

Florida

Jane Doe v. James Uthmeier, Attorney General (Case No. 5d2025-1363, May, 2025). Appellant (“Minor”), an unemancipated 17-year-old pregnant female, petitioned the circuit court for judicial waiver so that she may consent to an abortion without notification to, or consent from, her father. After a hearing at which Minor testified, the circuit court found her testimony inconsistent and not credible, and it determined that she failed to establish entitlement to a judicial waiver.

Planned Parenthood of Southwest and Central Florida, et al. v. State of Florida, et. al., Case No. SC22-1050 (Fla. April 1, 2024) Florida Supreme Court. Petitioners challenged the recently amended statute restricting abortion to 15 weeks (390.0111 (1) (2022)). The Court held that under the privacy clause of the Florida Constitution there is no right to an abortion. § 390.0111 (1) (2022) is not invalid.

Advisory Opinion to the Attorney General RE: Limiting Government Interference With Abortion, No. SC2023-1392, (Fla. April 1, 2024)

Proposed amendment creating a new section in the Florida Constitution, Art. I, “Amendment to Limit Government Interference with Abortion” is approved for placement on the ballot.

https://supremecourt.flcourts.gov/content/download/2285282/opinion/Opinion_SC2023-1392.pdf

Title XIX. Public Business (Ch. 279-290) Chapter 286. Miscellaneous provisions (§§ 286.001 — 286.311).

§ 286.31. Prohibited use of state funds; travel to another state for purpose of abortion services.

(1) As used in this section, the term:

(a) “Educational institution” means public institutions under the control of a district school board, a charter school, a state university, a developmental research school, a Florida College System institution, the Florida School for the Deaf and the Blind, the Florida Virtual School, private school readiness programs, voluntary prekindergarten programs, private K-12 schools, and private colleges and universities.

(b) “Governmental entity” means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; and any agencies that are subject to this chapter.

(2) Any person, governmental entity, or educational institution may not expend state funds as defined in s. 215.31 in any manner for a person to travel to another

state to receive services that are intended to support an abortion as defined in s. 390.011, unless:

- (a) The person, governmental entity, or educational institution is required by federal law to expend state funds for such a purpose; or
- (b) There is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or to avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition.

Title XXIX. Public health (Chs. 381 — 408) Chapter 390. Termination of pregnancies (§§ 390.011 — 390.025)

§ 390.011. Definitions.

As used in this chapter, the term:

- (1) "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.
- (2) "Abortion clinic" or "clinic" means any facility in which abortions are performed. The term does not include:
 - (a) A hospital; or
 - (b) A physician's office, provided that the office is not used primarily for the performance of abortions.
- (3) "Agency" means the Agency for Health Care Administration.
- (4) "Born alive" means the complete expulsion or extraction from the mother of a human infant, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, or definite and voluntary movement of muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, induced abortion, or other method.
- (5) "Department" means the Department of Health.
- (6) "Fatal fetal abnormality" means a terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter.
- (7) "Gestation" means the development of a human embryo or fetus as calculated from the first day of the pregnant woman's last menstrual period.
- (8) "Hospital" means a facility as defined in s. 395.002(12) and licensed under chapter 395 and part II of chapter 408.
- (9) "Medical abortion" means the administration or use of an abortion-inducing drug to induce an abortion.
- (10) "Partial-birth abortion" means a termination of pregnancy in which the physician performing the termination of pregnancy partially vaginally

delivers a living fetus before killing the fetus and completing the delivery.

(11) “Physician” means a physician licensed under chapter 458 or chapter 459 or a physician practicing medicine or osteopathic medicine in the employment of the United States.

(12) “Reasonable medical judgment” means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(13) “Standard medical measure” means the medical care that a physician would provide based on the particular facts of the pregnancy, the information available to the physician, and the technology reasonably available in a hospital, as defined in s. 395.002, with an obstetrical department, to preserve the life and health of the fetus, with or without temporary artificial life- sustaining support, if the fetus were born at the same stage of fetal development.

(14) “Trimester” means one of the following three distinct periods of time in the duration of a pregnancy:

(a) “First trimester,” which is the period of time from fertilization through the end of the 11th week of gestation.

