

HOUSE BILL No. 5715

March 30, 2004, Introduced by Reps. O'Neil, Bieda, Wojno, Spade, Pappageorge, Caswell, Gleason, Koetje, Vander Veen, Nitz, Voorhees, Dennis, Stahl, Palmer, Drolet, Hummel, Huizenga, Richardville, Sheen, Hoogendyk, Hager, Newell, Kooiman, Plakas and Sak and referred to the Committee on Family and Children Services.

A bill to amend 1990 PA 211, entitled
"The parental rights restoration act,"
by amending sections 3 and 4 (MCL 722.903 and 722.904).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 ~~Section~~ **Sec. 3.** (1) Except as otherwise provided in this
2 act, a person shall not perform an abortion on a minor without
3 first obtaining the written consent of the minor and 1 of the
4 parents or the legal guardian of the minor.

5 (2) If a parent or the legal guardian is not available or
6 refuses to give his or her consent, or if the minor elects not to
7 seek consent of a parent or the legal guardian, the minor may
8 petition the ~~probate~~ **family division of circuit** court ~~pursuant~~
9 ~~to~~ **as provided in** section 4 for a waiver of the parental consent
10 requirement of this section.

11 ~~Section~~ **Sec. 4.** (1) The ~~probate~~ **family division of**

1 **circuit** court has jurisdiction ~~of~~ **over** proceedings related to a
2 minor's petition for a waiver of parental consent.

3 (2) Proceedings held ~~pursuant to~~ **under** this act shall be
4 completed with confidentiality and sufficient expedition to
5 provide an effective opportunity for the minor to provide
6 self-consent to an abortion, in accordance with all of the
7 following:

8 (a) The ~~probate~~ **family division of circuit** court shall,
9 upon its first contact with a minor seeking a waiver of parental
10 consent under this act, provide the minor with notice **that the**
11 **minor may not seek a waiver of parental consent in that court if**
12 **the minor has been denied a waiver concerning the same pregnancy**
13 **by the family division of circuit court in another circuit, and**
14 of the minor's right to all of the following:

15 (i) Confidentiality of the proceedings, including the right
16 to use initials in the petition.

17 (ii) Court appointment of an attorney or guardian ad litem.

18 (iii) Assistance with preparing and filing the petition.

19 (b) A minor may file a petition for waiver of parental
20 consent in the ~~probate~~ **family division of circuit** court ~~of~~ **in**
21 the county in which the minor resides. For purposes of this act,
22 the county in which the minor resides means the county in which
23 the minor's residence is located. ~~or the county in which the~~
24 ~~minor is found.~~ **A minor shall not file a petition for waiver of**
25 **parental consent in a family division of circuit court if the**
26 **minor has previously been denied a waiver of parental consent by**
27 **the family division of circuit court in another circuit**

1 concerning the same pregnancy.

2 (c) Upon request of the minor, the ~~probate~~ **family division**
3 **of circuit** court shall provide the minor with assistance in
4 preparing and filing the petition for waiver of parental
5 consent.

6 (d) A minor may file a petition for waiver of parental
7 consent under this act on her own behalf or through a next
8 friend. The minor may use initials or some other means of
9 assuring confidentiality in the petition.

10 (e) Upon request of the minor, the ~~probate~~ **family division**
11 **of circuit** court shall appoint an attorney or guardian ad litem
12 within 24 hours to represent the minor in proceedings under this
13 section.

14 (f) A minor is not required to pay a fee for proceedings
15 under this section.

16 (g) A hearing on a petition for waiver of parental consent
17 under this act shall be held within 72 hours, excluding Sundays
18 and holidays, after the petition is filed and shall be closed to
19 the public. All records of proceedings related to the petition
20 for waiver of parental consent under this act are confidential.

21 (h) The ~~probate~~ **family division of circuit** court that hears
22 the petition for waiver of parental consent shall issue and make
23 a part of the confidential record its specific findings of fact
24 and conclusions of law in support of its ruling either on the
25 record or in a written opinion.

26 (i) A written order granting or denying a petition for waiver
27 of parental consent filed ~~pursuant to~~ **under** this act shall be

1 issued within 48 hours, excluding Sundays and holidays, after the
2 hearing on the petition is held.

3 (j) If a petition for waiver of parental consent is denied,
4 the family division of circuit court shall inform the minor of
5 all of the following:

6 (i) Her right to appeal the family division of circuit
7 court's decision to the court of appeals.

8 (ii) That she may not initiate proceedings concerning the
9 same pregnancy in the family division of circuit court in another
10 circuit.

