

ASSEMBLY BILL NO. 405—ASSEMBLYMAN HANSEN (BY REQUEST)

MARCH 17, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions regulating certain abortions.
(BDR 40-755)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to abortions; revising provisions regulating an abortion performed on a pregnant woman who is a minor or a ward; requiring notification of a parent or guardian under certain circumstances before a physician performs such an abortion; providing expedited procedures for petitioning a court for judicial authorization to proceed without such notification; providing civil liabilities and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law in NRS 442.250 regulates the medical conditions under which abortions may be performed in this State. Because NRS 442.250 was submitted to and approved by a referendum of the voters at the 1990 general election, Section 1 of Article 19 of the Nevada Constitution dictates that the provisions of NRS 442.250 may not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. In addition to the provisions of NRS 442.250, Nevada’s abortion laws contain certain parental notification requirements that apply only to abortions performed upon pregnant minors. (NRS 442.255, 442.2555, 442.268) Because the parental notification requirements were not part of the referendum in 1990, they may be amended or repealed by the Legislature without being approved by the direct vote of the people.

This bill repeals the existing parental notification requirements for pregnant minors and enacts new notification requirements that apply to pregnant minors and to pregnant wards, regardless of their age, for whom a legal guardian or conservator has been appointed. This bill conforms with Section 1 of Article 19 of the Nevada Constitution because this bill does not amend, annul, repeal, set aside, suspend or in any way make inoperative the provisions of NRS 442.250. Instead, this bill serves a different governmental purpose than the provisions of NRS 442.250 and enacts new laws that are separate and complete by themselves and are not amendatory of the



20 provisions of NRS 442.250. (*Matthews v. State ex rel. Nev. Tax Comm'n*, 83 Nev.
21 266, 267-69 (1967))

22 In 1985, the Legislature enacted the existing parental notification requirements
23 for pregnant minors which prohibit a physician, with certain exceptions, from
24 knowingly performing an abortion upon a pregnant minor unless: (1) a custodial
25 parent or guardian of the minor is notified in the statutorily-prescribed manner
26 before the abortion; or (2) upon the request of the minor, the district court
27 authorizes the abortion without parental notification when the minor meets certain
28 criteria. (Chapter 681, Statutes of Nevada 1985, pp. 2306-09 (codified in NRS
29 442.255, 442.2555, 442.268)) Before the requirements became effective in 1985,
30 Nevada's federal district court enjoined their implementation on grounds that they
31 unconstitutionally burden a woman's fundamental right to make the highly personal
32 choice of whether to have an abortion, thereby violating the woman's interests in
33 personal liberty protected by the Due Process Clause of the Fourteenth Amendment
34 to the United States Constitution. (*Glick v. McKay*, 616 F. Supp. 322, 323-28 (D.
35 Nev. 1985))

36 In 1991, the United States Court of Appeals for the Ninth Circuit affirmed the
37 federal district court's decision in *Glick v. McKay*, 937 F.2d 434, 437-42 (9th Cir.
38 1991). The Ninth Circuit relied upon two reasons for invalidating Nevada's existing
39 parental notification requirements: (1) the requirements impermissibly narrowed
40 the criteria under which the district court could give judicial authorization for an
41 abortion without parental notification when the abortion would be in the minor's
42 best interests; and (2) the requirements did not place any time limit on the period
43 within which the district court must rule upon a request for judicial authorization
44 and therefore they did not facially ensure that the minor's interests would be
45 protected by expedited judicial review. (*Glick v. McKay*, 937 F.2d 434, 437-42 (9th
46 Cir. 1991))

47 In 1997, when the United States Supreme Court reversed a different Ninth
48 Circuit decision that struck down Montana's parental notification requirements, the
49 United States Supreme Court disapproved the first reason relied upon by the Ninth
50 Circuit in the *Glick* decision to strike down Nevada's parental notification
51 requirements. (*Lambert v. Wicklund*, 520 U.S. 292, 294-99 (1997)) However, the
52 United States Supreme Court did not address the second reason relied upon by the
53 Ninth Circuit in the *Glick* decision to strike down Nevada's parental notification
54 requirements. As a result, based upon the second reason, the Ninth Circuit's *Glick*
55 decision is still in effect in Nevada, which means that Nevada's existing parental
56 notification requirements remain unconstitutional because they do not place any
57 time limit on the period within which the district court must rule upon a request for
58 judicial authorization and therefore they do not facially ensure that the minor's
59 interests will be protected by expedited judicial review. (*Glick v. McKay*, 937 F.2d
60 434, 440-42 (9th Cir. 1991); *Planned Parenthood of S. Ariz. v. Lawall (Lawall I)*,
61 180 F.3d 1022, 1029 n.9 (9th Cir. 1999) ("Nothing in *Wicklund*, however, affects
62 *Glick's* holding regarding [the failure of Nevada's law to facially comply with]
63 *Bellotti II's* expediency requirement."), *amended on denial of reh'g*, 193 F.3d 1042,
64 1043 (9th Cir. 1999))

