

1 HOUSE BILL NO. 968

2 INTRODUCED BY A. REGIER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PARENTAL CONSULTATION REGARDING A

5 MINOR'S ABORTION; REVISING DEFINITIONS; REVISING CONSENT REQUIREMENTS; REVISING

6 IDENTIFICATION REQUIREMENTS; PROVIDING FOR PARENTAL NOTIFICATION OF A MINOR'S

7 ABORTION IN THE EVENT THAT PARENTAL CONSULTATION PROVISIONS ARE ENJOINED; PROVIDING

8 AN APPROPRIATION; AMENDING SECTIONS 41-1-405, 47-1-104, 50-20-501, 50-20-502, 50-20-503, 50-20-

9 504, 50-20-505, AND 50-20-506, MCA; AND PROVIDING AN EFFECTIVE DATES AND A CONTINGENT

10 TERMINATION DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be cited as the "Parental Notice

15 of Abortion Act of 2023".

16

17 NEW SECTION. Section 2. Legislative purpose and findings. (1) The legislature finds that:

18 (a) immature minors often lack the ability to make fully informed choices that take into account

19 both immediate and long-range consequences;

20 (b) the medical, emotional, and psychological consequences of abortion are sometimes serious

21 and can be lasting, particularly when the patient is immature;

22 (c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom

23 of an abortion are not necessarily related;

24 (d) parents ordinarily possess information essential to a physician in the exercise of the physician's

25 best medical judgment concerning the minor;

26 (e) parents who are aware that their minor daughter has had an abortion may better ensure that

27 the daughter receives adequate medical care after the abortion; and

28 (f) parental consultation is usually desirable and in the best interests of the minor.

- 1 (2) The purpose of [sections 1 through 9] is to further the important and compelling state interests  
2 of:  
3 (a) protecting minors against their own immaturity;  
4 (b) fostering family unity and preserving the family as a viable social unit;  
5 (c) protecting the constitutional rights of parents to rear children who are members of their  
6 household; and  
7 (d) reducing teenage pregnancy and unnecessary abortion.

8  
9 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 9], unless the context  
10 requires otherwise, the following definitions apply:

- 11 (1) "Actual notice" means the giving of notice directly in person or by telephone.  
12 (2) "Coerce" means to restrain or dominate the choice of a minor female by force, threat of force,  
13 or deprivation of food and shelter.  
14 (3) "Emancipated minor" means a person under 18 years of age who is or has been married or  
15 who has been granted an order of limited emancipation by a court as provided in 41-3-438.  
16 (4) "Medical emergency" means a condition that, on the basis of the physician's good faith clinical  
17 judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion  
18 of the woman's pregnancy to avert the woman's death or a condition for which a delay in treatment will create  
19 serious risk of substantial and irreversible impairment of a major bodily function.  
20 (5) "Minor" means a female under 16 years of age who is not an emancipated minor.  
21 (6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian  
22 on a child.  
23 (7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.  
24 (8) "Sexual abuse" has the meaning given in 41-3-102.

25  
26 **NEW SECTION. Section 4. Notice of parent required.** A physician may not perform an abortion  
27 upon a minor unless the physician has given at least 48 hours' actual notice to one parent or to the legal  
28 guardian of the pregnant minor of the physician's intention to perform the abortion. The actual notice may be

1 given by a referring physician. The physician who performs the abortion must receive the written statement of  
2 the referring physician certifying that the referring physician has given actual notice. If actual notice is not  
3 possible after a reasonable effort, the physician or the physician's agent shall give alternate notice as provided  
4 in [section 5].

5  
6 **NEW SECTION. Section 5. Alternative notification.** In lieu of the actual notice required by [section  
7 4], notice may be made by certified mail addressed to the parent at the usual place of residence of the parent  
8 with return receipt requested and delivery restricted to the addressee, which means a postal employee may  
9 deliver the mail only to the authorized addressee. Time of delivery is considered to occur at noon on the next  
10 day on which regular mail delivery takes place after mailing.

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12 **NEW SECTION. Section 6. Exceptions.** Notice is not required under [section 4] or [section 5] if:

- 13 (1) the attending physician certifies in the patient's medical record that a medical emergency exists  
14 and there is insufficient time to provide notice;
- 15 (2) notice is waived, in writing, by the person entitled to notice; or
- 16 (3) notice is waived under [section 8].