(b) “Second trimester,” which is the period of time from the beginning of the 12th week of gestation through the end of the 23rd week of gestation.

(c) “Third trimester,” which is the period of time from the beginning of the 24th week of gestation through birth.

(15) “Viable” or “viability” means the stage of fetal development when the life of a fetus is sustainable outside the womb through standard medical measures.

Fla. Stat. Ann. § 390.011 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.011. Termination of pregnancies.

(1) Termination after gestational age of 6 weeks; when allowed. A physician may not knowingly perform or induce a termination of pregnancy if the physician determines the gestational age of the fetus is more than 6 weeks unless one of the following conditions is met:

(a) Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman’s life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition.

(b) The physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the

pregnancy to save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(c) The pregnancy has not progressed to the third trimester and two physicians certify in writing that, in reasonable medical judgment, the fetus has a fatal fetal abnormality.

(d) The pregnancy is the result of rape, incest, or human trafficking and the gestational age of the fetus is not more than 15 weeks as determined by the physician. At the time the woman schedules or arrives for her appointment to obtain the abortion, she must provide a copy of a restraining order, police report, medical record, or other court order or documentation providing evidence that she is obtaining the termination of pregnancy because she is a victim of rape, incest, or human trafficking. If the woman is 18 years of age or older, the physician must report any known or suspected human trafficking to a local law enforcement agency. If the woman is a minor, the physician must report the incident of rape, incest, or human trafficking to the central abuse hotline as required by s.39.201.

(2) In-person performance by physician required. Only a physician may perform or induce a termination of pregnancy. A physician may not use telehealth as defined in s. 456.47 to perform an abortion, including, but not limited to, medical abortions. Any medications intended for use in a medical abortion must be dispensed in person by a physician and may not be dispensed through the United States Postal Service or by any other courier or shipping service.

(3) Consents required. A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian.

(a) Except in the case of a medical emergency, consent to a termination of pregnancy is voluntary and informed only if:

1. The physician who is to perform the procedure, or the referring physician, has, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, informed the woman of:

a. The nature and risks of undergoing or not undergoing the proposed procedure that a reasonable patient would consider material to making a knowing and willful decision of whether to terminate a pregnancy.

b. The probable gestational age of the fetus, verified by an ultrasound, at the time the termination of pregnancy is to be performed.

(I) The ultrasound must be performed by the physician who is to perform the abortion or by a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment as prescribed by rule and who is working in conjunction with the physician.

(II) The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and hear an explanation of them. If the woman accepts the opportunity to view the images and hear the explanation, a physician or a registered nurse, licensed practical nurse, advanced practice registered nurse, or physician assistant working in conjunction with the physician must contemporaneously review and explain the images to the woman before the woman gives informed consent to having an abortion procedure performed.

(III) The woman has a right to decline to view and hear the explanation of the live ultrasound images after she is informed of her right and offered an opportunity to view the images and hear the explanation. If the woman declines, the woman shall complete a form acknowledging that she was offered an opportunity to view and hear the explanation of the images but that she declined that opportunity. The form must also indicate that the woman's decision was not based on any undue influence from any person to discourage her from viewing the images or hearing the explanation and that she declined of her own free will.

(IV) Unless requested by the woman, the person performing the ultrasound may not offer the opportunity to view the images and hear the explanation and the explanation may not be given if, at the time the woman schedules or arrives for her appointment to

obtain an abortion, a copy of a restraining order, police report, medical record, or other court order or documentation is presented which provides evidence that the woman is obtaining the abortion because the woman is a victim of rape, incest, domestic violence, or human trafficking or that the woman has been diagnosed as

having a condition that, on the basis of a physician's good faith clinical judgment, would create a serious risk of substantial and irreversible impairment of a major bodily function if the woman delayed terminating her pregnancy.

c. The medical risks to the woman and fetus of carrying the pregnancy to term. The physician may provide the information required in this subparagraph within 24 hours before the procedure if requested by the woman at the time she schedules or arrives for her appointment to obtain an abortion and if she presents to the physician a copy of a restraining order, police report, medical record, or other court order or documentation evidencing that she is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking.

