SUBJECT: Parental notification of a minor's intent to have an abortion

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Wolens, Alvarado, Brimer, Counts, Craddick, Hilbert, Hunter, D. Jones, Longoria, McCall, Merritt

1 nay — Danburg

2 present, not voting — S. Turner, Bailey

1 absent — Marchant

SENATE VOTE: On final passage, March 18 — 23-8 (Barrientos, Ellis, Gallegos, Luna, Moncrief, Shapleigh, Wentworth, Whitmire)

WITNESSES: *(On original version:)*
For — Teresa S. Collett; Lesley French; Chad Howard; Ryan Howard; Nita D. Licea; Mikeal Love; Diane Martinson; Veronica Moore; Elizabeth Odom; Justin Savino

Against — Deirdre Feehan, ACLU of Texas; Dara Klassel, Texas Family Planning Association and Planned Parenthood Federation of America; Jill Martinez and Judith Shure, Greater Dallas Coalition for Reproductive Freedom; Kae McLaughlin, Texas Abortion and Reproductive Rights Action League; Nancy Myers, Planned Parenthood of Houston; Hannah Riddering, Buzzard Forum; Peggy Romberg, Texas Family Planning Association; Jamie Ann Sabino, Judicial Consent for Minors Lawyer Referral Panel; Eric Bray; Susie Farley; Patricia S. Hanley; Fred W. Hansen; Dave Kittrell, M.D.; Mary Kroner; Anne McAfee; Abbie Meyering; David Scott Muller; Nancy Siefken; Frieda Werden

On — John Cornyn, Office of the Attorney General

BACKGROUND: The 1973 U.S. Supreme Court decision in the Texas case *Roe v. Wade*, 410 U.S. 113, generally established women's right to abortion. Female minors have the same right, but the high court has recognized that states may regulate

minors' access to abortion by requiring some degree of parental involvement in the minor's decision.

Most state laws requiring parental consent or notification of a minor child's intent to have an abortion provide at least one alternative under which the minor may choose not to involve her parents in her decision — usually by judicial bypass, i.e., going to court.

In 1979, the Supreme Court decided in *Bellotti v. Baird* (*Bellotti II*), 443 U.S. 622, that a judicial bypass for a parental *consent* law must satisfy four criteria: the court hearing the young woman's request must authorize the abortion if she possesses the maturity to make her decision, regardless of her best interest; regardless of her maturity, her abortion must be permitted if it is in her best interest; the court proceedings must be confidential; and the proceedings must be expedient.

The Supreme Court decided two significant cases involving parental notification in 1990. In *Ohio v. Akron Center for Reproductive Health* (*Akron II*), 497 U.S. 502, the court upheld Ohio's one-parent notification law, which included judicial bypass, but did not rule specifically on whether a parental notification law must include judicial bypass. In *Hodgson v. Minnesota*, 497 U.S. 417, the court upheld only the section of that state's two-parent notification law that provided for judicial bypass.

Among the 14 states that enforce parental notification laws, all but Idaho, Maryland, and Utah allow judicial bypass. Maryland allows the primary physician to waive notice, while Idaho and Utah have no bypass.

In its most recent decision related to parental involvement, *Lambert v. Wicklund*, 520 U.S. 592 (1997), the Supreme Court upheld Montana's one-parent notification statute, which includes a judicial bypass in which the court must decide whether notification, rather than the abortion itself, is or is not in the minor's best interest. As in *Akron II*, the Supreme Court specifically declined to decide whether parental notification statutes must include some sort of judicial bypass to be constitutional. In February 1999, a state lower court struck down the Montana law, ruling that the state constitution's equal-protection clause required a more compelling justification for treating minors seeking abortion differently from minors who carry their pregnancy to term.

Family Code, sec. 32.003 allows a pregnant minor to consent to any surgical treatment involving pregnancy except abortion. This statute has the effect of a parental consent law, but Texas does not enforce it as written because the law fails to provide any means of bypass, leaving it open to possible constitutional challenge.

