

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

In the Matter of _____)

(Type or Print Name of Petitioner))

Date of Birth _____)

CASE NO. _____ PR

**PETITION TO BYPASS
PARENTAL CONSENT**

Clerk's Instructions: This is a confidential matter requiring immediate appointment of counsel and a hearing within 48 hours. No filing fee is required and no court costs may be assessed.

I request that the court issue an order authorizing me to consent to an abortion without asking for the consent of my parent, guardian or custodian. I swear or affirm under penalty of perjury that the following information is true.

1. I am pregnant.
2. I am unmarried, under 17 years of age, and unemancipated.
3. I wish to have an abortion without the consent of a parent, guardian or custodian.
4. Parental consent should not be required because (check all that apply):
 - a. I am sufficiently mature and well enough informed to decide intelligently whether to have an abortion without the consent of a parent, guardian, or custodian.
 - b. One or both of my parents or my guardian or custodian has engaged in physical abuse, sexual abuse, or a pattern of emotional abuse against me.
 - c. It is not in my best interest to require me to obtain the consent of a parent, guardian, or custodian.
5. I do not have an attorney. I understand the court must appoint one for me.
 am represented by the following attorney:
 Attorney's Name: _____ Telephone _____
 Attorney's Address: _____

6. I understand that I must contact the court to find out my hearing date and how to contact my attorney if I do not get this information at the time I file this petition. (The hearing will be held within 48 hours after the court receives the petition.)
7. I request that I be allowed to participate in the hearing by telephone rather than attending the hearing in person. I understand that I must give the court a telephone number where I can be reached for the hearing and that the court will pay for the call.

_____ Date _____ Signature _____

_____ Daytime Telephone (optional)
 (If possible, please give a telephone number where court personnel can reach you or leave a message for you.)

NOTARIZATION

Subscribed and sworn to or affirmed before me at _____, Alaska
 on _____
 (date)

(SEAL) _____
 Clerk of Court, Notary Public, or other person authorized to administer oaths.
 My commission expires _____

CERTIFICATION

[Complete the following certificate if no notary or other official is available to administer an oath.]

- I certify under penalty of perjury that
1. all of the information in this petition is true, and
 2. a notary public or other official empowered to administer oaths is not available.

_____ Date _____ Place (city) _____ Signature _____

Instructions For Requesting Judicial Permission To Bypass Parental Consent

If you are a woman under 17 years old and want to have an abortion in Alaska, you must first get the written consent of one of your parents or your guardian or custodian.¹ Apart from medical emergencies,² there are just three exceptions³ to this Alaska law. You do not need parental consent if:

1. you are emancipated, or
2. you obtain a court order dispensing with parental consent for one of the reasons listed in the statute, or
3. you request the above court order but the court fails to hold the required hearing within five business days, thus "constructively authorizing" the abortion without parental consent.

Emancipation. You are "emancipated" for purposes of the abortion law⁴ if any of the following are true: you are (1) married, (2) a member of the armed services of the United States, (3) employed and self-sustaining, (4) emancipated under Alaska Statute 09.55.590⁵, or (5) independent from the care and control of your parents, guardian or custodian.

Court Order. The procedure for requesting this court order is described below. Your request will be kept confidential by the court. The court is not allowed to notify your parents or anyone else that you are pregnant or that you want to have an abortion. The court will provide the forms you need for your request and will appoint an attorney to represent you (at state expense) if you do not have an attorney. You will not be charged any fees or court costs.

How To Request A Court Order

To request a court order, do the following:

1. Fill out the attached form P-505, Petition To Bypass Parental Consent. Type or print clearly, using black ink.
 - a. Leave the "AT" line at the top of the form blank. The court clerk will fill it in.
 - b. On the next line, fill in your name as petitioner and your date of birth.

1 AS 18.16.010(a)(3)

2 See AS 18.16.010(g) for what constitutes a "medical emergency."

3 AS 18.16.020

4 AS 18.16.090(2)

5 AS 09.55.590 allows minors who are at least 16 years old to petition the superior court for emancipation. This can usually be done only with the consent of each living parent or guardian of the minor. The minor must be living separate and apart from the minor's parents or guardian, be capable of sustained self-support and be capable of managing his/her own financial affairs.

