

# MINNESOTA

“[U]nder our interpretation of the Minnesota Constitution's guaranteed right to privacy, the difficult decision whether to obtain a therapeutic abortion will not be made by the government, but will be left to the woman and her doctor.” *Women of the State v. Gomez*, 542 N.W.2d 17, 32 (Minn. 1995).

## **Minn. Stat. Ann. § 144.343 PREGNANCY, VENEREAL DISEASE, ALCOHOL OR DRUG ABUSE, ABORTION**

**Subdivision 1. *Minor's consent valid.*** — Any minor may give effective consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse, and the consent of no other person is required.

**Subd. 2. *Notification concerning abortion.*** — Notwithstanding the provisions of section 13.02, subdivision 8, no abortion operation shall be performed upon an unemancipated minor or upon a woman for whom a guardian has been appointed pursuant to sections 524.5-101 to 524.5-502 because of a finding of incapacity, until at least 48 hours after written notice of the pending operation has been delivered in the manner specified in subdivisions 2 to 4.

(a) The notice shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent.

(b) In lieu of the delivery required by clause (a), notice shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee which means postal employee can only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

**Subd. 3. *Parent, abortion; definitions.*** —

(a) For purposes of this section, “parent” means both parents of the pregnant woman if they are both living, one parent of the pregnant woman if only one is living or if the second one cannot be located through reasonably diligent effort, or the guardian or conservator if the pregnant woman has one.

(b) For purposes of this section, “abortion” means the use of any means to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus and “fetus” means any individual human organism from fertilization until birth.

**Subd. 4. *Limitations.***— No notice shall be required under this section if:

- (1) the attending physician certifies in the pregnant woman’s medical record that the abortion is necessary to prevent the woman’s death and there is insufficient time to provide the required notice; or
- (2) the abortion is authorized in writing by the person or persons who are entitled to notice; or
- (3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or physical abuse as defined in chapter 260E. Notice of that declaration shall be made to the proper authorities as provided in section 260E.06.

**Subd. 5. *Penalty.*** — Performance of an abortion in violation of this section shall be a misdemeanor and shall be grounds for a civil action by a person wrongfully denied notification. A person shall not be held liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant woman regarding information necessary to comply with this section are bona fide and true, or if the person has attempted with reasonable diligence to deliver notice, but has been unable to do so.

**Subd. 6. *Substitute notification provisions.*** — If subdivision 2 of this law is ever temporarily or permanently restrained or enjoined by judicial order, subdivision 2 shall be enforced as though the following paragraph were incorporated as paragraph (c) of that subdivision; provided, however, that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, subdivision 2 shall have full force and effect, without being modified by the addition of the following substitute paragraph which shall have no force or effect until or unless an injunction or restraining order is again in effect.

(c)(1) If such a pregnant woman elects not to allow the notification of one or both of her parents or guardian or conservator, any judge of a court of competent jurisdiction shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if said judge determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion. If said judge determines that the pregnant woman is not mature, or if the pregnant woman does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notification of her parents, guardian, or conservator would be in her best interests and shall authorize a physician to perform the abortion without such notification if said judge concludes that the pregnant woman’s best interests would be served thereby.

(2) Such a pregnant woman may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel.

(3) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant woman. A judge of the court who conducts proceedings under this section shall make in writing specific factual findings and legal

conclusions supporting the decision and shall order a record of the evidence to be maintained including the judge's own findings and conclusions.

(4) An expedited confidential appeal shall be available to any such pregnant woman for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant woman at either the trial or the appellate level. Access to the trial court for the purposes of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant woman 24 hours a day, seven days a week.

**Subd. 7. Severability.** — If any provision, word, phrase or clause of this section or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses or application of this section which can be given effect without the invalid provision, word, phrase, clause, or application, and to this end the provisions, words, phrases, and clauses of this section are declared to be severable.

***History:***

[1971 c 544 s 3](#); [1981 c 228 s 1](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1986 c 444](#); [2004 c 146 art 3 s 1](#); [1Sp2020 c 2 art 8 s 20](#)

**NOTE:** The two-parent notification requirement in subdivision 2 was found constitutional by incorporation of paragraph (c) of subdivision 6. *Hodgson v. Minnesota*, 497 U.S. 417 (1990), but see also *Dobbs v. Jackson Women's Health Organization*, 142 S.Ct. 2228 (2022).

**Minn. Stat. Ann. § 145.409 REPRODUCTIVE HEALTH RIGHTS.**

**Subdivision 1. Short title.** — This section may be cited as the “Protect Reproductive Options Act.”

**Subd. 2. Definition.** — For purposes of this section, “reproductive health care” means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. Reproductive health care includes, but is not limited to, contraception; sterilization; preconception care; maternity care; abortion care; family planning and fertility services; and counseling regarding reproductive health care.

**Subd. 3. Reproductive freedom.**

(a) Every individual has a fundamental right to make autonomous decisions about the individual's own reproductive health, including the fundamental right to use or refuse reproductive health care.

(b) Every individual who becomes pregnant has a fundamental right to continue the pregnancy and give birth, or obtain an abortion, and to make autonomous decisions about how to exercise this fundamental right.

**Subd. 4. Right to reproductive freedom recognized.** — The Minnesota Constitution establishes the principles of individual liberty, personal privacy, and equality. Such principles ensure the

fundamental right to reproductive freedom.

**Subd. 5. *Local unit of government limitation.*** — A local unit of government may not regulate an individual’s ability to freely exercise the fundamental rights set forth in this section in a manner that is more restrictive than that set forth in this section.

