

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 735

Short Title: Parental Consent/Abortion.

(Public)

Sponsors: Senators Allran, Clark, Kincaid, Hartsell, Ballantine, Horton, Cochrane, Page, Sawyer, Simpson, Plexico, Carpenter, McKoy, Shaw, Blackmon, Carrington, McDaniel, Forrester, Foxx, East, Davis, and Webster.

Referred to: Judiciary II/Election Laws

April 17, 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:

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

(2) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant, for reasons other than to save the life or preserve the health of an unborn child, to remove a dead unborn child, or to deliver an unborn child prematurely, by accepted

1           medical procedures in order to preserve the health of both the mother  
2           and the unborn child.

3 **"§ 90-21.7. Parental consent required.**

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

- 7           (1) A parent with custody of the minor;  
8           (2) The legal guardian of the minor; or  
9           (3) A parent with whom the minor is living.

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

- 14           (1) Neither of the parents nor the legal guardian is available to the physician  
15 performing the abortion or the physician's agent or the referring  
16 physician or the agent thereof within a reasonable time or manner;  
17           (2) All of the persons from whom consent must be obtained pursuant to this  
18 section refuse to consent to the performance of an abortion; or  
19           (3) The minor elects not to seek consent of the person from whom consent  
20 is required.

21 **"§ 90-21.8. Procedure for waiver of parental consent.**

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

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

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

30       (d) Court proceedings under this section shall be confidential and shall be given  
31 precedence over other pending matters necessary to ensure that the court may reach a  
32 decision promptly. In no case shall the court fail to rule within seven days of the time of  
33 filing the application. This time limitation may be extended at the request of the minor.  
34 At the hearing, the court shall hear evidence relating to the emotional development,  
35 maturity, intellect, and understanding of the minor; the nature, possible consequences,  
36 and alternatives to the abortion; and any other evidence that the court may find useful in  
37 determining whether the parental consent requirement shall be waived.

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

- 39           (1) That the minor is mature and well-informed enough to make the  
40 abortion decision on her own;  
41           (2) That it would be in the minor's best interests that parental consent not be  
42 required; or  
43           (3) That the minor is a victim of felonious incest under G.S. 14-178.

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

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

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

10 **"§ 90-21.9. Medical emergency exception.**

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

16 **"§ 90-21.10. Penalty.**

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

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

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

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

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

32 "(16) A proceeding involving consent for an abortion on an unemancipated  
33 minor pursuant to Article 1A, Part 2 of Chapter 90 of the General  
34 Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to this  
35 proceeding."

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