

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 145

**NJSA:**9:17A-1

(Abortion -- notification)

**BILL NO:** A527(Substituted for S813 Senate Committee Substitute)

**SPONSOR(S):**Rooney and Creeco

**DATE INTRODUCED:**Pre-filed

**COMMITTEE:**

*ASSEMBLY:* Judiciary

*SENATE:*-----

**AMENDED DURING PASSAGE:**Yes

**DATES OF PASSAGE:**

*ASSEMBLY:*June 24, 1999

*SENATE:*June 24, 1999

**DATE OF APPROVAL:**June 28, 1999

### THE FOLLOWING ARE ATTACHED IF AVAILABLE:

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**FINAL TEXT OF BILL:** *YES*<sup>1</sup> Reprint - Assembly Committee Substitute  
(Amendments during passage denoted by superscript numbers)

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### **ACS for A527**

**SPONSORS STATEMENT:***No*

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:***Yes*

**June 21, 1999** (Bryant and Cardinale)

**June 21, 1999** (Cardinale)

**LEGISLATIVE FISCAL ESTIMATE:***No*

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## **A527**

**SPONSORS STATEMENT:** *Yes* (Begins on page 5 of original bill)

**COMMITTEE STATEMENT:**

ASSEMBLY:*No*

SENATE:*No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## **SCS for S813**

**SPONSORS STATEMENT:***No*

**COMMITTEE STATEMENT:**

ASSEMBLY: *No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:***Yes*

Identical to Bryant and Cardinale Floor Amendment Statement to ACS for A527

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**SENATE COMMITTEE SUBSTITUTE for S813***Yes*

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## **S813**

**SPONSORS STATEMENT:** *Yes* (Begins on page 5 of original bill)

**COMMITTEE STATEMENT:**

ASSEMBLY:*No*

SENATE:*No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## **GOVERNOR'S ACTIONS**

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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**THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *Yes*

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P.L. 1999, CHAPTER 145, *approved June 28, 1999*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, No. 527

1 AN ACT concerning parental notification for abortion, amending and  
2 supplementing P.L.1965, c.217.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1965, c.217 (C.9:17A-1) is amended to read  
8 as follows:

9 1. The consent to the performance of medical or surgical care and  
10 procedure by a hospital or by a physician licensed to practice medicine  
11 and surgery executed by a married person who is a minor, or by a  
12 pregnant woman who is a minor, on his or her behalf or on behalf of  
13 any of his or her children, shall be valid and binding, and, for such  
14 purposes, a married person who is a minor or a pregnant woman who  
15 is a minor shall be deemed to have the same legal capacity to act and  
16 shall have the same powers and obligations as has a person of legal  
17 age. Notwithstanding any other provision of the law, an unmarried,  
18 pregnant minor may give consent to the furnishing of hospital, medical  
19 and surgical care related to her pregnancy or her child, <sup>1</sup>**[except for the**  
20 **purposes and requirements of]** although prior notification of a parent  
21 may be required pursuant to <sup>1</sup> P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending  
22 before the Legislature as this bill) and such consent shall not be subject  
23 to disaffirmance because of minority. The consent of the parent or  
24 parents of an unmarried, pregnant minor shall not be necessary in  
25 order to authorize hospital, medical and surgical care related to her  
26 pregnancy or her child, <sup>1</sup>**[except for the purposes and requirements of**  
27 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as this  
28 bill)]<sup>1</sup>.

29 (cf: P.L.1965, c.217, s.1)

30

31 2. (New section) Sections 2 through <sup>1</sup>**[12]** 13<sup>1</sup> of this act shall  
32 be known and may be cited as the "Parental Notification for Abortion  
33 Act."

34

35 3. (New section) The Legislature finds that there exist compelling  
36 and important State interests in protecting minors against their own

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate floor amendments adopted June 21, 1999.

1 immaturity, in fostering the family structure and preserving it as a  
2 viable social unit, and in protecting the rights of parents to rear their  
3 children.

4 The Legislature further finds that minors often lack the ability to  
5 make fully informed choices that take into account both immediate and  
6 long-range consequences of their actions; that the medical, emotional,  
7 and psychological consequences of abortion are serious and of  
8 indeterminate duration, particularly when the patient is a minor; that  
9 parents ordinarily possess information essential to a physician's  
10 exercise of his best medical judgment concerning their child; and that  
11 parents who are aware that their minor daughter has had an abortion  
12 may better insure that the minor receives adequate medical attention  
13 after her abortion. The Legislature further finds that parental  
14 consultation regarding abortion is desirable and in the best interests of  
15 the minor.

16 It is, therefore, the intent of the Legislature to further the interests  
17 stated above by enacting this parental notice provision.

18

19 4. (New section) As used in this act:

20 "Abortion" means the use of any means to terminate the pregnancy  
21 of a female known to be pregnant with knowledge that the termination  
22 with those means will, with reasonable likelihood, cause the death of  
23 the fetus.

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

30 "Parent" means a parent with care and control of the  
31 unemancipated minor, unless the parent has no custodial rights; or if  
32 there is no parent with care and control, then the foster parent or the  
33 guardian of the unemancipated minor; or a person standing in loco  
34 parentis to the unemancipated minor.

35 "Person standing in loco parentis" means (1) that the biological or  
36 adoptive parent consented to and fostered, the person's formation and  
37 establishment of a parent-like relationship with the minor; (2) that the  
38 person and the minor live together in the same household; (3) that the  
39 person assumed obligations of parenthood by taking significant  
40 responsibility for the minor's care, education and development,  
41 including contributing towards the minor's support, without  
42 expectation of financial compensation; and (4) that the person has been  
43 in a parental role for a length of time sufficient to have established  
44 with the minor a bonded, dependent relationship parental in nature.

45 "Unemancipated minor" means a female under the age of 18 years  
46 who is unmarried and is not currently serving active duty in one of the

1 military services of the United States of America or a female for whom  
2 a guardian has been appointed pursuant to N.J.S.3B:12-25 because of  
3 a finding of incompetency. For the purposes of this act, pregnancy  
4 does not emancipate a female under the age of 18 years.

5  
6 5. (New section) a. Notwithstanding any other provision of law  
7 to the contrary, an abortion shall not be performed upon an  
8 unemancipated minor until at least 48 hours after written notice of the  
9 pending operation has been delivered in the manner specified in this  
10 act.

11 b. The notice shall be addressed to the parent at the parent's last  
12 known address and delivered personally to the parent by the physician.

13 c. In lieu of the personal delivery required in subsection b. of this  
14 section, notice may be made by certified mail addressed to the parent  
15 at the parent's last known address with return receipt requested and  
16 restricted delivery to the addressee, which means a postal employee  
17 may only deliver the mail to the authorized addressee. At the same  
18 time that notice is mailed by certified mail, it shall also be sent by first  
19 class mail to the parent at the parent's last known address. The 48  
20 hour period for notice sent under the provisions of this subsection shall  
21 begin at noon on the next day on which regular mail delivery takes  
22 place following the day on which the mailings are posted.

23  
24 6. (New section) Notice of a pending abortion shall not be  
25 required under this act if the parent who is entitled to notice has set  
26 forth in a notarized writing that notice was received.

27  
28 7. (New section) Notice of a pending abortion shall not be  
29 required under this act if the attending physician certifies in the  
30 unemancipated minor's medical records that the abortion is necessary  
31 due to a medical emergency.

32  
33 8. (New section) a. A minor may, by petition or motion, seek a  
34 waiver of parental notification from a judge of the Superior Court.  
35 The petition or motion shall include a statement that the minor is  
36 pregnant and is not emancipated.

37 b. The minor may participate in proceedings in the court on her  
38 own behalf, and the court may appoint a guardian ad litem for her.  
39 The court shall, however, advise her that she has a right to court  
40 appointed counsel, and shall, upon her request, provide her with such  
41 counsel.

