

10 AN ACT CONCERNING

20 **Abortion - Minors - Parental Notification**

30 FOR the purpose of prohibiting a physician from performing abortions on certain  
40 minors until 48 hours after the physician gives written notice to the minor's  
50 parent or guardian and receives their consent; authorizing a physician to perform abortions on  
60 minors under certain circumstances without giving notice to the minor's parent or  
70 guardian; authorizing minors to seek a waiver of the parental notification and consent  
80 requirement from a circuit court; prohibiting a circuit court from imposing any  
90 filing fees or costs on minors; requiring the Department of Health and Mental  
100 Hygiene to create fact sheets for distribution to certain minors seeking abortion  
110 services; requiring the Department to distribute fact sheets to certain hospitals,  
120 facilities, agencies, and physicians; making provisions of this Act severable;  
130 requiring the Board of Physician Quality Assurance to maintain a record of  
140 physicians who violate this Act; authorizing the Board to refer matters to the  
150 Attorney General; and generally relating to parental notification and consent prior to  
160 performing abortions on minors.

170 BY repealing  
180 Article - Health - General  
190 Section 20-103  
200 Annotated Code of Maryland  
210 (2000 Replacement Volume)

220 BY adding to  
230 Article - Health - General  
240 Section 20-103  
250 Annotated Code of Maryland  
260 (2000 Replacement Volume)

270 SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE, That the Laws of  
280 Maryland read as follows:

290 **Article - Health - General**

300 [20-103.

310 (a) Except as provided in subsections (b) and (c) of this section, a physician  
320 may not perform an abortion on an unmarried minor unless the physician first gives  
330 notice to a parent or guardian of the minor.

340 (b) The physician may perform the abortion without notice to a parent or  
350 guardian if:

360 (1) The minor does not live with a parent or guardian; and

370 (2) A reasonable effort to give notice to a parent or guardian is  
380 unsuccessful.

390 (c) (1) The physician may perform the abortion, without notice to a parent  
400 or guardian of a minor if, in the professional judgment of the physician:

410 (i) Notice to the parent or guardian may lead to physical or  
420 emotional abuse of the minor;

430 (ii) The minor is mature and capable of giving informed consent to

440 an abortion; or

450 (iii) Notification would not be in the best interest of the minor.

460 (2) The physician is not liable for civil damages or subject to a criminal  
470 penalty for a decision under this subsection not to give notice.

480 (d) The postal receipt that shows an article of mail was sent by certified mail,  
490 return receipt requested, bearing a postmark from the United States Postal Service,  
500 to the last known address of a parent or guardian and that is attached to a copy of the  
510 notice letter that was sent in that article of mail shall be conclusive evidence of notice  
520 or a reasonable effort to give notice, as the case may be.

530 (e) A physician may not provide notice to a parent or guardian if the minor  
540 decides not to have the abortion.]

550 20-103.

560 (A) (1) A PHYSICIAN MAY NOT PERFORM AN ABORTION ON AN  
570 UNMARRIED MINOR UNTIL AFTER THE PHYSICIAN GIVES WRITTEN NOTICE OF THE  
580 PENDING PROCEDURE TO THE MINOR'S PARENT OR GUARDIAN AND HAS RECEIVED  
590 NOTARIZED WRITTEN CONSENT.

600 (B) THE NOTICE SHALL BE:

610 (1) DELIVERED PERSONALLY TO THE PARENT BY THE PHYSICIAN,  
620 ADDRESSED TO THE PARENT AT THE PARENT'S LAST KNOWN ADDRESS; OR

630 (2) MAILED BY CERTIFIED MAIL TO THE PARENT AT THE PARENT'S LAST  
640 KNOWN ADDRESS WITH RETURN RECEIPT REQUESTED AND RESTRICTED DELIVERY  
650 TO THE ADDRESSEE.

660 (C) THE CONSENT SHALL BE:

670 (1) IN WRITTEN FORM.

680 (2) NOTARIZED.