For more information on legal issues and other states' parental involvement laws, see House Research Organization Focus Report Number 76-11, *Parental Involvement in Minors' Abortion Decisions*, April 30, 1999.

DIGEST:

CSSB 30 would require an unmarried minor who wished to have a non-emergency abortion to have her physician give 48 hours' notice to the minor's parent, guardian, or managing conservator or to get approval from a court before the abortion could be performed.

The bill would not require parental notification in the case of a pregnant minor who had had the disabilities of minority removed under Family Code, sec. 31.001. Such minors are state residents who are 17 years of age, or at least 16 and living separate and apart from their parents, managing conservator, or guardian, and who are self-supporting and managing their own financial affairs.

Notice to parent or guardian. A physician would have to give actual notice, in person or by telephone, to the minor's parent or court-appointed managing conservator or guardian at least 48 hours before performing an abortion on the minor. The 48-hour actual notice requirement could be waived by an affidavit of the minor's parent, managing conservator, or guardian.

If a parent or guardian could not be notified after reasonable effort, the physician could perform the abortion if the physician sent constructive notice by certified mail, restricted delivery, to the last known address of the parent or parent figure at least 48 hours in advance. That 48-hour period would begin when the notice was sent. After that period, the abortion could proceed whether the notice was received or not.

A physician could include an affidavit in the patient's medical record that, according to the physician's best information and belief, actual or

constructive notice had been provided. This affidavit would create a conclusive presumption that the physician had met the law's requirements.

Judicial approval. A pregnant minor wishing to have an abortion performed without notification of a parent, guardian, or managing conservator could apply to a court for authorization to have the abortion performed. The minor could file the application in a county court at law, a court having probate jurisdiction, or a district court, including a family district court in any county. The application, under oath, would have to state that the minor was pregnant, unmarried, under 18 years of age, had not had her minority status removed, wanted to have an abortion without notifying either of her parents or managing conservator or guardian, and, if the minor had an attorney, the attorney's name, address, and telephone number. The clerk of the court would have to deliver a copy of the application to the judge who would hear the case. The court would have to appoint for the minor a guardian ad litem and an attorney if she did not already have one. If the guardian ad litem was an attorney, that person could serve in both capacities.

The court would have to keep a record of all testimony and other oral proceedings and would have to enter a judgment immediately after the hearing was concluded. The court would have to issue written findings of fact and conclusions of law not later than 5 p.m. on the second business day after the application was filed. A minor could request an extension and the court would have to issue findings of fact and conclusions of law not later than 5 p.m. after the second business day after the minor informed the court that she was ready to proceed with the hearing.

If a court failed to enter an order in the time required, the physician could consider the lack of an order constructive permission to perform the abortion without notification. The court would have to give these proceedings precedence over other pending matters to ensure a prompt decision.

An order entered by the court would have to result from a determination, based on a preponderance of the evidence, that notifying the parent or guardian would not be in the minor's best interest, that the minor was mature and capable of giving informed consent, or that notification might lead to physical, sexual, or emotional abuse of the minor. If the court found one of those three things to be true, the court would have to authorize the minor to consent to the abortion without notifying a parent. If the court found none of

those things to be true, the court could not authorize the minor to consent to the abortion without notification.

A court could not notify any person of a minor's pregnancy or desire to have an abortion. Court proceedings and orders would have to be conducted so as to protect the minor's anonymity, and all documents would be privileged, confidential, and not subject to discovery, subpoena, or open records laws. A minor could file an application using a pseudonym or her initials. The court order would not be released to anyone except the minor, her guardian ad litem, and attorney, another person she designated, or a governmental agency or attorney in criminal or administrative action seeking to assert or protect the interest of the minor. The Texas Supreme Court could adopt rules to permit confidential docketing of an application.

The clerk of the Texas Supreme Court would have to prescribe the application form to be used by the minor, and a filing fee or court costs could not be assessed against the minor.

