

Department of Legislative Services  
 Maryland General Assembly  
 2000 Session

FISCAL NOTE

Senate Bill 758 (Senator Hooper. *et al.*)

Judicial Proceedings

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Abortion - Minors - Parental Notification

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This bill expands the current parental notification requirement for a physician when a minor seeks an abortion. The bill includes conditions for the Family Law Division of a circuit court to grant waivers for parental notification and sets forth appeal procedures for denied waiver petitions. It also requires the Department of Health and Mental Hygiene (DHMH) to develop and provide a fact sheet on the notification procedures to physicians, agencies, and family planning service facilities for free distribution to unmarried pregnant minors who seek abortion services. Violators of any provision of the bill are guilty of a misdemeanor and subject to a maximum fine of \$1,000.

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Fiscal Summary

**State Effect:** General fund expenditures increase by \$10,700 in FY 2001 for DHMH to prepare and distribute a fact sheet. Future year expenditures reflect inflation. Minimal increase in general fund revenues due to the bill's penalty provision.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditures	10,700	14,000	14,100	14,200	14,400
Net Effect	(\$10,700)	(\$14,000)	(\$14,100)	(\$14,200)	(\$14,400)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None.

**Small Business Effect:** Minimal.

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## **Analysis**

**Bill Summary:** A physician is prohibited from performing an abortion on an unmarried minor until 48 hours after the physician gives written notice of the pending operation to the parent or guardian of the minor. The 48-hour period begins at noon on the next regular mail delivery day after the day the notice has a postmark from the U.S. Postal Service.

The notice must be either hand delivered by the physician or mailed by certified mail, with return receipt requested and restricted delivery to the addressee.

The physician may perform the procedure without giving notice to a parent or guardian if: (1) the parent or guardian signs a notarized acknowledgment that notice was received; or (2) if the procedure is necessary to prevent the death of the minor. Minors seeking a waiver of parental notification must petition a circuit court family law judge and present a statement in the petition that the minor is pregnant and unmarried. The court is to inform the minor of the availability of a court-appointed guardian or permit the minor to represent herself before the court. The court must inform the minor of the right to court-appointed counsel and provide it if requested. The court is prohibited from charging the minor a filing fee for the proceeding and the petition request proceeding is to take precedence over other pending matters of the court.

The court must make written factual findings within 48 hours of the filing of the motion; if the court fails to act within 48 hours, the petition is granted, the notice requirement is waived, and the judge must order a record of evidence be maintained. The waiver will be authorized if the judge finds by clear and convincing evidence that: (1) the minor is mature enough to make the decision about the abortion; (2) there is evidence of abuse of the minor by the parent, guardian, or legal custodian; or (3) the parental notification is not in the best interest of the minor. If such a finding is not made by the judge, the petition for waiver is dismissed and parental notification must be given.

The bill requires the court to make an expedited confidential appeal available to a minor denied a notification waiver and court access for such an appeal is to be provided on an emergency basis in accordance with Maryland rules.

DHMH must prepare a fact sheet for distribution to unmarried pregnant minors who seek abortion services which must contain information, including but not limited to, an explanation of: (1) the parental notification requirements; (2) waiver of parental notification requirements; (3) the rights of the minor to participate in the proceedings; (4) the right to a court-appointed guardian; (5) the right to court-appointed counsel; and (6) petitioning procedures.

A physician may not be held liable if the physician establishes by written evidence that every effort was made, with reasonable diligence, to deliver notice, but was unable to do so. The

Board of Physician Quality Assurance must maintain a record of any physician who violates the provisions of this bill and may refer the matter to the Attorney General for enforcement.

**Current Law:** A physician is required to give parental notice when a minor seeks an abortion. The physician must make a reasonable effort to attempt to give notice by certified mail to the last known address of the parent or guardian of the minor. The physician can perform the abortion without parental notification if the minor does not live with the parent or guardian and reasonable efforts to provide notice were unsuccessful. The physician can perform the abortion without parental notification if, in the professional judgement of the physician: (1) notice to the parent or guardian would result in abuse of the minor by the parent or guardian; (2) the minor is mature and capable of giving informed consent to an abortion; or (3) notification would not be in the best interest of the minor.

**State Revenues:** General fund revenues could increase minimally under the bill's monetary penalty provision for those cases heard in the District Court.

**State Expenditures:** General fund expenditures increase by \$10,700 to prepare a fact sheet for distribution to unmarried pregnant minors who seek abortion services, which reflects the bill's October 1, 2000, effective date. The estimate includes the cost of printing in both Spanish and English, and mailing the notices. Any increase in DHMH staff time or duties could be handled using existing budgeted resources. The fact sheets will be in booklet form and provided at no cost to physicians, agencies, and family planning service facilities for distribution to unmarried pregnant minors who seek abortion services.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General, Department of Health and Mental Hygiene (Community and Public Health Administration), Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2000  
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