*History:*

[2023 c 4 s 1](#)

## **Minn. Stat. Ann. § 145.411 REGULATION OF ABORTIONS; DEFINITIONS**

**Subdivision 1. *Terms.*** — As used in sections 145.411 to 145.416, the terms defined in this section have the meanings given to them.

**Subd. 2. *Viable.*** — “Viable” means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially “viable.”

**Subd. 3. *Hospital.*** — “Hospital” means an institution licensed by the state commissioner of health; adequately and properly staffed and equipped; providing services, facilities and beds for the reception and care of one or more nonrelated persons for a continuous period longer than 24 hours for diagnosis, treatment or care of illness, injury or pregnancy; and regularly providing clinical laboratory services, diagnostic x-ray services and treatment facilities for surgery, obstetrical care or other definitive medical treatment of similar extent. “Hospital” shall not include diagnostic or treatment centers, physicians’ offices or clinics, or other facilities for the foster care of children licensed by the commissioner of human services.

**Subd. 4. *Abortion facility.*** — “Abortion facility” means those places properly recognized and licensed by the state commissioner of health under lawful rules promulgated by the commissioner for the performance of abortions.

**Subd. 5. *Abortion.*** — “Abortion” includes an act, procedure or use of any instrument, medicine or drug which is supplied or prescribed for or administered to a pregnant woman which results in the termination of pregnancy.

**Subd. 6. *Commissioner.*** — “Commissioner” means the commissioner of health.

## **Minn. Stat. § 145.4131 RECORDING AND REPORTING ABORTION DATA**

### **Subdivision 1. *Forms.***

(a) Within 90 days of July 1, 1998, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

(1) the number of abortions performed by the physician in the previous calendar year, reported by month;

- (2) the method used for each abortion;
- (3) the approximate gestational age expressed in one of the following increments:
  - (i) less than nine weeks;
  - (ii) nine to ten weeks;
  - (iii) 11 to 12 weeks;
  - (iv) 13 to 15 weeks;
  - (v) 16 to 20 weeks;
  - (vi) 21 to 24 weeks;
  - (vii) 25 to 30 weeks;
  - (viii) 31 to 36 weeks; or
  - (ix) 37 weeks to term;
- (4) the age of the woman at the time the abortion was performed;
- (5) the specific reason for the abortion, including, but not limited to, the following:
  - (i) the pregnancy was a result of rape;
  - (ii) the pregnancy was a result of incest;
  - (iii) economic reasons;
  - (iv) the woman does not want children at this time;
  - (v) the woman's emotional health is at stake;
  - (vi) the woman's physical health is at stake;
  - (vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;
  - (viii) the pregnancy resulted in fetal anomalies; or
  - (ix) unknown or the woman refused to answer;
- (6) the number of prior induced abortions;
- (7) the number of prior spontaneous abortions;
- (8) whether the abortion was paid for by:
  - (i) private coverage;
  - (ii) public assistance health coverage; or
  - (iii) self-pay;
- (9) whether coverage was under:
  - (i) a fee-for-service plan;
  - (ii) a capitated private plan; or
  - (iii) other;
- (10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form;
- (11) the medical specialty of the physician performing the abortion;
- (12) if the abortion was performed via telemedicine, the facility code for the patient and the facility code for the physician; and
- (13) whether the abortion resulted in a born alive infant, as defined in section 145.423, subdivision 4, and:
  - (i) any medical actions taken to preserve the life of the born alive infant;
  - (ii) whether the born alive infant survived; and
  - (iii) the status of the born alive infant, should the infant survive, if known.

**Subd. 2. Submission.** — A physician performing an abortion or a facility at which an abortion is performed shall complete and submit the form to the commissioner no later than April 1 for abortions performed in the previous calendar year. The annual report to the commissioner shall

include the methods used to dispose of fetal tissue and remains.

**Subd. 3. *Additional reporting.*** — Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

### **Minn. Stat. Ann. § 145.414 ABORTION NOT MANDATORY**

(a) No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

(b) It is the policy of the state of Minnesota that no health plan company as defined under section 62Q.01, subdivision 4, or health care cooperative as defined under section 62R.04, subdivision 2, shall be required to provide or provide coverage for an abortion. No provision of this chapter; of chapter 62A, 62C, 62D, 62H, 62L, 62M, 62N, 62R, 62V, 64B, or of any other chapter; of Minnesota Rules; or of Laws [1995, chapter 234](#), shall be construed as requiring a health plan company as defined under section 62Q.01, subdivision 4, or a health care cooperative as defined under section 62R.04, subdivision 2, to provide or provide coverage for an abortion.

(c) This section supersedes any provision of Laws [1995, chapter 234](#), or any act enacted prior to enactment of Laws [1995, chapter 234](#), that in any way limits or is inconsistent with this section. No provision of any act enacted subsequent to Laws [1995, chapter 234](#) shall be construed as in any way limiting or being inconsistent with this section, unless the act amends this section or expressly provides that it is intended to limit or be inconsistent with this section.

### **145.423 RECOGNITION OF INFANT WHO IS BORN ALIVE.**

#### ***Subdivision 1. Recognition; care.***

An infant who is born alive shall be fully recognized as a human person, and accorded immediate protection under the law. All reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, shall be taken by the responsible medical personnel to care for the infant who is born alive.

#### ***Subd. 2.***

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

#### ***Subd. 3.***

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

#### ***Subd. 4.***

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

#### ***Subd. 5.***

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

*Subd. 6.*

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

*Subd. 7.*

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

*Subd. 8.*

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

*Subd. 9.*

MS 2022 [Repealed, [2023 c 70 art 4 s 113](#)]

***History:***

[1976 c 170 s 1](#); [1997 c 215 s 4](#); [2015 c 71 art 8 s 44](#); [2023 c 70 art 4 s 56,112](#)