- c. Leave the "CASE NO." line blank. The court clerk will fill it in.
 - d. In #4, check any of the boxes that apply to your situation.
 - e. In #5, check the first box if you do not have an attorney. The court will appoint one for you. Check the second box and fill in the information if you have hired your own attorney.
 - f. In #6, check the box (agreeing to call the court if you do not find out your hearing time and how to contact your attorney when you file your petition). (See #2 below.) Since the court may have no way of contacting you, you need to contact the court to get this information.
 - g. In #7, check the box if you want to participate in the court hearing by telephone instead of in person. The hearing will be held within 48 hours after you file your petition. You will not have to pay for the telephone call.
 - h. Your petition must be notarized, so you should wait to date and sign it until you get to the court clerk's office where a clerk can notarize it for you. If you do not plan to file your petition in person, see the discussion about notarization in paragraph 3 below.
 - i. If possible, please fill in a telephone number where court personnel can call you or leave a message for you. The court may need to contact you, for example, if the time of the hearing has to be changed. If you do not have a telephone number where the court can call you, you do not have to fill this in.
2. Bring your filled out petition to the clerk's office at your local court and tell the clerk you want to file it. The clerk will ask you to sign it under oath and will notarize it for you (at no charge). Please bring a photo ID (for example, your driver's license) with you because the clerk needs to see identification in order to notarize your petition. The clerk will ask you to wait a few minutes while the clerk schedules your court hearing and assigns an attorney to represent you. The clerk will give you a Notice form (P-510) with this information on it.
3. If there is no court in your community (or if you do not want to use the local court), you can mail or fax your petition to the nearest superior court. Addresses and fax numbers are listed on page 4. Before faxing or mailing the petition, you need to get it notarized locally by a notary public or postmaster. If there is no notary public or postmaster available, you must sign and date the petition and fill out the "Certification" section at the bottom.
- If you fax the petition, call the court to make sure they received it and to find out your hearing date and who your attorney will be.
- If you mail the petition, call the court and tell the clerk that you have mailed a petition. Ask the clerk how to find out the date and time of your hearing and how to contact your attorney.
4. Contact your attorney immediately. Because the hearing will be held so soon (within 48 hours), your attorney will need to talk to you as soon as possible.

5. Attend the court hearing. You can participate by telephone if you need to do so. To do this, you must give the court or your attorney a telephone number where the court can reach you at the time of the hearing.

The hearing will be confidential (not open to the public).

6. At or immediately after the hearing, the court will issue an order granting or denying your request.

If your request is denied, you can appeal this decision. Your court-appointed attorney will continue to represent you in the appeal. Form P-520, Notice of Appeal, should be used to file the appeal. This form is available at all court locations.

Constructive Authorization

If the superior court fails to hold a hearing on your request within five business days (not counting holidays and weekends) after you file your petition, the law⁶ allows you to consent to the abortion without first obtaining the consent of one of your parents. If you need proof that no hearing was held, you can get a certificate from the court stating this. Your attorney can help you get the certificate.

6 AS 18.16.030(c)

Superior Court Locations

Anchorage
Probate Office
Boney Courthouse
303 K Street Room 239
Anchorage, AK 99501-2083
Phone: 264-0433
Fax: 264-0598

Barrow
Clerk of Court
Box 270
Barrow, AK 99723-0270
Phone: 852-4800
Fax: 852-4804

Bethel
Clerk of Court
Box 130
Bethel, AK 99559-0130
Phone: 543-3348
Fax: 543-4419

Dillingham
Clerk of Court
Box 909
Dillingham, AK 99574-0209
Phone: 842-5215
Fax: 842-5746

Fairbanks
Probate Office
604 Barnette Street Suite 116
Fairbanks, AK 99701-4569
Phone: 452-9256
Fax: 452-9216

Juneau
Clerk of Court
Box 114100
Juneau, AK 99811-4100
Phone: 463-4700
Fax: 463-3788

