

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

Senate Bill 643 (Senator Hooper, *et al.*)
 Judicial Proceedings

Abortion - Minors - Parental Notification

This bill expands the current parental notification requirement for a physician when a minor seeks an abortion. The bill includes conditions for 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.

Fiscal Summary

State Effect: General fund expenditures increase by \$10,700 in FY 2002 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 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	-	-	-	-	-
GF Expenditure	10,700	13,900	14,100	14,200	14,400
Net Effect	(\$10,700)	(\$13,900)	(\$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.

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 procedure 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 is postmarked by 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. A minor may seek waiver of parental notification from a circuit court. The court may appoint an attorney for the minor or permit the minor to represent herself. The court is prohibited from charging the minor a filing fee or costs for the proceeding. Such a court proceeding is to be confidential and 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 for waiver of parental notification. If the court fails to rule within 48 hours, the petition is granted, the notice requirement is waived. The court must authorize a waiver of parental notification if the court 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 a pattern of abuse of the minor by the parent, guardian, or legal custodian; or (3) the parental notification is not in the best interests of the minor. If such a finding is not made by the court, the petition for waiver must be dismissed and parental notification must be given.

The bill requires that an expedited confidential appeal be available to a minor denied a notification waiver.

DHMH must prepare a fact sheet for distribution to unmarried pregnant minors who seek abortion services. The fact sheet must contain an explanation of: (1) the option to seek waiver of parental notification; (2) the rights of the minor to participate in the proceedings; (3) the right to court-appointed counsel; and (4) petitioning procedures. DHMH is required to distribute the fact sheet, at no charge, to specified medical facilities, agencies, and physician's offices. The physician who is responsible for providing parental notification must provide a copy of this fact sheet to the minor when the minor initially requests abortion services.

A physician may not be held liable if the physician establishes by written evidence that the physician made every effort, 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.

A person who violates any provision of this bill is guilty of a misdemeanor and subject to a fine of up to \$1,000.

Current Law: A physician may not perform an abortion on an unmarried minor unless the physician first gives notice to a parent or guardian of the minor. The physician may perform the abortion without parental notification if the minor does not live with the parent or guardian and a reasonable effort to provide notice is unsuccessful. The physician may perform the abortion without parental notification if, in the professional judgement of the physician: (1) notice to the parent or guardian may lead to physical or emotional abuse of the minor; (2) the minor is mature and capable of giving informed consent to an abortion; or (3) notification would not be in the best interests 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 would increase by \$10,700 to prepare a fact booklet for distribution to unmarried pregnant minors who seek abortion services. The estimate reflects the bill's October 1, 2001 effective date and includes the cost of printing in both Spanish and English, and postage. Future year expenditures reflect annualization and inflation. The Judiciary advises that it would forego \$110 in filing fees in each case and possibly incur an additional \$600 in attorneys fees for providing counsel to the minor. It is expected that such costs could be absorbed within the Judiciary's existing budget.

Additional Information

Prior Introductions: A similar bill was introduced during the 2000 session as SB 758. The Judicial Proceedings Committee held a hearing, but no further action was taken.

Cross File: None.

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

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