

As Passed by the Senate

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Am. S. B. No. 242

Senators Grendell, Gillmor

**Cosponsors: Senators Buehrer, Schaffer, Husted, Seitz, Widener, Faber,
Schuring, Carey, Cates, Gibbs, Harris, Hughes, Jones, Patton, Wagoner**

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A B I L L

To amend section 2919.121 of the Revised Code to 1
revise the procedures governing a hearing by which 2
a court may permit a pregnant minor to consent to 3
an abortion or by which a court may give judicial 4
consent for a pregnant minor to have an abortion 5
and to require a court to make its findings with 6
respect to such a hearing by clear and convincing 7
evidence. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2919.121 of the Revised Code be 9
amended to read as follows: 10

Sec. 2919.121. (A) For the purpose of this section, a minor 11
shall be considered "emancipated" if the minor has married, 12
entered the armed services of the United States, become employed 13
and self-subsisting, or has otherwise become independent from the 14
care and control of her parent, guardian, or custodian. 15

(B) No person shall knowingly perform or induce an abortion 16
upon a pregnant minor unless one of the following is the case: 17

(1) The attending physician has secured the informed written 18

consent of the minor and one parent, guardian, or custodian; 19

(2) The minor is emancipated and the attending physician has 20
received her written informed consent; 21

(3) The minor has been authorized to consent to the abortion 22
by a court order issued pursuant to division (C) of this section, 23
and the attending physician has received her informed written 24
consent; 25

(4) The court has given its consent in accordance with 26
division (C) of this section and the minor is having the abortion 27
willingly. 28

(C) The right of a minor to consent to an abortion under 29
division (B)(3) of this section or judicial consent to obtain an 30
abortion under division (B)(4) of this section may be granted by a 31
court order pursuant to the following procedures: 32

(1) The minor or next friend shall make an application to the 33
juvenile court of the county in which the minor has a residence or 34
legal settlement, the juvenile court of any county that borders 35
the county in which she has a residence or legal settlement, or 36
the juvenile court of the county in which the facility in which 37
the abortion would be performed or induced is located. The 38
juvenile court shall assist the minor or next friend in preparing 39
the petition and notices required by this section. The minor or 40
next friend shall thereafter file a petition setting forth all of 41
the following: the initials of the minor; her age; the names and 42
addresses of each parent, guardian, custodian, or, if the minor's 43
parents are deceased and no guardian has been appointed, any other 44
person standing in loco parentis of the minor; that the minor has 45
been fully informed of the risks and consequences of the abortion; 46
that the minor is of sound mind and has sufficient intellectual 47
capacity to consent to the abortion; that the minor has not 48
previously filed a petition under this section concerning the same 49

pregnancy that was denied on the merits; that, if the court does 50
not authorize the minor to consent to the abortion, the court 51
should find that the abortion is in the best interests of the 52
minor and give judicial consent to the abortion; that the court 53
should appoint a guardian ad litem; and if the minor does not have 54
private counsel, that the court should appoint counsel. The 55
petition shall be signed by the minor or the next friend. 56

(2)(a) A hearing on the merits shall be held on the record as 57
soon as possible within five days of filing the petition. If the 58
minor has not retained counsel, the court shall appoint counsel at 59
least twenty-four hours prior to the hearing. The court shall 60
appoint a guardian ad litem to protect the interests of the minor 61
at the hearing. If the guardian ad litem is an attorney admitted 62
to the practice of law in this state, the court may appoint the 63
guardian ad litem to serve as the minor's counsel. At the hearing, 64
the court shall ~~hear~~ do all of the following: 65

(i) Hear evidence relating to the emotional development, 66
maturity, intellect, and understanding of the minor; the nature, 67
possible consequences, and alternatives to the abortion; and any 68
other evidence that the court may find useful in determining 69
whether the minor should be granted the right to consent to the 70
abortion or whether the abortion is in the best interests of the 71
minor; 72

(ii) Specifically inquire about the minor's understanding of 73
the possible physical and emotional complications of abortion and 74
how the minor would respond if the minor experienced those 75
complications after the abortion; 76

(iii) Specifically inquire about the extent to which anyone 77
has instructed the minor on how to answer questions and on what 78
testimony to give at the hearing. 79

~~If~~ (b) If the minor or her counsel fail to appear for a 80

scheduled hearing, jurisdiction shall remain with the judge who 81
would have presided at the hearing. 82

(3) If the court finds by clear and convincing evidence that 83
the minor is sufficiently mature and well enough informed to 84
decide intelligently whether to have an abortion, the court shall 85
grant the petition and permit the minor to consent to the 86
abortion. 87

If the court finds by clear and convincing evidence that the 88
abortion is in the best interests of the minor, the court shall 89
give judicial consent to the abortion, setting forth the grounds 90
for its finding. 91

If the court does not make either of the findings specified 92
in division (C)(3) of this section, the court shall deny the 93
petition, setting forth the grounds on which the petition is 94
denied. 95

The court shall issue its order not later than twenty-four 96
hours after the end of the hearing. 97

(4) No juvenile court shall have jurisdiction to rehear a 98
petition concerning the same pregnancy once a juvenile court has 99
granted or denied the petition. 100

(5) If the petition is granted, the informed consent of the 101
minor, pursuant to a court order authorizing the minor to consent 102
to the abortion, or judicial consent to the abortion, shall bar an 103
action by the parents, guardian, or custodian of the minor for 104
battery of the minor against any person performing or inducing the 105
abortion. The immunity granted shall only extend to the 106
performance or inducement of the abortion in accordance with this 107
section and to any accompanying services that are performed in a 108
competent manner. 109

(6) An appeal from an order issued under this section may be 110
taken to the court of appeals by the minor. The record on appeal 111

shall be completed and the appeal perfected within four days from 112
the filing of the notice of appeal. Because the abortion may need 113
to be performed in a timely manner, the supreme court shall, by 114
rule, provide for expedited appellate review of cases appealed 115
under this section. 116

(7) All proceedings under this section shall be conducted in 117
a confidential manner and shall be given such precedence over 118
other pending matters as will ensure that the court will reach a 119
decision promptly and without delay. 120

The petition and all other papers and records that pertain to 121
an action commenced under this section shall be kept confidential 122
and are not public records under section 149.43 of the Revised 123
Code. 124

(8) No filing fee shall be required of or court costs 125
assessed against a person filing a petition under this section or 126
appealing an order issued under this section. 127

(9) Nothing in division (C) of this section shall constitute 128
a waiver of any testimonial privilege provided under the Revised 129
Code or at common law. 130

(D) It is an affirmative defense to any civil, criminal, or 131
professional disciplinary claim brought under this section that 132
compliance with the requirements of this section was not possible 133
because an immediate threat of serious risk to the life or 134
physical health of the minor from the continuation of her 135
pregnancy created an emergency necessitating the immediate 136
performance or inducement of an abortion. 137

(E) Whoever violates division (B) of this section is guilty 138
of unlawful abortion, a misdemeanor of the first degree. If the 139
offender previously has been convicted of or pleaded guilty to a 140
violation of this section, unlawful abortion is a felony of the 141
fourth degree. 142

(F) Whoever violates division (B) of this section is liable 143
to the pregnant minor and her parents, guardian, or custodian for 144
civil, compensatory, and exemplary damages. 145

Section 2. That existing section 2919.121 of the Revised Code 146
is hereby repealed. 147