

135L.3 Notification of parent prior to the performance of abortion on a pregnant minor — requirements — criminal penalty.

1. A licensed physician shall not perform an abortion on a pregnant minor until at least forty-eight hours' prior notification is provided to a parent of the pregnant minor.

2. The licensed physician who will perform the abortion shall provide notification in person or by mailing the notification by restricted certified mail to a parent of the pregnant minor at the usual place of abode of the parent. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at twelve o'clock noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

3. If the pregnant minor objects to the notification of a parent prior to the performance of an abortion on the pregnant minor, the pregnant minor may petition the court to authorize waiver of the notification requirement pursuant to this section in accordance with the following procedures:

a. The court shall ensure that the pregnant minor is provided with assistance in preparing and filing the petition for waiver of notification and shall ensure that the pregnant minor's identity remains confidential.

b. The pregnant minor may participate in the court proceedings on the pregnant minor's own behalf. The court may appoint a guardian ad litem for the pregnant minor and the court shall appoint a guardian ad litem for the pregnant minor if the pregnant minor is not accompanied by a responsible adult or if the pregnant minor has not viewed the video as provided pursuant to section 135L.2. In appointing a guardian ad litem for the pregnant minor, the court shall consider a person licensed to practice psychology pursuant to chapter 154B, a licensed social worker pursuant to chapter 154C, a licensed marital and family therapist pursuant to chapter 154D, or a licensed mental health counselor pursuant to chapter 154D to serve in the capacity of guardian ad litem. The court shall advise the pregnant minor of the pregnant minor's right to court-appointed legal counsel, and shall, upon the pregnant minor's request, provide the pregnant minor with court-appointed legal counsel, at no cost to the pregnant minor.

c. The court proceedings shall be conducted in a manner which protects the confidentiality of the pregnant minor and notwithstanding section 232.147 or any other provision to the contrary, all court documents pertaining to the proceedings shall remain confidential and shall be sealed. Only the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, and persons whose presence is specifically requested by the pregnant minor, by the pregnant minor's guardian ad litem, or by the pregnant minor's legal counsel may attend the hearing on the petition.

d. Notwithstanding any law or rule to the contrary, the court proceedings under this section shall be given precedence over other pending matters to ensure that the court reaches a decision expeditiously.

e. Upon petition and following an appropriate hearing, the court shall waive the notification requirements if the court determines either of the following:

(1) That the pregnant minor is mature and capable of providing informed consent for the performance of an abortion.

(2) That the pregnant minor is not mature, or does not claim to be mature, but that notification is not in the best interest of the pregnant minor.

f. The court shall issue specific factual findings and legal conclusions, in writing, to support the decision.

g. Upon conclusion of the hearing, the court shall immediately issue a written order which shall be provided immediately to the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, or to any other person designated by the pregnant minor to receive the order.

h. An expedited, confidential appeal shall be available to a pregnant minor for whom the court denies a petition for waiver of notification. An order granting the pregnant minor's application for waiver of notification is not subject to appeal. Access to the appellate courts for the purpose of an appeal under this section shall be provided to a pregnant minor twenty-four hours a day, seven days a week.

i. A pregnant minor who chooses to utilize the waiver of notification procedures under

this section shall not be required to pay a fee at any level of the proceedings. Fees charged and court costs taxed in connection with a proceeding under this section are waived.

j. If the court denies the petition for waiver of notification and if the decision is not appealed or all appeals are exhausted, the court shall advise the pregnant minor that, upon the request of the pregnant minor, the court will appoint a licensed marital and family therapist to assist the pregnant minor in addressing any intrafamilial problems. All costs of services provided by a court-appointed licensed marital and family therapist shall be paid by the court through the expenditure of funds appropriated to the judicial branch.

k. Venue for proceedings under this section is in any court in the state.

l. The supreme court shall prescribe rules to ensure that the proceedings under this section are performed in an expeditious and confidential manner. The rules shall require that the hearing on the petition shall be held and the court shall rule on the petition within forty-eight hours of the filing of the petition. If the court fails to hold the hearing and rule on the petition within forty-eight hours of the filing of the petition and an extension is not requested, the petition is deemed granted and waiver of the notification requirements is deemed authorized. The court shall immediately provide documentation to the pregnant minor and to the pregnant minor's legal counsel if the pregnant minor is represented by legal counsel, demonstrating that the petition is deemed granted and that waiver of the notification requirements is deemed authorized. Resolution of a petition for authorization of waiver of the notification requirement shall be completed within ten calendar days as calculated from the day after the filing of the petition to the day of issuance of any final decision on appeal.

m. The requirements of this section regarding notification of a parent of a pregnant minor prior to the performance of an abortion on a pregnant minor do not apply if any of the following applies:

(1) The abortion is authorized in writing by a parent entitled to notification.

(2) (a) The pregnant minor declares, in a written statement submitted to the attending physician, a reason for not notifying a parent and a reason for notifying a grandparent of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the attending physician shall provide notification to a grandparent of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(b) The notification form shall be in duplicate and shall include both of the following:

(i) A declaration which informs the grandparent of the pregnant minor that the grandparent of the pregnant minor may be subject to civil action if the grandparent accepts notification.

(ii) A provision that the grandparent of the pregnant minor may refuse acceptance of notification.

(3) The pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion, and places the written certification in the medical file of the pregnant minor.

(4) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 and shall not release any information in response to a request for public records, discovery procedures, subpoena, or any other means, unless the release of information is expressly authorized by the pregnant minor regarding the pregnant minor's pregnancy and abortion, if the abortion is obtained. A person who knowingly violates the confidentiality provisions of this subparagraph is guilty of a serious misdemeanor.

(5) The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in chapter 709 and has reported the sexual abuse to law enforcement.

n. A licensed physician who knowingly performs an abortion in violation of this section is guilty of a serious misdemeanor.

o. All records and files of a court proceeding maintained under this section shall be

destroyed by the clerk of court when one year has elapsed from any of the following, as applicable:

- (1) The date that the court issues an order waiving the notification requirements.
- (2) The date after which the court denies the petition for waiver of notification and the decision is not appealed.
- (3) The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

p. A person who knowingly violates the confidentiality requirements of this section relating to court proceedings and documents is guilty of a serious misdemeanor.

96 Acts, ch 1011, §4, 14; 96 Acts, ch 1174, §2; 97 Acts, ch 173, §3 – 11; 98 Acts, ch 1047, §17
Referred to in §232.5, 602.8102(31)