public Acts of 1968, being section 722.4 of the Michigan Compiled  
24 Laws.

25 (g) "Public health code" means Act No. 368 of the Public  
26 Acts of 1978, being sections 333.1101 to 333.25211 of the  
27 Michigan Compiled Laws.

1       Sec. 3. (1) Except as otherwise provided by law, a  
2 physician shall not knowingly perform an abortion on a minor  
3 unless 1 or more of the following requirements are met:

4       (a) The attending physician has provided the minor with the  
5 information prescribed in section 4(a) and has received and made  
6 a part of the minor's medical record the written consent of the  
7 minor and 1 parent, guardian, or adult family member of the  
8 minor.

9       (b) The attending physician has received and made a part of  
10 the minor's medical record the written consent of the minor that  
11 was obtained following the provision of information and counsel-  
12 ing prescribed in sections 4 and 5.

13       (c) The attending physician has received and made a part of  
14 the minor's medical record either of the following:

15       (i) The written consent of the minor and a copy of an order  
16 of the juvenile court pursuant to section 6 granting majority  
17 rights to the minor for the sole purpose of consenting to the  
18 abortion.

19       (ii) A copy of an order of the juvenile court granting judi-  
20 cial consent to the abortion.

21       (2) This section does not apply to an abortion performed  
22 pursuant to an emergency.

23       Sec. 4. Prior to performing an abortion on a minor pursuant  
24 to authorization provided under section 3(1)(b), a physician  
25 shall do all of the following:

26       (a) Inform the minor of all of the following:

1       (i) According to the physician's professional judgment, the  
2 minor is pregnant.

3       (ii) The number of weeks since conception.

4       (iii) The particular medical risks associated with a deci-  
5 sion to carry the pregnancy to term, the abortion techniques that  
6 might be performed and the medical risks associated with those  
7 techniques, and the basic elements of prenatal and postnatal  
8 care.

9       (b) Refer the minor to a physician or counselor to provide  
10 the information and counseling required under section 5.

11       (c) Obtain from the minor or the physician or counselor the  
12 written consent of the minor prescribed in section 5.

13       Sec. 5. (1) A physician or counselor providing the counsel-  
14 ing prescribed by this section shall not perform abortions or  
15 receive financial consideration from an organization that pro-  
16 vides abortions.

17       (2) In obtaining the written consent of a minor to comply  
18 with section 3(1)(b), a physician or counselor shall do all of  
19 the following:

20       (a) Explain that the information being given to the minor is  
21 not intended to coerce, persuade, or induce the minor to choose  
22 either to have an abortion or to carry the pregnancy to term.

23       (b) Explain that the minor may withdraw a decision to have  
24 an abortion at any time before the abortion is performed or may  
25 reconsider a decision not to have an abortion at any time within  
26 the time period during which an abortion may legally be  
27 performed.

1 (c) Explain to the minor the alternative choices available  
2 for managing the pregnancy, including, at a minimum, all of the  
3 following:

4 (i) Carrying the pregnancy to term and keeping the child.

5 (ii) Carrying the pregnancy to term and placing the child  
6 with a relative or with another family through foster care or  
7 adoption.

8 (iii) Having an abortion.

9 (d) Explain that public and private agencies are available  
10 to provide birth control information and that a list of these  
11 agencies and the services available from each will be provided on  
12 the minor's request.

13 (e) Discuss the option of involving the minor's parent,  
14 guardian, or other adult family member in the minor's decision  
15 concerning the pregnancy and help the minor determine whether  
16 that involvement would be in the minor's best interest and  
17 whether that involvement would place the minor at risk. If the  
18 counseling person believes it would be in the best interest of  
19 the minor for the minor to discuss the pregnancy with her parent,  
20 legal guardian, or adult family member, the counseling person  
21 shall advise the minor of this belief.

22 (f) Provide adequate opportunity for the minor to ask ques-  
23 tions concerning the pregnancy, abortion, child care, and adop-  
24 tion and provide the information the minor requests or, if the  
25 physician or counselor cannot provide the information, indicate  
26 how the minor can obtain the information.

1 (g) Have the minor sign and date a consent form containing  
2 all of the following:

3 (i) The physician's or counselor's name, address, telephone  
4 number, signature, and the date of signing.

5 (ii) A statement that the minor has received the information  
6 and participated in the discussions required under subdivisions  
7 (a) to (f).

8 (iii) A statement that the minor consents to the abortion.