A minor could appeal to a court of appeals the decision of a court denying her permission to consent to the abortion. All such appeals would fall under the same time deadlines and would include the same requirements of confidentiality and expediency. An expedited, confidential appeal would have to be available to a minor to whom the court of appeals denied an order authorizing her to consent to abortion without notifying a parent.

The Texas Supreme Court would have to issue rules necessary to ensure that the judicial approval process would be conducted confidentially and promptly. The Supreme Court clerk would have to adopt the application and notice of appeal form to be used not later than December 15, 1999.

Guardian ad litem. The court-appointed guardian ad litem could be a grandparent, an adult sibling, an aunt or uncle, a psychiatrist, a licensed or certified psychologist, an appropriate employee of the Texas Department of Protective and Regulatory Services (DPRS), a member of the clergy, or another appropriate person selected by the court. The guardian ad litem would not be liable for damages arising for an act or omission committed in good faith. This immunity would not apply if the guardian ad litem's opinion or recommendation were wilfully wrong, given with conscious indifference or

reckless disregard to the safety of another, given in bad faith or with malice, or grossly negligent.

A guardian or attorney ad litem for the minor would have to report conduct reasonably believed to violate laws regarding sexual assault, aggravated sexual assault, or incest that came to light during a confidential court proceeding. The report would have to be made to a local or state law enforcement agency; to DPRS, if the alleged conduct involved the minor's caregiver; to the state agency that operated or regulated a facility where the alleged conduct occurred; or to an appropriate agency designated by the court. Information obtained by DPRS or another entity would be confidential except to the extent necessary to prove a violation.

Physician's duties and penalties for violation. A physician could perform an abortion on a minor without notifying a parent and without judicial approval if the physician concluded with good-faith clinical judgment that a condition existed that complicated the minor's medical condition and that an immediate abortion was necessary to avert her death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function. The physician would have to certify in writing to the Texas Department of Health (TDH) on a form provided by TDH and in the patient's record the medical indications supporting the physician's judgment that those circumstances existed. The certification would be confidential and privileged information not subject to open records laws, discovery, subpoena, or other legal process, and could include no personal or identifying information about the minor. All other medical record keeping would have to comply with rules adopted by the State Board of Medical Examiners under the Medical Practice Act. TDH would have to adopt the form to be used no later than December 15, 1999.

A physician could include in the minor's medical record an affidavit stating the physician's belief that the minor had made an application or filed a notice of an appeal with a court, that the deadline for court action had passed, and that the physician had been notified that the court had not denied the application of appeal. A physician who in good faith executed such an affidavit could rely on it conclusively as if the court had issued an order granting the application or appeal.

CSSB 30 would require the physician to report immediately to DPRS any suspicions of physical or sexual abuse by the person responsible for the

minor's care, custody, or welfare. DPRS would have to investigate such a report and, if appropriate, help the minor make an application to the court for authorization of self-consent for abortion.

A physician who intentionally performed an abortion on a minor without satisfying this bill's requirements would commit a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of $4,000.

It would be a defense to prosecution that the minor had represented her age or identity falsely to the physician with an apparently valid governmental record of identification. The defense would not apply if the physician were shown to have had independent knowledge of the minor's actual age or identity or to have failed to use due diligence to determine this.

If a physician were tried for performing an abortion on a minor after the physician had concluded that the abortion was necessary for medical reasons, the physician could seek a hearing before the Board of Medical Examiners on whether the physician's conduct was necessary. The board's findings would be admissible in a trial of the defendant, and on motion of the defendant, the court would have to delay the beginning of the trial for not more than 30 days to permit such a hearing.

CSSB 30 would take effect September 1, 1999, and would apply to abortions performed on or after January 1, 2000.