Kenai
Clerk of Court
125 Trading Bay Drive Suite 100
Kenai, AK 99611-7723
Phone: 283-3110
Fax: 283-7702

Ketchikan
Clerk of Court
415 Main Street Room 400
Ketchikan, AK 99901-6399
Phone: 225-3195
Fax: 225-7849

Kodiak
Clerk of Court
204 Mission Road Room 10
Kodiak, AK 99615-7312
Phone: 486-1600
Fax: 486-1660

Kotzebue
Clerk of Court
Box 317
Kotzebue, AK 99752-0317
Phone: 442-3208
Fax: 442-3974

Nome
Clerk of Court
Box 1110
Nome, AK 99762-1110
Phone: 443-5216
Fax: 443-2192

Palmer
Clerk of Court
435 South Denali
Palmer, AK 99645-7759
Phone: 746-8109
Fax: 746-4151

Petersburg
Clerk of Court
Box 1009
Petersburg, AK 99833-1009
Phone: 772-3824
Fax: 772-3018

Sitka
Clerk of Court
304 Lake Street Room 203
Sitka, AK 99835-7759
Phone: 747-8109
Fax: 747-6690

Wrangell
Clerk of Court
Box 869
Wrangell, AK 99929-0869
Phone: 874-2311
Fax: 874-3509

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

In the Matter of

(Type or Print Name of Petitioner)

Date of Birth _____

CASE NO. _____ PR

NOTICE AND ASSIGNMENT
RE PETITION TO BYPASS
PARENTAL CONSENT

NOTICE OF HEARING

Assigned Judge: _____

Hearing Date & Time: _____
(within 48 hours after petition is filed)

APPOINTMENT OF ATTORNEY

The Office of Public Advocacy is appointed to represent you.

Attorney's Name: _____

Attorney's Address: _____

Attorney's Phone: _____

You should contact the attorney as soon as possible.

_____ Date _____ Clerk

Clerk's Certificate

The above information was given to

Petitioner in person by telephone _____

on _____ (date) _____ (time)

Petitioner's attorney on _____ (date) by fax personal delivery

Clerk: _____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

In the Matter of

(Petitioner's Name)

Date of Birth _____

CASE NO. _____ PR

ORDER ON REQUEST TO BYPASS
PARENTAL CONSENT

FINDINGS

Hearing Held: _____ Present Were: _____

The court finds by clear and convincing evidence that

- the petitioner is sufficiently mature and well enough informed to decide intelligently whether to have an abortion.
- one or both of the petitioner's parents or the petitioner's guardian or custodian has engaged in physical abuse, sexual abuse or a pattern of emotional abuse of the petitioner.
- it is not in the best interest of the petitioner to require her to obtain the consent of her parents, guardian or custodian.

ORDER

It is therefore ordered

- Petitioner is authorized to consent to the performance or inducement of an abortion without the consent of a parent, guardian or custodian.
- The petition is denied because the court is unable to make any one of the findings required by AS 18.16.030(e)-(g). Petitioner has the right to appeal this decision to the supreme court. Notice of Appeal form P-520 is available at the court. The attorney appointed to represent the petitioner will continue to represent the petitioner during the appeal.

Date

Superior Court Judge

Type Judge's Name

I certify that on _____
a copy of this order was faxed or
handed to petitioner's attorney/petitioner.

Recommended for approval.

Clerk: _____

Master

Date

IN THE SUPREME COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

In the Matter of

(Name of Appellant)

Supreme Court Case No. _____
Superior Court Case No. _____

NOTICE OF APPEAL
RE PETITION TO BYPASS
PARENTAL CONSENT

Instructions to trial court clerks: This notice of appeal may be filed in any district or superior court, or directly with the clerk of the appellate courts. If it is filed in a district or superior court, the clerk must immediately call the clerk of the appellate courts for instructions.

Instructions to supreme court clerks: This is a confidential matter requiring immediate action by the supreme court. No filing fee is required. See Appellate Rule 220 for the procedure that must be followed when one of these appeals is filed.

