SENATE BILL NO. 111

BY SENATORS MIZELL AND THOMPSON AND REPRESENTATIVES AMEDEE, ANDERS, BACALA, BAGLEY, BARRAS, BERTHELOT, BISHOP, BROADWATER, TERRY BROWN, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, CREWS, CROMER, DAVIS, DEVILLIER, DWIGHT, EDMONDS, EMERSON, FALCONER, GAROFALO, GISCLAIR, GUINN, LANCE HARRIS, HAVARD, HAZEL, HENSGENS, HILFERTY, HILL, HOFFMANN, HORTON, HOWARD, HUVAL, IVEY, JOHNSON, LEBAS, MCFARLAND, MIGUEZ, GREGORY MILLER, JAY MORRIS, POPE, PUGH, PYLANT, REYNOLDS, RICHARD, SCHEXNAYDER, SIMON, STAGNI, STEFANSKI, STOKES, THOMAS, WHITE AND ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1	AN ACT
2	To amend and reenact the introductory paragraph of R.S. 40:1061.14(A), R.S.
3	40:1061.14(A)(1) and (B)(3)(b)(ii) and (iii) and (4), 1061.19(A)(2), and
4	1061.21(A)(5) and to enact R.S. 40:1061.14(B)(3)(b)(iv) and 1061.14.1, relative to
5	abortion for an unemancipated minor; to provide for parental consent; to provide for
6	court orders; to require identification for parents or guardians; to provide for
7	counseling for minor children who are victims of coerced abortions or commercial
8	sexual exploitation; to provide for evaluation and counseling; to provide for
9	recordkeeping; to provide for penalties; to provide for reporting; to provide for
10	severability; and to provide for related matters.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. The introductory paragraph of R.S. 40:1061.14(A), R.S. 40:1061.14(A)(1)
13	and (B)(3)(b)(ii) and (iii) and (4), 1061.19(A)(2), and 1061.21(A)(5) are hereby amended
14	and reenacted and R.S. 40:1061.14(B)(3)(b)(iv) and 1061.14.1 are hereby enacted to read
15	as follows:
16	§1061.14. Minors
17	A. No physician shall perform or induce an abortion upon any pregnant
18	woman who is under the age of eighteen years and who is not emancipated judicially
19	or by marriage unless the physician or a qualified person acting as agent of the
20	physician pursuant to R.S. 40:1061.17(B)(4)(c) has received one of the following
21	those documents provided for in either Paragraph (1) or (2) of this Subsection:

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1	(1)(a) A notarized statement signed by the mother, father, legal guardian, or
2	tutor of the unemancipated minor declaring that the affiant has been informed that
3	the minor intends to seek an abortion and that the affiant consents to the abortion.
4	The affiant shall provide sufficient evidence of identity that shall be expressly
5	specified in the affidavit to establish an articulable basis for a reasonably
6	prudent person to believe that the affiant is one of the following:
7	(i) The lawful mother.
8	(ii) The lawful father.
9	<u>(iii) The legal guardian.</u>
10	(iv) The lawful tutor of the minor.
11	(b) A copy of a valid and unexpired driver's license or a
12	government-issued identification card of the individual giving consent on behalf
13	of the unemancipated minor as provided for in Subparagraph (a) of this
14	Paragraph.
15	* * *
16	B. The following provisions shall apply to all applications for court orders
17	by minors seeking abortions and appeals from denials of applications:
18	* * *
19	(3) * * *
20	(b) * * *
21	(ii) Such evaluation and counseling session shall be for the purpose of
22	developing trustworthy and reliable expert opinion concerning the minor's
23	sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion
24	decision in order to aid the court in its decision and to make the state's resources
25	available to the court for this purpose. Persons conducting such sessions may shall
26	employ the information and printed materials referred to in R.S. 40:1061.17 in
27	examining how well the minor interviewed is informed about pregnancy, fetal
28	development, abortion risks and consequences, the indicators of human
29	trafficking, and abortion alternatives, and should shall also endeavor to verify that
30	the minor is seeking an abortion of her own free will and is not acting under