17  
18 **NEW SECTION. Section 7. Coercion prohibited.** A parent, a guardian, or any other person may not  
19 coerce a minor to have an abortion. If a minor is denied financial support by the minor's parents, guardian, or  
20 custodian because of the minor's refusal to have an abortion, the minor must be considered an emancipated  
21 minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be  
22 used to obtain an abortion.

23  
24 **NEW SECTION. Section 8. Procedure for judicial waiver of notice.** (1) The requirements and  
25 procedures under this section are available to minors whether or not they are residents of this state.

- 26 (2) The minor may petition the youth court for a waiver of the notice requirement and may  
27 participate in the proceedings on the person's own behalf. The petition must include a statement that the  
28 petitioner is pregnant and is not emancipated. The court may appoint a guardian ad litem for the petitioner. A

1 guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the  
2 petitioner of the right to assigned counsel and shall order the office of state public defender, provided for in 2-  
3 15-1029, to assign counsel upon request.

4 (3) Proceedings under this section are confidential and must ensure the anonymity of the  
5 petitioner. All proceedings under this section must be sealed. The petitioner may file the petition using a  
6 pseudonym or using the petitioner's initials. All documents related to the petition are confidential and are not  
7 available to the public. The proceedings on the petition must be given preference over other pending matters to  
8 the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings  
9 of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is  
10 extended at the request of the petitioner. If the court fails to rule within 48 hours and the time is not extended,  
11 the petition is granted and the notice requirement is waived.

12 (4) If the court finds that the petitioner is competent to decide whether to have an abortion, the  
13 court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion  
14 without the notification of a parent or guardian.

15 (5) The court shall issue an order authorizing the petitioner to consent to an abortion without the  
16 notification of a parent or guardian if the court finds that:

17 (a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the petitioner by one  
18 or both parents, a guardian, or a custodian; or

19 (b) the notification of a parent or guardian is not in the best interests of the petitioner.

20 (6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the  
21 petition.

22 (7) A court that conducts proceedings under this section shall issue written and specific findings of  
23 fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence,  
24 findings, and conclusions be maintained.

25 (8) The supreme court may adopt rules providing an expedited confidential appeal by a petitioner if  
26 the youth court denies a petition. An order authorizing an abortion without notice is not subject to appeal.

27 (9) Filing fees may not be required of a pregnant minor who petitions a court for a waiver of  
28 parental notification or appeals a denial of a petition.

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2 **NEW SECTION. Section 9. Criminal and civil penalties.** (1) A person convicted of performing an  
3 abortion in violation of [section 4] or [section 5] shall be fined an amount not to exceed \$500 or be imprisoned in  
4 the county jail for a term not to exceed 6 months, or both.

5 (2) Failure to provide the notice required under [section 4] or [section 5] is prima facie evidence in  
6 an appropriate civil action for a violation of a professional obligation. The evidence does not apply to issues  
7 other than failure to notify the parents or guardian. A civil action may be based on a claim that the failure to  
8 notify was the result of a violation of the appropriate legal standard of care. Failure to provide notice is  
9 presumed to be actual malice pursuant to the provisions of 27-1-221. [Sections 1 through 9] do not limit the  
10 common-law rights of parents.

11 (3) A person who coerces a minor to have an abortion is guilty of a misdemeanor and upon  
12 conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to  
13 exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less  
14 than \$500 and not more than \$50,000 and be imprisoned in the state prison for a term not less than 10 days  
15 and not more than 5 years, or both.

16 (4) A person not authorized to receive notice under [section 5] who signs a notice of waiver as  
17 provided in [section 6(2)] is guilty of a misdemeanor.

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19 **Section 10.** Section 41-1-405, MCA, is amended to read:

20 **"41-1-405. Emergencies and special situations.** (1) A health professional may render or attempt to  
21 render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation,  
22 to any injured person or any person regardless of age who is in need of immediate health care when, in good  
23 faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical  
24 or mental damage.

25 (2) A health professional may render nonemergency services to minors for conditions that will  
26 endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent,  
27 parents, or legal guardian.

28 (3) Consent may not be required of a minor who does not possess the mental capacity or who has

1 a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal  
2 guardians, if a physician determines that the health service should be given.

