

HB 143 -- Parental Notification for Abortion

Sponsor: Portwood

This bill establishes the Missouri Parental Notification Act, which specifies that an abortion may not be performed on an unemancipated minor until 48 hours after a written notice has been delivered to the minor's parent. The notice must be addressed to the parent at the parent's place of residence and must be delivered by the attending physician or a member of the physician's staff who is over the age of 18, the sheriff or a sheriff's deputy of the county where the notice is made, a person over the age of 18 who is not related to the minor, or a member of the clergy who is over the age of 18. If the notice is delivered by someone other than the attending physician, it must be delivered in a sealed envelope marked "Personal and Confidential"; and the contents of the envelope may not be revealed to the person making the delivery. If the parents of the minor reside at the same residence, delivery to one parent constitutes delivery to both. If the parents of the minor do not live together, the notice must be delivered to both parents unless the minor requests that only one parent be notified. This request must be documented in the minor's medical record.

The person delivering the notice must provide a written return of service to the physician, which must be maintained by the physician. The notice may also be sent to the minor's parents by certified mail, return receipt requested. Proof of mailing and delivery or attempted delivery must be maintained by the physician.

If the minor is living with a relative who is not a parent, the notice may be provided to either the relative or the parent. The physician or the physician's staff is required to inform the minor that the notice must be provided to the minor's parents before the abortion is performed and the circumstances under which the minor may request that only one parent be notified.

Notice is not required if the parents of the minor or the person the minor elects to notify certifies in writing that he or she has been notified; if the pregnant minor declares that she is a victim of abuse or neglect and the attending physician has reported the abuse or neglect; if the attending physician certifies in the minor's medical record that a medical emergency exists; or if a valid court order is issued.

A person who performs or attempts to perform an abortion in violation of the notification requirement is liable for damages proximately caused by the performance or attempted performance of the abortion. The bill outlines two affirmative defenses that a

defendant may assert in a civil proceeding for violation of the notification requirement.

Any person who counsels, advises, encourages, or conspires to induce or persuade a minor to provide false information to a physician in order to avoid the parental notification requirement is guilty of a class D felony.

A court can enter an order dispensing with the notification requirement if the pregnant minor elects not to allow notification and the court finds that giving notice is not in the best interests of the minor or if the court finds by clear and convincing evidence that the minor is sufficiently mature to decide whether to have an abortion. The court may also appoint a guardian ad litem and an attorney for the minor. Court proceedings are confidential and take precedence over other pending matters, and the matter must be heard and decided no later than four days after the filing of the petition. An expedited confidential appeal to the court of appeals is available to the minor child, and any appeal must be heard and decided no later than five days after it is filed. If the court of appeals fails to act within the time limit, the circuit court must enter an order dispensing with the notification requirement.