2. Printed materials prepared and provided by the department have been provided to the pregnant woman, if she chooses to view these materials, including:

- a. A description of the fetus, including a description of the various stages of development.
- b. A list of entities that offer alternatives to terminating the pregnancy.
- c. Detailed information on the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care.

3. The woman acknowledges in writing, before the termination of pregnancy, that the information required to be provided under this subsection has been provided. Nothing in this paragraph is intended to prohibit a physician from providing any additional information which the physician deems material to the woman's informed decision to terminate her pregnancy.

(b) If a medical emergency exists and a physician cannot comply with the requirements for informed consent, a physician may terminate a pregnancy if he or she has obtained at least one corroborative medical opinion attesting to the medical necessity for emergency medical procedures and to the fact that to a reasonable degree of medical certainty the continuation of the pregnancy would threaten the life of the pregnant woman. If a second physician is not available for a corroborating opinion, the physician may proceed but shall document reasons for the medical necessity in the patient's medical records.

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015. Substantial compliance or reasonable belief that complying with the requirements of informed consent would threaten the life or health of the patient is a defense to any action brought under this paragraph.

(4) Standard of medical care to be used in third trimester. If a termination of pregnancy is performed in the third trimester, the physician performing the termination of pregnancy must exercise the same degree of professional skill, care, and diligence to preserve the life and health of the fetus which the physician would be required to exercise in order to preserve the life and health of a fetus intended to be born and not aborted. However, if preserving the life and health of the fetus conflicts with preserving the life and health of the pregnant woman, the physician must consider preserving the woman's life and health the overriding and superior concern.

(5) Partial-birth abortion prohibited; exception.

(a) No physician shall knowingly perform a partial-birth abortion.

(b) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate the provisions of this section.

(c) This subsection shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.

(6) Experimentation on fetus prohibited; exception. No person shall use any live fetus or live, premature infant for any type of scientific, research, laboratory, or other kind of experimentation either prior to or subsequent to any termination of pregnancy procedure except as necessary to protect or preserve the life and health of such fetus or premature infant.

(7) Fetal remains. Fetal remains shall be disposed of in a sanitary manner pursuant to s. 381.0098 and rules adopted thereunder. Failure to dispose of

fetal remains in accordance with this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Refusal to participate in termination procedure. Nothing in this section shall require any hospital or any person to participate in the termination of a pregnancy, nor shall any hospital or any person be liable for such refusal. No person who is a member of, or associated with, the staff of a hospital, nor any employee of a hospital or physician in which or by whom the termination of a pregnancy has been authorized or performed, who shall state an objection to such procedure on moral or religious grounds shall be required to participate in the procedure which will result in the termination of pregnancy. The refusal of any such person or employee to participate shall not form the basis for any disciplinary or other recriminatory action against such person.

(9) Exception. The provisions of this section shall not apply to the performance of a procedure which terminates a pregnancy in order to deliver a live child.

(10) Penalties for violation. Except as provided in subsections (3), (7), and (12):

(a) Any person who willfully performs, or actively participates in, a termination of pregnancy in violation of the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who performs, or actively participates in, a termination of pregnancy in violation of this section which results in the death of the woman commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(11) Civil action pursuant to partial-birth abortion; relief.

(a) The father, if married to the mother at the time she receives a partial-birth abortion, and, if the mother has not attained the age of 18 years at the time she receives a partial-birth abortion, the maternal grandparents of the fetus may, in a civil action, obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(b) In a civil action under this section, appropriate relief includes:

1. Monetary damages for all injuries, psychological and physical, occasioned by the violation of subsection (5).
2. Damages equal to three times the cost of the partial-birth abortion.

(12) Infants born alive.

(a) An infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive in the course of natural birth.

(b) If an infant is born alive during or immediately after an attempted abortion, any health care practitioner present at the time shall humanely exercise the same degree of professional skill, care, and diligence to preserve the life and health of the infant as a reasonably diligent and conscientious health care practitioner would render to an infant born alive at the same gestational age in the course of natural birth.

(c) An infant born alive during or immediately after an attempted abortion must be immediately transported and admitted to a hospital pursuant to s. 390.012(3)(c) or rules adopted thereunder.

(d) A health care practitioner or any employee of a hospital, a physician's office, or an abortion clinic who has knowledge of a violation of this subsection must report the violation to the department.

