

HB2175



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2175

Introduced 2/7/2023, by Rep. Adam M. Niemerg

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 4111/Act rep.

Creates the Parental Notice of Abortion Act of 2023, with provisions similar to those of the Parental Notice of Abortion Act of 1995. Repeals the Youth Health and Safety Act. Effective immediately.

LRB103 26049 LNS 52404 b

A BILL FOR

1 AN ACT concerning parental notice of abortion.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Parental Notice of Abortion Act of 2023.

6 Section 5. Legislative findings and purpose. The General
7 Assembly finds that notification of a family member as defined
8 in this Act is in the best interest of an unemancipated minor,
9 and the General Assembly's purpose in enacting this parental
10 notice law is to further and protect the best interests of an
11 unemancipated minor.

12 The medical, emotional, and psychological consequences of
13 abortion are sometimes serious and long-lasting, and immature
14 minors often lack the ability to make fully informed choices
15 that consider both the immediate and long-range consequences.

16 Parental consultation is usually in the best interest of
17 the minor and is desirable since the capacity to become
18 pregnant and the capacity for mature judgment concerning the
19 wisdom of an abortion are not necessarily related.

20 Section 10. Definitions. As used in this Act:

21 "Abortion" means the use of any instrument, medicine,
22 drug, or any other substance or device to terminate the

1 pregnancy of a woman known to be pregnant with an intention
2 other than to increase the probability of a live birth, to
3 preserve the life or health of a child after live birth, or to
4 remove a dead fetus.

5 "Actual notice" means the giving of notice directly, in
6 person, or by telephone.

7 "Adult family member" means a person over 21 years of age
8 who is the parent, grandparent, step-parent living in the
9 household, or legal guardian.

10 "Constructive notice" means notice by certified mail to
11 the last known address of the person entitled to notice with
12 delivery deemed to have occurred 48 hours after the certified
13 notice is mailed.

14 "Incompetent" means any person who has been adjudged as
15 mentally ill or as a person with a developmental disability
16 and who, because of her mental illness or developmental
17 disability, is not fully able to manage her person and for whom
18 a guardian of the person has been appointed under paragraph
19 (1) of subsection (a) of Section 11a-3 of the Probate Act of
20 1975.

21 "Medical emergency" means a condition that, on the basis
22 of the physician's good faith clinical judgment, so
23 complicates the medical condition of a pregnant woman as to
24 necessitate the immediate abortion of her pregnancy to avert
25 her death or for which a delay will create serious risk of
26 substantial and irreversible impairment of major bodily

1 function.

2 "Minor" means any person under 18 years of age who is not
3 or has not been married or who has not been emancipated under
4 the Emancipation of Minors Act.

5 "Neglect" means the failure of an adult family member to
6 supply a child with necessary food, clothing, shelter, or
7 medical care when reasonably able to do so or the failure to
8 protect a child from conditions or actions that imminently and
9 seriously endanger the child's physical or mental health when
10 reasonably able to do so.

11 "Physical abuse" means any physical injury intentionally
12 inflicted by an adult family member on a child.

13 "Physician" means any person licensed to practice medicine
14 in all its branches under the Illinois Medical Practice Act of
15 1987.

16 "Sexual abuse" means any sexual conduct or sexual
17 penetration as defined in Section 11-0.1 of the Criminal Code
18 of 2012 that is prohibited by the criminal laws of the State
19 and committed against a minor by an adult family member as
20 defined in this Act.

21 Section 15. Notice to adult family member. No person shall
22 knowingly perform an abortion upon a minor or upon an
23 incompetent person unless the physician or his or her agent
24 has given at least 48 hours actual notice to an adult family
25 member of the pregnant minor or incompetent person of his or

1 her intention to perform the abortion, unless that person or
2 his or her agent has received a written statement by a
3 referring physician certifying that the referring physician or
4 his or her agent has given at least 48 hours notice to an adult
5 family member of the pregnant minor or incompetent person. If
6 actual notice is not possible after a reasonable effort, the
7 physician or his or her agent must give 48 hours constructive
8 notice.

9 Section 20. Exceptions. Notice shall not be required under
10 this Act if:

11 (1) the minor or incompetent person is accompanied by
12 a person entitled to notice;

13 (2) notice is waived in writing by a person who is
14 entitled to notice;

15 (3) the attending physician certifies in the patient's
16 medical record that a medical emergency exists and there
17 is insufficient time to provide the required notice;

18 (4) the minor declares in writing that she is a victim
19 of sexual abuse, neglect, or physical abuse by an adult
20 family member as defined in this Act. The attending
21 physician must certify in the patient's medical record
22 that he or she has received the written declaration of
23 abuse or neglect. Any notification of public authorities
24 of abuse that may be required under other laws of this
25 State need not be made by the person performing the

1 abortion until after the minor receives an abortion that
2 otherwise complies with the requirements of this Act; or
3 (5) notice is waived under Section 25.