42 c. Proceedings in the court under this section shall be confidential  
43 and insure the anonymity of the minor and shall be given such  
44 precedence over other pending matters so that the court may reach a  
45 decision promptly and without delay so as to serve the best interests  
46 of the minor. A judge of the Superior Court who conducts

1 proceedings under this section shall make written factual findings and  
2 legal conclusions within 48 hours of the time that the petition or  
3 motion is filed unless the time is extended at the request of the  
4 unemancipated minor. If the court fails to rule within 48 hours and  
5 the time is not extended, the petition is granted and the notice  
6 requirement shall be waived. The judge shall order a record of the  
7 evidence to be maintained including the judge's written factual findings  
8 and legal conclusions supporting the decision.

9 d. (1) If the judge finds, by clear and convincing evidence, that  
10 the unemancipated minor is sufficiently mature to decide whether to  
11 have an abortion, the judge shall authorize a waiver of notification.

12 (2) If the judge finds, by clear and convincing evidence, that  
13 there is evidence of a pattern of physical, sexual or emotional abuse of  
14 the minor by the parent, guardian or legal custodian, the judge shall  
15 authorize a waiver of notification. Notice of a determination made  
16 under this paragraph shall be made to the Division of Youth and  
17 Family Services.

18 (3) If the judge finds, by clear and convincing evidence, that the  
19 notification of the parent is not in the best interests of the minor, the  
20 judge shall authorize a waiver of notification.

21 e. If the judge does not make a finding specified in subsection d.  
22 of this section, the judge shall dismiss the petition or motion and  
23 notice shall be given as provided for in section 5 of this act.

24 f. An expedited confidential appeal shall be available to a minor  
25 for whom the court denies an order waiving notification. No filing  
26 fees shall be required of any minor at either the trial or the appellate  
27 level. Access to the trial court for the purposes of such a petition or  
28 motion, and access to the appellate courts for purposes of making an  
29 appeal from denial of the same, shall be afforded such a minor on an  
30 emergent basis in accordance with the Rules of Court.

31

32 <sup>1</sup>9. (New Section) The Department of Health and Senior Services  
33 shall prepare a fact sheet for distribution to unemancipated pregnant  
34 minors who are seeking abortion services.

35 a. The fact sheet shall be written in terms generally understood by  
36 a teenager and shall explain the parental notification requirements of  
37 this act, including, but not limited to:

38 (1) that a minor may, by petition or motion, seek a waiver of  
39 parental notification from a judge of the Superior Court;

40 (2) that a minor may participate in proceedings in the court on her  
41 own behalf, that the court may appoint a guardian ad litem for her and  
42 that the minor has a right to court appointed counsel, which shall be  
43 provided to her by the court upon her request; and

44 (3) the procedure established by the court for petitioning or  
45 making a motion before the court.

46 b. The department shall distribute the fact sheet, at no charge, to

1 ambulatory care facilities and hospitals licensed pursuant to P.L.1971,  
2 c.136 (C.26:2H-1 et seq.), public and private agencies and physicians'  
3 offices that provide family planning services and prenatal care.

4 c. The physician who is responsible for providing notification to  
5 an unemancipated minor's parent pursuant to this act, or his designee,  
6 shall provide the unemancipated minor with a copy of the fact sheet  
7 at the time the minor initially requests abortion services from the  
8 physician.<sup>1</sup>

9  
10 <sup>1</sup>~~9.~~ 10.<sup>1</sup> (New section) Nothing in this act shall be interpreted  
11 to deny a pregnant unemancipated minor who is under the age of 18  
12 any benefits to which she would otherwise be entitled pursuant to law.

13  
14 <sup>1</sup>~~10.~~ 11.<sup>1</sup> (New section) Any person who performs an abortion  
15 in violation of this act shall be subject to a civil penalty of not less than  
16 \$1,000 and not more than \$5,000 and shall be liable in a civil action by  
17 a parent wrongfully denied notification. A person shall not be liable  
18 under this act if the person establishes by written evidence that the  
19 person relied upon evidence sufficient to convince a careful and  
20 prudent person that the representations of the unemancipated minor  
21 regarding information necessary to comply with this section are bona  
22 fide and true, or if the person has attempted with reasonable diligence  
23 to deliver notice, but has been unable to do so.

24  
25 <sup>1</sup>~~11.~~ 12.<sup>1</sup> (New section) The Commissioner of the Department  
26 of Health and Senior Services, in consultation with the Department of  
27 Law and Public Safety, shall promulgate rules and regulations  
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
29 (C.52:14B-1 et seq.), concerning procedures for physicians to follow  
30 in effectuating the notice required pursuant to the provisions of P.L. ,  
31 c. (C ) (now pending before the Legislature as this bill).

32  
33 <sup>1</sup>~~12.~~ 13.<sup>1</sup> (New section) If any provision of this act or the  
34 application thereof to any person or circumstance is held invalid, the  
35 invalidity shall not affect other provisions or applications of the  
36 sections which can be given effect without the invalid provision or  
37 application, and to this end the provisions of this act are severable.

38  
39 <sup>1</sup>~~13.~~ 14.<sup>1</sup> This act shall take effect on the <sup>1</sup>~~30th~~ 90th<sup>1</sup> day  
40 following enactment except for section <sup>1</sup>~~11~~ 12<sup>1</sup> which shall take  
41 effect immediately.

42  
43  
44  
45 Requires parental notification of abortion performed on minor.



# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 527**

# **STATE OF NEW JERSEY**

DATED: MAY 20, 1999

The Assembly Judiciary Committee reports favorably a committee substitute for Assembly Bill No. 527.

This substitute provides that an abortion shall not be performed on an unemancipated minor until at least 48 hours after written notice of the pending operation has been delivered as specified in this substitute.

The substitute requires the notice to be delivered to the minor's parent at the parent's last known address either personally by the doctor or by certified mail, return receipt requested and restricted delivery to the addressee. It is also sent by first class mail. The 48 hour period for mailed notice shall begin at noon on the next day on which regular mail delivery takes place following the day on which the mailings are posted.

"Parent" is defined as a parent with care and control of the unemancipated minor, unless the parent has no custodial rights; or if there is no parent with care and control, then the foster parent or the guardian of the unemancipated minor; or a person standing in loco parentis. The substitute defines "person standing in loco parentis," "medical emergency," "abortion" and "unemancipated minor." One of the ways in which the substitute differs from the original bill is that it provides for notice to one parent; the original bill provided for notice to both parents if domiciled at the same address.

The substitute provides that notice of a pending abortion will not be required if the parent who is entitled to notice has set forth in a notarized writing that notice was received or if the attending physician certifies in the unemancipated minor's medical records that the abortion is necessary due to a medical emergency.

The substitute differs significantly from the original bill with regard to the judicial bypass procedure (section 8) by including the "mature minor" and "best interests" provisions for waiver of notification, in addition to the provision regarding evidence of a pattern of abuse. A minor may, by petition or motion, seek a waiver of parental notification from a judge of the Superior Court. The minor may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. Proceedings in the court shall be confidential and shall be given precedence over other

pending matters. A judge of the Superior Court who conducts these proceedings shall make written factual findings and legal conclusions within 48 hours of the time that the petition or motion is filed unless the time is extended at the request of the unemancipated minor. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the notice requirement shall be waived.

The substitute provides that the judge shall authorize a waiver of notification:

(1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature to decide whether to have an abortion;

(2) If the judge finds, by clear and convincing evidence, that there is evidence of a pattern of physical, sexual or emotional abuse of the minor by the parent, guardian or legal custodian. Notice of this determination shall be made to the Division of Youth and Family Services; or

(3) If the judge finds, by clear and convincing evidence, that the notification of the parent is not in the best interests of the minor.

An expedited confidential appeal shall be available to a minor for whom the court denies an order waiving notification.

The substitute also provides that performance of an abortion in violation of the act will result in a civil penalty of between \$1,000 and \$5,000 and shall be grounds for a civil action by the parent denied notification.

The Commissioner of Health and Senior Services, in consultation with the Department of Law and Public Safety, is given rule-making authority with respect to procedures for physicians to effectuate the notice provision.