65 **Section 27** of this bill repeals Nevada's existing parental notification
66 requirements, and **sections 10-18** of this bill enact new notification requirements
67 that apply to pregnant minors and wards. The new notification requirements are
68 modeled, in part, on portions of Minnesota's parental notification requirements that
69 were upheld by the United States Supreme Court in *Hodgson v. Minnesota*, 497
70 U.S. 417, 422-23 (1990) (plurality opinion) (upholding portions of Minn. Stat. §
71 144.343). However, the new notification requirements also take into account
72 additional constitutional considerations addressed in other decisions of the United
73 States Supreme Court and the Ninth Circuit regarding parental notification or
74 consent statutes. (*Ayotte v. Planned Parenthood of N. New Eng.*, 546 U.S. 320,



75 323-28 (2006); *Lambert v. Wicklund*, 520 U.S. 292, 294-99 (1997); *Planned*
76 *Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 899-901 (1992); *Ohio v. Akron Ctr.*
77 *for Reproductive Health (Akron II)*, 497 U.S. 502, 510-19 (1990) (plurality
78 opinion); *Bellotti v. Baird (Bellotti II)*, 443 U.S. 622, 646-51 (1979) (plurality
79 opinion); *Planned Parenthood of Idaho v. Wasden*, 376 F.3d 908, 924-35 (9th Cir.
80 2004); *Planned Parenthood of S. Ariz. v. Lawall (Lawall II)*, 307 F.3d 783, 786-89
81 (9th Cir. 2002); *Planned Parenthood of S. Ariz. v. Lawall (Lawall I)*, 180 F.3d
82 1022, 1027-33 (9th Cir. 1999), *amended on denial of reh'g*, 193 F.3d 1042, 1043
83 (9th Cir. 1999))

84 To carry out the new notification requirements, **section 6** of this bill defines the
85 term “minor” to mean a person who is less than 18 years of age, unmarried and
86 unemancipated. To be considered emancipated and not a minor, the person must
87 offer reasonable proof of a court order declaring the person to be emancipated
88 under Nevada law or the law of any other state, territory or possession of the United
89 States or the District of Columbia. **Section 9** of this bill defines the term “ward” to
90 mean a person for whom a legal guardian or conservator has been appointed
91 because of a court finding of mental or intellectual incompetency, incapacity or
92 insanity.

93 **Section 10** of this bill states that the new notification requirements are intended
94 to assist minors and wards in making a knowing, intelligent and deliberate decision
95 to give informed consent concerning a proposed abortion by requiring, with certain
96 exceptions, notification of a parent or guardian of the minor or ward, followed by a
97 waiting period of 48 hours, before a physician may perform an abortion upon the
98 minor or ward. **Sections 10-18** do not require a parent or guardian to consent to the
99 abortion before it is performed and do not prohibit a physician from performing
100 the abortion after notification has been provided and the waiting period has expired.

101 **Section 12** prohibits, with certain exceptions, a physician from knowingly
102 performing an abortion on a minor or ward unless: (1) written notice of the
103 proposed abortion is delivered to at least one parent or guardian in the statutorily-
104 required manner; and (2) a period of not less than 48 hours has elapsed after the
105 time of delivery of the written notice. However, **section 12** also provides that no
106 parent or guardian must be notified if: (1) the physician certifies in writing in the
107 medical record of the minor or ward that a medical emergency exists which
108 necessitates an immediate abortion; (2) a parent or guardian of the minor or ward
109 certifies in writing that he or she has been notified regarding the abortion; or (3)
110 upon a petition filed by the minor or ward, the district court or the appellate court
111 gives judicial authorization for a physician to perform the abortion without
112 notification of a parent or guardian.