3 (4) Self-consent of minors does not apply to sterilization or abortion, except as provided in ~~Title 50,~~  
4 ~~chapter 20, part 5 [sections 1 through 9].~~"

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6 **Section 11.** Section 47-1-104, MCA, is amended to read:

7 **"47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at**

8 **public expense.** (1) There is a statewide public defender system, which is required to deliver public defender  
9 services in all courts in this state. The system is supervised by the director.

10 (2) The director shall approve a strategic plan for service delivery and divide the state into not  
11 more than 11 public defender regions. The director may establish a regional office to provide public defender  
12 services in each region, as provided in 47-1-215, establish a contracted services program to provide services in  
13 the region, or utilize other service delivery methods as appropriate and consistent with the purposes described  
14 in 47-1-102.

15 (3) When a court orders the assignment of a public defender, the appropriate office shall  
16 immediately assign a public defender qualified to provide the required services. The director shall establish  
17 protocols to ensure that the offices make appropriate assignments in a timely manner.

18 (4) A court may order assignment of a public defender under this chapter in the following cases:

19 (a) in cases in which a person is entitled to assistance of counsel at public expense because of  
20 financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as  
21 follows:

22 (i) for a person charged with a felony or charged with a misdemeanor for which there is a  
23 possibility of incarceration, as provided in 46-8-101;

24 (ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as  
25 provided in 40-6-119;

26 (iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any  
27 removal, placement, or termination proceeding pursuant 41-3-422 and as required under the federal Indian  
28 Child Welfare Act, as provided in 41-3-425;

- 1 (iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;
- 2 (v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;
- 3 (vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;
- 4 (vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally
- 5 disabled person to a residential facility, as provided in 53-20-112;
- 6 (viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided
- 7 in 53-21-116;
- 8 (ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as
- 9 provided in 53-24-302; and
- 10 (x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.
- 11 (b) in cases in which a person is entitled by law to the assistance of counsel at public expense
- 12 regardless of the person's financial ability to retain private counsel, as follows:
- 13 (i) as provided for in 41-3-425;
- 14 (ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent
- 15 or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction
- 16 Prosecution Act, as provided in 41-5-1607;
- 17 (iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on
- 18 Juveniles, as provided in 41-6-101;
- 19 (iv) for a minor who petitions for a waiver of parental consent requirements under the Parental
- 20 Consent for Abortion Act of 2013 Consultation for Minor's Abortion Act of 2023, as provided in 50-20-509;
- 21 (v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled
- 22 person to a residential facility, as provided in 53-20-112;
- 23 (vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;
- 24 (vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in
- 25 a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;
- 26 (viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a
- 27 mental disorder of the ward, as provided in 72-5-322; and
- 28 (c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

1 (5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a  
2 court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title  
3 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

4 (b) A private attorney who is contracted with under the provisions of 47-1-121 to provide public  
5 defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad  
6 litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service  
7 for the statewide public defender system and does not result in a conflict of interest."

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**Section 12.** Section 47-1-104, MCA, is amended to read:

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**"47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at**

11

**public expense.** (1) There is a statewide public defender system, which is required to deliver public defender  
12 services in all courts in this state. The system is supervised by the director.

13

(2) The director shall approve a strategic plan for service delivery and divide the state into not

14

more than 11 public defender regions. The director may establish a regional office to provide public defender  
15 services in each region, as provided in 47-1-215, establish a contracted services program to provide services in

16

the region, or utilize other service delivery methods as appropriate and consistent with the purposes described  
17 in 47-1-102.

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(3) When a court orders the assignment of a public defender, the appropriate office shall

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immediately assign a public defender qualified to provide the required services. The director shall establish  
20 protocols to ensure that the offices make appropriate assignments in a timely manner.