4 Section 25. Procedure for judicial waiver of notice.

5 (a) The requirements and procedures under this Section are
6 available to minors and incompetent persons whether or not
7 they are residents of this State.

8 (b) The minor or incompetent person may petition any
9 circuit court for a waiver of the notice requirement and may
10 participate in proceedings on her own behalf. The court shall
11 appoint a guardian ad litem for her. Any guardian ad litem
12 appointed under this Act shall act to maintain the
13 confidentiality of the proceedings. The circuit court shall
14 advise her that she has a right to court-appointed counsel and
15 shall provide her with counsel upon her request.

16 (c) Court proceedings under this Section shall be
17 confidential and shall ensure the anonymity of the minor or
18 incompetent person. All court proceedings under this Section
19 shall be sealed. The minor or incompetent person shall have
20 the right to file her petition in the circuit court using a
21 pseudonym or using solely her initials. All documents related
22 to this petition shall be confidential and shall not be made
23 available to the public.

24 These proceedings shall be given precedence over other
25 pending matters to the extent necessary to ensure that the

1 court reaches a decision promptly. The court shall rule and
2 issue written findings of fact and conclusions of law within
3 48 hours of the time that the petition is filed, except that
4 the 48-hour limitation may be extended at the request of the
5 minor or incompetent person. If the court fails to rule within
6 the 48-hour period and an extension is not requested, then the
7 petition shall be deemed to have been granted, and the notice
8 requirement shall be waived.

9 (d) Notice shall be waived if the court finds by a
10 preponderance of the evidence either:

11 (1) that the minor or incompetent person is
12 sufficiently mature and well enough informed to decide
13 intelligently whether to have an abortion; or

14 (2) that notification under Section 15 would not be in
15 the best interests of the minor or incompetent person.

16 (e) A court that conducts proceedings under this Section
17 shall issue written and specific factual findings and legal
18 conclusions supporting its decision and shall order that a
19 confidential record of the evidence and the judge's findings
20 and conditions be maintained.

21 (f) An expedited confidential appeal shall be available,
22 as the Supreme Court provides by rule, to any minor or
23 incompetent person to whom the circuit court denies a waiver
24 of notice. An order authorizing an abortion without notice
25 shall not be subject to appeal.

26 (g) The Supreme Court is respectfully requested to adopt

1 any rules necessary to ensure that proceedings under this Act
2 are handled in an expeditious and confidential manner.

3 (h) No fees shall be required of any minor or incompetent
4 person who avails herself of the procedures provided by this
5 Section.

6 Section 30. Minor's consent to abortion. A person may not
7 perform an abortion on a minor without the minor's consent,
8 except in a medical emergency.

9 Section 35. Reports. The Department of Public Health shall
10 comply with the reporting requirements set forth in the
11 consent decree in *Herbst v. O'Malley*, case no. 84-C-5602 in
12 the U.S. District Court for the Northern District of Illinois,
13 Eastern Division.

14 Section 40. Penalties.

15 (a) Any physician who willfully fails to provide notice as
16 required under this Act before performing an abortion on a
17 minor or an incompetent person shall be referred to the
18 Illinois State Medical Board for action in accordance with
19 Section 22 of the Medical Practice Act of 1987.

20 (b) Any person, not authorized under this Act, who signs
21 any waiver of notice for a minor or incompetent person seeking
22 an abortion, is guilty of a Class C misdemeanor.

1 Section 45. Immunity. Any physician who, in good faith,
2 provides notice in accordance with Section 15 or relies on an
3 exception under Section 20 shall not be subject to any type of
4 civil or criminal liability or discipline for unprofessional
5 conduct for failure to give required notice.

6 Section 50. Severability and inseverability. If any
7 provision of this Act or its application to any person or
8 circumstance is held invalid, the invalidity of that provision
9 or application does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, except that Section 25 is
12 inseverable to the extent that if all or any substantial and
13 material part of Section 25 is held invalid, then the entire
14 Act is invalid.

15 (20 ILCS 4111/Act rep.)

16 Section 90. The Youth Health and Safety Act is repealed.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.