113 **Sections 13-17** establish rules, standards and procedures for filing petitions
114 seeking judicial authorization and for conducting expedited proceedings in the
115 district court and the appellate court, with express mandates setting forth specific
116 time limits within which the district court and the appellate court must rule upon
117 petitions and any appeals therefrom. **Sections 14 and 15**: (1) protect the identity
118 and anonymity of the minor or ward and require confidentiality at all stages of the
119 proceedings; (2) provide the minor or ward with the right to request a court
120 appointed attorney for legal representation that is a charge against the county; and
121 (3) permit the appointment of a guardian ad litem or court appointed special
122 advocate when necessary to protect the best interests of the minor or ward.

123 **Section 16** requires the district court to grant judicial authorization if it finds
124 that: (1) the pregnant woman is sufficiently mature and well-informed and,
125 if a ward, competent, to be capable, in consultation with a physician, of making a
126 knowing, intelligent and deliberate decision to give informed consent concerning a
127 proposed abortion without notification of a parent or guardian; or (2) regardless of
128 whether the pregnant woman is sufficiently mature and well-informed and, if a
129 ward, competent, it otherwise is or would be in the best interests of the pregnant



130 woman to authorize a physician to perform the proposed abortion without
131 notification of a parent or guardian.

132 **Section 18** provides that a person who knowingly performs an abortion upon a
133 minor or ward in violation of the new notification requirements is guilty of a
134 misdemeanor and is subject to a civil action brought by any parent or guardian
135 improperly denied notification. However, **section 18** also provides immunity from
136 criminal prosecution and civil liability under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 442 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 18, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 18, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 9, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Abortion” has the meaning ascribed to it in*
9 *NRS 442.240.*

10 **Sec. 4.** *“Guardian” means a person who has been appointed*
11 *by a court of competent jurisdiction as a legal guardian or*
12 *conservator of a pregnant woman who is a minor or a ward.*

13 **Sec. 5.** 1. *“Medical emergency” means the existence or*
14 *happening of one or more medical conditions, events or*
15 *occurrences, or any combination thereof, which in the good faith*
16 *clinical judgment of an attending physician, so complicates the*
17 *physical health of a pregnant woman who is a minor or a ward*
18 *that, within a reasonable degree of medical certainty, it*
19 *necessitates an immediate abortion to be performed upon the*
20 *pregnant woman to prevent:*

21 (a) *The death of the pregnant woman; or*

22 (b) *A serious risk of substantial and irreversible physical*
23 *impairment of a major bodily function of the pregnant woman.*

24 2. *For the purposes of this section, the existence or*
25 *happening of one or more medical conditions, events or*
26 *occurrences, or any combination thereof, shall not be considered*
27 *to be a medical emergency when it is primarily based on one or*
28 *more:*

29 (a) *Psychological, mental or emotional conditions, events or*
30 *occurrences; or*

31 (b) *Claims or diagnoses that, if an abortion is not performed*
32 *immediately, the pregnant woman is likely to or will engage in*
33 *self-destructive conduct or behavior which could result in her*



1 *death or in substantial or irreversible physical impairment of a*
2 *major bodily function.*

3 **Sec. 6. 1. "Minor" means a person who is:**

4 (a) *Less than 18 years of age;*

5 (b) *Unmarried; and*

6 (c) *Unemancipated.*

7 2. *For the purposes of this section, a person who is less than*
8 *18 years of age and unmarried shall not be considered to be*
9 *emancipated unless the person offers reasonable proof of an order*
10 *or decree from a court of competent jurisdiction declaring the*
11 *person to be emancipated pursuant to the method of emancipation*
12 *provided by NRS 129.080 to 129.140, inclusive, or any other*
13 *statutes of this State or any other state, territory or possession of*
14 *the United States or the District of Columbia.*

15 **Sec. 7. 1. "Parent" means, with regard to a pregnant**
16 *woman who is a minor, not more than one parent or guardian of*
17 *the pregnant woman if at least one parent or guardian of the*
18 *pregnant woman is living.*

19 2. *The term does not include a parent or guardian whose*
20 *parental or legal rights have been terminated by a court of*
21 *competent jurisdiction.*

22 **Sec. 8. "Petition" means a petition filed by a pregnant**
23 *woman who is a minor or a ward pursuant to section 13 of this*
24 *act.*

