

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB690

Hearing Date: Wednesday March 09, 2011
Committee On: Judiciary
Introducer: Brasch
One Liner: Change consent and parental notification provisions regarding abortion

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Ashford, Coash, Larson, Lathrop, Lautenbaugh
Nay:	1	Senator Council
Absent:	1	Senator Harr
Present Not Voting:	1	Senator McGill

Proponents:

SEN. LYDIA BRASCH
DANIEL MCCONCHIE
KAY ORR
DAVE BYDALEK
LEAH BERNHARDSON
GREG SCHLEPPENBACH

Representing:

INTRODUCER
AMERICANS UNITED FOR LIFE
SELF
FAMILY FIRST
SELF
NEBRASKA CATHOLIC CONFERENCE

Opponents:

TRACY DURBIN
SUE ELLEN WALL
LAUREL MARSH

Representing:

PLANNED PARENTHOOD OF HEARTLAND
SELF
ACLU-NEBRASKA

Neutral:

JULIE SCHMIT-ALBIN

Representing:

NEBRASKA RIGHT TO LIFE

Summary of purpose and/or changes:

Legislative Bill 690 would amend the current parental notification requirements for a woman less than eighteen years of age to get an abortion to require notarized written consent from the pregnant woman and one of her parents or a legal guardian before getting an abortion.

Under the bill, except in the case of a medical emergency where there is insufficient time to obtain consent or a judicial bypass waiver is granted, an abortion may not be performed on a pregnant woman less than 18 years of age without notarized written consent from the woman and her parent or guardian. The parent or guardian shall consider only the woman's best interest when deciding whether to consent.

If the pregnant woman signs a statement that she is a victim of abuse by her parent(s) or guardian, the physician shall obtain notarized written consent from a sibling 21 years of age or older or from a stepparent or grandparent. A physician relying on the written statement of abuse in good faith will not be civilly or criminally liable for failure to obtain consent. The physician would have to inform the woman of his or her duty to report the abuse to law enforcement or HHS.

A pregnant woman shall not be coerced to obtain an abortion, and she shall be deemed emancipated to receive public-assistance benefits if she is denied financial support by her parents, guardians, or custodians because she refuses to get an abortion. Such benefits may not be used for an abortion.

The provisions of the bill would apply to residents and non-residents of Nebraska. The bill would amend the judicial bypass provisions by inserting clear and convincing evidence as the standard of proof to show that the woman is both sufficiently mature and well-informed to decide whether to have the abortion. The bill would add a provision to the judicial bypass process to authorize a judge to issue an order authorizing a woman to consent to an abortion if the court finds by clear and convincing evidence that there has been a pattern of abuse by a parent or guardian. The best interest pathway to a judicial bypass of the consent requirement would be amended to require that the court find by clear and convincing evidence that the notification of the parent is not in the best interest of the pregnant woman.

Under the bill, any person who provides unauthorized consent or who coerces a minor to have an abortion would be guilty of a Class III misdemeanor. The bill would add reckless disregard to the existing law that criminalizes any physician or attending physician who knowingly and intentionally performs an abortion in violation of the consent requirement.

The bill would require a monthly report of the number of consents obtained and the number of times exceptions and types of exceptions to the consent requirement that were granted to be filed with the Department of Health and Human Services. The department would be required to compile the data and report it to the public annually.

The bill would clarify that the provisions shall not be construed as creating or recognizing a right to abortion and that it is not the intent of this bill to make lawful an abortion that is currently unlawful.

The bill includes a severability clause.

Explanation of amendments:

Committee Amendment AM 1429 would remove from section 4 of the bill an exception to the consent requirement in cases of abuse by a parent or guardian to allow the physician to obtain notarized written consent from a sibling 21 years of age or older or from a stepparent. The woman would be able to obtain consent from a grandparent under such circumstances.

The amendment would remove the requirement that the court find a pattern of abuse by a parent or guardian in providing a judicial bypass of the consent requirement for abuse by a parent or guardian. The amendment would change the best interest provision of the judicial bypass process to require that the court find by clear and convincing evidence that an abortion without the consent of a parent or guardian is in the best interest of the pregnant woman rather than the finding that notification of the parent or guardian is not in the best interest of the pregnant woman.

The amendment would clarify that the monthly report to HHS regarding the number of consents and the number of exceptions made to the consent requirement must be provided by the physician.

The amendment would strike section 14 and add a revised severability clause.

Brad Ashford, Chairperson