

punishment if no statement of consultation is obtained prior to an abortion? If a young female is accompanied by a male who purports to be her husband, must the physician demand proof of marital status before being able to forego demanding a statement of consultation; and would failure to demand such proof, of whatever kind, be a crime? How much interrogating is a physician required to undertake to be exempt from criminal punishment? Is the intent of LB 316 to place on a physician the necessity of declaring the existence of an "emergency situation" in all cases like those mentioned above? If so, the charade is a disgrace to civilized law-making. If there exists a legitimate state interest which permits the requirement of consultation, a system should be devised which is reasonably calculated to accomplish that legitimate state interest, rather than one deliberately and cunningly fabricated to foster lying and deceit by certain minors and uncertainty on the part of physicians--a mere "trap for those who act in good faith". It is winding down now. Section 6 of LB 316 is not designed to further any legitimate state interest in the health and welfare of any female but, rather, is a subterfuge to circumvent the constitutional prohibition against state regulation during the first trimester and improper burdening of the abortion decision. To help accomplish this nefarious purpose, LB 316 hangs the fate of a physician acting in good faith, of the veracity of a patient. Nothing in LB 316 requires that a physician who fails to obtain a statement of consultation, know or even have reason to suspect that deception is being worked by a minor under the age of 18 who may, in fact, appear to be considerably older. Thus, if a physician acting in good faith, exercises sound medical judgment and behaves under the circumstances as any reasonable physician would behave, yet is deceived as to age or marital status of the young female, the physician automatically is guilty of crime for having behaved reasonably in performing a recognized surgical procedure. The absence of a scienter requirement may be fatal to this criminal section as it was to others. In addition to being made subject to a criminal penalty without the requirement of knowledge or intent, the physician is forced to bear the burden of having his or her medical judgment impeded by arbitrary, nonmedical considerations which are not immediately apparent to any prudent physician. That is to say, how does one determine that a young female is under the age of 18, if she happens to be a few days away from her 18th birthday, or if she appears to be older than she is? How does a physician determine whether a young female is, in fact, married? If, for example, a marriage certificate is produced, how may a physician determine that it is legitimate? Should