

---

By: Delegates Bohanan, Aumann, Bartlett, Bates, Boschert, Boteler,  
Bozman, Bromwell, Burns, Cluster, Conroy, Costa, DeBoy, Donoghue,  
Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman,  
Haddaway, Hogan, Impallaria, Jameson, Jennings, Kach, Kelly, Kohl,  
Krebs, Leopold, Levy, Mayer, McComas, McConkey, McDonough, McKee,  
McMillan, Miller, Minnick, Myers, O'Donnell, Parrott, Proctor, Shank,  
Shewell, Smigel, Sophocleus, Sossi, Stocksdales, Stull, Trueschler,  
Walkup, Weir, Weldon, and Wood

Introduced and read first time: February 9, 2006  
Assigned to: Health and Government Operations

---

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health - Abortion - Parental Notice**

3 FOR the purpose of prohibiting a physician from performing an abortion on an  
4 unmarried minor unless the physician gave certain notice to a parent of the  
5 minor; authorizing a physician to perform an abortion on a minor under certain  
6 circumstances; providing that a minor may not be coerced to have an abortion;  
7 providing that a minor shall be deemed emancipated if the minor is denied  
8 financial support from a parent for a certain reason; authorizing a minor to file  
9 a certain petition with a certain court for a certain waiver; requiring the petition  
10 to include a certain statement about the minor; requiring the court to assign the  
11 petition to a certain division under certain circumstances; requiring the court to  
12 advise the minor of certain rights regarding legal counsel; authorizing the court  
13 to permit the minor to represent herself; prohibiting the court from imposing  
14 certain fees and costs; requiring a certain proceeding to be confidential to ensure  
15 the anonymity of a certain minor and to take precedence over other pending  
16 matters; requiring the court to issue a decision within a certain period of time;  
17 authorizing the minor to request an extension of this period of time; providing  
18 that the petition is granted if the court fails to rule within a certain period of  
19 time; requiring the court to order that a certain record be maintained; requiring  
20 the court to authorize a waiver of a certain notification requirement if there is a  
21 pattern of certain abuse of the minor; dismissing the petition under certain  
22 circumstances; authorizing a certain appeal; requiring the Department of  
23 Health and Mental Hygiene to prepare a certain fact sheet; requiring that the  
24 fact sheet be written in terms generally understood by a certain minor and  
25 explain a certain parental notification requirement; requiring that the fact sheet  
26 include certain information; requiring the Department to distribute the fact  
27 sheet to certain entities; requiring a physician to provide the fact sheet to a  
28 certain minor; making it a misdemeanor to violate this Act; providing certain

1 penalties; exempting a certain physician from certain liability under certain  
2 circumstances; defining certain terms; and generally relating to the  
3 requirement for parental notice when an unmarried minor seeks an abortion.

4 BY repealing and reenacting, with amendments,  
5 Article - Health - General  
6 Section 20-103  
7 Annotated Code of Maryland  
8 (2005 Replacement Volume and 2005 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Health - General**

12 20-103.

13 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (2) "ACTUAL NOTICE" MEANS A PARENT HAS ACCOMPANIED THE MINOR  
16 TO A CONSULTATION WITH A PHYSICIAN DURING WHICH THE ABORTION DECISION IS  
17 CONSIDERED AND NOTICE IS GIVEN DIRECTLY TO THE PARENT FROM THE  
18 PHYSICIAN.

19 (3) "CONSTRUCTIVE NOTICE" MEANS NOTICE HAS BEEN SENT BY  
20 CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF A PARENT WITH RETURN  
21 RECEIPT REQUESTED AND RESTRICTED DELIVERY TO THE ADDRESSEE.

22 (4) "MEDICAL EMERGENCY" MEANS A CONDITION THAT, ON THE BASIS  
23 OF THE PHYSICIAN'S GOOD FAITH CLINICAL JUDGMENT, SO COMPLICATES THE  
24 MEDICAL CONDITION OF A PREGNANT MINOR AS TO NECESSITATE THE IMMEDIATE  
25 ABORTION OF HER PREGNANCY TO AVERT HER DEATH OR FOR WHICH A DELAY WILL  
26 CREATE A SERIOUS RISK OF SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A  
27 MAJOR BODILY FUNCTION.

28 (5) "PARENT" MEANS:

29 (I) A NATURAL OR ADOPTIVE PARENT WHOSE RIGHTS HAVE NOT  
30 BEEN TERMINATED; OR

31 (II) A LEGAL GUARDIAN.