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 527**

with Senate Floor Amendments  
(Proposed By Senators BRYANT and CARDINALE)

ADOPTED: JUNE 21, 1999

These amendments require the Department of Health and Senior Services to prepare a fact sheet for distribution to unemancipated pregnant minors who are seeking abortion services. The fact sheet shall be written in terms generally understood by a teenager and shall explain the parental notification requirements of this substitute and the procedures for accessing the judicial bypass option.

The department shall distribute the fact sheet, at no charge, to licensed ambulatory care facilities and hospitals, public and private agencies and physicians' offices that provide family planning services and prenatal care. The amendments require the physician who is responsible for providing notification to the unemancipated minor's parent, or his designee, to provide the unemancipated minor with a copy of the fact sheet at the time the minor initially requests abortion services from the physician.

The amendments also extend the effective date of the substitute to 90 days (from 30 days) to allow sufficient time for the Department of Health and Senior Services to prepare the fact sheet and adopt rules and regulations concerning procedures for physicians to follow in carrying out the notification requirements and to allow time for the court to establish procedures to implement the judicial bypass provisions of the substitute.

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 527**

with Senate Floor Amendments  
(Proposed By Senator CARDINALE)

ADOPTED: JUNE 21, 1999

These amendments to the medical consent by minors law clarify that in the case of an abortion, notification of a parent may be required pursuant to the parental notification requirements of this substitute.

The amendments make this substitute identical to the Senate Committee Substitute for Senate, No. 813.

# ASSEMBLY, No. 527

## STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman JOHN E. ROONEY**

**District 39 (Bergen)**

**Assemblywoman MARION CRECCO**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

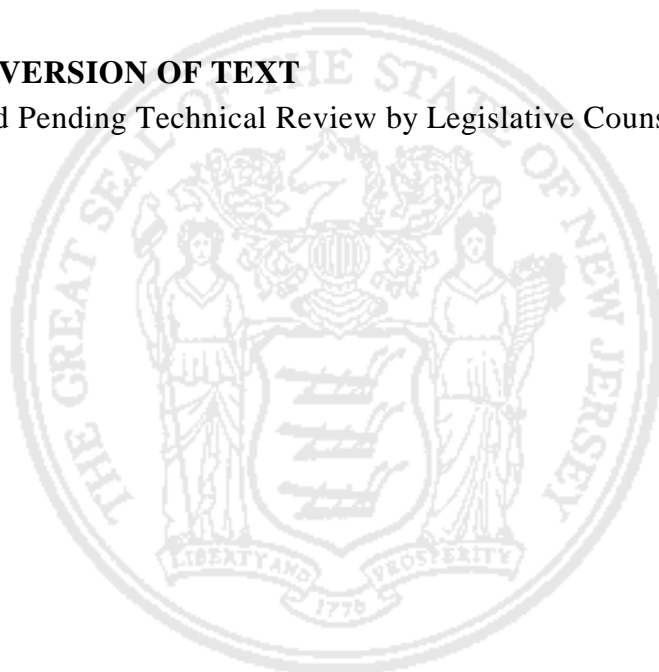
**Assemblymen Garrett, Gibson, Assemblywoman Farragher, Assemblymen Felice, Barnes, Talarico, Merkt, Gregg, Arnone, Azzolina, Carroll, Thompson and LeFevre**

**SYNOPSIS**

Requires parental notification of abortion performed on minor.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/11/1999)**

1 AN ACT concerning parental notification for abortion, amending and  
2 supplementing P.L.1965, c.217.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1965, c.217 (C.9:17A-1) is amended to read as  
8 follows:

9 1. The consent to the performance of medical or surgical care and  
10 procedure by a hospital or by a physician licensed to practice medicine  
11 and surgery executed by a married person who is a minor, or by a  
12 pregnant woman who is a minor, on his or her behalf or on behalf of  
13 any of his or her children, shall be valid and binding, and, for such  
14 purposes, a married person who is a minor or a pregnant woman who  
15 is a minor shall be deemed to have the same legal capacity to act and  
16 shall have the same powers and obligations as has a person of legal  
17 age. Notwithstanding any other provision of the law, an unmarried,  
18 pregnant minor may give consent to the furnishing of hospital, medical  
19 and surgical care related to her pregnancy or her child, except for the  
20 purposes and requirements of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending  
21 before the Legislature as this bill) and such consent shall not be subject  
22 to disaffirmance because of minority. The consent of the parent or  
23 parents of an unmarried, pregnant minor shall not be necessary in  
24 order to authorize hospital, medical and surgical care related to her  
25 pregnancy or her child, except for the purposes and requirements of  
26 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as this  
27 bill).

28 (cf: P.L.1965, c.217, s.1)

29  
30 2. (New section) Sections 2 through 10 of this act shall be known  
31 and may be cited as the "Parental Notification for Abortion Act."

32  
33 3. (New section) The Legislature finds that there exist compelling  
34 and important State interests in protecting minors against their own  
35 immaturity, in fostering the family structure and preserving it as a  
36 viable social unit, and in protecting the rights of parents to rear their  
37 children.

38 The Legislature further finds that minors often lack the ability to  
39 make fully informed choices that take into account both immediate and  
40 long-range consequences of their actions; that the medical, emotional,  
41 and psychological consequences of abortion are serious and of  
42 indeterminate duration, particularly when the patient is a minor; that  
43 parents ordinarily possess information essential to a physician's

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 exercise of his best medical judgment concerning their child; and that  
2 parents who are aware that their minor daughter has had an abortion  
3 may better insure that the minor receives adequate medical attention  
4 after her abortion. The Legislature further finds that parental  
5 consultation regarding abortion is desirable and in the best interest of  
6 the minor.

7 It is, therefore, the intent of the Legislature to further the interests  
8 stated above by enacting this parental notice provision.

9

10 4. (New section) As used in this act:

11 "Abortion" means the use of any means to terminate the pregnancy  
12 of a female known to be pregnant with knowledge that the termination  
13 with those means will, with reasonable likelihood, cause the death of  
14 the fetus.

15 "Fetus" means the offspring of human beings existing from the  
16 moment of fertilization of the ovum by the spermatozoa through every  
17 stage of development until birth.

18 "Parent" means: a. Both parents of an unemancipated minor, if  
19 both parents are domiciled at the same address; or b. The parent with  
20 primary custody, care and control of the unemancipated minor; or c.  
21 If there is no parent with primary custody, care and control, then the  
22 foster parents, foster parent or the guardian of the unemancipated  
23 minor.

24 "Unemancipated minor" means a female under the age of 18 years  
25 who is unmarried and is not currently serving active duty in one of the  
26 military services of the United States of America or a female for whom  
27 a guardian has been appointed pursuant to N.J.S.3B:12-25 because of  
28 a finding of incompetency. For the purposes of this act, pregnancy  
29 does not emancipate a female under the age of 18 years.

30

31 5. (New section) a. Notwithstanding any other provision of law  
32 to the contrary, an abortion shall not be performed upon an  
33 unemancipated minor until at least 48 hours after written notice of the  
34 pending operation has been delivered in the manner specified in this  
35 act.

36 b. The notice shall be addressed to the parent at the parent's last  
37 known address and delivered personally to the parent by the physician.

38 c. In lieu of the personal delivery required in subsection b. of this  
39 section, notice may be made by certified mail addressed to the parent  
40 at the parent's last known address with return receipt requested and  
41 restricted delivery to the addressee, which means a postal employee  
42 may only deliver the mail to the authorized addressee. At the same  
43 time that notice is mailed by certified mail, it shall also be sent by first  
44 class mail to the parent at the parent's last known address. The 48  
45 hour period for notice sent under the provisions of this subsection shall  
46 begin at noon on the next day on which regular mail delivery takes

1 place following the day on which the mailings are posted.

2

3 6. (New section) Notice of a pending abortion shall not be  
4 required under this act if the parent who is entitled to notice has set  
5 forth in a notarized writing that notice was received.

6

7 7. (New section) Notice of a pending abortion shall not be  
8 required under this act if the attending physician certifies in the  
9 unemancipated minor's medical records that the abortion is necessary  
10 to prevent the unemancipated minor's death and there is insufficient  
11 time to provide the required notice.