21

(4) A court may order assignment of a public defender under this chapter in the following cases:

22

(a) in cases in which a person is entitled to assistance of counsel at public expense because of

23

financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as  
24 follows:

25

(i) for a person charged with a felony or charged with a misdemeanor for which there is a

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possibility of incarceration, as provided in 46-8-101;

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(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as

28

provided in 40-6-119;

- 1 (iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any  
2 removal, placement, or termination proceeding pursuant 41-3-422 and as required under the federal Indian  
3 Child Welfare Act, as provided in 41-3-425;
- 4 (iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;
- 5 (v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;
- 6 (vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;
- 7 (vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally  
8 disabled person to a residential facility, as provided in 53-20-112;
- 9 (viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided  
10 in 53-21-116;
- 11 (ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as  
12 provided in 53-24-302; and
- 13 (x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.
- 14 (b) in cases in which a person is entitled by law to the assistance of counsel at public expense  
15 regardless of the person's financial ability to retain private counsel, as follows:
- 16 (i) as provided for in 41-3-425;
- 17 (ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent  
18 or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction  
19 Prosecution Act, as provided in 41-5-1607;
- 20 (iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on  
21 Juveniles, as provided in 41-6-101;
- 22 (iv) for a minor who petitions for a waiver of parental ~~consent notification~~ requirements under the  
23 Parental ~~Consent for Abortion Act of 2013~~ Notice of Abortion Act of 2023, as provided in ~~50-20-509~~ [section 8];
- 24 (v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled  
25 person to a residential facility, as provided in 53-20-112;
- 26 (vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;
- 27 (vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in  
28 a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

1 (viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a  
2 mental disorder of the ward, as provided in 72-5-322; and  
3 (c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).  
4 (5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a  
5 court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title  
6 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.  
7 (b) A private attorney who is contracted with under the provisions of 47-1-121 to provide public  
8 defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad  
9 litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service  
10 for the statewide public defender system and does not result in a conflict of interest."  
11

12 **Section 13.** Section 50-20-501, MCA, is amended to read:

13 **"50-20-501. Short title.** This part may be cited as the "Parental Consent Consultation for Minor's  
14 Abortion Act of 2013 2023"."  
15

16 **Section 14.** Section 50-20-502, MCA, is amended to read:

17 **"50-20-502. Legislative purpose and findings.** (1) The legislature finds that:

- 18 (a) immature minors often lack the ability to make fully informed choices that take into account  
19 both immediate and long-range consequences;  
20 (b) the medical, emotional, and psychological consequences of abortion are sometimes serious  
21 and can be lasting, particularly when the patient is immature;  
22 (c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom  
23 of an abortion are not necessarily related;  
24 (d) parents ordinarily possess information essential to a physician in the exercise of the physician's  
25 best medical judgment concerning the minor;  
26 (e) parents who are aware that their minor daughter has had an abortion may better ensure that  
27 the daughter receives adequate medical care after the abortion; and  
28 (f) parental consultation is usually desirable and in the best interests of the minor.

- 1 (2) The purpose of this part is to further the important and compelling state interests of:
- 2 (a) protecting minors against their own immaturity;
- 3 (b) fostering family unity and preserving the family as a viable social unit; and
- 4 (c) protecting the constitutional rights of parents to rear children who are members of their
- 5 household; ~~and~~
- 6 ~~(d) reducing teenage pregnancy and unnecessary abortion."~~

7

8 **Section 15.** Section 50-20-503, MCA, is amended to read:

9 **"50-20-503. Definitions.** As used in this part, unless the context requires otherwise, the following

10 definitions apply:

11 (1) "Coerce" means to restrain or dominate the choice of a minor by force, threat of force, or

12 deprivation of food and shelter.

13 (2) "Consent" means a notarized written statement obtained on a form and executed in the manner

14 prescribed by 50-20-505 that is signed by a parent or legal guardian of a minor and that declares that the minor

15 intends to seek an abortion and that the parent or legal guardian of the minor ~~consents to the abortion~~ has been

16 informed and consulted as required by 50-20-505.

17 (3) "Emancipated minor" means a person under 18 years of age who is or has been married or

18 who has been granted an order of limited emancipation by a court as provided in 41-1-503.

19 (4) "Medical emergency" means a condition that, on the basis of the good faith clinical judgment of

20 a physician or physician assistant, so complicates the medical condition of a pregnant woman as to necessitate

21 the immediate abortion of the woman's pregnancy to avert the woman's death or a condition for which a delay

22 in treatment will create serious risk of substantial and irreversible impairment of a major bodily function.

23 (5) "Minor" means a pregnant female under ~~18~~ 16 years of age who is not an emancipated minor.

24 (6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian

25 on a minor.

26 (7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.