SUPPORTERS SAY:

Parental notification statutes are a constitutional method of ensuring parental involvement in a significant medical procedure, abortion by a minor. The U.S. Supreme Court and many other federal circuit and state supreme courts have upheld statutes similar to CSSB 30 because these laws ensure the minor's privacy and offer reasonable alternatives to parental notification.

In Texas, 5,523 abortions were performed on minors in 1997. According to TDH, 39 percent of those minors did not involve their parents in their decision. In other words, about 2,154 abortions probably were performed on minors without their parents knowing anything about the procedure. For none of those abortions was a parent required to be involved.

The preeminent relationship between parent and child is recognized throughout Texas law, and this recognition would be perpetuated by a

parental notification law. Parents are notified for most other non-emergency or elective medical procedures performed on a minor. The minor should have the support of a parent when she makes her decision to have a dangerous and invasive medical procedure that could place her life at risk. From a practical standpoint, notification would allow the parent to pass on to the physician any important medical history information that could be useful in performing this serious medical procedure.

A parental notification law would reduce the number of abortions performed on minors. As shown in Minnesota, Massachusetts, and other states, in-state abortion rates have dropped for girls under 18 after the enactment of parental notification or consent laws. From 1981 to 1986, when Minnesota's parental notification law was in effect, the abortion rate for minors fell by one-third. Although abortion rates also fell in age groups unaffected by the law, those rates declined much less than for minors. Teen pregnancy and teen birth rates also fell in Minnesota during the same period. Minors had fewer abortions because the pregnancy rate decreased, which in turn occurred because minor females and their sexual partners knew about the notification law and behaved more responsibly. Minors who did not want to tell their parents about their sexual activity educated themselves and acted more responsibly.

The state has a legitimate interest in protecting minor children from their own immaturity, inexperience, and lack of judgment. The choice of whether or not to have an abortion often is highly charged with conflicting emotions. The repercussions of such a choice can have emotional and psychological effects on the woman for many years. Many minors do not have the ability to make a mature, rational choice. Giving the minor a chance to think about the consequences of such a procedure and an opportunity to discuss it with a parent, if the minor has not done so already, can help the minor make the right decision in regard to her pregnancy. Many teens are surprised at how understanding and supportive parents can be in these situations. Even when the relations between parents and teens are strained, this issue often can bring them together and can allow the parent to give the minor much-needed advice and support.

Thirty states enforce parental notification or consent laws. Nine other states have such laws, but they are under court challenge or are not enforced. CSSB 30 would conform with statutes determined to be constitutional by providing

an additional option for the minor, judicial bypass as an alternative to parental notification.

A judicial bypass procedure is intended to ensure that the due-process rights of the minor are not violated by being denied the right to perform a legal act without a legal recourse. Constitutional judicial bypass procedures for parental *consent* must have certain elements, including a showing by the minor that she is sufficiently mature and well-informed to make a decision or that abortion would be in her best interest. The procedure must protect the anonymity of the minor, and the process must be able to be concluded in a reasonably short period of time.

The judicial bypass in CSSB 30 includes a guardian ad litem pool that would assure that a minor who went to court would receive help. The bill also would ensure that the minor would pay no court costs and that the costs would be covered by TDH.

The judicial bypass procedure proposed by CSSB 30 would require the judge to determine whether the minor was mature and capable of giving informed consent, whether notifying her parent would not be in her best interest, or whether notification might lead to physical, sexual, or emotional abuse of the minor. If the judge found any one of these factors, the judge would have to allow the minor to consent to an abortion without parental notification.

CSSB 30 would ensure confidentiality and protect the minor's anonymity. The minor could file an application using a pseudonym or initials. The two-day decision deadline would ensure that a court could not delay or stall the performance of an abortion.

While this legislation would somewhat restrict a minor's ability to get an abortion compared to the process an adult must follow, the distinction is justified. The procedures in CSSB 30 are designed to protect the minor by helping her make an informed choice. Abortion is an invasive procedure that can have lifelong emotional and psychological effects. Many minors may not be mature or informed enough to make rational decisions on their own and may need the advice of a parent. If the minor was mature enough or would be at risk if one or more parents were notified, the procedure still could be performed without parental notification.