25 **Sec. 9. "Ward" means a person for whom a legal guardian**
26 *or conservator has been appointed by an order or decree from a*
27 *court of competent jurisdiction declaring the person to be mentally*
28 *or intellectually incompetent, incapacitated or insane.*

29 **Sec. 10. The Legislature hereby finds and declares that:**

30 1. *A pregnant woman who is a minor or a ward may not have*
31 *the necessary maturity, emotional development or mental or*
32 *intellectual competency, capacity or understanding to be capable*
33 *on her own, without the assistance of a parent or guardian, to*
34 *make a knowing, intelligent and deliberate decision to give*
35 *informed consent concerning a proposed abortion, which usually*
36 *presents a difficult, stressful and often overwhelming decision*
37 *involving potentially significant short-term and long-term*
38 *physical, emotional and psychological consequences.*

39 2. *The provisions of sections 10 to 18, inclusive, of this act*
40 *are intended to assist a pregnant woman who is a minor or a ward*
41 *in making a knowing, intelligent and deliberate decision to give*
42 *informed consent concerning a proposed abortion by requiring,*
43 *with certain exceptions, notification of a parent or guardian of the*
44 *pregnant woman, followed by a waiting period of 48 hours, before*



1 *a physician may perform an abortion upon the pregnant woman in*
2 *order to:*

3 *(a) Encourage the pregnant woman to seek advice, guidance,*
4 *counsel and support from a parent or guardian in making a*
5 *knowing, intelligent and deliberate decision to give informed*
6 *consent concerning a proposed abortion; and*

7 *(b) Facilitate and foster the involvement of a parent or*
8 *guardian who can provide advice, guidance, counsel and support*
9 *to the pregnant woman in making a knowing, intelligent and*
10 *deliberate decision to give informed consent concerning a*
11 *proposed abortion.*

12 **Sec. 11.** *The provisions of sections 10 to 18, inclusive, of this*
13 *act:*

14 *1. Must be interpreted to establish conditions on performing*
15 *an abortion upon a pregnant woman who is a minor or a ward*
16 *that supplement but do not supplant any other conditions on*
17 *performing an abortion upon a pregnant woman established by*
18 *NRS 442.240 to 442.270, inclusive, or any other statutes of this*
19 *State.*

20 *2. Must not be interpreted to amend, annul, repeal, set aside,*
21 *suspend or in any way make inoperative the provisions of NRS*
22 *442.250 which were submitted to and approved by a referendum of*
23 *the voters pursuant to Section 1 of Article 19 of the Nevada*
24 *Constitution.*

25 *3. Must not be interpreted to require a physician, or a*
26 *designated agent of the physician, to notify more than one parent*
27 *or guardian of a pregnant woman who is a minor or a ward.*

28 **Sec. 12.** *1. In addition to the conditions established by NRS*
29 *442.240 to 442.270, inclusive, or any other statutes of this State,*
30 *and except as otherwise provided in sections 10 to 18, inclusive, of*
31 *this act, a physician shall not knowingly perform an abortion*
32 *upon a pregnant woman who is a minor or a ward unless:*

33 *(a) Written notice of the proposed abortion is delivered to at*
34 *least one parent or guardian of the pregnant woman in the*
35 *manner required by this section; and*

36 *(b) A period of not less than 48 hours has elapsed after the*
37 *time of delivery of the written notice to at least one parent or*
38 *guardian of the pregnant woman in the manner required by this*
39 *section.*

40 *2. To deliver the written notice of the proposed abortion*
41 *required by this section, the physician, or a designated agent of the*
42 *physician, shall determine the address of the usual place of abode*
43 *of a parent or guardian of the pregnant woman and deliver the*
44 *written notice to a parent or guardian by at least one of the*
45 *following methods:*



1 (a) *Personal service addressed to a parent or guardian at his*
2 *or her usual place of abode and handed directly to a parent or*
3 *guardian who is an authorized addressee. The time of delivery of*
4 *the written notice shall be deemed to be the time of the personal*
5 *service on a parent or guardian.*

6 (b) *Certified mail, with restricted delivery and return receipt*
7 *requested, addressed to a parent or guardian at his or her usual*
8 *place of abode. The time of delivery of the written notice shall be*
9 *deemed to be 12 p.m. on the next day on which regular mail*
10 *delivery takes place after the day on which the written notice is*
11 *mailed. As used in this paragraph, "restricted delivery" means a*
12 *postal employee is required to deliver the certified mail only to an*
13 *authorized addressee.*