(e) A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection shall not be construed as a specific provision of law relating to a particular subject matter that would preclude prosecution of a more general offense, regardless of the penalty.

(f) This subsection does not affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species *Homo sapiens* at any point prior to being born alive as defined in s. 390.011.

(13) Failure to comply. Failure to comply with the requirements of this section constitutes grounds for disciplinary action under each respective practice act and under s. 456.072.

(14) Rules. The applicable boards, or the department if there is no board, shall adopt rules necessary to implement the provisions of this section.

(15) Use of public funds restricted. A state agency, a local governmental entity, or a managed care plan providing services under part IV of chapter 409 may not expend funds for the benefit of, pay funds to, or initiate or renew a contract with an organization that owns, operates, or is affiliated with one or more clinics that are licensed under this chapter and perform abortions unless one or more of the following applies:

(a) All abortions performed by such clinics are:

1. On fetuses that are conceived through rape or incest; or
2. Are medically necessary to preserve the life of the pregnant woman or to avert a serious risk of substantial and irreversible physical impairment of a major bodily function

of the pregnant woman, other than a psychological condition.

(b) The funds must be expended to fulfill the terms of a contract entered into before July 1, 2016.

(c) The funds must be expended as reimbursement for Medicaid services provided on a fee-for-service basis.

History

S. 1, ch. 79-302; s. 1, ch. 80-208; s. 6, ch. 88-97; s. 6, ch. 91-223; s. 64, ch. 91-224; s. 694, ch.

95-148; s. 2, ch. 97-151; s. 1, ch. 98-1; s. 201, ch. 99-13; s. 1, ch. 2011-224, eff. July 1, 2011; s.

2, ch. 2013-121, eff. July 1, 2013; s. 2, ch. 2014-137, effective July 1, 2014; s. 1, ch. 2015-118,

effective July 1, 2015; s. 2, ch. 2016-150, effective July 1, 2016; s. 20, ch. 2018-106, effective

October 1, 2018; s. 1, ch. 2020-147, effective July 1, 2020; s. 4, ch. 2022-69, effective July 1, 2022.

Fla. Stat. Ann. § 390.0111 (LexisNexis, Lexis Advance through the 2022 regular and extra **sessions**)

§ 390.0114. Parental Notice of and Consent for Abortion Act.

(1) **Short title.** — This section may be cited as the “Parental Notice of and Consent for Abortion Act.”

(2) **Definitions.** — As used in this section, the term:

(a) “Actual notice” means notice that is given directly, in person or by telephone, to a parent or legal guardian of a minor, by a physician, at least 48 hours before the inducement or performance of a termination of pregnancy, and documented in the minor’s files.

(b) “Child abuse” means abandonment, abuse, harm, mental injury, neglect, physical injury, or sexual abuse of a child as those terms are defined in ss. 39.01, 827.04, and 984.03.

(c) “Constructive notice” means notice that is given in writing, signed by the physician, and mailed at least 72 hours before the inducement or performance of the termination of

pregnancy, to the last known address of the parent or legal guardian of the minor, by first-class mail and by certified mail, return receipt requested, and delivery restricted to the parent or legal guardian. After the 72 hours have passed, delivery is deemed to have occurred.

(d) “Medical emergency” means a condition that, on the basis of a physician’s good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death, or for which a delay in the termination of her pregnancy will create serious risk of substantial and irreversible impairment of a major bodily function.

(e) “Sexual abuse” has the meaning ascribed in s. 39.01.

(f) “Minor” means a person under the age of 18 years.

(3) Termination of the pregnancy of a minor. — A physician may not perform or induce the termination of a pregnancy of a minor unless the physician has complied with the notice and consent requirements of this section.

