

2017 Regular Session

SENATE BILL NO. 111

BY SENATOR MIZELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ABORTION. Requires proof of identification from parents for an unemancipated minor child to obtain an abortion based upon parental consent and requires court-ordered counseling if it is suspected that the minor is a victim of criminal sexual exploitation. (8/1/17)

1 AN ACT

2 To amend and reenact R.S. 40:1061.14(A) and (A)(1) and (B)(3)(b) and (4), and

3 1061.19(A)(2) and to enact R.S. 40:1061.14.1, relative to abortion for a

4 unemancipated minor; to provide for parental consent; to provide for court orders;

5 to require identification for parents or guardians; to provide for counseling for minor

6 children who are victims of coerced abortions or commercial sexual exploitation; to

7 provide for evaluation and counseling; to provide for recordkeeping; to provide for

8 penalties; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1061.14(A) and (A)(1) and (B)(3)(b) and (4), and 1061.19(A)(2)

11 is hereby amended and reenacted and R.S. 40:1061.14.1 is hereby enacted to read as follows:

12 §1061.14. Minors

13 A. No physician shall perform or induce an abortion upon any pregnant

14 woman who is under the age of eighteen years and who is not emancipated judicially

15 or by marriage unless the physician **or person acting as agent of the physician**

16 **pursuant to R.S. 40:1061.17(B)(4)(c)** has received ~~one of the following~~ **those**

17 documents **provided for in either Paragraph (1) or (2) of this Subsection:**

1 (1)(a) A notarized statement signed by the mother, father, legal guardian, or
2 tutor of the **unemancipated** minor declaring that the affiant has been informed that
3 the minor intends to seek an abortion, ~~and~~ that the affiant consents to the abortion,
4 **and shall identify the affiant as one of the following:**

5 **(i) The lawful mother.**

6 **(ii) The lawful father.**

7 **(iii) The legal guardian.**

8 **(iv) The lawful tutor of the minor.**

9 **(b) A copy of a valid and unexpired driver's license or a government**
10 **issued identification card of the individual giving parental consent on behalf of**
11 **the unemancipated minor as provided for in Subparagraph (1)(a) of this**
12 **Subsection.**

13 * * *

14 B. The following provisions shall apply to all applications for court orders
15 by minors seeking abortions and appeals from denials of applications:

16 * * *

17 (3) * * *

18 (b)(i) Prior to such ex parte hearing, the court ~~may~~ **shall** require the minor to
19 participate in an evaluation and counseling session with a mental health professional
20 from **either** the Louisiana Department of Health, office of behavioral health, or a
21 staff member from the Department of Children and Family Services, office of
22 children and family services, ~~or both~~. The court ~~may~~ **shall** refer the petitioner, ~~if~~
23 ~~necessary~~, to the appropriate Louisiana Department of Health, office of behavioral
24 health regional office to arrange the evaluation and counseling session within the
25 four-day period prior to the ex parte hearing, as provided in this Paragraph. This
26 referral may be made by the clerk upon the minor's filing the application when the
27 court has issued a standing order authorizing same ~~and the circumstances fit the~~
28 ~~criteria of the standing order therefor.~~

29 (ii) Such evaluation and counseling session shall be for the purpose of

1 developing trustworthy and reliable expert opinion concerning the minor's
2 sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion
3 decision in order to aid the court in its decision and to make the state's resources
4 available to the court for this purpose. Persons conducting such sessions ~~may~~ **shall**
5 employ the information and printed materials referred to in R.S. 40:1061.17 in
6 examining how well the minor interviewed is informed about pregnancy, fetal
7 development, abortion risks and consequences, and abortion alternatives, and ~~should~~
8 **shall** also endeavor to verify that the minor is seeking an abortion of her own free
9 will and is not acting under intimidation, threats, abuse, undue pressure, or extortion
10 by any other persons **and is not a victim of a coerced abortion as defined in**
11 **Children's Code Art. 603.**

12 (iii) **Such evaluation and counseling session shall also endeavor to**
13 **ascertain whether the minor is pregnant as a result of sexual activity**
14 **constituting a crime under the laws of this state, or as a result of commercial**
15 **sexual exploitation of the minor child.**

16 (iv) The results of such evaluation and counseling shall be reported to the
17 court by the most expeditious means, commensurate with security and
18 confidentiality, to assure receipt by the court prior to or at the ex parte hearing.