12

13 8. (New section) a. If the pregnant unemancipated minor objects  
14 to notice being given to her parent because of allegations that she is  
15 the victim by her parent of abuse, cruelty or neglect, as defined in  
16 R.S.9:6-1, she may, by petition or motion, seek a waiver of parental  
17 notification from a judge of the Superior Court. Such judicial  
18 determination of parental abuse shall not be based, in whole or in part,  
19 on either (1) the personal opposition of such parent to the pending  
20 abortion or to abortion in general, or (2) the refusal by such parent to  
21 pay for the pending abortion, or the unemancipated minor's assertion  
22 that such parent would not pay for the pending abortion.

23 If the judge, after an appropriate hearing, determines the allegations  
24 are unfounded, notice shall be given as provided for in section 5 of this  
25 act. If the judge determines the allegations are true, and that  
26 notification of the minor's parent would not be in her best interest,  
27 then the judge shall authorize a waiver of notification. Notice of that  
28 determination shall be made to the Division of Youth and Family  
29 Services.

30 b. The minor may participate in proceedings in the court on her  
31 own behalf, and the court may appoint a guardian ad litem for her.  
32 The court shall, however, advise her that she has a right to court  
33 appointed counsel, and shall, upon her request, provide her with such  
34 counsel.

35 c. Proceedings in the court under this section shall be confidential  
36 and shall be given such precedence over other pending matters so that  
37 the court may reach a decision promptly and without delay so as to  
38 serve the best interest of the minor. A judge of the Superior Court  
39 who conducts proceedings under this section shall make specific  
40 written factual findings and legal conclusions supporting the decision  
41 and shall order a record of the evidence to be maintained including the  
42 judge's findings and conclusions.

43 d. An expedited confidential appeal shall be available to a minor for  
44 whom the court denies an order waiving notification. No filing fees  
45 shall be required of any minor at either the trial or the appellate level.  
46 Access to the trial court for the purposes of such a petition or motion,



1 and access to the appellate courts for purposes of making an appeal  
2 from denial of the same, shall be afforded such a minor on an emergent  
3 basis in accordance with the rules of court.

4  
5 9. (New section) Nothing in this act shall be interpreted to deny  
6 a pregnant unemancipated minor who is under the age of 18 any  
7 benefits to which she would otherwise be entitled pursuant to law.

8  
9 10. (New section) Any person who performs an abortion in  
10 violation of this act shall be subject to a civil penalty of not less than  
11 \$1,000 and not more than \$5,000 and shall be liable in a civil action by  
12 a parent wrongfully denied notification. A person shall not be liable  
13 under this act if the person establishes by written evidence that the  
14 person relied upon evidence sufficient to convince a careful and  
15 prudent person that the representations of the unemancipated minor  
16 regarding information necessary to comply with this section are bona  
17 fide and true, or if the person has attempted with reasonable diligence  
18 to deliver notice, but has been unable to do so.

19  
20 11. This act shall take effect immediately.

21  
22  
23 STATEMENT

24  
25 This bill requires that before a doctor may perform or induce an  
26 abortion on a pregnant unemancipated minor, written notice must be  
27 given to the minor's parent or guardian. "Parent" is defined as both  
28 parents of an unemancipated minor, if both parents are domiciled at  
29 the same address; or the parent with primary custody, care and control  
30 of the unemancipated minor; or, if there is no parent with primary  
31 custody, care and control, then the foster parents, foster parent or the  
32 guardian of the unemancipated minor.

33 The bill requires the notice to be delivered to the parent at the  
34 parent's last known address either personally by the doctor or by  
35 certified mail, return receipt requested and restricted delivery to the  
36 addressee. The abortion procedure cannot be performed until at least  
37 48 hours after the notice has been delivered or posted to the parent.

38 The bill provides that notice of a pending abortion will not be  
39 required if the parent who is entitled to notice has set forth in a  
40 notarized writing that notice was received or if there is an emergency  
41 need for the abortion because of an immediate threat to the life of the  
42 unemancipated minor.

43 If the unemancipated minor objects to notice because of allegations  
44 that she is a victim of abuse, cruelty or neglect, she may petition the  
45 court for a waiver of notification. If the judge determines the  
46 allegations are true, and that parental notification would not be in the

1 minor's best interest, he shall order the waiver. Notice of the judge's  
2 determination shall be made to the Division of Youth and Family  
3 Services. The court proceedings shall be confidential and the decision  
4 made promptly so as to serve the best interest of the minor.  
5 Additionally, an expedited confidential appeal from an order denying  
6 the waiver shall be available to the pregnant minor.

7 The bill also provides that performance of an abortion in violation  
8 of the act will result in a civil penalty of between \$1,000 and \$5,000  
9 and shall be grounds for a civil action by the parent denied  
10 notification.

# SENATE HEALTH COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 813**

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 1999

The Senate Health Committee reports favorably a Senate Committee Substitute for Senate Bill No. 813.

This substitute provides that an abortion shall not be performed on an unemancipated minor until at least 48 hours after written notice of the pending operation has been delivered as specified in this substitute.

The substitute requires the notice to be delivered to the minor's parent at the parent's last known address either personally by the doctor or by certified mail, return receipt requested and restricted delivery to the addressee. It also shall be sent by first class mail. The 48 hour period for mailed notice shall begin at noon on the next day on which regular mail delivery takes place following the day on which the mailings are posted.

"Parent" is defined as a parent with care and control of the unemancipated minor, unless the parent has no custodial rights; or if there is no parent with care and control, then the foster parent or the guardian of the unemancipated minor; or a person standing in loco parentis. The substitute defines "person standing in loco parentis," "medical emergency," "abortion" and "unemancipated minor."

The substitute provides that notice of a pending abortion will not be required if the parent who is entitled to notice has set forth in a notarized writing that notice was received or if the attending physician certifies in the unemancipated minor's medical records that the abortion is necessary due to a medical emergency.

The substitute establishes a judicial bypass procedure for a pregnant minor whereby the minor may, by petition or motion, seek a waiver of parental notification from a judge of the Superior Court. The minor may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. Proceedings in the court shall be confidential and shall be given precedence over other pending matters. A judge of the Superior Court who conducts these proceedings shall make written factual findings and legal conclusions within 48 hours of the time that the petition or motion is filed unless the time is extended at the request of the unemancipated minor. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the notice requirement

shall be waived.

The substitute provides that the judge shall authorize a waiver of notification:

(1) if the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature to decide whether to have an abortion;

(2) if the judge finds, by clear and convincing evidence, that there is evidence of a pattern of physical, sexual or emotional abuse of the minor by the parent, guardian or legal custodian. Notice of this determination shall be made to the Division of Youth and Family Services in the Department of Human Services; or

(3) if the judge finds, by clear and convincing evidence, that the notification of the parent is not in the best interests of the minor.

An expedited confidential appeal shall be available to a minor for whom the court denies an order waiving notification.

The substitute also provides that performance of an abortion in violation of the substitute will result in a civil penalty of between \$1,000 and \$5,000 and shall be grounds for a civil action by the parent denied notification.

The Commissioner of Health and Senior Services, in consultation with the Department of Law and Public Safety, is given rule-making authority with respect to procedures for physicians to effectuate the notice provision.

Finally, this substitute amends N.J.S.A.9:17A-1 (establishing the authority of a pregnant minor to give consent to the furnishing of hospital, medical and surgical care related to her pregnancy or her child) to clarify that in the case of an abortion, notification of a parent may be required pursuant to the parental notification requirements of this substitute.

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 813**

with Senate Floor Amendments  
(Proposed By Senators BRYANT and CARDINALE)

ADOPTED: JUNE 21, 1999

These amendments require the Department of Health and Senior Services to prepare a fact sheet for distribution to unemancipated pregnant minors who are seeking abortion services. The fact sheet shall be written in terms generally understood by a teenager and shall explain the parental notification requirements of this substitute and the procedures for accessing the judicial bypass option.