9 (3) The physician or counselor shall keep a copy of the  
10 written consent form described in subsection (2)(g) and shall  
11 give the form to the minor or, if the minor requests, transmit  
12 the form to the minor's attending physician.

13 Sec. 6. (1) The juvenile court has jurisdiction of proceed-  
14 ings related to a minor's petition for majority rights or for  
15 judicial consent under this section. Proper venue is in the  
16 county where the minor resides. For purposes of this section,  
17 the county where the minor resides is the county where the  
18 minor's residence is located or the county where the minor is  
19 found.

20 (2) The minor or next friend of the minor may petition the  
21 juvenile court for majority rights to consent to an abortion or  
22 for the court's consent to the minor's abortion. If the minor  
23 requests it, the court shall provide the minor with assistance in  
24 preparing and filing the petition. The petition shall be signed  
25 by the minor or the minor's next friend, shall be a confidential  
26 record, and shall set forth all of the following:

1 (a) The initials of the minor.

2 (b) The age of the minor.

3 (c) A statement signed by the minor's physician certifying  
4 that the physician has provided the information prescribed in  
5 section 4(a).

6 (d) A request that the court grant the minor majority rights  
7 for the purpose of consent to the abortion or that the court find  
8 that the abortion is in the best interests of the minor and give  
9 judicial consent to the abortion.

10 (e) If the minor does not have private legal counsel, a  
11 request that the court appoint legal counsel for the minor.

12 (3) A minor is not required to pay a fee for proceedings  
13 under this section.

14 (4) The court shall hold a hearing on the merits of the  
15 petition as soon as possible within 72 hours, excluding Sundays  
16 and holidays, after the petition is filed. If the minor does not  
17 have legal counsel, the court shall appoint legal counsel for the  
18 minor at least 24 hours before the time of the hearing. The  
19 hearing shall be closed, with only the minor, interested parties  
20 as determined by the court, and necessary court personnel  
21 present. All records of the hearing and all other proceedings  
22 under this section are confidential.

23 (5) The court shall issue 1 of the following orders within  
24 48 hours after the hearing:

25 (a) An order granting the minor majority rights for the sole  
26 purpose of consenting to the abortion.

1 (b) An order granting judicial consent to the abortion on  
2 the ground that it is in the best interests of the minor.

3 (c) An order denying the petition on the grounds that the  
4 minor is not mature enough to make her own decision and that the  
5 abortion is not in her best interest.

6 (6) The minor may appeal an order issued under subsection  
7 (5) with the court of appeals. The notice of appeal shall be  
8 filed within 24 hours of the issuance of the order. The appeal  
9 shall be perfected within 72 hours, excluding Sundays and holi-  
10 days, from the filing of the notice of appeal. The supreme court  
11 shall by court rule provide for expedited appellate review of  
12 cases appealed under this section.

13 Sec. 7. (1) A written consent obtained pursuant to sections  
14 4 and 5 is presumed to be a valid consent. The presumption is  
15 subject to rebuttal only upon proof that the consent was obtained  
16 through fraud, deception, or misrepresentation of material fact.

17 (2) A physician is not liable in a civil action for damages  
18 based on the grounds that the physician performed an abortion  
19 without the consent of a minor if the physician received and  
20 acted in good faith on the written consent to the abortion given  
21 by the minor to a physician or counselor pursuant to section 5.

22 (3) If the written consent of a minor is obtained pursuant  
23 to section 5 or judicial consent or an order of majority rights  
24 is obtained pursuant to section 6, the minor or a parent or  
25 guardian of the minor is barred from bringing an action on the  
26 grounds of battery of the minor by those performing the  
27 abortion. The immunity granted under this subsection extends



1 only to the performance of the abortion and any necessary  
2 accompanying services that are performed in a competent manner.

3       Sec. 8. A physician who intentionally performs an abortion  
4 in violation of this act is guilty of a misdemeanor.

5       Sec. 9. (1) The board of a school district shall ensure  
6 that each pupil in the sixth through twelfth grades is given  
7 written information, at the start of each school year, regarding  
8 all of the following:

9       (a) The existence of this act.

10       (b) The address and phone number of the probate court for  
11 the county in which the school is located.

12       (c) How to contact the probate court for assistance under  
13 this act.

14       (2) The department of education shall develop and distribute  
15 to all public schools a standardized information form, which  
16 shall be used by schools to implement subsection (1).