19 (4)(a) If the court, using reasoned judgment and evidentiary evaluation,
20 finds, by clear and convincing evidence, that the minor is sufficiently mature and
21 well enough informed to make the decision concerning the abortion on her own, **and**
22 **further finds that the child is not the victim of coerced abortion, sexual crimes**
23 **against the child, or commercial sexual exploitation under the laws of this state,**
24 the court shall issue an order authorizing the minor to act on the matter without
25 parental consultation or consent.

26 (b) **If the court finds by preponderance of the evidence that the minor**
27 **is a victim of coerced abortion, sexual crimes against the child, or commercial**
28 **sexual exploitation under the laws of this state, the court shall issue any**
29 **appropriate temporary restraining orders in accordance with Children's Code**

to the abortion,

- (2) A court order signed by a judge.

Proposed law retains present law but requires that the notarized statement signed by the mother, father, legal guardian, or tutor of the unemancipated minor shall state whether the parent is the lawful mother, the lawful father, the legal guardian, or the lawful tutor of the minor.

Proposed law retains present law but requires that the parent, legal guardian, or tutor giving parental consent for the minor to obtain an abortion also provides a copy of a valid and unexpired driver's license or a government issued identification card of the individual giving parental consent on behalf of the minor.

Present law provides that, prior to a court order, an ex parte hearing shall be conducted and the court may require the minor to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health, office of behavioral health, or a staff member from the Department of Children and Family Services, office of children and family services, or both. Present law provides that the court may refer the petitioner, if necessary, to the appropriate Louisiana Department of Health, office of behavioral health regional office to arrange the evaluation and counseling session within the four-day period prior to the ex parte hearing. Present law provides that the referral may be made by the clerk upon the minor's filing the application when the court has issued a standing order authorizing same and the circumstances fit the criteria of the standing order.

Proposed law retains present law but requires that the judge order counseling and changes the permissive and instructive provisions to mandatory.

Present law provides the evaluation and counseling session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose. Present law provides that the persons conducting such sessions may employ the information and printed materials referred to in the "Woman's Right To Know" booklet and will examine how well the minor interviewed is informed about pregnancy, fetal development, abortion risks and consequences, and abortion alternatives, and should also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure, or extortion by any other persons.

Proposed law retains present law but changes the permissive provisions to mandatory and requires that the evaluation and counseling session endeavor to ascertain whether the minor is the subject of a coerced abortion or the pregnancy is the result of sexual activity constituting a crime under the laws of this state or the result of commercial sexual exploitation of the minor child.

Proposed law retains present law but provides that if the court finds, by preponderance of the evidence, that the minor is a victim of coerced abortion, sexual crimes against the child, or commercial sexual exploitation under the laws of this state, the court shall issue any appropriate temporary restraining orders to protect the minor child.

Proposed law provides that any person, other than the minor, found guilty of defrauding the parents of parental consent or fraudulently assisting the minor in obtaining an abortion without parental consent shall be subject to a fine of \$1,000 and imprisoned for not more than two years, if he does any of the following with the intent to avoid the parental consent requirements:

- (1) Falsely claims to be the lawful mother, father, legal guardian, or tutor of an unemancipated minor seeking abortion where an abortion is authorized based upon

- parental consent.
- (2) Falsely signs an affidavit claiming to be a person authorized to consent for a minor where an abortion is authorized based upon parental consent.

Present law provides that each physician shall retain and make part of the medical record of each pregnant woman upon whom an abortion is performed or induced, including a parental consent form for the abortion or a copy of the court order.

Proposed law retains present law but provides that the physician also maintain a copy of the valid and unexpired driver's license or government issued identification card of the individual giving parental consent on behalf of the minor for the abortion.

Effective August 1, 2017.

(Amends R.S. 40:1061.14(A) and (A)(1) and (B)(3)(b) and (4), and 1061.19(A)(2); adds R.S. 40:1061.14.1)