32 (B) (1) Except as provided in [subsections (b) and] SUBSECTION (c) of this  
33 section, a physician may not perform an abortion on an unmarried minor unless:

34 (I) [the] THE physician [first gives] GAVE ACTUAL notice OF THE  
35 PENDING PROCEDURE to a parent [or guardian] of the minor; OR

1 (II) 48 HOURS HAVE ELAPSED SINCE THE PHYSICIAN GAVE  
2 CONSTRUCTIVE NOTICE OF THE PENDING PROCEDURE TO A PARENT OF THE MINOR.

3 (2) THE 48-HOUR PERIOD REQUIRED UNDER PARAGRAPH (1)(II) OF THIS  
4 SUBSECTION SHALL BEGIN AT NOON ON THE NEXT DAY THAT REGULAR MAIL  
5 DELIVERY TAKES PLACE FOLLOWING THE DAY THAT THE NOTICE IS POSTMARKED  
6 BY THE UNITED STATES POSTAL SERVICE.

7 [(b)] (C) [The] A physician may perform [the] AN abortion ON A MINOR  
8 without GIVING notice to a parent [or guardian] if:

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

10 (2) A reasonable effort to give notice to a parent or guardian is  
11 unsuccessful.]

12 (1) THE PHYSICIAN RECEIVES A WRITTEN STATEMENT FROM THE  
13 PARENT THAT WAS NOTARIZED WITHIN THE LAST 30 DAYS STATING THAT THE  
14 PARENT IS AWARE OF THE PENDING PROCEDURE;

15 (2) THE PHYSICIAN CERTIFIES IN THE MINOR'S MEDICAL RECORD THAT  
16 A MEDICAL EMERGENCY EXISTS AND THERE IS INSUFFICIENT TIME TO PROVIDE THE  
17 REQUIRED NOTICE; OR

18 (3) NOTICE IS WAIVED UNDER SUBSECTION (F) OR (G) OF THIS SECTION.

19 (D) (1) A MINOR MAY NOT BE COERCED TO HAVE AN ABORTION.

20 (2) IF A MINOR IS DENIED FINANCIAL SUPPORT BY THE MINOR'S  
21 PARENT DUE TO THE MINOR'S REFUSAL TO HAVE AN ABORTION, THE MINOR SHALL  
22 BE DEEMED EMANCIPATED FOR THE PURPOSES OF ELIGIBILITY FOR PUBLIC  
23 ASSISTANCE BENEFITS.

24 (E) (1) A MINOR MAY FILE A PETITION WITH THE CIRCUIT COURT FOR THE  
25 COUNTY WHERE THE MINOR RESIDES OR WHERE THE PHYSICIAN'S OFFICE IS  
26 LOCATED TO SEEK A WAIVER OF THE PARENTAL NOTIFICATION REQUIRED UNDER  
27 SUBSECTION (B) OF THIS SECTION.

28 (2) THE PETITION SHALL INCLUDE A STATEMENT THAT THE MINOR IS  
29 PREGNANT AND IS UNMARRIED.

30 (3) A PETITION FILED IN A COURT THAT HAS A FAMILY DIVISION SHALL  
31 BE ASSIGNED TO THE FAMILY DIVISION.

32 (4) (I) THE COURT SHALL ADVISE THE MINOR OF THE MINOR'S RIGHT  
33 TO COURT-APPOINTED COUNSEL AND SHALL, ON THE MINOR'S REQUEST, APPOINT  
34 COUNSEL.

35 (II) THE COURT MAY PERMIT THE MINOR TO REPRESENT HERSELF.

1           (5)     THE COURT MAY NOT IMPOSE A FILING FEE OR COSTS ON A MINOR  
2 WHO FILES A PETITION FOR WAIVER OF PARENTAL NOTIFICATION UNDER THIS  
3 SUBSECTION.

4           (6)     COURT PROCEEDINGS UNDER THIS SECTION SHALL:

5                   (I)     BE CONFIDENTIAL;

6                   (II)    ENSURE THE ANONYMITY OF THE MINOR; AND

7                   (III)   BE GIVEN PRECEDENCE OVER OTHER PENDING MATTERS SO  
8 THAT THE COURT MAY REACH A PROMPT DECISION TO SERVE THE BEST INTEREST  
9 OF THE MINOR.

