

**REVISE PARENTAL CONSENT
WAIVER FOR ABORTION**

House Bill 4478
Sponsor: Rep. William J. O'Neil
**Committee: Family and Children
Services**

Complete to 6-10-03

A SUMMARY OF HOUSE BILL 4478 AS INTRODUCED 3-27-03

The Parental Rights Restoration Act requires a minor to obtain consent from at least one parent or legal guardian prior to obtaining an abortion. The act does, however, permit the minor to petition the probate court (now the Family Division of the Circuit Court) to obtain a waiver of the parental consent requirement. House Bill 4478 would amend the act to say that a minor cannot file a petition for waiver of parental consent in the family division if she has previously been denied a waiver by another family division concerning the same pregnancy. The bill would also add that the minor would be notified of this prohibition and that a previously denied waiver would be dismissed by the court.

The act currently allows the court to grant a waiver of parental consent if it finds that the minor is sufficiently mature and well-enough informed to make a decision regarding abortion independently of her parents or legal guardian or if the waiver is in the best interest of the minor. The bill would add that in making its determination regarding the waiver petition, the court would have to consider the rebuttable presumption that a minor is not capable of providing informed consent for medical treatment. The bill would provide that a waiver could only be granted if the minor demonstrates to the court a level of maturity expected of an individual who has reached the age of majority based on the factors that follow.

- The minor's age, ability to comprehend information, and the ability to express herself.
- The degree of the minor's dependence on her parents or legal guardian and the degree of parental supervision in the daily affairs of the minor, including housing arrangements, financial support, independent work experience, and means of transportation.
- The minor's school attendance, academic performance, and future education and career goals.
- The circumstances of the minor's sexual activity, including actions taken to maintain her health and prevent pregnancy, and any previous pregnancies.
- The minor's knowledge of her medical history, of the risks associated with an abortion and of carrying the pregnancy to term, including the emotional and psychological consequences of an abortion, parenting, and placing a child for adoption.
- The extent to which the minor has consulted with medical and mental health professionals about alternatives to abortion.

- Other life experiences that demonstrate a pattern of responsible, mature behavior.

If the court did not find that the minor is sufficiently mature or informed to make such a decision, the court could still grant a waiver if it finds that it would be in the minor's best interest. In making a determination, the court would have to consider the rebuttable presumption that a minor's best interest is served by involvement of her parents in any medical decision making. A waiver could only be granted if the court finds that both parents or a legal guardian have so materially defaulted in their duties to the minor that they have abdicated their right to parental involvement. Such a determination would be based on the evidence presented on the following factors: the nature of the minor's relationship with her parents or legal guardian, including patterns of care, support, and involvement, or of neglect, hostility, or abuse; the minor's reasons for seeking an abortion, including her personal desires, the age and involvement of the biological father, and the potential influence of other parties; the specific reasons for excluding her parents or legal guardian from the decision; and whether the parents or legal guardian have previous knowledge of the minor's sexual activity or involvement in decisions regarding the minor's sexual activity.

In addition, the act currently permits the court to appoint an attorney or guardian ad litem to represent the minor in any proceeding regarding a matter under the act, upon the request of the minor. The bill would provide that if an attorney or guardian ad litem is appointed to represent a minor, the court would also appoint an attorney or guardian ad litem to represent the interest of a parent or legal guardian in loco parentis.

Finally, the bill would require the court to inform a minor of her right to appeal the decision of the court to deny a waiver of parental consent to the court of appeals.

MCL 722.903 and 722.904

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.