The department shall distribute the fact sheet, at no charge, to licensed ambulatory care facilities and hospitals, public and private agencies and physicians' offices that provide family planning services and prenatal care. The amendments require the physician who is responsible for providing notification to the unemancipated minor's parent, or his designee, to provide the unemancipated minor with a copy of the fact sheet at the time the minor initially requests abortion services from the physician.

The amendments also extend the effective date of the substitute to 90 days (from 30 days) to allow sufficient time for the Department of Health and Senior Services to prepare the fact sheet and adopt rules and regulations concerning procedures for physicians to follow in carrying out the notification requirements and to allow time for the court to establish procedures to implement the judicial bypass provisions of the substitute.

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 813**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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ADOPTED JUNE 14, 1999

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Co-Sponsored by:**

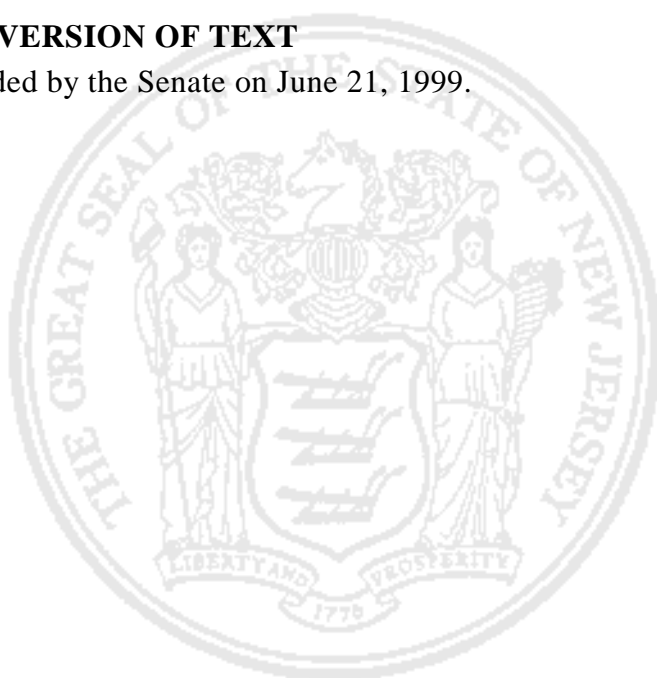
**Senator Connors**

**SYNOPSIS**

Requires parental notification of abortion performed on minor.

**CURRENT VERSION OF TEXT**

As amended by the Senate on June 21, 1999.



1 AN ACT concerning parental notification for abortion, amending and  
2 supplementing P.L.1965, c.217.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1965, c.217 (C.9:17A-1) is amended to read  
8 as follows:

9 1. The consent to the performance of medical or surgical care and  
10 procedure by a hospital or by a physician licensed to practice medicine  
11 and surgery executed by a married person who is a minor, or by a  
12 pregnant woman who is a minor, on his or her behalf or on behalf of  
13 any of his or her children, shall be valid and binding, and, for such  
14 purposes, a married person who is a minor or a pregnant woman who  
15 is a minor shall be deemed to have the same legal capacity to act and  
16 shall have the same powers and obligations as has a person of legal  
17 age. Notwithstanding any other provision of the law, an unmarried,  
18 pregnant minor may give consent to the furnishing of hospital, medical  
19 and surgical care related to her pregnancy or her child, although prior  
20 notification of a parent may be required pursuant to P.L. , c.   
21 (C. ) (now pending before the Legislature as this bill) and such  
22 consent shall not be subject to disaffirmance because of minority. The  
23 consent of the parent or parents of an unmarried, pregnant minor shall  
24 not be necessary in order to authorize hospital, medical and surgical  
25 care related to her pregnancy or her child.

26 (cf: P.L.1965, c.217, s.1)

27

28 2. (New section) Sections 2 through <sup>1</sup>**[12]** 13<sup>1</sup> of this act shall  
29 be known and may be cited as the "Parental Notification for Abortion  
30 Act."

31

32 3. (New section) The Legislature finds that there exist compelling  
33 and important State interests in protecting minors against their own  
34 immaturity, in fostering the family structure and preserving it as a  
35 viable social unit, and in protecting the rights of parents to rear their  
36 children.

37 The Legislature further finds that minors often lack the ability to  
38 make fully informed choices that take into account both immediate and  
39 long-range consequences of their actions; that the medical, emotional,  
40 and psychological consequences of abortion are serious and of  
41 indeterminate duration, particularly when the patient is a minor; that

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate floor amendments adopted June 21, 1999.

1 parents ordinarily possess information essential to a physician's  
2 exercise of his best medical judgment concerning their child; and that  
3 parents who are aware that their minor daughter has had an abortion  
4 may better insure that the minor receives adequate medical attention  
5 after her abortion. The Legislature further finds that parental  
6 consultation regarding abortion is desirable and in the best interests of  
7 the minor.

8 It is, therefore, the intent of the Legislature to further the interests  
9 stated above by enacting this parental notice provision.

10

11 4. (New section) As used in this act:

12 "Abortion" means the use of any means to terminate the pregnancy  
13 of a female known to be pregnant with knowledge that the termination  
14 with those means will, with reasonable likelihood, cause the death of  
15 the fetus.

16 "Medical emergency" means a condition which, on the basis of the  
17 physician's good faith clinical judgment, so complicates the medical  
18 condition of a pregnant unemancipated minor as to necessitate the  
19 immediate abortion of her pregnancy to avert her death or for which  
20 a delay will create serious risk of substantial and irreversible  
21 impairment of a major bodily function.

22 "Parent" means a parent with care and control of the  
23 unemancipated minor, unless the parent has no custodial rights; or if  
24 there is no parent with care and control, then the foster parent or the  
25 guardian of the unemancipated minor; or a person standing in loco  
26 parentis to the unemancipated minor.

27 "Person standing in loco parentis" means (1) that the biological or  
28 adoptive parent consented to and fostered, the person's formation and  
29 establishment of a parent-like relationship with the minor; (2) that the  
30 person and the minor live together in the same household; (3) that the  
31 person assumed obligations of parenthood by taking significant  
32 responsibility for the minor's care, education and development,  
33 including contributing towards the minor's support, without  
34 expectation of financial compensation; and (4) that the person has been  
35 in a parental role for a length of time sufficient to have established  
36 with the minor a bonded, dependent relationship parental in nature.

37 "Unemancipated minor" means a female under the age of 18 years  
38 who is unmarried and is not currently serving active duty in one of the  
39 military services of the United States of America or a female for whom  
40 a guardian has been appointed pursuant to N.J.S.3B:12-25 because of  
41 a finding of incompetency. For the purposes of this act, pregnancy  
42 does not emancipate a female under the age of 18 years.

43

44 5. (New section) a. Notwithstanding any other provision of law  
45 to the contrary, an abortion shall not be performed upon an  
46 unemancipated minor until at least 48 hours after written notice of the



1 pending operation has been delivered in the manner specified in this  
2 act.

3 b. The notice shall be addressed to the parent at the parent's last  
4 known address and delivered personally to the parent by the physician.

5 c. In lieu of the personal delivery required in subsection b. of this  
6 section, notice may be made by certified mail addressed to the parent  
7 at the parent's last known address with return receipt requested and  
8 restricted delivery to the addressee, which means a postal employee  
9 may only deliver the mail to the authorized addressee. At the same  
10 time that notice is mailed by certified mail, it shall also be sent by first  
11 class mail to the parent at the parent's last known address. The 48  
12 hour period for notice sent under the provisions of this subsection shall  
13 begin at noon on the next day on which regular mail delivery takes  
14 place following the day on which the mailings are posted.

15

16 6. (New section) Notice of a pending abortion shall not be  
17 required under this act if the parent who is entitled to notice has set  
18 forth in a notarized writing that notice was received.

19

20 7. (New section) Notice of a pending abortion shall not be  
21 required under this act if the attending physician certifies in the  
22 unemancipated minor's medical records that the abortion is necessary  
23 due to a medical emergency.

24

25 8. (New section) a. A minor may, by petition or motion, seek a  
26 waiver of parental notification from a judge of the Superior Court.  
27 The petition or motion shall include a statement that the minor is  
28 pregnant and is not emancipated.

