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SECTIONAL

House Bill 35

Parental Notification and Consent for a Pregnant Minor's Abortion

Section 1: AS 18.16.010(a) Abortions

This section amends the requirement that notice, along with consent, be given prior to an abortion being performed on a minor, except if a court has authorized the minor to consent to the abortion without parental notice.

Section 2: AS 18.16.010(g) Abortions

This section adds language to provide a defense for a physician or surgeon that performs an abortion on a minor because in their clinical judgment the minor was in serious risk to her life or physical health. This section defines the terms "clinical judgment" and "defense" and adds the words "medical instability caused by a" which broadens the definition of the term "medical emergency".

Section 3: AS 18.16.020 Notice and consent required before minor's abortion.

This section is repealed and reenacted to include notification to parents, legal guardian, or custodian prior to an abortion and address the needs of a minor that is a victim of abuse. The section states that before an abortion can be performed on a minor at least one of the following applies: (1) one of the minor's parents, legal guardian or custodian has been given notice of the planned abortion not less than 48 hours prior to the abortion and has consented in writing to the procedure; (2) a court issues an order; (3) court inaction results in constructive authorization for the minor to consent to the abortion without notice and consent; or (4) the minor is a victim of abuse and the abuse is documented, signed and notarized by the minor and certain other individuals. Additionally physicians are required to report suspected abuse, and when informed that a pregnancy resulted from sexual assault retain and preserve all products of conception and evidence for use by law enforcement.

Section 4: AS 18.16.030(a) Judicial by-pass for minor seeking an abortion.

This section adds conforming language "notice to" when a pregnant minor is filing a complaint with the superior court for authorization to the procedure without "notice or" consent of a parent, guardian, or custodian.

Section 5: AS 18.16.030(b) Judicial by-pass for minor seeking an abortion

This section adds "notice to or" regarding the statement submitted to the superior court when a minor is trying to get judicial by-pass in order to have an abortion without "notice or" consent of a parent, guardian, or custodian.

Section 6: AS 18.16.030(c) Judicial by-pass for minor seeking an abortion

This section amends the number of days for the court to schedule a hearing from five to three business days. Conforming language “notice to or” has been added before consent because if a hearing is not held by the third business day it is considered a constructive order of the court authorizing the complainant to consent to an abortion without notice or consent.

Section 7: AS 18.16.030(j) Judicial by-pass for minor seeking an abortion

This section amends the number of days for the superior court to deliver a copy of an appeal to the supreme court from four days to three days after an appeal is filed. It also amends from four days to three days for the appellant to file a brief after the appeal is docketed. Conforming language “notice to or” has been added before consent because if the court fails to meet the timeframe set above the court’s inaction is considered a constructive order authorizing the appellant to consent to an abortion without notice or consent.

Section 8: AS 18.16.030(n) Judicial by-pass for minor seeking an abortion

This section amends the information provided to a minor to include requesting the court to direct the school to provide the minor with an excused absence and directing the school not to notify the minor’s parent, legal guardian, or custodian.

Section 9: AS 18.16: New Sections

AS 18.16.035 Coercion/emancipation

This section states that a person may not coerce a pregnant minor to have an abortion. Denial of financial support by a parent or guardian who has a legal duty of support for purposes of coercing a minor to have an abortion shall be sufficient evidence of emancipation status. “Coercion” means to restrain or dominate a minor by force, threat of force, or deprivation of food, support, or shelter.

AS 18.16.040 Reports

This section sets out the timeframe and information physicians are required to file reports with DHSS if they have performed an abortion on a minor. Reports filed under this section may not include any identifying information on the minor except her age.

Sections 10, 11, 13: Direct Court Rule Amendments

These sections deal with Scope, Petition, and Findings & Order and add in notice to and the consent of a parent, guardian, or custodian to conform to the intent of this bill requiring notice and consent for a minor to get an abortion.

Sections 12 and 15: Direct Court Rule Amendments – Constructive Order

These sections provide “constructive orders” to Rules 220(h) and Rule 20(f) changing the time lines for the courts for entering an order and holding a hearing from [FIVE] to three days.

Section 16: SEVERABILITY:

This section discusses what happens to the remainder of the bill if any provisions are found to be invalid or unenforceable.