

SENATE BILL NO. 111

BY SENATORS MIZELL AND THOMPSON AND REPRESENTATIVES AMEDEE, ANDERS, BACALA, BAGLEY, BARRAS, BERTHELOT, BISHOP, BROADWATER, TERRY BROWN, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, CREWS, CROMER, DAVIS, DEVILLIER, DWIGHT, EDMONDS, EMERSON, FALCONER, GAROFALO, GISCLAIR, GUINN, LANCE HARRIS, HAVARD, HAZEL, HENSGENS, HILFERTY, HILL, HOFFMANN, HORTON, HOWARD, HUVAL, IVEY, JOHNSON, LEBAS, MCFARLAND, MIGUEZ, GREGORY MILLER, JAY MORRIS, POPE, PUGH, PYLANT, REYNOLDS, RICHARD, SCHEXNAYDER, SIMON, STAGNI, STEFANSKI, STOKES, THOMAS, WHITE AND ZERINGUE

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

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 40:1061.14(A), R.S.
3 40:1061.14(A)(1) and (B)(3)(b)(ii) and (iii) and (4), 1061.19(A)(2), and
4 1061.21(A)(5) and to enact R.S. 40:1061.14(B)(3)(b)(iv) and 1061.14.1, relative to
5 abortion for an unemancipated minor; to provide for parental consent; to provide for
6 court orders; to require identification for parents or guardians; to provide for
7 counseling for minor children who are victims of coerced abortions or commercial
8 sexual exploitation; to provide for evaluation and counseling; to provide for
9 recordkeeping; to provide for penalties; to provide for reporting; to provide for
10 severability; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. The introductory paragraph of R.S. 40:1061.14(A), R.S. 40:1061.14(A)(1)
13 and (B)(3)(b)(ii) and (iii) and (4), 1061.19(A)(2), and 1061.21(A)(5) are hereby amended
14 and reenacted and R.S. 40:1061.14(B)(3)(b)(iv) and 1061.14.1 are hereby enacted to read
15 as follows:

16 §1061.14. Minors

17 A. No physician shall perform or induce an abortion upon any pregnant
18 woman who is under the age of eighteen years and who is not emancipated judicially
19 or by marriage unless the physician **or a qualified person acting as agent of the**
20 **physician pursuant to R.S. 40:1061.17(B)(4)(c)** has received ~~one of the following~~
21 **those** 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 The affiant shall provide sufficient evidence of identity that shall be expressly
5 specified in the affidavit to establish an articulable basis for a reasonably
6 prudent person to believe that the affiant is one of the following:

7 (i) The lawful mother.

8 (ii) The lawful father.

9 (iii) The legal guardian.

10 (iv) The lawful tutor of the minor.

11 (b) A copy of a valid and unexpired driver's license or a
12 government-issued identification card of the individual giving consent on behalf
13 of the unemancipated minor as provided for in Subparagraph (a) of this
14 Paragraph.

15 * * *

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

18 * * *

19 (3) * * *

20 (b) * * *

21 (ii) Such evaluation and counseling session shall be for the purpose of
22 developing trustworthy and reliable expert opinion concerning the minor's
23 sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion
24 decision in order to aid the court in its decision and to make the state's resources
25 available to the court for this purpose. Persons conducting such sessions ~~may~~ shall
26 employ the information and printed materials referred to in R.S. 40:1061.17 in
27 examining how well the minor interviewed is informed about pregnancy, fetal
28 development, abortion risks and consequences, the indicators of human
29 trafficking, and abortion alternatives, and ~~should~~ shall also endeavor to verify that
30 the minor is seeking an abortion of her own free will and is not acting under

1 intimidation, threats, abuse, undue pressure, or extortion by any other persons **and**
2 **is not a victim of a coerced abortion as defined in Children's Code Art. 603(9).**

3 (iii) **For purposes of providing screening to protect the safety and well-**
4 **being of the minor, such evaluation and counseling session shall also endeavor**
5 **to ascertain whether the minor is pregnant as a result of sexual activity**
6 **constituting a crime under the laws of this state, or as a result of commercial**
7 **sexual exploitation of the minor, and shall inform the minor of resources**
8 **available for her protection.**

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

12 (4)(a) **If the minor has not been interviewed in such evaluation and**
13 **counseling session prior to the ex parte hearing, such that the court does not**
14 **have the benefit of the required report, then the court may appoint a certified**
15 **child advocate attorney to be present with the minor at the ex parte hearing for**
16 **the purpose of assisting the minor in communicating to the court whether her**
17 **abortion decision is made with sufficient maturity and free and informed**
18 **consent, commensurate with the duty of confidentiality. A certified child**
19 **advocate attorney shall be given sufficient time on the same day as the ex parte**
20 **hearing to review with the minor the information and printed materials**
21 **referred to in R.S. 40:1061.17, in evaluating how well the minor is informed**
22 **about pregnancy, fetal development, abortion risks and consequences, the**
23 **indicators of human trafficking, and abortion alternatives. The certified child**
24 **advocate attorney shall also endeavor to assist in the court's determination of**
25 **whether the minor is seeking the abortion of her own free will and is not acting**
26 **under intimidation, threats, undue pressure, or extortion by other persons, is**
27 **not a victim of coerced abortion as defined in Children's Code Art. 603(9), and**
28 **is not in need of assistance or protective orders if the minor is a victim of**
29 **commercial sexual exploitation as defined in Children's Code Art. 603(9.1), or**
30 **any crime against the child as defined in Children's Code Art. 603(12).**

1 applicable. If the pregnant woman is an unemancipated minor, one of the
2 following:

3 (a) A notarized consent form and copies of identification as provided for
4 in R.S. 40:1061.14(A)(1).

5 (b) A court order required by R.S. 40:1061.14(B), if applicable.

6 * * *

7 §1061.21. Reports

8 A. An individual abortion report for each abortion performed or induced shall
9 be completed by the attending physician. The report shall be confidential and shall
10 not contain the name or address of the woman. The report shall include:

11 * * *

12 (5)(a) Age of pregnant woman.

13 (b) If the pregnant woman is a minor, a notation of whether the abortion
14 was performed pursuant to either notarized parental consent or a judicial
15 bypass order as provided for in R.S. 40:1061.14.

16 * * *

17 Section 2. If any one or more provisions, sections, subsections, sentences, clauses,
18 phrases, or words of this Act or the application thereof to any person or circumstance is
19 found to be unconstitutional, the same is hereby declared to be severable in accordance with
20 R.S. 24:175 and the balance of this Act shall remain effective notwithstanding such
21 unconstitutionality. The legislature hereby declares that it would have passed this Act, and
22 each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective
23 of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases,
24 or words be declared unconstitutional.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____