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1	intimidation, threats, abuse, undue pressure, or extortion by any other persons <u>and</u>
2	is not a victim of a coerced abortion as defined in Children's Code Art. 603(9).
3	(iii) For purposes of providing screening to protect the safety and well-
4	being of the minor, such evaluation and counseling session shall also endeavor
5	to ascertain whether the minor is pregnant as a result of sexual activity
6	constituting a crime under the laws of this state, or as a result of commercial
7	sexual exploitation of the minor, and shall inform the minor of resources
8	available for her protection.
9	(iv) The results of such evaluation and counseling shall be reported to the
10	court by the most expeditious means, commensurate with security and
11	confidentiality, to assure receipt by the court prior to or at the ex parte hearing.
12	(4)(a) If the minor has not been interviewed in such evaluation and
13	counseling session prior to the ex parte hearing, such that the court does not
14	have the benefit of the required report, then the court may appoint a certified
15	child advocate attorney to be present with the minor at the ex parte hearing for
16	the purpose of assisting the minor in communicating to the court whether her
17	abortion decision is made with sufficient maturity and free and informed
18	consent, commensurate with the duty of confidentiality. A certified child
19	advocate attorney shall be given sufficient time on the same day as the ex parte
20	hearing to review with the minor the information and printed materials
21	referred to in R.S. 40:1061.17, in evaluating how well the minor is informed
22	about pregnancy, fetal development, abortion risks and consequences, the
23	indicators of human trafficking, and abortion alternatives. The certified child
24	advocate attorney shall also endeavor to assist in the court's determination of
25	whether the minor is seeking the abortion of her own free will and is not acting
26	<u>under intimidation, threats, undue pressure, or extortion by other persons, is</u>
27	not a victim of coerced abortion as defined in Children's Code Art. 603(9), and
28	is not in need of assistance or protective orders if the minor is a victim of
29	commercial sexual exploitation as defined in Children's Code Art. 603(9.1), or
30	any crime against the child as defined in Children's Code Art. 603(12).

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1	(b) If the court, using reasoned judgment and evidentiary evaluation, finds,
2	by clear and convincing evidence, that the minor is sufficiently mature and well
3	enough informed to make the decision concerning the abortion on her own, and
4	further finds that the minor is not a victim of coerced abortion, and is seeking
5	the abortion of her own free will, the court shall issue an order authorizing the
6	minor to act on the matter without parental consultation or consent.
7	(c) Whether or not the court authorizes the abortion, if the court finds
8	by a preponderance of the evidence that the minor is a victim of commercial
9	sexual exploitation as defined in Children's Code Art. 603(9.1), or any crime
10	against the child as defined in Children's Code Art. 603(12), the court may issue
11	any appropriate protective orders or afford the minor the continued services of
12	a court-appointed special advocate, or both.
13	* * *
14	§1061.14.1. Fraudulent interference with parental consent
15	A. Any person giving parental consent pursuant to R.S. 40:1061.14(A)(1)
16	on behalf of a minor on whom an abortion was completed shall be subject to
17	R.S. 14:70.7 providing penalties for the unlawful production, manufacturing,
18	distribution or possession of fraudulent documents for identification purposes.
19	B. Any employee of a licensed outpatient abortion facility who knowingly
20	aids and abets a person who is not the mother, father, legal guardian, or tutor
21	of a minor on whom an abortion was performed in the execution or acceptance
22	of the parental consent requirements as required by R.S. 40:1061.14(A)(1), shall
23	be subject to the penalties in R.S. 40:1061.29.
24	* * *
25	§1061.19. Records
26	A. Each physician shall retain and make part of the medical record of each
27	pregnant woman upon whom an abortion is performed or induced, copies of the
28	following:
29	* * *
30	(2) The consent form or court order required by R.S. 40:1061.14, if

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1	applicable. If the pregnant woman is an unemancipated minor, one of the
2	following:
3	(a) A notarized consent form and copies of identification as provided for
4	<u>in R.S. 40:1061.14(A)(1).</u>
5	(b) A court order required by R.S. 40:1061.14(B), if applicable.
6	* * *
7	§1061.21. Reports
8	A. An individual abortion report for each abortion performed or induced shall
9	be completed by the attending physician. The report shall be confidential and shall
10	not contain the name or address of the woman. The report shall include:
11	* * *
12	(5) <u>(a)</u> Age of pregnant woman.
13	(b) If the pregnant woman is a minor, a notation of whether the abortion
14	was performed pursuant to either notarized parental consent or a judicial
15	bypass order as provided for in R.S. 40:1061.14.
16	* * *
17	Section 2. If any one or more provisions, sections, subsections, sentences, clauses,
18	phrases, or words of this Act or the application thereof to any person or circumstance is
19	found to be unconstitutional, the same is hereby declared to be severable in accordance with
20	R.S. 24:175 and the balance of this Act shall remain effective notwithstanding such
21	unconstitutionality. The legislature hereby declares that it would have passed this Act, and
22	each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective
23	
25	of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases,

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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