

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 693
PROPOSED COMMITTEE SUBSTITUTE H693-PCS10358-TK-27

Short Title: Eliminate Exceptions/Med Treatment/Minors.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE CERTAIN EXCEPTIONS FOR PARENTAL CONSENT FOR
3 MEDICAL TREATMENT OF UNEMANCIPATED MINORS UNDER THE LAWS
4 PERTAINING TO THE PRACTICE OF MEDICINE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 90-21.5(a) is repealed.

7 SECTION 2. The title of Part 2 of Article 1A of Chapter 90 of the General Statutes
8 reads as rewritten:

9 "Part 2. Parental or Judicial Consent for ~~Abortion~~-Abortion, Treatment for Sexually
10 Transmitted Diseases, Abuse of Controlled Substances or Alcohol, Mental Illness, and
11 Pregnancy."

12 SECTION 3. G.S. 90-21.7 reads as rewritten:

13 "§ 90-21.7. Parental consent required.

14 (a) No physician licensed to practice medicine in North Carolina shall perform an
15 abortion upon an unemancipated minor unless the physician or agent thereof or another
16 physician or agent thereof first obtains the written consent of the minor and ~~of~~ the notarized
17 written consent of any one of the following:

18 (1) A parent with custody of the ~~minor~~; ~~or~~ minor.

19 (2) The legal guardian or legal custodian of the ~~minor~~; ~~or~~ minor.

20 (3) A parent with whom the minor is ~~living~~; ~~or~~ living.

21 (4) A grandparent with whom the minor has been living for at least six months
22 immediately preceding the date of the minor's written consent.

23 (a1) Except as prohibited by federal law, unless a parent or legal guardian or legal
24 custodian of an unemancipated minor is present with the unemancipated minor and gives
25 consent, no health care provider duly licensed in the State of North Carolina, or agent thereof,
26 shall provide health care services for the prevention, diagnosis, and treatment of (i) sexually
27 transmitted diseases, including Human Immunodeficiency Virus/Acquired Immune Deficiency
28 Syndrome, (ii) abuse of controlled substances or alcohol, (iii) mental illness, or (iv) pregnancy
29 unless the health care provider or agent thereof, or another health care provider or agent
30 thereof, first obtains the written consent of the minor and the notarized written consent of any
31 one of the following:

32 (1) A parent with custody of the minor.

33 (2) The legal guardian or legal custodian of the minor.

34 (3) A parent with whom the minor is living.

35 (4) A grandparent with whom the minor has been living for at least six months
36 immediately preceding the date of the minor's written consent.



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1 (b) The ~~pregnant~~ minor may petition, on his or her own behalf or by guardian ad litem,
 2 the district court judge assigned to the juvenile proceedings in the district court where the
 3 minor resides or where ~~she~~the minor is physically present for a waiver of the parental consent
 4 requirement ~~if~~if one of the following is met:

- 5 (1) None of the persons from whom consent must be obtained pursuant to this
 6 section is available to the physician performing the abortion or providing
 7 health care services for the prevention, diagnosis, and treatment of (i)
 8 sexually transmitted diseases, including Human Immunodeficiency
 9 Virus/Acquired Immune Deficiency Syndrome, (ii) abuse of controlled
 10 substances or alcohol, (iii) mental illness, or (iv) pregnancy or the
 11 physician's agent or the referring physician or the agent thereof within a
 12 reasonable time or ~~manner; or~~manner.
- 13 (2) All of the persons from whom consent must be obtained pursuant to this
 14 section refuse to consent to the performance of an ~~abortion; or~~abortion or the
 15 provision of medical services as described in subdivision (1) of this
 16 subsection.
- 17 (3) The minor elects not to seek consent of the person from whom consent is
 18 required."

19 **SECTION 4.** G.S. 90-21.8 reads as rewritten:

20 **"§ 90-21.8. Procedure for waiver of parental consent.**

21 (a) The requirements and procedures under Part 2 of this Article are available and apply
 22 to unemancipated minors seeking treatment in this State.

23 (b) The court shall ensure that the minor or ~~her~~the minor's guardian ad litem is given
 24 assistance in preparing and filing the petition and shall ensure that the minor's identity is kept
 25 confidential.

26 (c) The minor may participate in proceedings in the court on his or her own behalf or
 27 through a guardian ad litem. The court shall advise ~~her~~the minor that he or she has a right to
 28 appointed counsel, and counsel shall be provided upon his or her request in accordance with
 29 rules adopted by the Office of Indigent Defense Services.