11 (iii) That if there is an unanticipated change in the
12 circumstances of her pregnancy or family situation, she may
13 return to the family division of circuit court that denied the
14 waiver to request a rehearing of her petition.

15 (3) The ~~probate~~ **family division of circuit** court shall
16 grant a waiver of parental consent if it finds ~~either of the~~
17 ~~following: (a) The~~ **that the** minor is sufficiently mature and
18 well-enough informed to make the decision regarding abortion
19 independently of her parents or legal guardian ~~— (b) The~~ **or**
20 **that the** waiver would be in the best interests of the minor.

21 (4) A minor who is denied a waiver under this section may
22 appeal the ~~probate~~ **family division of circuit** court's decision
23 to the court of appeals. Appeal proceedings shall be expedited
24 and confidential. The notice of appeal shall be filed within 24
25 hours of the issuance of the order denying the petition. The
26 appeal shall be perfected within 72 hours, excluding Sundays and
27 holidays, from the filing of the notice of appeal. **Upon request**

1 by the minor, the court of appeals shall hold oral arguments on
2 the minor's appeal of the decision of the family division of
3 circuit court. All records of proceedings related to the
4 petition for waiver of parental consent and the appeal are
5 confidential. A minor who is denied a waiver under this section
6 shall not initiate proceedings seeking a waiver of parental
7 consent regarding the same pregnancy in the family division of
8 circuit court in another circuit.

9 (5) The confidentiality requirements of this section do not
10 prevent the ~~probate~~ **family division of circuit** court from
11 reporting suspected child abuse under section 4 of the child
12 protection law, ~~Act No. 238 of the Public Acts of 1975, being~~
13 ~~section 722.624 of the Michigan Compiled Laws~~ **1975 PA 238, MCL**
14 **722.624.**

15 (6) If a minor who is seeking a waiver of parental consent
16 reveals to the ~~probate~~ **family division of circuit** court that
17 she is the victim of sexual abuse, and that her pregnancy is, or
18 may be, the result of sexual abuse, the ~~probate~~ **family division**
19 **of circuit** court shall immediately do all of the following:

20 (a) Report the suspected sexual abuse to the ~~department of~~
21 ~~social services~~ **family independence agency** or a law enforcement
22 agency ~~pursuant to~~ **as provided by** the child protection law,
23 ~~Act No. 238 of the Public Acts of 1975, being sections 722.621~~
24 ~~to 722.636 of the Michigan Compiled Laws~~ **1975 PA 238, MCL**
25 **722.621 to 722.638.**

26 (b) Inform the minor that there are laws designed to protect
27 her, including all of the following provisions of chapter XIIIA of

1 the probate code, ~~Act No. 288 of the Public Acts of 1939, being~~
2 ~~sections 712A.1 to 712A.28 of the Michigan Compiled Laws 1939 PA~~
3 **288, MCL 712A.1 to 712A.32:**

4 (i) That a law enforcement officer may without court order
5 take the minor into temporary protective custody if, after
6 investigation, the officer has reasonable grounds to conclude
7 that the minor's health, safety, or welfare would be endangered
8 by leaving her in the custody of her parent or legal guardian.

9 (ii) That the ~~juvenile~~ **family** division of ~~the probate~~
10 **circuit** court may, upon learning of the suspected sexual abuse,
11 immediately hold a preliminary inquiry to determine whether a
12 petition for court jurisdiction should be filed or whether other
13 action should be taken.

14 (iii) That the ~~juvenile~~ **family division of circuit** court
15 shall appoint an attorney to represent the minor in protective
16 proceedings.

17 (iv) That after a petition has been filed, the ~~juvenile~~
18 **family division of circuit** court may order that the minor be
19 placed with someone other than her parent or legal guardian
20 pending trial or further court order if ~~such~~ placement is
21 necessary to avoid substantial risk to the minor's life, physical
22 health, or mental well-being.

23 (7) If the family division of circuit court in the circuit in
24 which a petition for a waiver of parental consent is pending
25 finds that a minor has previously been denied a waiver of
26 parental consent by the family division of circuit court in
27 another circuit concerning the same pregnancy, the family

1 division of circuit court shall dismiss the pending petition for
2 a waiver of parental consent.

3 (8) ~~-(7)-~~ As used in this section, "child abuse" and "sexual
4 abuse" mean those terms as defined in section 2 of the child
5 protection law, ~~Act No. 238 of the Public Acts of 1975, being~~
6 ~~section 722.622 of the Michigan Compiled Laws~~ 1975 PA 238, MCL
7 722.622.