

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 481

SHORT TITLE: Parental Consent For Abortion

SPONSOR(S): Representative Decker

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease ()**
 Revenues: **Increase ()** **Decrease ()**

FUND AFFECTED: **General Fund (X)** **Highway Fund ()** **Local Govt. ()**
 Other Funds (X) Indigent Persons Attorney Fee Fund

BILL SUMMARY: TO REQUIRE PARENTAL OR JUDICIAL CONSENT FOR AN UNEMANCIPATED MINOR'S ABORTION. Amends Art. 1A of GS Ch. 90 (treatment of minors) to prohibit physicians from performing abortion (as defined in act) on unemancipated minor unless (1) physician or agent has written consent of minor and or parent with custody, legal guardian, or parent with whom the minor is living or (2) minor obtains waiver of consent requirement. Permits minor to petition district court judge for a waiver if (1) neither parent nor legal guardian is available to physician or agent within a reasonable time, (2) all adults from whom consent must be obtained refuse to consent, or (3) the minor elects not to seek consent from appropriate adult.

Permits minor to petition on her own behalf or by guardian ad litem and requires court to ensure that minor or guardian ad litem is given assistance in preparing and filing petition and to ensure that minor's identity is kept confidential. Requires court to advise minor of right to counsel and provide counsel at minor's request. Provides that if minor requests, no summons or other notice may be served on her parents, guardian, or custodian. Requires court to rule within seven days of filing of application unless minor requests extension. Requires court to hear evidence relating to the emotional development, maturity, intellect, and understanding of minor; the nature, possible consequences, and alternatives to abortion; and other evidence court may find useful.

Authorizes court to waive parental consent requirements on finding that (1) minor is mature and well-informed enough to make abortion decision on her own or (2) that it would be in minor's best interests not to require parental consent or (3) that minor is a victim of felonious incest under GS 14-178. Requires court to make findings of fact and conclusions of law, to maintain a confidential record of the evidence, and to advise the director of the Department of Social Services of any finding of incest. Prohibits requiring minor to pay court costs.

Provides that parental consent requirements do not apply when medical emergency requires immediate abortion or when conditions in GS 90-21.4 relating to delay in treatment are met.

Provides that person who intentionally performs abortion with knowledge that, or with reckless disregard as to whether, person on whom abortion is to be performed is unemancipated minor, and who intentionally or knowingly fails to conform to requirements of this act, is guilty of misdemeanor.

Amends GS 7A-523(a) to give court original jurisdiction of proceedings involving consent for abortion on unemancipated minor. Amends GS 7A-451(a) to provide indigent unemancipated minor is entitled to counsel in proceeding involving consent for abortions.

EFFECTIVE DATE: October 1, 1995

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch

FISCAL IMPACT

	<u>FY</u> <u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	99-00
Cost for court time	\$19,890	\$27,281	\$28,099	\$28,492	
	\$29,810				
Indigent Defense	72,150	\$99,035	\$102,006	\$105,066	
	\$108,218				
TOTALS	\$92,040	\$126,316	\$130,105	\$133,558	
	\$138,028				

ASSUMPTIONS AND METHODOLOGY:

Fiscal estimates are provided for the trial-level costs of hearings for court waiver of the parental consent requirement.

1. Court hearings for waiver of parental consent

To estimate the number of hearings that would be held, the Administrative Office of the Courts relied substantially on data gathered from their 1989 survey of other states (Minnesota, Massachusetts, Arizona). The Administrative Office of the Courts, in addition, recently contacted court officials in South Carolina. The estimates provided in this fiscal note are based on the experiences of the states surveyed.

The Administrative Office of the Courts estimates that on average, based on data from other states, 25% of all minors' abortions will involve court proceedings for waiver of parental consent. Thus, based on data provided by the State Center for Health Statistics, 641 North Carolina minors' abortions will involve a court proceeding for waiver of parental consent. (It is assumed that a negligible number of abortions would fall under the exceptions in HB 481 for medical

emergencies. The consent requirements do not apply if in the best judgment of the physician, a medical emergency so complicates the pregnancy as to require an immediate abortion, or when conditions in existing G.S. 90-21.1(4) are met--allowing medical treatment of a minor without the consent of parents in certain circumstances where delay for a court order would be endanger the life or seriously worsen the minor's condition.)