29 b. The minor may participate in proceedings in the court on her  
30 own behalf, and the court may appoint a guardian ad litem for her.  
31 The court shall, however, advise her that she has a right to court  
32 appointed counsel, and shall, upon her request, provide her with such  
33 counsel.

34 c. Proceedings in the court under this section shall be confidential  
35 and insure the anonymity of the minor and shall be given such  
36 precedence over other pending matters so that the court may reach a  
37 decision promptly and without delay so as to serve the best interests  
38 of the minor. A judge of the Superior Court who conducts  
39 proceedings under this section shall make written factual findings and  
40 legal conclusions within 48 hours of the time that the petition or  
41 motion is filed unless the time is extended at the request of the  
42 unemancipated minor. If the court fails to rule within 48 hours and  
43 the time is not extended, the petition is granted and the notice  
44 requirement shall be waived. The judge shall order a record of the  
45 evidence to be maintained including the judge's written factual findings  
46 and legal conclusions supporting the decision.

1 d. (1) If the judge finds, by clear and convincing evidence, that  
2 the unemancipated minor is sufficiently mature to decide whether to  
3 have an abortion, the judge shall authorize a waiver of notification.

4 (2) If the judge finds, by clear and convincing evidence, that  
5 there is evidence of a pattern of physical, sexual or emotional abuse of  
6 the minor by the parent, guardian or legal custodian, the judge shall  
7 authorize a waiver of notification. Notice of a determination made  
8 under this paragraph shall be made to the Division of Youth and  
9 Family Services.

10 (3) If the judge finds, by clear and convincing evidence, that the  
11 notification of the parent is not in the best interests of the minor, the  
12 judge shall authorize a waiver of notification.

13 e. If the judge does not make a finding specified in subsection d.  
14 of this section, the judge shall dismiss the petition or motion and  
15 notice shall be given as provided for in section 5 of this act.

16 f. An expedited confidential appeal shall be available to a minor  
17 for whom the court denies an order waiving notification. No filing  
18 fees shall be required of any minor at either the trial or the appellate  
19 level. Access to the trial court for the purposes of such a petition or  
20 motion, and access to the appellate courts for purposes of making an  
21 appeal from denial of the same, shall be afforded such a minor on an  
22 emergent basis in accordance with the Rules of Court.

23  
24 19. (New Section) The Department of Health and Senior Services  
25 shall prepare a fact sheet for distribution to unemancipated pregnant  
26 minors who are seeking abortion services.

27 a. The fact sheet shall be written in terms generally understood by  
28 a teenager and shall explain the parental notification requirements of  
29 this act, including, but not limited to:

30 (1) that a minor may, by petition or motion, seek a waiver of  
31 parental notification from a judge of the Superior Court;

32 (2) that a minor may participate in proceedings in the court on her  
33 own behalf, that the court may appoint a guardian ad litem for her and  
34 that the minor has a right to court appointed counsel, which shall be  
35 provided to her by the court upon her request; and

36 (3) the procedure established by the court for petitioning or  
37 making a motion before the court.

38 b. The department shall distribute the fact sheet, at no charge, to  
39 ambulatory care facilities and hospitals licensed pursuant to P.L.1971,  
40 c.136 (C.26:2H-1 et seq.), public and private agencies and physicians'  
41 offices that provide family planning services and prenatal care.

42 c. The physician who is responsible for providing notification to  
43 an unemancipated minor's parent pursuant to this act, or his designee,  
44 shall provide the unemancipated minor with a copy of the fact sheet  
45 at the time the minor initially requests abortion services from the  
46 physician.<sup>1</sup>

1       <sup>1</sup>**[9.] 10.**<sup>1</sup> (New section) Nothing in this act shall be interpreted  
2 to deny a pregnant unemancipated minor who is under the age of 18  
3 any benefits to which she would otherwise be entitled pursuant to law.  
4

5       <sup>1</sup>**[10.] 11.**<sup>1</sup> (New section) Any person who performs an abortion  
6 in violation of this act shall be subject to a civil penalty of not less than  
7 \$1,000 and not more than \$5,000 and shall be liable in a civil action by  
8 a parent wrongfully denied notification. A person shall not be liable  
9 under this act if the person establishes by written evidence that the  
10 person relied upon evidence sufficient to convince a careful and  
11 prudent person that the representations of the unemancipated minor  
12 regarding information necessary to comply with this section are bona  
13 fide and true, or if the person has attempted with reasonable diligence  
14 to deliver notice, but has been unable to do so.  
15

16       <sup>1</sup>**[11.] 12.**<sup>1</sup> (New section) The Commissioner of the Department  
17 of Health and Senior Services, in consultation with the Department of  
18 Law and Public Safety, shall promulgate rules and regulations  
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
20 (C.52:14B-1 et seq.), concerning procedures for physicians to follow  
21 in effectuating the notice required pursuant to the provisions of  
22 P.L. , c. (C ) (now pending before the Legislature as this bill).  
23

24       <sup>1</sup>**[12.] 13.**<sup>1</sup> (New section) If any provision of this act or the  
25 application thereof to any person or circumstance is held invalid, the  
26 invalidity shall not affect other provisions or applications of the  
27 sections which can be given effect without the invalid provision or  
28 application, and to this end the provisions of this act are severable.  
29

30       <sup>1</sup>**[13.] 14.**<sup>1</sup> This act shall take effect on the <sup>1</sup>**[30th] 90th**<sup>1</sup> day  
31 following enactment except for section <sup>1</sup>**[11] 12**<sup>1</sup> which shall take  
32 effect immediately.

**SENATE, No. 813**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED MARCH 2, 1998

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Co-Sponsored by:**

**Senator Connors**

**SYNOPSIS**

Requires parental notification of abortion performed on minor.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/21/1999)**

1 AN ACT concerning parental notification for abortion, amending and  
2 supplementing P.L.1965, c.217.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.1965, c.217 (C.9:17A-1) is amended to read as  
8 follows:

9 1. The consent to the performance of medical or surgical care and  
10 procedure by a hospital or by a physician licensed to practice medicine  
11 and surgery executed by a married person who is a minor, or by a  
12 pregnant woman who is a minor, on his or her behalf or on behalf of  
13 any of his or her children, shall be valid and binding, and, for such  
14 purposes, a married person who is a minor or a pregnant woman who  
15 is a minor shall be deemed to have the same legal capacity to act and  
16 shall have the same powers and obligations as has a person of legal  
17 age. Notwithstanding any other provision of the law, an unmarried,  
18 pregnant minor may give consent to the furnishing of hospital, medical  
19 and surgical care related to her pregnancy or her child, except for the  
20 purposes and requirements of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending  
21 before the Legislature as this bill) and such consent shall not be subject  
22 to disaffirmance because of minority. The consent of the parent or  
23 parents of an unmarried, pregnant minor shall not be necessary in  
24 order to authorize hospital, medical and surgical care related to her  
25 pregnancy or her child, except for the purposes and requirements of  
26 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (now pending before the Legislature as this  
27 bill).

28 (cf: P.L.1965, c.217, s.1)

29  
30 2. (New section) Sections 2 through 10 of this act shall be known  
31 and may be cited as the "Parental Notification for Abortion Act."

32  
33 3. (New section) The Legislature finds that there exist compelling  
34 and important State interests in protecting minors against their own  
35 immaturity, in fostering the family structure and preserving it as a  
36 viable social unit, and in protecting the rights of parents to rear their  
37 children.

38 The Legislature further finds that minors often lack the ability to  
39 make fully informed choices that take into account both immediate and  
40 long-range consequences of their actions; that the medical, emotional,  
41 and psychological consequences of abortion are serious and of  
42 indeterminate duration, particularly when the patient is a minor; that  
43 parents ordinarily possess information essential to a physician's

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 exercise of his best medical judgment concerning their child; and that  
2 parents who are aware that their minor daughter has had an abortion  
3 may better insure that the minor receives adequate medical attention  
4 after her abortion. The Legislature further finds that parental  
5 consultation regarding abortion is desirable and in the best interest of  
6 the minor.

