



SPONSOR: Sen. Simpson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 6
TO
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 5

AMEND Senate Bill No. 5 after line 87 by inserting "§ 1795. Parental Consent." after ".]" therein.

FURTHER AMEND Senate Bill No. 5 by inserting the following after line 87 and redesignating accordingly:

"(a) Except in the case of a medical emergency, or except as provided in this section, if a pregnant woman is less than 18 years of age and not emancipated, or if she is incompetent as determined by a court order, a physician shall not perform an abortion upon her unless, if the age of a woman who is less than 18 years of age, he or she first obtains the informed consent of one of her parents; or in the case of a woman who is an incompetent person, he or she first obtains the informed consent of her guardian. In deciding whether to grant such consent, a pregnant woman's parent or guardian shall consider only their child's or ward's best interest. In the case of a pregnancy that is the result of incest where the father is a party to the incestuous act, the pregnant woman need only obtain the consent of her mother."

FURTHER AMEND Senate Bill No. 5 by inserting the following after line 87 and redesignating accordingly:

"(b) If both parents have died or otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant women's; guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither any parent nor a legal guardian is available to the person standing in loco parentis shall be sufficient."

FURTHER AMEND Senate Bill No. 5 by inserting the following after line 87 and redesignating accordingly:

"(c) If both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion or if she elects not to seek the consent of either of her parents or of her guardian, the Family Court of the county in which the applicant resides or in which the abortion is sought shall, upon petition or motion, after an appropriate hearing, authorizes a physician to perform the abortion if the Court determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion, and has, in fact, given such consent."

21 FURTHER AMEND Senate Bill No. 5 by inserting the following after line 87 and redesignating accordingly:
22 "(d) If the Court determines that the pregnant woman is not mature and capable of giving informed consent or if the
23 pregnant woman does not claim to be mature and capable of giving informed consent, the Court shall determine whether
24 the performance of an abortion upon her would be in her best interests. If the Court determines that the performance of
25 an abortion would be in the best interests of the woman, it shall authorize a physician to perform the abortion."

26 FURTHER AMEND Senate Bill No. 5 by inserting the following after line 87 and redesignating accordingly: "(e)
27 The pregnant woman may participate in proceedings in the Court on her own behalf and the Court may appoint a guardian
28 ad litem to assist her. The Court shall, however, advise her that she has a right to court appointed counsel, and shall provide
29 her with such counsel unless she wishes to appear with private counsel or has knowingly and intelligently waived
30 representation by counsel."

SYNOPSIS

This Amendment addresses requires that a physician who is performing an abortion on a female less than 18 years of age and not emancipated, or incompetent as determined by a court order, the physician must obtain parental consent absent circumstances that would warrant waiving such requirement.

Author: Senator Simpson