10       (F)     (1)     THE COURT SHALL ISSUE A DECISION INCLUDING WRITTEN  
11 FACTUAL FINDINGS AND LEGAL CONCLUSIONS IN A PROCEEDING UNDER THIS  
12 SECTION WITHIN 48 HOURS NOT INCLUDING WEEKENDS AND HOLIDAYS FOLLOWING  
13 THE FILING OF THE PETITION UNDER SUBSECTION (E) OF THIS SECTION UNLESS  
14 THIS TIME PERIOD IS EXTENDED AT THE REQUEST OF THE MINOR.

15           (2)     (I)     IF THE COURT FAILS TO RULE WITHIN 48 HOURS, NOT  
16 INCLUDING WEEKENDS AND HOLIDAYS, AND THE TIME IS NOT EXTENDED, THE  
17 PETITION IS GRANTED AND THE NOTICE REQUIREMENT SHALL BE WAIVED.

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

21       [(c)]    (G)     (1)     [The physician may perform the abortion, without notice to a  
22 parent or guardian of a minor if, in the professional judgment of the physician] THE  
23 COURT SHALL AUTHORIZE A WAIVER OF PARENTAL NOTIFICATION IF THE COURT  
24 FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT:

25                   (i)     [Notice to the parent or guardian may lead to physical or  
26 emotional abuse of the minor] THERE IS A PATTERN OF PHYSICAL, SEXUAL, OR  
27 EMOTIONAL ABUSE OF THE MINOR BY THE PARENT;

28                   (ii)    The minor is SUFFICIENTLY mature [and capable of giving  
29 informed consent] to DECIDE WHETHER TO HAVE an abortion; or

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

31           (2)     IF THE COURT DOES NOT MAKE A FINDING SPECIFIED UNDER  
32 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL DISMISS THE PETITION  
33 AND NOTICE SHALL BE REQUIRED IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
34 SECTION.

35       (H)     AN EXPEDITED, CONFIDENTIAL APPEAL SHALL BE AVAILABLE TO A  
36 MINOR FOR WHOM THE COURT DENIES AN ORDER WAIVING PARENTAL  
37 NOTIFICATION, IN ACCORDANCE WITH THE MARYLAND RULES.

1 (I) (1) THE DEPARTMENT SHALL PREPARE A FACT SHEET FOR  
2 DISTRIBUTION TO UNMARRIED PREGNANT MINORS WHO SEEK AN ABORTION.

3 (2) THE FACT SHEET SHALL BE WRITTEN IN TERMS GENERALLY  
4 UNDERSTOOD BY A MINOR AND SHALL EXPLAIN THE PARENTAL NOTIFICATION  
5 REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

6 (3) THE FACT SHEET SHALL INCLUDE:

7 (I) THAT A MINOR MAY SEEK A WAIVER OF PARENTAL  
8 NOTIFICATION FROM THE CIRCUIT COURT FOR THE COUNTY WHERE THE MINOR  
9 RESIDES OR WHERE THE PHYSICIAN'S OFFICE IS LOCATED;

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

12 (III) THAT A MINOR HAS A RIGHT TO COURT-APPOINTED COUNSEL,  
13 WHICH SHALL BE PROVIDED TO THE MINOR ON REQUEST;

14 (IV) THE PROCEDURE FOR PETITIONING THE COURT; AND

15 (V) THAT THE COURT'S DECISION MUST BE REACHED WITHIN 48  
16 HOURS NOT INCLUDING WEEKENDS AND HOLIDAYS, OF THE TIME THE PETITION IS  
17 FILED UNLESS THE TIME PERIOD IS EXTENDED AT THE REQUEST OF THE MINOR.

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

22 (2) THE PHYSICIAN WHO IS RESPONSIBLE FOR PROVIDING NOTICE  
23 UNDER SUBSECTION (B) OF THIS SECTION SHALL PROVIDE THE MINOR WITH A COPY  
24 OF THE FACT SHEET AT THE TIME THE MINOR INITIALLY REQUESTS AN ABORTION.

25 (K) A PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS GUILTY OF A  
26 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

27 [(2)] (L) [The] A physician [is] MAY not BE HELD liable for civil  
28 damages or subject to a criminal penalty for a decision [under this subsection] not to  
29 give notice UNDER SUBSECTION (B) OF THIS SECTION IF THE PHYSICIAN  
30 ESTABLISHES BY WRITTEN EVIDENCE THAT THE PHYSICIAN HAS MADE EVERY  
31 EFFORT, WITH REASONABLE DILIGENCE, TO DELIVER NOTICE BUT HAS BEEN  
32 UNABLE TO DO SO.

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
4 effect October 1, 2006.