The Administrative Office of the Courts estimates that the waiver hearings will require an average of at least one-half hour. Since, the court must consider evidence relating to the minor's emotional development, maturity, intellect, and understanding, the nature, possible consequences, and alternatives to abortion, and "other evidence that the court may find useful". The court must make written findings of fact and conclusions of law (the bill specifies three grounds justifying waiver). Since the hearings must be expedited and confidential (and thus could not be heard in open court), they will require special work and attention from court personnel. These factors affect not just the time required for the hearing but scheduling issues posing the potential for delay of other cases, and record-keeping issues for the clerk to ensure confidentiality.

Taking into account the October 1 effective date of HB 481, for FY 1995-96 there would be an estimated 481 hearings (three quarters of the full year total). The estimated costs for court time come to \$19,890 for 1995-96 (481 cases, at an estimated 0.5 hours per case, yields 240.5 hours, or 40.1 court days at \$496 per court day for district court judge and deputy clerk only).

For indigent defense, consistent with the experience in other states, it is assumed that an attorney will be appointed in all cases. HB 481 directs the court to ensure that the minor is given assistance in preparing and filing a petition, and requires the court to advise the minor that she has a right to court-appointed counsel and to provide counsel upon her request. Indigent defense costs are estimated to be \$72,150 for 1995-96, based on an estimated average of \$150 per case. (This is based on all cases being handled by private assigned counsel. Some public defender offices have limited or no involvement in juvenile cases; it would be difficult to estimate the number of cases that might be handled by public defenders, and such an estimate would only slightly reduce the total estimated costs.)

For 1996-97, for the full year's complement of 641 hearings, the costs come to \$27,281 for court time and \$99,035 for indigent defense. Estimates for years following FY 95-96 assume a 7% annual increase in indigent defense costs, and a 3% annual increase in other costs.

2. Other areas of potential fiscal impact

Guardian ad Litem costs: HB 481 provides that a minor may file a petition and participate in the hearing, on her own behalf or through a guardian ad litem, and that the minor or her guardian ad litem be given assistance in preparing and filing the petition. Although the Administrative Office of the Courts assumes that an attorney would be appointed to represent the minor in all cases, there would likely be many cases in which the court also appoints a guardian ad litem. This fiscal note assumes that the AOC Guardian ad Litem Program would make use of the existing volunteer network to meet this need. No fiscal estimates are provided for the increase in workload for guardian ad litem supervisors and other personnel.

Additional criminal cases: Any person who performs an abortion in violation of the new law commits a misdemeanor. Although some additional cases can be anticipated, the Administrative Office of the Courts would anticipate that the state's physicians would comply with the law and that prosecutions would be relatively rare. Presumably, the defendant physicians would not be indigent, and therefore not entitled to state-paid counsel. No substantial impact is predicted.

Appeals: Section 2 of this bill grants an (uncodified) right to confidential, expedited appeal, and directs the Supreme Court to adopt rules to ensure that appeals are handled in an expeditious and confidential manner. Under G.S. 7A-27(c), appeal of right from civil matters in district court lies to the Court of Appeals.) Since the Administrative Office of the Courts is unable to estimate the number of appeals, no specific fiscal estimate is available. However, the Administrative Office of the Courts would not expect the impact to be very large.

Available literature suggests that in most, although not all states, the trial courts grant waiver in most cases; assuming that this would be the pattern in North Carolina, appeals by minors may be relatively rare. Expedited appeal is also available to a parent or legal guardian. However, appeals by parents or guardians may also be relatively rare because the proceedings are confidential. HB 481 specifies that if the minor requests in her petition, no summons or other notice may be served on her parents, guardian, or custodian. The court shall ensure that the minor's identity is kept confidential, and the court must order that a confidential record of the evidence be maintained. (An exception to the confidentiality is that if the court finds that the minor has been a victim of felonious or misdemeanor incest, it shall so advise the Department of Social Services for further action).

SOURCES OF DATA: Administrative Office of the Courts

FISCAL RESEARCH DIVISION (733-4910)

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