Appellant appeals from the order of the superior court denying her request for authorization to consent to an abortion without obtaining the consent of a parent, guardian or custodian. A copy of the superior court's order is attached.

Appellant waives the right to oral argument.

Date

Signature of Appellant's Attorney

Attorney's Name: _____

Address: _____

Telephone: _____

Fax: _____

If filed by fax, appellant's attorney should call the court to confirm that the Notice of Appeal has been received. Supreme Court Fax: 264-0878. Supreme Court Phone: 264-0609.

Citation/Title

PROB Rule 20, Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion

Probate Rules, Rule 20

**WEST'S ALASKA STATUTES ANNOTATED
ALASKA COURT RULES
PROBATE RULES
PART III. PROTECTIVE PROCEEDINGS**

Current with amendments received through 8/22/2008

Rule 20. Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion

(a) **Petition.** An action for an order authorizing a minor under age 17 to consent to an abortion without the consent of a parent, guardian, or custodian is commenced by filing a petition. The petition must be under oath and must include the information required by AS 18.16.030(b). The petitioner is not required to provide an address or telephone number. Blank petition forms will be available at all court locations and will be mailed or faxed to a petitioner upon request. No fee will be charged for this service or other services provided to a petitioner.

(b) **Filing.** The petition may be filed in any district or superior court location in person, by mail, or by fax. No filing fee will be charged. If a petition is filed in a district court location, the clerk or magistrate shall immediately notify the clerk of the nearest superior court and fax the petition to that court, unless the local judicial officer has been appointed as a master to conduct these proceedings.

(c) **Appointment of Counsel.** If the petitioner is not represented by a private attorney, the clerk shall appoint the Office of Public Advocacy to represent the petitioner. The clerk shall immediately notify the Office of Public Advocacy of the appointment.

(d) **Expedited Hearing.** Upon receipt of the petition, the court shall schedule a hearing to be held within 48 hours, including weekends and holidays, after the petition is filed. At the hearing, the court shall follow the procedure specified in AS 18.16.030(e)-(g). Upon request, the petitioner will be allowed to participate telephonically at court system expense.

(e) **Findings and Order.** The court shall enter an order immediately after the hearing is concluded. The court shall grant the petition if the court finds by clear and convincing evidence that one of the statutory grounds for dispensing with parental consent exists. Otherwise, the court shall deny the petition. If the petition is denied, the court shall inform the petitioner of her right to an expedited appeal to the supreme court.

***1051 (f) Constructive Order.** If the court fails to hold a hearing within five days after the petition is filed, the presiding judge of the judicial district, or another judge designated by the presiding judge, shall issue a certificate stating that (1) no hearing was held within five business days after the petition was filed; and (2) under AS 18.16.030(c), the failure to hold a hearing constitutes a constructive order of the court authorizing the minor to consent to an abortion without the consent of a parent, guardian, or custodian. A certificate should not be issued if the hearing was not held because it was postponed at the petitioner's request or because the petitioner failed to appear at the hearing.

(g) **Confidentiality.** Petitions filed under AS 18.16.030 and all hearings, proceedings, and records are confidential. Court personnel are prohibited from notifying a minor's parents, guardian, or custodian that a minor is pregnant or wants to have an abortion, or from disclosing this information to any member of the public.

(h) **Appeal.** A petitioner may appeal an order denying or dismissing a petition to bypass parental consent by filing a notice of appeal in any district or superior court, or directly with the clerk of the appellate courts. If the notice of appeal is filed in a district or superior court, the clerk or magistrate shall immediately notify the clerk of the appellate courts that the notice of appeal has been filed.

PROB Rule 20, Judicial Bypass Procedure to Authorize Minor to Consent to an Abortion

The procedure for appeals is governed by Appellate Rule 220. This rule supersedes the appeal procedure established by AS 18.16.030(j).

[Adopted effective July 31, 1997.]