27 (8) "Physician assistant" means a person licensed pursuant to Title 37, chapter 20, who provides

28 medical services under the supervision of a physician.

1 (9) "Sexual abuse" has the meaning provided in 41-3-102."

2

3 **Section 16.** Section 50-20-504, MCA, is amended to read:

4 **"50-20-504. Consent of parent or legal guardian required.** (1) Except as provided in 50-20-507, a  
5 physician or physician assistant may not perform an abortion on a minor unless the physician or physician  
6 assistant or the agent of the physician or physician assistant first obtains the ~~notarized written~~ consent of a  
7 parent or legal guardian of the minor.

8 (2) The consent of a parent or legal guardian of the minor is invalid unless it is obtained in the  
9 manner and on the form prescribed by 50-20-505."

10

11 **Section 17.** Section 50-20-505, MCA, is amended to read:

12 **"50-20-505. Consent form -- disclosure -- requirements for validity.** (1) The department of public  
13 health and human services shall create a consent form to be used by physicians, physician assistants, or their  
14 agents in obtaining the consent of a parent or legal guardian as required under 50-20-504 or in obtaining the  
15 waiver of the consent of a parent or legal guardian as provided for in 50-20-507.

16 (2) The form must disclose but is not limited to the following:

17 (a) any information that a physician or physician assistant is required by law to provide to the minor  
18 and the rights of the minor;

19 (b) the rights of the parent or legal guardian;

20 (c) the surgical or medical procedures that may be performed on the minor;

21 (d) the risks and hazards related to the procedures planned for the minor, including but not limited  
22 to the risks and hazards associated with:

23 (i) any surgical, medical, or diagnostic procedure, including the potential for infection, blood clots  
24 in veins and lungs, hemorrhage, and allergic reactions;

25 (ii) a surgical abortion, including hemorrhage, uterine perforation or other damage to the uterus,  
26 sterility, injury to the bowel or bladder, a potential hysterectomy caused by a complication or injury during the  
27 procedure, and the possibility of additional procedures being required because of failure to remove all products  
28 of conception;

1 (iii) a medical or nonsurgical abortion, including hemorrhage, sterility, the continuation of the  
2 pregnancy, and the possibility of additional procedures being required because of failure to remove all products  
3 of conception; and

4 (iv) the particular procedure that is planned for the minor, including cramping of the uterus, pelvic  
5 pain, infection of the female reproductive organs, cervical laceration, incompetent cervix, and the requirement  
6 of emergency treatment for any complications; and

7 (e) the common risks and complications associated with carrying the pregnancy to full term.

8 (3) The form must include:

9 (a) a minor consent statement that the minor is required to sign. The minor consent statement  
10 must include but is not limited to the following points, each of which must be initialed by the minor:

11 (i) the minor understands that the physician or physician assistant is going to perform an abortion  
12 on the minor and that the abortion will end the minor's pregnancy;

13 (ii) the minor is not being coerced into having an abortion, the minor has the choice not to have the  
14 abortion, and the minor may withdraw consent at any time prior to the abortion;

15 (iii) the minor consents to the procedure;

16 (iv) the minor understands the risks and hazards associated with the surgical or medical  
17 procedures planned for the minor;

18 (v) the minor has been provided the opportunity to ask questions about the pregnancy, alternative  
19 forms of treatment, the risk of nontreatment, the procedures to be used, and the risks and hazards involved;

20 and

21 (vi) the minor has sufficient information to give informed consent.

22 (b) a parental consent statement that a parent or legal guardian is required to sign. The parental  
23 consent statement must include but is not limited to the following points, each of which must be initialed by a  
24 parent or legal guardian:

25 (i) the parent or legal guardian understands that the physician or physician assistant who signed  
26 the physician declaration statement provided for in subsection (3)(c) is going to perform an abortion on the  
27 minor that will end the minor's pregnancy;

28 (ii) the parent or legal guardian had the opportunity to read the consent form or had the

1 opportunity to have the consent form read to the parent or legal guardian;

2 (iii) the parent or legal guardian had the opportunity to ask questions of the physician or physician  
3 assistant or the agent of the physician or physician assistant regarding the information contained in the consent  
4 form and the surgical and medical procedures to be performed on the minor;

5 (iv) the parent or legal guardian has been provided sufficient information to ~~give informed consent~~  
6 consult with the minor as to the risks and complications associated with abortion and pregnancy.