7 It is, therefore, the intent of the Legislature to further the interests  
8 stated above by enacting this parental notice provision.

9  
10 4. (New section) As used in this act:

11 "Abortion" means the use of any means to terminate the pregnancy  
12 of a female known to be pregnant with knowledge that the termination  
13 with those means will, with reasonable likelihood, cause the death of  
14 the fetus.

15 "Fetus" means the offspring of human beings existing from the  
16 moment of fertilization of the ovum by the spermatozoa through every  
17 stage of development until birth.

18 "Parent" means: a. Both parents of an unemancipated minor, if  
19 both parents are domiciled at the same address; or b. The parent with  
20 primary custody, care and control of the unemancipated minor; or c.  
21 If there is no parent with primary custody, care and control, then the  
22 foster parents, foster parent or the guardian of the unemancipated  
23 minor.

24 "Unemancipated minor" means a female under the age of 18 years  
25 who is unmarried and is not currently serving active duty in one of the  
26 military services of the United States of America or a female for whom  
27 a guardian has been appointed pursuant to N.J.S.3B:12-25 because of  
28 a finding of incompetency. For the purposes of this act, pregnancy  
29 does not emancipate a female under the age of 18 years.

30  
31 5. (New section) a. Notwithstanding any other provision of law  
32 to the contrary, an abortion shall not be performed upon an  
33 unemancipated minor until at least 48 hours after written notice of the  
34 pending operation has been delivered in the manner specified in this  
35 act.

36 b. The notice shall be addressed to the parent at the parent's last  
37 known address and delivered personally to the parent by the physician.

38 c. In lieu of the personal delivery required in subsection b. of this  
39 section, notice may be made by certified mail addressed to the parent  
40 at the parent's last known address with return receipt requested and  
41 restricted delivery to the addressee, which means a postal employee  
42 may only deliver the mail to the authorized addressee. At the same  
43 time that notice is mailed by certified mail, it shall also be sent by first  
44 class mail to the parent at the parent's last known address. The 48  
45 hour period for notice sent under the provisions of this subsection shall  
46 begin at noon on the next day on which regular mail delivery takes

1 place following the day on which the mailings are posted.

2

3 6. (New section) Notice of a pending abortion shall not be  
4 required under this act if the parent who is entitled to notice has set  
5 forth in a notarized writing that notice was received.

6

7 7. (New section) Notice of a pending abortion shall not be  
8 required under this act if the attending physician certifies in the  
9 unemancipated minor's medical records that the abortion is necessary  
10 to prevent the unemancipated minor's death and there is insufficient  
11 time to provide the required notice.

12

13 8. (New section) a. If the pregnant unemancipated minor objects  
14 to notice being given to her parent because of allegations that she is  
15 the victim by her parent of abuse, cruelty or neglect, as defined in  
16 R.S.9:6-1, she may, by petition or motion, seek a waiver of parental  
17 notification from a judge of the Superior Court. Such judicial  
18 determination of parental abuse shall not be based, in whole or in part,  
19 on either (1) the personal opposition of such parent to the pending  
20 abortion or to abortion in general, or (2) the refusal by such parent to  
21 pay for the pending abortion, or the unemancipated minor's assertion  
22 that such parent would not pay for the pending abortion.

23 If the judge, after an appropriate hearing, determines the allegations  
24 are unfounded, notice shall be given as provided for in section 5 of this  
25 act. If the judge determines the allegations are true, and that  
26 notification of the minor's parent would not be in her best interest,  
27 then the judge shall authorize a waiver of notification. Notice of that  
28 determination shall be made to the Division of Youth and Family  
29 Services.

30 b. The minor may participate in proceedings in the court on her  
31 own behalf, and the court may appoint a guardian ad litem for her.  
32 The court shall, however, advise her that she has a right to court  
33 appointed counsel, and shall, upon her request, provide her with such  
34 counsel.

35 c. Proceedings in the court under this section shall be confidential  
36 and shall be given such precedence over other pending matters so that  
37 the court may reach a decision promptly and without delay so as to  
38 serve the best interest of the minor. A judge of the Superior Court  
39 who conducts proceedings under this section shall make specific  
40 written factual findings and legal conclusions supporting the decision  
41 and shall order a record of the evidence to be maintained including the  
42 judge's findings and conclusions.

43 d. An expedited confidential appeal shall be available to a minor for  
44 whom the court denies an order waiving notification. No filing fees  
45 shall be required of any minor at either the trial or the appellate level.  
46 Access to the trial court for the purposes of such a petition or motion,

1 and access to the appellate courts for purposes of making an appeal  
2 from denial of the same, shall be afforded such a minor on an emergent  
3 basis in accordance with the rules of court.

4  
5 9. (New section) Nothing in this act shall be interpreted to deny  
6 a pregnant unemancipated minor who is under the age of 18 any  
7 benefits to which she would otherwise be entitled pursuant to law.

8  
9 10. (New section) Any person who performs an abortion in  
10 violation of this act shall be subject to a civil penalty of not less than  
11 \$1,000 and not more than \$5,000 and shall be liable in a civil action by  
12 a parent wrongfully denied notification. A person shall not be liable  
13 under this act if the person establishes by written evidence that the  
14 person relied upon evidence sufficient to convince a careful and  
15 prudent person that the representations of the unemancipated minor  
16 regarding information necessary to comply with this section are bona  
17 fide and true, or if the person has attempted with reasonable diligence  
18 to deliver notice, but has been unable to do so.

19  
20 11. This act shall take effect immediately.

21  
22  
23 STATEMENT

24  
25 This bill requires that before a doctor may perform or induce an  
26 abortion on a pregnant unemancipated minor, written notice must be  
27 given to the minor's parent or guardian. "Parent" is defined as both  
28 parents of an unemancipated minor, if both parents are domiciled at  
29 the same address; or the parent with primary custody, care and control  
30 of the unemancipated minor; or, if there is no parent with primary  
31 custody, care and control, then the foster parents, foster parent or the  
32 guardian of the unemancipated minor.

33 The bill requires the notice to be delivered to the parent at the  
34 parent's last known address either personally by the doctor or by  
35 certified mail, return receipt requested and restricted delivery to the  
36 addressee. The abortion procedure cannot be performed until at least  
37 48 hours after the notice has been delivered or posted to the parent.

38 The bill provides that notice of a pending abortion will not be  
39 required if the parent who is entitled to notice has set forth in a  
40 notarized writing that notice was received or if there is an emergency  
41 need for the abortion because of an immediate threat to the life of the  
42 unemancipated minor.

43 If the unemancipated minor objects to notice because of allegations  
44 that she is a victim of abuse, cruelty or neglect, she may petition the  
45 court for a waiver of notification. If the judge determines the  
46 allegations are true, and that parental notification would not be in the



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1 minor's best interest, he shall order the waiver. Notice of the judge's  
2 determination shall be made to the Division of Youth and Family  
3 Services. The court proceedings shall be confidential and the decision  
4 made promptly so as to serve the best interest of the minor.  
5 Additionally, an expedited confidential appeal from an order denying  
6 the waiver shall be available to the pregnant minor.

7 The bill also provides that performance of an abortion in violation  
8 of the act will result in a civil penalty of between \$1,000 and \$5,000  
9 and shall be grounds for a civil action by the parent denied  
10 notification.

*Office of the Governor*  
**NEWS RELEASE**

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## **Governor Whitman Signs Bills into Law**

Gov. Christie Whitman today signed 12 bills into law, including legislation to increase parental involvement in a minor's decision to have an abortion, to allow towns to regulate or prohibit nudity on state-owned land within their borders, and to fund the state's contribution toward a memorial to recognize World War II veterans.

On the parental notification bill, Gov. Whitman said, "This legislation strikes a common-sense balance that recognizes the rights of parents to know when a medical procedure will be performed on their minor children, while preserving a young woman's legal right to choose whether or not to have an abortion."