CSSB 30 would allow a grandparent, adult sibling, aunt, uncle, clergy, mental health professional, DPRS personnel, or another appropriate person to counsel and act as the minor's guardian ad litem if that minor chose to go through the court rather than notify a parent about her abortion decision. Involving a trusted family or community member of the minor would help the girl through the judicial bypass process, but would not take away the parent's ultimate right to be notified. The bill appropriately would allow only one bypass procedure, through the court, so that the very serious act of bypassing parental authority would not be diluted by multiple bypass options. CSSB 30 would further uphold parental rights by allowing a parent the option of waiving the right to be notified. This option would allow a parent to go with the minor to the physician and, with an affidavit, waive the right to notified and the 48-hour waiting period that goes along with it.

A physician who violated the parental notification requirements in CSSB 30 would commit a Class A misdemeanor. This penalty is appropriate because it is identical to the penalty for many other violations by physicians under the Medical Practice Act, including for unlawful and prohibited practices and violations of the provisions of the Medical Practice Act or rules or regulations of the Texas State Board of Medical Examiners, unless another penalty is specified (Medical Practice Act, Art. 4495b, sec. 3.07(g)).

OPPONENTS SAY:

CSSB 30 unjustifiably would inhibit young women from obtaining abortions by setting up hurdles they would have to clear in order to exercise their constitutional rights. The result would be to discourage legal abortion as an alternative to an unwanted pregnancy. Parental notification statutes increase the risk of harm to pregnant minors, both from repercussions at home after the notice and from additional complications caused by delays. These laws serve no legitimate state interest in protecting the health of the minor. If a minor is old enough to be a mother, she also is old enough to decide whether to terminate her pregnancy.

Requiring minors to notify parents or to convince a judge of their maturity when they have made the decision to have an abortion would not reduce the number of abortions. The number of in-state legal abortions may drop after a state enacts a parental involvement law, but pregnant minors who are ashamed or afraid to tell their parents will find a way around the law, either by using the bypass procedure or by obtaining illegal or out-of-state abortions. After Minnesota enacted its parental notification law, the number

of abortions declined for all women of childbearing age, not only for minors. The decrease in abortions for minors may have occurred in part because girls seeking abortions traveled to other states, obtained illegal abortions, or lied about their age. Also, the birth rate did not go up after enactment of the law. Minnesota began a statewide sex education program at the same time the state's parental notification law took effect, and that program deserves some credit for reducing the number of teen pregnancies, thereby reducing both birth and abortion rates.

CSSB 30 would endanger young women's health by forcing some to turn to illegal or self-induced abortions or by requiring a waiting period that delayed the procedure, increasing the medical risk. If parental notification were mandatory, some minors — even those who had close relationships with their parents — would seek "back-alley" abortions, which can kill young women, maim them for life, or render them infertile. Many young women in Texas probably would travel to Mexico, where illegal abortions are available.

A mandatory waiting period should not be presumed to allow the girl to do more soul-searching or to seek more information. To assume that she has not done this already is insulting. The obvious intent of this mandatory waiting period is to give the parents time to talk the minor out of having the abortion. No other interest would be served by delaying the medical procedure.

Many young women who are pregnant wait as long as possible before seeking medical care and are likely to put off their decisions even longer if required to notify a parent. Any delay increases the medical risk for a pregnant girl, and the risk grows as the pregnancy progresses. While the risks of an abortion are still lower than the risk involved in childbirth, each day the procedure is delayed adds to the risk. Statistics in states with notification laws have shown that second trimester abortions have increased among minors after such statutes were imposed. Second trimester abortions are not only more risky medically but are also more costly.

