

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 5, Page 8, Section 188.027,
2 Line 206, by inserting immediately after all of said section and line the following:

3
4 "188.028. 1. Except in the case of a medical emergency, no person shall knowingly perform or
5 induce an abortion upon a pregnant woman under the age of eighteen years unless:

6 (1) The attending physician has secured the informed written consent of the minor and one parent or
7 guardian, and the consenting parent or guardian of the minor has notified any other custodial parent or
8 guardian in writing prior to the securing of the informed written consent of the minor and one parent or
9 guardian. For purposes of this subdivision, "custodial parent" means any parent of a minor in a family in
10 which the parents have not separated or dissolved their marriage, or any parent of a minor who has been
11 awarded joint legal custody or joint physical custody of such minor by a court of competent jurisdiction.
12 Notice shall not be required for any parent or guardian:

13 (a) Who has been found guilty of any offense in violation of chapter 565, relating to offenses against
14 the person; chapter 566, relating to sexual offenses; chapter 567, relating to prostitution; chapter 568, relating
15 to offenses against the family; or chapter 573, relating to pornography and related offenses, if a child was a
16 victim;

17 (b) Who has been found guilty of any offense in any other state or foreign country, or under federal,
18 tribal, or military jurisdiction if a child was a victim, which would be a violation of chapter 565, 566, 567,
19 568, or 573 if committed in this state;

20 (c) Who is listed on the sexual offender registry under sections 589.400 to 589.425;

21 (d) Against whom an order of protection has been issued, including a foreign order of protection
22 given full faith and credit in this state under section 455.067;

23 (e) Whose custodial, parental, or guardianship rights have been terminated by a court of competent
24 jurisdiction; or

25 (f) Whose whereabouts are unknown after reasonable inquiry, who is a fugitive from justice, who is
26 habitually in an intoxicated or drugged condition, or who has been declared mentally incompetent or
27 incapacitated by a court of competent jurisdiction; or

28 (2) The minor is emancipated and the attending physician has received the informed written consent
29 of the minor; or

30 (3) The minor has been granted the right to self-consent to the abortion by court order pursuant to
31 subsection 2 of this section, and the attending physician has received the informed written consent of the
32 minor; or

33 (4) The minor has been granted consent to the abortion by court order, and the court has given its
34 informed written consent in accordance with subsection 2 of this section, and the minor is having the
35 abortion willingly, in compliance with subsection 3 of this section.

36 2. The right of a minor to self-consent to an abortion under subdivision (3) of subsection 1 of this
37 section or court consent under subdivision (4) of subsection 1 of this section may be granted by a court
38 pursuant to the following procedures:

39 (1) The minor or next friend shall make an application to the juvenile court which shall assist the

Action Taken _____ Date _____

1 minor or next friend in preparing the petition and notices required pursuant to this section. The minor or the
 2 next friend of the minor shall thereafter file a petition setting forth the initials of the minor; the age of the
 3 minor; the names and addresses of each parent, guardian, or, if the minor's parents are deceased and no
 4 guardian has been appointed, any other person standing in loco parentis of the minor; that the minor has been
 5 fully informed of the risks and consequences of the abortion; that the minor is of sound mind and has
 6 sufficient intellectual capacity to consent to the abortion; that, if the court does not grant the minor majority
 7 rights for the purpose of consent to the abortion, the court should find that the abortion is in the best interest
 8 of the minor and give judicial consent to the abortion; that the court should appoint a guardian ad litem of the
 9 child; and if the minor does not have private counsel, that the court should appoint counsel. The petition
 10 shall be signed by the minor or the next friend;

11 (2) A hearing on the merits of the petition, to be held on the record, shall be held as soon as possible
 12 within five days of the filing of the petition. If any party is unable to afford counsel, the court shall appoint
 13 counsel at least twenty-four hours before the time of the hearing. At the hearing, the court shall hear
 14 evidence relating to the emotional development, maturity, intellect and understanding of the minor; the
 15 nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may
 16 find useful in determining whether the minor should be granted majority rights for the purpose of consenting
 17 to the abortion or whether the abortion is in the best interests of the minor;

18 (3) In the decree, the court shall for good cause:

19 (a) Grant the petition for majority rights for the purpose of consenting to the abortion; or

20 (b) Find the abortion to be in the best interests of the minor and give judicial consent to the abortion,
 21 setting forth the grounds for so finding; or

22 (c) Deny the petition, setting forth the grounds on which the petition is denied;

23 (4) If the petition is allowed, the informed consent of the minor, pursuant to a court grant of
 24 majority rights, or the judicial consent, shall bar an action by the parents or guardian of the minor on the
 25 grounds of battery of the minor by those performing or inducing the abortion. The immunity granted shall
 26 only extend to the performance or inducement of the abortion in accordance herewith and any necessary
 27 accompanying services which are performed in a competent manner. The costs of the action shall be borne
 28 by the parties;

29 (5) An appeal from an order issued under the provisions of this section may be taken to the court of
 30 appeals of this state by the minor or by a parent or guardian of the minor. The notice of intent to appeal shall
 31 be given within twenty-four hours from the date of issuance of the order. The record on appeal shall be
 32 completed and the appeal shall be perfected within five days from the filing of notice to appeal. Because
 33 time may be of the essence regarding the performance or inducement of the abortion, the supreme court of
 34 this state shall, by court rule, provide for expedited appellate review of cases appealed under this section.

35 3. If a minor desires an abortion, then she shall be orally informed of and, if possible, sign the
 36 written consent required [~~by section 188.039~~] under this chapter in the same manner as an adult person. No
 37 abortion shall be performed or induced on any minor against her will, except that an abortion may be
 38 performed or induced against the will of a minor pursuant to a court order described in subdivision (4) of
 39 subsection 1 of this section that the abortion is necessary to preserve the life of the minor."; and
 40

41 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.