(4) Notification required. —

(a) Actual notice shall be provided by the physician performing or inducing the termination of pregnancy before the performance or inducement of the termination of the pregnancy of a minor. The notice may be given by a referring physician. The physician who performs or induces the termination of pregnancy must receive the written statement of the referring physician certifying that the referring physician has given notice. If actual notice is not possible after a reasonable effort has been made, the physician performing or inducing the termination of pregnancy or the referring physician must give constructive notice. Notice given under this subsection by the physician performing or inducing the termination of pregnancy must include the name and address of the facility providing the termination of pregnancy and the name of the physician providing notice. Notice given under this subsection by a referring physician must include the name and address of the facility where he or she is referring the minor and the name of the physician providing notice. If actual notice is provided by telephone, the physician must actually speak with the parent or guardian, and must record in the minor’s medical file the name of the parent or guardian provided notice, the phone number dialed, and the date and time of the call. If constructive notice is given, the physician must document that notice by placing copies of any document related to the constructive notice, including, but not limited to, a copy of the letter and the return receipt, in the minor’s medical file. Actual notice given by telephone shall be confirmed in writing, signed by the physician, and mailed to the last known address of the parent or legal guardian of the minor, by first-class mail and by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian.

(b) Notice is not required if:

1. In the physician's good faith clinical judgment, a medical emergency exists and there is insufficient time for the attending physician to comply with the notification requirements. If a medical emergency exists, the physician shall make reasonable attempts, whenever possible, without endangering the minor, to contact the parent or legal guardian, and may proceed, but must document reasons for the medical necessity in the patient's medical records. The physician shall provide notice directly, in person or by telephone, to the parent or legal guardian, including details of the medical emergency and any additional risks to the minor.

If the parent or legal guardian has not been notified within 24 hours after the termination of the pregnancy, the physician shall provide notice in writing, including details of the medical emergency and any additional risks to the minor, signed by the physician, to the last known address of the parent or legal guardian of the minor, by first-class mail and by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian;

2. Notice is waived in writing by the person who is entitled to notice and such waiver is notarized, dated not more than 30 days before the termination of pregnancy, and contains a specific waiver of the right of the parent or legal guardian to notice of the minor's termination of pregnancy;

3. Notice is waived by the minor who is or has been married or has had the disability of nonage removed under s. 743.015 or a similar statute of another state;

4. Notice is waived by the patient because the patient has a minor child dependent on her; or

5. Notice is waived under subsection (6).

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

(5) Parental consent required. —

(a) A physician must obtain written consent from a parent or legal guardian before performing or inducing the termination of a pregnancy of a minor.

1. The consenting parent or legal guardian shall provide to the physician a copy of a government-issued proof of identification. The parent or legal guardian shall certify in a signed, dated, and notarized document, initialed on each page, that he or she consents to the termination of the pregnancy of the minor. The document must include the

following statement, which must precede the signature of the parent or guardian: “I, (insert name of parent or legal guardian), am the (select “parent” or “legal guardian,” as appropriate) of (insert name of minor) and give consent for (insert name of physician) to perform or induce a termination of pregnancy on her. Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.” A copy of the parent’s or legal guardian’s government-issued proof of identification must be attached to the notarized document.

2. The physician shall keep a copy of the proof of identification of the parent or legal guardian and the certified statement in the medical file of the minor for 5 years after the minor reaches the age of 18 years, but in no event less than 7 years.

3. A physician receiving consent from a parent or guardian under this section shall execute for inclusion in the medical record of the minor an affidavit stating: “I, (insert name of physician), certify that, according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and her parent or legal guardian as sufficient evidence of identity.”

(b) The consent of a parent or guardian is not required if:

1. Notification is not required as provided in subparagraph (4)(b)1., subparagraph (4)(b)3., subparagraph (4)(b)4., or subparagraph (4)(b)5.;

2. Notification is not required due to the existence of a waiver as provided in subparagraph (4)(b)2., if that waiver is signed by the minor’s parent or legal guardian, is notarized, is dated within 30 days before the termination of the pregnancy, contains a specific waiver of the right of the parent or legal guardian to consent to the minor’s termination of pregnancy, and a copy of the parent’s or legal guardian’s government-issued proof of identification is attached to the waiver;

3. Consent is waived under subsection (6); or

4. In the physician’s good faith clinical judgment, a medical emergency exists and there is insufficient time for the attending physician to comply with the consent requirement. If a medical emergency exists, the physician must make reasonable attempts, whenever possible, and without endangering the minor, to contact the parent or legal guardian of the minor, and may proceed, but must

document reasons for the medical necessity in the minor patient's medical records. The physician shall inform the parent or legal guardian, in person or by telephone, within 24 hours after the termination of the pregnancy of the minor, including details of the medical emergency that necessitated the termination of the pregnancy without the parent's or legal guardian's consent. The physician shall also provide this information in writing to the parent or legal guardian at his or her last known address, by first-class mail or by certified mail, return receipt requested, with delivery restricted to the parent or legal guardian.