690 (D) A PHYSICIAN MAY PERFORM AN ABORTION ON A MINOR WITHOUT GIVING  
700 NOTICE TO A PARENT OR GUARDIAN AND RECEIVING CONSENT IF:

710 (1) THE PARENT WHO IS ENTITLED TO NOTICE STATES IN A NOTARIZED  
720 WRITING THAT NOTICE WAS RECEIVED; OR

730 (2) THE ATTENDING PHYSICIAN CERTIFIES IN THE MINOR'S MEDICAL  
740 RECORDS THAT THE ABORTION IS NECESSARY TO PREVENT THE DEATH OF THE  
750 MINOR.

760 (E) (1) A MINOR MAY SEEK WAIVER OF PARENTAL NOTIFICATION AND CONSENT  
770 FROM A CIRCUIT COURT.

780 (2) THE PETITION SHALL INCLUDE A STATEMENT THAT THE MINOR IS  
790 PREGNANT, AND NOT MARRIED.

800 (3) A PETITION FILED IN A COURT THAT HAS A FAMILY DIVISION SHALL  
810 BE ASSIGNED TO THAT DIVISION.

820 (4) THE COURT MAY APPOINT AN ATTORNEY FOR THE MINOR, OR  
830 PERMIT THE MINOR TO REPRESENT HERSELF.

840 (5) THE COURT MAY NOT IMPOSE A FILING FEE OR COSTS ON A MINOR  
850 WHO FILES A PETITION FOR WAIVER OF PARENTAL NOTIFICATION UNDER THIS  
860 SECTION.

870 (6) THE COURT SHALL ADVISE THE MINOR OF THE MINOR'S RIGHT TO  
880 COURT APPOINTED COUNSEL AND SHALL, UPON THE MINOR'S REQUEST, APPOINT  
890 COUNSEL.

900 (7) COURT PROCEEDINGS UNDER THIS SECTION SHALL BE  
910 CONFIDENTIAL, ENSURE THE ANONYMITY OF THE MINOR, AND BE GIVEN  
920 PRECEDENCE OVER OTHER PENDING MATTERS SO THAT THE COURT MAY REACH A  
930 PROMPT DECISION TO SERVE THE BEST INTEREST OF THE MINOR.

940 (F) (1) THE COURT SHALL ISSUE A DECISION, WHICH SHALL INCLUDE  
950 WRITTEN FACTUAL FINDINGS AND LEGAL CONCLUSIONS, IN A PROCEEDING UNDER  
960 THIS SECTION WITHIN 48 HOURS AFTER THE PETITION IS FILED UNLESS THE TIME IS  
970 EXTENDED AT THE REQUEST OF THE MINOR.

980 (2) (I) IF THE COURT FAILS TO RULE WITHIN 48 HOURS AND THE TIME  
990 IS NOT EXTENDED, THE PETITION IS GRANTED AND THE NOTICE AND CONSENT  
1000 REQUIREMENT SHALL BE WAIVED.

1010 (II) THE COURT SHALL ORDER A RECORD OF THE EVIDENCE TO BE  
1020 MAINTAINED, INCLUDING THE JUDGE'S WRITTEN FACTUAL FINDINGS AND LEGAL  
1030 CONCLUSIONS SUPPORTING THE DECISION.

1040 (G) (1) THE COURT SHALL AUTHORIZE A WAIVER OF PARENTAL  
1050 NOTIFICATION AND CONSENT IF THE COURT FINDS, BY CLEAR AND CONVINCING  
1060 EVIDENCE, THAT:

1070 (I) THE MINOR IS SUFFICIENTLY MATURE TO DECIDE WHETHER  
1080 TO HAVE AN ABORTION;

1090 (II) THERE IS EVIDENCE OF A PATTERN OF PHYSICAL, SEXUAL, OR  
1100 EMOTIONAL ABUSE OF THE MINOR BY THE PARENT, GUARDIAN, OR LEGAL  
1110 CUSTODIAN; OR

1120 (III) THE NOTIFICATION AND CONSENT OF THE PARENT IS NOT IN THE  
1130 BEST INTERESTS OF THE MINOR.

1140 (2) IF THE COURT DOES NOT MAKE A FINDING SPECIFIED UNDER  
1150 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL DISMISS THE PETITION  
1160 AND NOTICE SHALL BE GIVEN IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
1170 SECTION AND CONSENT SHALL BE REQUIRED.

