

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
JOHN LINDBACK
DIRECTOR
141 STATE CAPITOL
SALEM, OREGON 97310-0722
ELECTIONS—(503) 986-1518

August 17, 2005

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#51), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #51 was filed in our office on August 16, 2005, by Felicia Bautitsta and Brenda Cochran, for the General Election of November 7, 2006.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than September 8, 2005, in order for them to be considered in the review.

BILL BRADBURY
Secretary of State

BY:

Carla Corbin
Compliance Specialist

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 10 of this Act are added to ORS Chapter 677 and may be cited as the Parental Involvement and Support Act.

SECTION 2. { + As used in sections 1 to 8 of this 2005 Act:

(1) 'Abortion' means the use of a drug or device to intentionally terminate a pregnancy other than to produce a live birth or remove a dead unborn child.

(2) 'Medical emergency' means a medical condition that places the health of a pregnant woman in such serious jeopardy that failure to terminate the pregnancy or a delay in terminating the pregnancy would result in the death of the woman, serious impairment to bodily function or serious and permanent lack of function of any bodily organ or part.

(3) 'Minor' has the meaning given that term in ORS 125.005.

(4) 'Parent' means:

(a) A biological parent;

(b) If a minor has been adopted, an adoptive parent; or

(c) If a court has appointed a guardian for a minor, the guardian.

(5) 'Ward' means a minor for whom a court has appointed a guardian under ORS chapter 125. + }

SECTION 3. { + (1) A person may not perform an abortion on an unemancipated minor or a ward until 48 hours after the parent receives written notice from the person of the proposed abortion by certified mail, return receipt requested, at the residence of the parent, with delivery restricted to the parent.

(2) Receipt of notice under subsection (1) of this section is deemed to occur not later than 12 noon on the second mail delivery day after the mailing of the notice. + }

SECTION 4. { + (1) A person may perform an abortion on an unemancipated minor or a ward without the notice required by section 3 of this 2005 Act if:

(a) Due to a medical emergency, notification is not possible and the person performing the abortion documents the medical emergency in the minor's or ward's medical record;

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(b) The Department of Human Services under section 6 of this 2005 Act or a court on review of an order by the department under section 7 of this 2005 Act authorizes the abortion; or

(c) The person who is to perform the abortion provides actual notice to the parent in person.

(2) A parent receiving notice under subsection (1)(c) of this section must provide the person providing notice with:

(a) Current photographic identification issued by this state; or

(b) A document on List A of United States Department of Justice Form I-9.

(3) The person who performs the abortion for which the person provided notice under subsection (1)(c) of this section shall retain a copy of the proof of identification furnished by the parent in the medical record of the minor or ward for at least three years. + }

SECTION 5. { + (1)(a) Within three days after receiving an application of a pregnant minor or ward for an abortion without notice to a parent, the Department of Human Services shall request assignment of an administrative law judge from the Office of Administrative Hearings to consider the application.

(b) On behalf of the department, the administrative law judge shall issue a final order authorizing the abortion if the administrative law judge determines that:

(A) The applicant is mature and capable of giving informed consent to the abortion; or

(B) Obtaining an abortion without the notice required by section 3 of this 2005 Act is in the best interest of the applicant.

(2) The administrative law judge shall issue an order denying or granting the application under this section within seven calendar days after the office receives the application from the department.

(3) The department may not modify the form of order issued under this section or a finding of historical fact by the administrative law judge.

(4) ORS 183.630 does not apply to a hearing under this section.

(5) The chief administrative law judge of the Office of Administrative Hearings shall adopt rules for the conduct of hearings under this section. + }

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SECTION 6. { + (1) A hearing under section 5 of this 2005 Act shall be held in private, and the administrative law judge shall exclude all persons other than the minor or ward, the counsel of the minor or ward, witnesses and representatives of the administrative law judge.

(2) Communications in a hearing held under section 5 of this 2005 Act are confidential. An individual participating in a hearing held under section 5 of this 2005 Act may not be examined about the communications in any civil or criminal action. Exceptions to testimonial privilege otherwise applicable under ORS 40.225 to 40.295 do not apply to communications made confidential under this subsection.

(3) Records of a hearing under section 5 of this 2005 Act are not open to public inspection and exempt from disclosure under ORS Chapter 192. The administrative law judge may disclose the records only to:

- (a) The minor or ward;
- (b) Counsel for the minor or ward; and
- (c) Representatives of the administrative law judge. + }

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SECTION 7. { + (1) If an administrative law judge issues an order denying an application under section 5 of this 2005 Act, the applicant may petition for judicial review of the order under ORS 183.484.

(2) On review of an order issued under section 5 of this 2005 Act, the court shall preserve the anonymity of the applicant, and the applicant is entitled to proceed under a pseudonym.

(3) (a) The court shall give precedence to proceedings under this section over all other matters on the court's docket.

(b) (A) The court shall issue the decision on review not later than 5 p.m. on the second business day after the filing of the petition for judicial review.

(B) Upon the request of the applicant, the court may extend the time for decision. If the court extends the time for decision, the court shall issue the decision not later than 5 p.m. on the second business day after the applicant informs the court that the applicant is prepared to proceed.

(4) If the court fails to issue the decision on review within the time specified in subsection (3) of this section:

(a) The application is deemed granted; and

(b) The clerk of the court shall issue a written statement to the applicant stating that the

application is granted.

(5) In a decision under this section, the court shall make special findings of fact based upon the evidence in the record and conclusions of law. + }

SECTION 8. { + (1) The failure of a person performing an abortion on an unemancipated minor or a ward to comply with section 3 of this 2005 Act:

(a) Gives rise to civil liability for all damages in favor of a parent of the minor or ward; and

(b) Provides the Board of Medical Examiners a basis for refusing to grant, or suspend, or revoke a license to practice under ORS 677.190.

(2) Subsection (1) of this section does not apply if the person performing the abortion on the unemancipated minor or ward establishes that the person reasonably relied upon the representations of the minor or ward regarding information necessary to comply with section 3 of this 2005 Act.

(3) The Department of Human Services, the Office of Administrative Hearings and the administrative law judge are immune from civil liability for actions taken in the course of a hearing under section 5 of this 2005 Act. + }

SECTION 9. { + On January 15 of each year, the chief administrative law judge shall make available to the public a report of the number of applications made and granted under section 5 of this 2005 Act. + }

SECTION 10. { + 11 (1) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

(2) This act shall be construed to be consistent with the Constitution of the United States to the greatest extent possible. If any application of this section is found to be unconstitutional, remaining applications shall remain in force and effect+ }

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