7 (c) a physician declaration that the physician or physician assistant is required to sign, declaring  
8 that:

9 (i) the physician or physician assistant ~~or the agent of the physician or physician assistant~~  
10 explained the procedure and contents of the consent form to the minor and a parent or legal guardian of the  
11 minor and answered any questions;

12 (ii) the physician or physician assistant explained any risks or complications associated with  
13 abortion and pregnancy that involve the minor's specific circumstances to the minor and the parent or legal  
14 guardian of the minor and answered any questions;and

15 (ii)(iii) to the best of the physician's or physician assistant's knowledge, the minor ~~and a parent or~~  
16 ~~legal guardian of the minor have~~ has been adequately informed and ~~have consented to the~~ consented to the  
17 surgical and medical procedure to be performed on the minor ~~abortion~~; and

18 (iv) to the best of the physician's or physician assistant's knowledge, the parent or legal guardian of  
19 the minor has been adequately informed and consulted regarding the minor's decision to seek an abortion.

20 (d) a signature page for a parent or legal guardian of the minor that must be notarized and that  
21 includes an acknowledgment by the parent or legal guardian affirming that the parent or legal guardian is the  
22 minor's parent or legal guardian."  
23

24 **Section 18.** Section 50-20-506, MCA, is amended to read:

25 **"50-20-506. Proof of identification and relationship to minor -- retention of records.** (1) A parent  
26 or legal guardian of a minor who is consenting to the performance of an abortion on the minor shall provide ~~the~~  
27 ~~attending~~ sufficient information to the physician or physician assistant or the agent of the physician or physician  
28 ~~assistant with government-issued~~ establishing proof of identity and ~~written documentation that establishes that~~

1 the parent or legal guardian is the lawful parent or legal guardian of the minor proof of relationship to the minor  
2 so that the consent form required by 50-20-505 substantially complies with the identification requirements of 1-  
3 5-603.

4 (2) A physician or physician assistant shall retain the completed consent form and the documents  
5 provided pursuant to subsection (1) in the minor's medical file for 5 years after the minor reaches 18 years of  
6 age, but in no event less than 7 years.

7 (3) A physician or physician assistant receiving documentation under this section shall execute for  
8 inclusion in the minor's medical record an affidavit stating: "I, (insert name of physician or physician assistant),  
9 certify that according to my best information and belief, a reasonable person under similar circumstances would  
10 rely on the information presented by both the minor and the minor's parent or legal guardian as sufficient  
11 evidence of identity and relationship."  
12

13 **NEW SECTION. Section 19. Appropriation.** (1) There is appropriated \$1,000 from the general fund  
14 to the department of public health and human services for the biennium beginning July 1, 2023.

15 (2) The appropriation must be used to pay for the costs associated with providing the consent form  
16 described in [section 6].

17 (3) The legislature intends that the appropriation provided for in this section is a one-time-only  
18 appropriation.  
19

20 **NEW SECTION. Section 20. Codification instruction.** [Sections 1 through 9] are intended to be  
21 codified as an integral part of Title 50, chapter 20, part 2, and the provisions of Title 50, chapter 20, part 2,  
22 apply to [sections 1 through 9].  
23

24 **NEW SECTION. Section 21. Effective dates -- contingency.** (1) Except as provided in subsection  
25 (2), [This this act] is effective July 1, 2023.

26 (2) [Sections 1 through 10 and 12] are effective on the date that the attorney general certifies in  
27 writing to the code commissioner that enforcement of the Parental Consultation for Minor's Abortion Act of  
28 2023, Title 50, chapter 20, part 5, has been preliminarily or permanently enjoined.

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8

NEW SECTION. **Section 22. Contingent termination.** [Sections 1 through 10 and 12] terminate on the date that the attorney general certifies to the code commissioner that, following litigation in which the Parental Consultation for Minor's Abortion Act of 2023, Title 50, chapter 20, part 5, was preliminarily or permanently enjoined, the Parental Consultation for Minor's Abortion Act of 2023 has been upheld by a court of final disposition and is in full force and effect. The attorney general shall submit certification within 2 days of the occurrence of the contingency.

- END -

AMENDMENT