REFERENCES

CROSS REFERENCES

AS 18.16.030

Citation/Title
RAP Rule 220, Judicial Bypass Appeals

Rules of Appellate Procedure, Rule 220

**WEST'S ALASKA STATUTES ANNOTATED
ALASKA COURT RULES
RULES OF APPELLATE PROCEDURE
PART II. PROCEDURE ON APPEALS AS OF RIGHT**

Current with amendments received through 8/22/2008

Rule 220. Judicial Bypass Appeals

(a) Scope. This rule applies to an appeal from an order denying or dismissing a petition filed by a minor under age 17 to bypass parental consent to an abortion under AS 18.16.030. In such appeals, this rule supersedes the other appellate rules to the extent they may be inconsistent with this rule. It also supersedes the procedure for bypass appeals established by AS 18.16.030(j).

(b) Jurisdictional Limitation. This rule does not permit an appeal to be taken in any circumstances in which an appeal would not be permitted by Appellate Rule 202.

(c) Notice of Appeal.

(1) A minor may appeal an order denying or dismissing a petition to bypass parental consent by filing a notice of appeal in any district or superior court, or directly with the clerk of the appellate courts. The notice of appeal may be filed in person, by mail, or by fax, and must be accompanied by a copy of the order from which the appeal is taken. No filing fee will be charged. If the notice of appeal is filed in a district or superior court, the clerk or magistrate shall immediately notify the clerk of the appellate courts that the appeal has been filed.

(2) The notice of appeal must indicate that the appeal is being filed pursuant to this rule, but the court will apply this rule to cases within its scope whether they are so identified or not.

(3) Blank notice of appeal forms will be available at all court locations and will be mailed or faxed to a minor upon request. No fee will be charged for this service or other services provided to a minor in an appeal under this rule.

(d) Record on Appeal. The record on appeal consists of the superior court file, including all papers and exhibits filed in the superior court, and, unless otherwise ordered, a recording of the proceedings before the superior court. The clerk of the appellate courts shall request the record immediately upon receiving notice that the appeal has been filed. Upon receiving this request, the clerk of the trial court shall immediately transmit the record to the supreme court by overnight mail or in another manner that will cause it to arrive within 48 hours after the notice of appeal is filed.

***656** (e) Brief. A brief is not required. However, the minor may file a typewritten memorandum in support of the appeal.

(f) Oral Argument. Unless the minor waives the right to oral argument in the notice of appeal, oral argument will be held within 72 hours, including weekends and holidays, after the notice of appeal is filed. Upon request, the minor will be allowed to participate telephonically at court system expense.

(g) Disposition. The court shall enter an order stating its decision immediately after oral argument or, if oral argument has been waived, within three days after the date the notice of appeal is filed. The court may issue an opinion explaining the decision at any time following entry of the order.

(h) Constructive Order. If the court fails to enter an order within five days after the date the clerk of the appellate courts receives the record on appeal, the clerk shall issue a certificate stating that (1) no order was entered within five days after the appeal was docketed; and (2) under AS 18.16.030(j), the failure to enter an order constitutes a constructive order of the court authorizing the minor to consent to an abortion without the consent of a parent, guardian, or custodian. For purposes of AS 18.16.030(j), an appeal is deemed to be docketed on the date the clerk of the appellate courts receives the record on appeal.

(i) Confidentiality. Documents and proceedings in an appeal under this rule are confidential. Court personnel are prohibited from notifying the minor's parents, guardian, or custodian that the minor is pregnant or wants to have an abortion, or from disclosing this information to any member of the public.

(j) Attorney. If the minor is not represented by an attorney, the clerk of the appellate courts shall appoint the Office of Public Advocacy to represent the minor in the appeal. If the Office of Public Advocacy was appointed to represent the minor in the trial court, the appointment continues through the appeal.

(k) Filing Defined. For purposes of this rule only, a document is deemed filed on the date it is received by the district court, the superior court, or the clerk of the appellate courts if the appeal is filed directly with the clerk.

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[Adopted effective July 31, 1997.]

HISTORICAL NOTES

NOTE

Under AS 18.16.030(j), the failure to enter a judgment in the appeal within five days after the appeal is docketed constitutes a constructive order of the court authorizing the appellant to consent to an abortion without the consent of a parent, guardian, or custodian.