30 (d) Court proceedings under this section shall be confidential and shall be given
 31 precedence over other pending matters necessary to ensure that the court may reach a decision
 32 promptly. In no case shall the court fail to rule within seven days of the time of filing the
 33 application. This time limitation may be extended at the request of the minor. At the hearing,
 34 the court shall hear evidence relating to the emotional development, maturity, intellect, and
 35 understanding of the minor; the nature, possible consequences, and alternatives to the
 36 ~~abortion; abortion or health care services sought by the minor~~ and any other evidence that the
 37 court may find useful in determining whether the parental consent requirement shall be waived.

38 (e) The parental consent requirement shall be waived if the court ~~finds;~~makes any of the
 39 following findings:

- 40 (1) ~~That the~~The minor is mature and well-informed enough to make the
 41 abortion decision or decision regarding health care services for the
 42 prevention, diagnosis, and treatment of (i) sexually transmitted diseases,
 43 including Human Immunodeficiency Virus/Acquired Immune Deficiency
 44 Syndrome, (ii) abuse of controlled substances or alcohol, (iii) mental illness,
 45 or (iv) pregnancy on ~~her own; or~~his or her own.
- 46 (2) ~~That it~~It would be in the minor's best interests that parental consent not be
 47 required; orrequired.
- 48 (3) ~~That~~In instances where an abortion is sought, the minor is a victim of rape
 49 or of felonious incest under G.S. 14-178.

50 (f) The court shall make written findings of fact and conclusions of law supporting its
 51 decision and shall order that a confidential record of the evidence be maintained. If the court

1 finds that the minor has been a victim of incest, whether felonious or misdemeanor, it shall
2 advise the Director of the Department of Social Services of its findings for further action
3 pursuant to Article 3 of Chapter 7B of the General Statutes.

4 (g) If the ~~female~~-petitioner so requests in ~~her~~-the petition, no summons or other notice
5 may be served upon the parents, guardian, or custodian of the ~~minor female~~-minor.

6 (h) The minor may appeal an order issued in accordance with this section. The appeal
7 shall be a de novo hearing in superior court. The notice of appeal shall be filed within 24 hours
8 from the date of issuance of the district court order. The de novo hearing may be held out of
9 district and out of session and shall be held as soon as possible within seven days of the filing
10 of the notice of appeal. The record of the de novo hearing is a confidential record and shall not
11 be open for general public inspection. The Chief Justice of the North Carolina Supreme Court
12 shall adopt rules necessary to implement this subsection.

13 (i) No court costs shall be required of any minor who avails himself or herself of the
14 procedures provided by this section."

15 **SECTION 5.** G.S. 90-21.9 reads as rewritten:

16 "**§ 90-21.9. Medical emergency exception.**

17 The requirements of parental consent prescribed by G.S. 90-21.7(a) and G.S. 90-21.7(a1)
18 shall not apply when, in the best medical judgment of the physician based on the facts of the
19 case before the physician, a medical emergency exists that so complicates the pregnancy as to
20 require an immediate ~~abortion~~, ~~abortion~~ or the immediate provision of health care services, or
21 when the conditions prescribed by G.S. 90-21.1(4) are met."

22 **SECTION 6.** G.S. 122C-221(a) reads as rewritten:

23 "(a) Except as otherwise provided in this Part, a minor may be admitted to a facility if
24 the minor is (i) mentally ill or a substance abuser and in need of treatment, (ii) in need of
25 treatment, and (iii) has complied with the consent requirements under G.S. 90-21.7. Except as
26 otherwise provided in this ~~Part~~, Part and to the extent allowed under G.S. 90-21.7, the
27 provisions of G.S. 122C-211 shall apply to admissions of minors under this Part. ~~Except as~~
28 ~~provided in G.S. 90-21.5, in~~ In applying for admission to a ~~facility, in consenting to medical~~
29 ~~treatment when consent is required,~~ facility and in any other legal procedure under this Article,
30 the legally responsible person shall act for the minor. If a minor reaches the age of 18 while in
31 treatment under this Part, further treatment is authorized only on the written authorization of
32 the client or under the provisions of Part 7 or Part 8 of Article 5 of this Chapter."

33 **SECTION 7.** This act becomes effective October 1, 2013.