Judicial bypass usually delays access to abortion by between four days and several weeks, because a girl must travel to the courthouse once and at least twice to the abortion provider, and she may even have to appeal to a higher court. Even a two-day deadline for judicial bypass decisions could be harmful to a minor for whom any delay could increase the risk of complications. It also would disrupt the normal proceeding of a court, which presumably would

have to delay all other pending business to deal with these issues, creating a backlog of other judicial proceedings.

Although some parents may believe that a parental involvement law establishes their right to know, such laws do not prevent a pregnant minor from obtaining an abortion. If the minor is assured of confidentiality, as now is the case, she will be more likely to seek a safe, clean, legal abortion rather than resort to an illegal and unregulated one. In Texas and most other states, minors are assured of confidentiality when they seek sensitive medical services such as pregnancy and delivery, treatment of sexually transmitted disease, and therapy for drug abuse. These conditions often entail a greater health risk than abortion, yet the decision is left to the minor and remains confidential.

National data indicate that the great majority of all pregnant girls who obtain an abortion involve at least one parent in the decision before doing so. The younger the minor, the more likely she is to notify her parents. But even a girl who has an open, honest relationship with her mother may not want to discuss sexuality, and especially her own pregnancy and abortion.

This legislation is couched in terms of promoting communication between a parent and a child, but if communication already were so bad that the child did not feel she could tell a parent of her own free will, forcing notification could worsen the situation. While family relationships generally benefit from voluntary and open communication, forcing a girl by law to notify a parent could prove harmful if the parent was abusive.

Requiring parental notification would be virtually the same as requiring parental consent, because if the parents were notified and they wished to stop their daughter from getting an abortion, they could place all sorts of obstacles in her way. The least of these obstacles would be counseling her against an abortion, even though such a decision is an entirely personal choice, not one that should be made by committee, even a committee of family members. Some parents might take other measures to prevent the child from having the abortion, from restricting her movements to physically abusing her.

CSSB 30 would not provide alternatives to safeguard the minor from danger at home, nor would it help those who legitimately fear their parents' knowledge of their abortion decision. The bill's requirement that the guardian

or attorney ad litem report suspected abuse of the minor, even when that information is obtained through confidential court proceedings, would betray the girl's trust. A minor who chose to pursue a judicial bypass should have a fair and confidential hearing without the fear of her whole life coming under investigation. Besides, state law already provides that anyone who suspects abuse must report this to law enforcement or to child protective enforcement officials.

CSSB 30 is aimed at stopping doctors from performing abortions. Such doctors already bear significant risks, often because of death threats from anti-abortion advocates. CSSB 30 would set a number of procedural traps for doctors performing such abortions, the violation of which could cause the doctor to wind up in jail. One question doctors would have to address would be what would constitute reasonable effort in attempting to contact the minor's parent before sending constructive notice.

CSSB 30 would criminalize doctors for violating the law rather than allowing them to face investigation and action by the Board of Medical Examiners as they would for the violation of other medical statutes, including performing a third trimester abortion (Revised Civil Statutes, Medical Practice Act, Art. 4495b, sec. 4.011). If disciplinary action by the board were the penalty for physicians who violated the parental notice requirement, it would reinforce that the intent of this bill was to ensure the best interests of the child rather than to criminalize a legal medical procedure. However, this is not the case with CSSB 30. Physicians who violated the law could be fined and sent to jail, a highly uncommon practice and an obvious tactic to reduce the number of abortion providers.

Forms and affidavits required of physicians and the threat of prosecution also could discourage doctors who perform abortions only occasionally from continuing to do so. These doctors are often family practitioners who have developed a relationship with the minor and know the minor's medical history. If these doctors were discouraged from performing abortions, minors might have to go to clinics and be subjected to possible harassment from protestors, and they would be unfamiliar with the physician who would perform the procedure.

OTHER OPPONENTS SAY:

It is important to ensure that girls who are pregnant and looking for options have access to trustworthy and understanding adults with experience in abortion counseling. This adult is not necessarily the young woman's parent, who may know nothing about the procedure or may not be open to discussion with the daughter.