(c)

1. A physician who intentionally or recklessly performs or induces, or attempts to perform or induce, a termination of a pregnancy of a minor without obtaining the required consent pursuant to this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A penalty may not be assessed against the minor upon whom a termination of pregnancy is performed or induced or upon whom a termination of pregnancy is attempted to be performed or induced.
2. It is a defense to prosecution that a minor misrepresented her age or identity to a physician by displaying a driver license or identification card issued by the state or another state which indicated that the minor was 18 years of age or older and that the appearance of the minor was such that a reasonably prudent person would believe that the minor was not under 18 years of age. To use the defense, a physician must provide a copy of the driver license or identification card used by the minor. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or to have failed to use due diligence in determining the minor's age or identity.

(6) Procedure for judicial waiver. —

(a) A minor may petition any circuit court in which the minor resides for a waiver of the requirements of this section and may participate in proceedings on her own behalf. The petition may be filed under a pseudonym or through the use of initials, as provided by court rule. The petition must include a statement that the petitioner is pregnant and that the requirements of this section have not been waived. The court shall advise the minor that she has a right to court-appointed counsel at no cost to the minor. The court shall, upon request, provide counsel for the minor at least 24 hours

before the court proceeding. **(b)**

1. Court proceedings under this section must be given precedence over other pending matters to the extent necessary to ensure that the court reaches a decision promptly. The court shall rule, and issue written findings of fact and conclusions of law, within 3 business days after the petition is filed, except that the 3- business-day limitation may be extended at the request of the minor. If the court fails to rule within the 3-business-day period and an extension has not been requested, the minor may immediately petition for a hearing upon the expiration of the 3-business-day period to the chief judge of the circuit, who must ensure a hearing is held within 48 hours after receipt of the minor's petition and an order is entered within 24 hours after the hearing.

2. If the circuit court does not grant judicial waiver of the requirements of this section, the minor has the right to appeal. An appellate court must rule within 7 days after receipt of appeal, but a ruling may be remanded with further instruction for a ruling within 3 business days after the remand. The reason for overturning a ruling on appeal must be based on abuse of discretion by the court and may not be based on the weight of the evidence presented to the circuit court since the proceeding is a non adversarial proceeding.

(c) If the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to terminate her pregnancy, the court shall issue an order authorizing the minor to consent to the performance or inducement of a termination of the pregnancy. If the court does not make the finding specified in this paragraph or paragraph (d), it must dismiss the petition. Factors the court shall consider include:

1. The minor's:

- a.** Age.
- b.** Overall intelligence.
- c.** Emotional development and stability.
- d.** Credibility and demeanor as a witness.
- e.** Ability to accept responsibility.
- f.** Ability to assess both the immediate and long-range consequences of the minor's choices.
- g.** Ability to understand and explain the medical risks of terminating her pregnancy and to apply that understanding to her decision.

2. Whether there may be any undue influence by another

on the minor's decision to have an abortion.

(d) If the court finds, by a preponderance of the evidence, that the petitioner is the victim of child abuse or sexual abuse inflicted by one or both of her parents or her guardian, or by clear and convincing evidence that the requirements of this section are not in the best

interest of the petitioner, the court shall issue an order authorizing the minor to consent to the performance or inducement of a termination of the pregnancy. The best-interest standard does not include financial best interest or financial considerations or the potential financial impact on the minor or the minor's family if the minor does not terminate the pregnancy. If the court finds evidence of child abuse or sexual abuse of the minor petitioner by any person, the court shall report the evidence of child abuse or sexual abuse of the petitioner, as provided in s. 39.201. If the court does not make the finding specified in this paragraph or paragraph (c), it must dismiss the petition.

(e) A court that conducts proceedings under this section shall:

1. Provide for a written transcript of all testimony and proceedings;
2. Issue a final written order containing factual findings and legal conclusions supporting its decision, including factual findings and legal conclusions relating to the maturity of the minor as provided under paragraph (c); and
3. Order that a confidential record be maintained, as required under s. 390.01116.

