House Bill 3234

Sponsored by Representative NELSON; Representatives BOQUIST, G SMITH, THATCHER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Requires person to notify parent before person performs abortion on minor or ward, with specific exceptions. Establishes administrative process for minor or ward to obtain abortion without notice to parent. Requires preservation of anonymity of minor or ward seeking abortion without notice. Establishes civil action for parent wrongfully denied notification.

Permits presiding officers of Legislative Assembly to appoint sponsor of Act to intervene in action challenging validity of Act.

Directs chief administrative law judge to report annually number of applications made and granted under Act.

1   **A BILL FOR AN ACT**

2   Relating to notification to a parent prior to performing an abortion on a minor.

3   **Be It Enacted by the People of the State of Oregon:**

4   **SECTION 1. As used in sections 1 to 8 of this 2007 Act:**

5   **(1) "Abortion" means the use of a drug or device to intentionally terminate a pregnancy**

6   **other than to produce a live birth or remove a dead unborn child.**

7   **(2) "Medical emergency" means a medical condition that places the health of a pregnant**

8   **woman in such serious jeopardy that failure to terminate the pregnancy or a delay in ter-**

9   **minating the pregnancy would result in the death of the woman, serious impairment to**

10   **bodily function or serious and permanent lack of function of any bodily organ or part.**

11   **(3) "Minor" has the meaning given that term in ORS 125.005.**

12   **(4) "Parent" means:**

13   **(a) A biological parent;**

14   **(b) If a minor has been adopted, an adoptive parent; or**

15   **(c) If a court has appointed a guardian for a minor, the guardian.**

16   **(5) "Ward" means a minor for whom a court has appointed a guardian under ORS chap-**

17   **ter 125.**

18   **SECTION 2. (1) A person may not perform an abortion on an unemancipated minor or a**

19   **ward until 48 hours after the parent receives written notice from the person of the proposed**

20   **abortion by certified mail, return receipt requested, at the residence of the parent, with de-**

21   **livery restricted to the parent.**

22   **(2) Receipt of notice under subsection (1) of this section is deemed to occur not later than**

23   **12 noon on the second mail delivery day after the mailing of the notice.**

24   **SECTION 3. (1) A person may perform an abortion on an unemancipated minor or a ward**

25   **without the notice required by section 2 of this 2007 Act if:**

26   **(a) Due to a medical emergency, notification is not possible and the person performing**

27   **the abortion documents the medical emergency in the minor's or ward's medical record;**

28   **(b) The Department of Human Services under section 4 of this 2007 Act or a court on**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 review of an order by the department under section 6 of this 2007 Act authorizes the

2 abortion; or

3 (c) The person who is to perform the abortion provides notice to the parent in person.

4 (2) A parent receiving notice under subsection (1)(c) of this section must provide the

5 person providing notice with:

6 (a) Current photographic identification issued by this state; or

7 (b) A document on List A of United States Department of Homeland Security Form I-9.

8 (3) The person who performs the abortion for which the person provided notice under

9 subsection (1)(c) of this section shall retain a copy of the proof of identification furnished

10 by the parent in the medical record of the minor or ward for at least three years.

11 SECTION 4. (1)(a) Within three days after receiving an application of a pregnant minor

12 or ward for an abortion without notice to a parent, the Department of Human Services shall

13 request assignment of an administrative law judge from the Office of Administrative

14 Hearings to consider the application.

15 (b) On behalf of the department, the administrative law judge shall issue a final order

16 authorizing the abortion if the administrative law judge determines that:

17 (A) The applicant is mature and capable of giving informed consent to the abortion; or

18 (B) Obtaining an abortion without the notice required by section 2 of this 2007 Act is in

19 the best interest of the applicant.

20 (2) The administrative law judge shall issue an order denying or granting the application

21 under this section within seven calendar days after the office receives the application from

22 the department.

23 (3) The department may not modify the form of order issued under this section or a

24 finding of historical fact by the administrative law judge.

25 (4) ORS 183.630 does not apply to a hearing under this section.

26 (5) The chief administrative law judge of the Office of Administrative Hearings shall

27 adopt rules for the conduct of hearings under this section.

28 SECTION 5. (1) A hearing under section 4 of this 2007 Act shall be held in private, and

29 the administrative law judge shall exclude all persons other than the minor or ward, the

30 counsel of the minor or ward, witnesses and representatives of the administrative law judge.

31 (2) Communications in a hearing held under section 4 of this 2007 Act are confidential.

32 An individual participating in a hearing held under section 4 of this 2007 Act may not be ex-

33 amined about the communications in any civil or criminal action. Exceptions to testimonial

34 privilege otherwise applicable under ORS 40.225 to 40.295 do not apply to communications

35 made confidential under this subsection.

36 (3) Records of a hearing under section 4 of this 2007 Act are not open to public inspection.

37 The administrative law judge may disclose the records only to:

38 (a) The minor or ward;

39 (b) Counsel for the minor or ward; and

40 (c) Representatives of the administrative law judge.

41 SECTION 6. (1) If an administrative law judge issues an order denying an application

42 under section 4 of this 2007 Act, the applicant may petition for judicial review of the order

43 under ORS 183.484.

44 (2) On review of an order issued under section 4 of this 2007 Act, the court shall preserve

45 the anonymity of the applicant.

1   (3)(a) The court shall give precedence to proceedings under this section over all other

2 matters on the court′s docket.

3   (b)(A) The court shall issue the decision on review not later than 5 p.m. on the second

4 business day after the filing of the petition for judicial review.

5   (B) Upon the request of the applicant, the court may extend the time for decision. If the

6 court extends the time for decision, the court shall issue the decision not later than 5 p.m.

7 on the second business day after the applicant informs the court that the applicant is pre-

8 pared to proceed.

9   (4) If the court fails to issue the decision on review within the time specified in sub-

10 section (3) of this section:

11   (a) The application is deemed granted; and

12   (b) The clerk of the court shall issue a written statement to the applicant stating that

13 the application is granted.

14   (5) In a decision under this section, the court shall make special findings of fact based

15 upon the evidence in the record and conclusions of law.

16   <u>SECTION 7.</u> (1) The failure of a person performing an abortion on an unemancipated

17 minor or a ward to comply with section 2 of this 2007 Act:

18   (a) Gives rise to civil liability in favor of a parent of the minor or ward; and

19   (b) Provides the Board of Medical Examiners a basis for refusing to grant, or suspending

20 or revoking, a license to practice under ORS 677.190.

21   (2) Subsection (1) of this section does not apply if the person performing the abortion on

22 the unemancipated minor or ward establishes that the person reasonably relied upon the

23 representations of the minor or ward regarding information necessary to comply with sec-

24 tion 2 of this 2007 Act.

25   (3) The Department of Human Services, the Office of Administrative Hearings and the

26 administrative law judge are immune from civil liability for actions taken in the course of a

27 hearing under section 4 of this 2007 Act.

28   <u>SECTION 8.</u> On January 15 of each year, the chief administrative law judge shall make

29 available to the public a report of the number of applications made and granted under section

30 4 of this 2007 Act.

31   <u>SECTION 9.</u> The President of the Senate and the Speaker of the House of Representatives

32 may each appoint a sponsor of this 2007 Act to intervene as a matter of right in any action

33 in which the validity of this 2007 Act is challenged.

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