CSSB 30 would not provide other options if the minor did not want a parent to be notified and was scared of or uneducated about the judicial system. Going to court and making this very personal request to a judge could be intimidating and even traumatic for minors. The bill should include alternatives to court that might alleviate some of the minor's fear, intimidation, and the stigma of having to go to court to petition for the ability to avoid parental notification. Also, if used extensively, alternatives would help to reduce the cost of the judicial bypass procedure significantly.

Other states provide alternative bypass options for minors. Maine's one-parent consent law includes judicial and a "counseling" bypass. Counselors are defined to include psychiatrists and licensed psychologists. West Virginia's one-parent notification law includes judicial bypass and a second-physician alternative. Maryland's one-parent notice law allows the physician to waive the notification requirement under certain conditions. Connecticut has no parental involvement law but requires every minor under 16 who seeks an abortion to receive counseling.

NOTES:

The House committee substitute removed language from the Senate-passed bill that identified specific counties in which the minor could apply for judicial bypass and added a family district court as a type of court that could provide bypass. The substitute redefined "abortion" and "unemancipated minor" and replaced the Senate bill's provision on medical emergency with language concerning a physician's good-faith clinical judgment that the procedure was necessary to avert the minor's death or major bodily function impairment.

The committee substitute also added:

- sections on parental waiver of actual notice by affidavit, the physician's affidavit stating belief that notification or court application had occurred, and confidentiality of the physician's good-faith certification;

- the word “intentionally” to qualify the physician’s violation of the bill’s provisions;
- the provision for review by the Board of Medical Examiners of the charges against a physician before a trial;
- the provision that a court order could be released to, among other entities, “a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor”;
- the requirement for the physician to report suspected physical or sexual abuse and the extent to which this information would be confidential;
- the question of whether notification might lead to physical, sexual, or emotional abuse of the minor to issues the court could consider; and
- a list of people whom the court could appoint as guardian ad litem.

The committee substitute also would require the court clerk, rather than the minor, to deliver a courtesy copy of the minor’s application to the judge; expand the language on confidentiality to specify that the court proceeding would not be subject to disclosure under the open records laws, discovery, subpoena, or other legal process; grant immunity to the guardian ad litem; and define sexual abuse more precisely.

The committee substitute deleted from the Senate-passed version the definition of fetus and medical emergency and the immunity of the attorney ad litem from liability.

Another parental notification bill, HB 5 by Gray, was reported favorably by the House State Affairs Committee on May 6 but was postponed on second reading on the House floor. HB 5 differs from CSSB 30 primarily in that it would add the minor’s grandparent, adult sibling, aunt, or uncle to the list of persons that the physician could notify and would allow the minor alternate forms of bypass in addition to the courts, including through a licensed mental health professional or DPRS. Other significant differences include:

- CSSB 30 would require the physician to wait 48 hours after actual notice before performing the abortion, unless the parent waived notification by affidavit. HB 5 would not require a wait after actual parental notice, would exempt a minor who was accompanied by the parent for the procedure from the notification requirement, and would require a 24-hour wait after notifying a family member.

- CSSB 30 would require a 48-hour wait before the physician performed an abortion after notice had been sent to the parent by certified mail. HB 5 would require a 72-hour wait after constructive notice.
- CSSB 30 would make an offense by a physician a Class A misdemeanor. HB 5 would make a physician subject to disciplinary action by the Board of Medical Examiners, which could lead to revocation of a medical license if a physician violated the bill.
- CSSB 30 would not require the physician to provide an information form to the minor about her rights under the bill, as HB 5 would.
- CSSB 30 would specify a list of individuals who could serve as the minor's guardian ad litem, whereas HB 5 provided that the guardian ad litem could be a qualified court-appointed volunteer.

A parental notification bill introduced in the 1997 legislative session, SB 86 by Shapiro et al., passed the Senate but died in the House on a point of order.