(f) All hearings under this section, including appeals, shall remain confidential and closed to the public, as provided by court rule. Subject to a judge's availability as required under s. 26.20, hearings held under this section must be held in chambers or in a similarly private and informal setting within the courthouse.

(g) An expedited appeal shall be made available, as the Supreme Court provides by rule, to any minor to whom the circuit court denies a waiver of the requirements of this section. An order authorizing a termination of pregnancy under this subsection is not subject to appeal.

(h) Filing fees or court costs may not be required of any pregnant minor who petitions a court for a waiver of the requirements of this section at either the trial or the appellate level.

(i) A county is not obligated to pay the salaries, costs, or expenses of any counsel appointed by the court under this subsection.

(7) Proceedings. — The Supreme Court is requested to adopt rules and forms for petitions to ensure that proceedings under subsection (6) are handled expeditiously and in a manner consistent with this act. The Supreme Court is also requested to adopt rules to ensure that the hearings protect the minor's confidentiality and the confidentiality of the proceedings.

(8) Report. — The Supreme Court, through the Office of the State Courts Administrator, shall report by February 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number of petitions filed under subsection (6) for the preceding year, and the timing and manner of disposal of such petitions by each circuit court. For each petition resulting in a waiver of the requirements of this section, the reason for the waiver shall be included in the report.

History

S. 2, ch. 2005-52; s. 43, ch. 2006-1, eff. July 4, 2006; s. 47, ch. 2011-213, eff. July 1, 2011; s.

1, ch. 2011-227, eff. Oct. 1, 2011; s. 2, ch. 2020-147, effective July 1, 2020.
Fla. Stat. Ann. § 390.01114 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.01115. Parental Notice of Abortion Act [Repealed.]

Repealed by s. 1, ch. 2005-52, effective July 1, 2005.

Fla. Stat. Ann. § 390.01115 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.01116. Public records exemptions; minors seeking waiver of notice requirements.

Any information that can be used to identify a minor petitioning a circuit court for a judicial waiver, as provided in s. 390.01114, of the notice requirements under the Parental Notice of Abortion Act is:

(1) Confidential and exempt from s. 24(a), Art. I of the State Constitution if held by a circuit court or an appellate court.

(2) Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission.

History

S. 1, ch. 99-321; s. 1, ch. 2005-104; s. 1, ch. 2010-41, eff. May 7, 2010; s. 1, ch. 2015-74, effective October 1, 2015.

Fla. Stat. Ann. § 390.01116 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.01118. Public records exemptions; minors seeking waiver of

consent requirements. —

Any information that can be used to identify a minor who is petitioning a circuit court for a judicial waiver, as provided in s. 390.01114, of the consent requirements under the Parental Notice of and Consent for Abortion Act is:

(1) Confidential and exempt from s. 24(a), Art. I of the State Constitution, if held by a circuit court or an appellate court.

(2) Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission.

This section is subject to the Open Government Sunset Review Act in accordance with s.

119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

Fla. Stat. Ann. § 390.01118 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.0112. Termination of pregnancies; reporting.

(1) The director of any medical facility in which abortions are performed, including surgical procedures and medical abortions, shall submit a report each month to the agency. If the abortion

is not performed in a medical facility, the physician performing the abortion shall submit the monthly report. The report must be submitted electronically on a form adopted by the agency, the Board of Medicine, and the Board of Osteopathic Medicine which may not include personal identifying information and must include:

(a) The number of abortions performed.

(b) The reasons such abortions were performed. If a woman upon whom an abortion is performed has provided evidence that she is a victim of human trafficking pursuant to s.

390.0111(3)(a)1.b.(IV), such reason must be included in the information reported under this section.

(c) For each abortion, the period of gestation at the time the abortion was performed.

(d) The number of infants born alive or alive immediately after an attempted abortion.

(e) Information consistent with the United States Standard Report of Induced Termination of Pregnancy adopted by the Centers for Disease Control and Prevention.

(f) The number of medication abortion regimens prescribed or dispensed.