1180 (H) AN EXPEDITED, CONFIDENTIAL APPEAL SHALL BE AVAILABLE, IN  
1190 ACCORDANCE WITH THE MARYLAND RULES, TO A MINOR FOR WHOM THE COURT  
1200 DENIES AN ORDER WAIVING PARENTAL NOTIFICATION AND CONSENT.

1210 (I) (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL  
1220 PREPARE A FACT SHEET FOR DISTRIBUTION TO UNMARRIED PREGNANT MINORS  
1230 WHO SEEK ABORTION SERVICES.

1240 (2) THE FACT SHEET SHALL BE WRITTEN IN TERMS GENERALLY  
1250 UNDERSTOOD BY A TEENAGER AND SHALL EXPLAIN THE PARENTAL NOTIFICATION  
1260 REQUIREMENTS UNDER THIS SECTION.

1270 (3) THE FACT SHEET SHALL INCLUDE, THE FOLLOWING INFORMATION:

1280 (I) THAT A MINOR MAY SEEK A WAIVER OF PARENTAL  
1290 NOTIFICATION AND CONSENT FROM A CIRCUIT COURT IN ANY COUNTY IN MARYLAND;

1300 (II) THAT A MINOR MAY PARTICIPATE IN PROCEEDINGS IN THE  
1310 COURT ON HER OWN BEHALF;

1320 (III) THAT A MINOR HAS A RIGHT TO COURT APPOINTED COUNSEL,  
1330 WHICH SHALL BE PROVIDED TO THE MINOR UPON REQUEST; AND

1340 (IV) THE PROCEDURE FOR PETITIONING THE COURT.

1350 (J) (1) THE DEPARTMENT SHALL DISTRIBUTE THE FACT SHEET, AT NO  
1360 CHARGE, TO AMBULATORY CARE FACILITIES AND HOSPITALS, PUBLIC AND PRIVATE  
1370 AGENCIES, AND PHYSICIANS' OFFICES THAT PROVIDE FAMILY PLANNING SERVICES  
1380 AND PRENATAL CARE.

1390 (2) THE PHYSICIAN WHO IS RESPONSIBLE FOR PROVIDING  
1400 NOTIFICATION TO A MINOR'S PARENT OR GUARDIAN AND RECEIVING THEIR WRITTEN  
1410 CONSENT UNDER THIS SECTION SHALL PROVIDE THE MINOR WITH A COPY OF THE FACT  
1420 SHEET AT THE TIME THE MINOR INITIALLY REQUESTS ABORTION SERVICES.

1430 (K) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE  
1440 GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS SUBJECT TO A FINE NOT  
1450 EXCEEDING \$5,000 AND NOT LESS THAN \$1000 AND/OR UP TO 5 YEARS IMPRISONMENT.

1460 (L) A PHYSICIAN MAY NOT BE HELD LIABLE UNDER THIS SECTION IF THE  
1470 PHYSICIAN ESTABLISHES BY WRITTEN EVIDENCE THAT THE PHYSICIAN HAS MADE  
1480 EVERY EFFORT, WITH REASONABLE DILIGENCE, TO DELIVER NOTICE, BUT HAS BEEN  
1490 UNABLE TO DO SO.

1500 (M) (1) THE BOARD OF PHYSICIAN QUALITY ASSURANCE SHALL MAINTAIN A  
1510 RECORD OF ANY PHYSICIAN WHO VIOLATES THE PROVISIONS OF THIS SECTION.

1520 (2) IF THE BOARD DETERMINES THAT A PHYSICIAN VIOLATED THE  
1530 PROVISIONS OF THIS SECTION, THE BOARD MAY REFER THE MATTER TO THE  
1540 ATTORNEY GENERAL, WHO SHALL ENFORCE THIS SECTION.

1550 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
1560 Act or the application thereof to any person or circumstance is held invalid for any  
1570 reason in a court of competent jurisdiction, the invalidity does not affect other  
1580 provisions or any other application of this Act which can be given effect without the  
1590 invalid provision or application, and for this purpose the provisions of this Act are  
1600 declared severable.

1610 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
1620 October 1, 2001.

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