**A-44**, sponsored by Assembly Members Paul DiGaetano (R-Bergen/Essex/Passaic) and Joseph Doria (D-Hudson) and Senators Ronald Rice (D-Essex) and Joseph Palaia (R-Monmouth), appropriates \$14.8 million to the Department of Community Affairs to demolish and dispose of unsafe buildings. The money would be used as loans to 17 municipalities to demolish buildings in urban and rural areas. The loans were awarded pursuant to the "Urban and Rural Centers Unsafe Buildings Demolition Bond Act." Loans will be granted to Camden, Passaic, Elizabeth, Bridgeton, Jersey City, Asbury Park, Bayonne, East Orange, Hampton, Long Branch, Orange, Paterson, Penns Grove, Perth Amboy, Pleasantville, Union City, and Vineland.

**ACS for A-527/S-813**, sponsored by Assembly Members John E. Rooney (R-Bergen) and Marion Crecco (R-Essex/Passaic), seeks to increase parental involvement in a minor's decision to have an abortion. Specifically, the bill requires a physician, prior to performing an abortion upon a female under the age of 18, to notify a parent at least 48 hours prior to the procedure, subject to certain exemptions. If the parent has no custodial rights or if there is no parent with care and control, the bill provides for notification of a foster parent, guardian or person standing in loco parentis.

The bill establishes an exception to the notification requirement if, in the attending physician's good faith clinical judgment, a medical emergency exists. The bill also allows a pregnant minor to petition a judge of the Superior Court for a judicial order waiving the notification requirement. A judge must waive the notification requirement if he finds, by clear and convincing evidence, that either the pregnant minor is mature enough to decide whether to have an abortion; the notification of the parent is not in the best interests of the minor; or there is evidence of physical, sexual or emotional abuse by the parent, guardian or legal custodian.

**A-631**, sponsored by Assembly Members Joseph Roberts (D-Camden/Gloucester) and Arline Friscia (D-Middlesex), designates a portion of the revenue collected from vending machine sales under contract

with the Commission for the Blind and Visually Impaired to be used for vision screening and prevention services. Since 1994, the vending machine revenue has been redirected through the appropriations act, which resulted in a disincentive to increase sales. The revenue sharing program grants the Commissioner of the Department of Human Services the authority to share a portion of the sales with department institutions only when enough funds have been collected to support Project Prevention.

**S-1698**, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Member James W. Holzapfel (R-Monmouth/ Ocean), enhances the flexibility of the State Parole Board. The legislation increases the membership of the board from nine members to eleven and adds a third adult panel on prison sentences which will enable the board to conduct an estimated 288 additional panel hearings each month.

The legislation also expands the ability of an alternate board member to assume the duties of an associate member. Currently, the board has an alternate member who can assume the duties of an associate member only when the associate is removed, incapacitated or assumes the duties of the chairman. The legislation will allow an alternate member to step in for an associate member when the member is absent or otherwise unable to perform his or her duties, or assumes the duties of the chairman. Finally, the bill expands the powers of the chairman to temporarily reassign an associate member appointed to a panel on juvenile commitments to a panel on adult sentences. Currently, the chairman can only reassign members appointed to a panel on adult sentences.

**S-1709/A-3115**, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic) and Nicholas Felice (R-Bergen/Passaic), clarifies that the corporation business tax benefit transfer program applies only to emerging technology and biotechnology companies in this state. As currently written, the bill could allow large "Fortune 500" companies to obtain CBT tax credits.

**S-1744/A-2886**, sponsored by Senators Norman M. Robertson (R-Essex/Passaic) and Louis Bassano (R-Essex/Union) and Assembly Members Kenneth LeFevre (R-Atlantic) and Joseph Azzolina (R-Middlesex and Monmouth), makes a supplemental appropriation of \$580,000 from the General Fund to the Department of Military and Veterans' Affairs for a grant to the World War II Memorial Fund. The fund is to be used to construct and maintain the first national memorial dedicated to all who served in the armed forces and the merchant marines during World War II.

Former Senator Bob Dole is leading efforts to raise \$100 million toward the memorial, which is to be built on the Mall in Washington, D.C. States have been asked to make donations to the fund, suggested at \$1 for each resident who served in WWII. The \$580,000 supplemental appropriation represents New Jersey's contribution for its approximately 580,000 veterans who served in the war. Of those 580,000 veterans, it is estimated that approximately 200,000 World War II veterans are still living in the state.

**S-1912**, sponsored by Senator James S. Cafiero and Assembly Members John C. Gibson and Nicholas Asselta (all R-Cape May/Atlantic/Cumberland), authorizes municipalities to regulate or prohibit nudity on any state-owned land.

**S-1985**, sponsored by Senators William E. Schluter (R-Warren/Hunterdon/Mercer) and Shirley K. Turner (D-Mercer) and Assembly Members Bonnie Watson Coleman (D-Mercer) and Reed Gusciora (D-Mercer), authorizes the Department of the Treasury to sell as surplus real property all of the state's interest in the Lafayette Yard property in Trenton to the City of Trenton. The terms and conditions of the sale must be approved by the State House Commission. The purpose of the bill is to allow the City of Trenton to build a hotel on the site. The sale of the Lafayette Yard and the City of Trenton Hotel and Conference Center will be financed by a \$5 million loan from the state.

**S-1986**, sponsored by Senators William E. Schluter (R-Warren/Hunterdon/Mercer) and Shirley K. Turner (D-Mercer) and Assembly Members Bonnie Watson Coleman (D-Mercer) and Reed Gusciora (D-Mercer), makes a supplemental appropriation of \$5 million from the Fiscal Year 1999 Appropriations Act to the Department of the Treasury to make a loan to the City of Trenton to construct a hotel/conference center and parking garage on the Lafayette Yard site next to the War Memorial in Trenton.

**S-2009**, sponsored by Senator Gerald Cardinale (R-Bergen) and Assembly Member Claire M. Farragher (R-Monmouth), revises the manner in which the Department of Banking and Insurance (DBI) may assess the insurance industry for the cost of operations of the Division of Insurance and the Office of Insurance Fraud Prosecutor (OIP). The present amount of assessment is approximately \$41 million per year. The assessment is calculated by adding the previous year's spending by the DBI and OIP to the percentage increases (if any) in net written premiums by the insurance industry. Thus, the division must calculate the premium increase for the insurance industry from the previous calendar year and then set its budget for the following year. The assessment growth is limited to the percentage growth in net written premiums from the prior calendar year. Annual statements containing net written premium information are not due from the companies until March following the close of the calendar year and this information is not compiled until May. Consequently, the maximum assessment for the preceding fiscal year is not known until May of the current year, which leaves inadequate time to adjust spending.

To rectify these problems, the bill revises the fiscal cap by removing the present limitation that the assessment may not increase, as a percentage, by more than the percentage increase in net written premiums received by all companies for the prior calendar year. Instead, it sets the cap at 0.20 percent of the combined net written premiums received during the prior calendar year. The bill applies the revised cap to the 1999 fiscal year and every succeeding fiscal year. The cap will now have a fixed ceiling, instead of a variable ceiling.

**ACS for A-2738 and A-2343**, sponsored by Assembly Members Alex DeCroce (R-Essex/Morris/Passaic), Anthony Impreveduto (D-Bergen/Hudson), Francis Bodine (R-Atlantic/Burlington/Camden) and Joseph Charles (D-Hudson) and Senators Andrew Ciesla (R-Monmouth/Ocean) and Walter Kavanaugh (R-Morris/Somerset), increases from \$700 million to \$900 million the amount of debt that the State Transportation Trust Fund Authority may incur. The bill also increases the same amount that may be appropriated for transportation projects. Any savings realized by refinancing debt must be used for funding transportation projects.

**ACS for A-3269**, sponsored by Assembly Members Rose Marie Heck (R-Bergen), Joel M. Weingarten (D-Bergen) and Loretta Weinberg (D-Bergen), authorizes the Division of Motor Vehicles

(DMV) to process motor vehicle transactions submitted through any electronic or digital means, including by the Internet or telephone. Individuals will continue to have the option of conducting business with DMV in person or through the mail.