(2) The agency shall keep such reports in a central location for the purpose of compiling and analyzing statistical data and shall submit data reported pursuant to paragraph (1)(e) to the Division of

Reproductive Health within the Centers for Disease Control and Prevention, as requested by the Centers for Disease Control and Prevention.

(3) Reports submitted pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding.

(4) Any person required under this section to file a report or keep any records who willfully fails to file such report or keep such records may be subject to a \$200 fine for each violation. The agency shall be required to impose such fines when reports or records required under this section have not been timely received. For purposes of this section, timely received is defined as 30 days following the preceding month.

History

S. 2, ch. 79-302; s. 1, ch. 90-336; s. 191, ch. 97-101; s. 3, ch. 97-151; s. 2, ch. 98-1; s. 78, ch.

99-8; s. 202, ch. 99-13; s. 3, ch. 2013-121, eff. July 1, 2013; s. 3, ch. 2016-150, effective July

1, 2016; s. 5, ch. 2022-69, effective July 1, 2022.

Fla. Stat. Ann. § 390.0112 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 390.025. Abortion referral or counseling agencies; penalties.

(1) As used in this section, an “abortion referral or counseling agency” is any person, group, or organization, whether funded publicly or privately, that provides advice or help to persons in obtaining abortions.

(2) An abortion referral or counseling agency, before making a referral or aiding a person in obtaining an abortion, shall furnish such person with a full and detailed explanation of abortion, including the effects of and alternatives to abortion. If the person advised is a minor, a good faith effort shall be made by the referral or counseling agency to furnish such information to the parents or guardian of the minor. No abortion referral or counseling agency shall charge or accept any fee, kickback, or compensation of any nature from a physician, hospital, clinic, or other medical facility for referring a person thereto for an abortion.

(3) An abortion referral or counseling agency, as defined in subsection (1), shall register with the Agency for Health Care Administration. To register or renew a registration an applicant must pay an initial or renewal registration fee established by rule, which must not exceed the costs incurred by the agency in administering this section. Registrants must include in any advertising materials the registration number issued by the agency and must renew their registration biennially.

- (4) The following are exempt from the requirement to register pursuant to subsection (3):
- (a) Facilities licensed pursuant to this chapter, chapter 395, chapter 400, or chapter 408;
 - (b) Facilities that are exempt from licensure as a clinic under s. 400.9905(4) and that refer five or fewer patients for abortions per month; and
 - (c) Health care practitioners, as defined in s. 456.001, who, in the course of their practice outside of a facility licensed pursuant to this chapter, chapter 395, chapter 400, or chapter 408, refer five or fewer patients for abortions each month.
- (5) The agency shall adopt rules to administer this section and part II of chapter 408.
- (6) Any person who violates the provisions of subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties imposed pursuant to this chapter, the Agency for Health Care Administration may assess costs related to an investigation of violations of this section which results in a successful prosecution. Such costs may not include attorney fees.
- Fla. Stat. Ann. § 390.025 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

Florida Annotated Statutes, Title XLVI. Crimes. (Chs. 775 — 896)

Chapter 797. Abortion. (§§ 797.02 — 797.03)

§ 797.02. Advertising drugs, etc., for abortion.

Whoever knowingly advertises, prints, publishes, distributes or circulates, or knowingly causes to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement, or reference containing words or language giving or conveying any notice, hint, or reference to any person, or the name of any person, real or fictitious, from whom, or to any place, house, shop, or office where any poison, drug, mixture, preparation, medicine, or noxious thing, or any instrument or means whatever, or any advice, direction, information, or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Fla. Stat. Ann. § 797.02 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)

§ 797.03. Prohibited acts; penalties.

- (1) It is unlawful for any person to perform or assist in performing an

abortion on a person, except in an emergency care situation, other than in a validly licensed hospital or abortion clinic or in a physician's office.

(2) It is unlawful for any person or public body to establish, conduct, manage, or operate an abortion clinic without a valid current license.

(3) It is unlawful for any person to perform or assist in performing an abortion on a person during viability or in the third trimester other than in a hospital.

(4) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History

S. 10, ch. 78-382; s. 4, ch. 2014-137, effective July 1, 2014.

Fla. Stat. Ann. § 797.03 (LexisNexis, Lexis Advance through the 2022 regular and extra sessions)