14 3. *No parent or guardian of the pregnant woman must be*
15 *notified pursuant to this section before a physician performs an*
16 *abortion upon the pregnant woman if:*

17 (a) *The physician certifies in writing in the medical record of*
18 *the pregnant woman that a medical emergency exists which*
19 *necessitates that an immediate abortion must be performed upon*
20 *the pregnant woman;*

21 (b) *A parent or guardian of the pregnant woman certifies in*
22 *writing that he or she has been notified regarding the abortion to*
23 *be performed upon the pregnant woman; or*

24 (c) *A court has given judicial authorization for a physician to*
25 *perform the abortion upon the pregnant woman pursuant to*
26 *sections 10 to 18, inclusive, of this act without notification of a*
27 *parent or guardian of the pregnant woman.*

28 **Sec. 13.** 1. *If a pregnant woman who is a minor or a ward*
29 *does not want any parent or guardian to be notified pursuant to*
30 *section 12 of this act, the pregnant woman may petition the district*
31 *court to conduct expedited proceedings to determine whether to*
32 *issue an order authorizing a physician to perform an abortion*
33 *upon the pregnant woman without notification of a parent or*
34 *guardian pursuant to section 12 of this act.*

35 2. *Notwithstanding any other statute, regulation or rule to the*
36 *contrary:*

37 (a) *The pregnant woman must not be charged, assessed or*
38 *held liable for any filing fees or other court fees relating to the*
39 *petition or the proceedings regarding the petition at any stage of*
40 *the proceedings, including, without limitation, any appeal, except*
41 *that the pregnant woman shall pay the special court fee required*
42 *by Section 16 of Article 6 of the Nevada Constitution unless the*
43 *pregnant woman does not have the ability to pay that fee.*



1 (b) *The rules of civil procedure do not apply to the petition or*
2 *the proceedings regarding the petition. The Supreme Court shall*
3 *adopt and issue all necessary rules and orders, which must not be*
4 *inconsistent with the provisions of sections 10 to 18, inclusive, of*
5 *this act, to implement and facilitate expedited and confidential*
6 *judicial review and resolution of the petition at all stages of the*
7 *proceedings, including, without limitation, any appeal.*

8 (c) *In preparing the petition, the pregnant woman shall initial*
9 *the petition but shall not sign the petition. The caption and body of*
10 *the petition must contain only the initials of the pregnant woman*
11 *to identify the petitioner.*

12 (d) *The petition must set forth:*

13 (1) *The age of the pregnant woman and whether she is a*
14 *minor or a ward;*

15 (2) *The estimated number of weeks elapsed from the*
16 *probable time of conception;*

17 (3) *The reasons the pregnant woman does not want any*
18 *parent or guardian of the pregnant woman to be notified pursuant*
19 *to section 12 of this act; and*

20 (4) *Any supporting facts or circumstances that may be*
21 *relevant and helpful to the district court in determining whether to*
22 *authorize the proposed abortion without notification of a parent or*
23 *guardian pursuant to section 12 of this act.*

24 **Sec. 14.** *Notwithstanding any other statute, regulation or*
25 *rule to the contrary:*

26 1. *A petition filed by a pregnant woman who is a minor or a*
27 *ward and all proceedings regarding the petition:*

28 (a) *Are confidential and are not public records;*

29 (b) *Must ensure the anonymity of the pregnant woman; and*

30 (c) *Must not be made available to or accessible by the public at*
31 *any stage of the proceedings, including, without limitation, any*
32 *appeal.*

33 2. *The district court and appellate court shall take the*
34 *necessary steps to ensure, preserve and protect the confidentiality*
35 *of the petition and the proceedings, except that the district court or*
36 *appellate court may allow a properly restricted and limited*
37 *disclosure of the petition or the proceedings to the extent*
38 *necessary to carry out the provisions of sections 10 to 18,*
39 *inclusive, of this act, but the district court or appellate court shall*
40 *take the necessary steps to protect the anonymity of the pregnant*
41 *woman in any such disclosure.*

42 3. *The confidentiality required by this section includes,*
43 *without limitation, all files, documents and records relating to the*
44 *proceedings.*



1 4. *If the district court or appellate court needs to identify the*
2 *petition or the proceedings for docketing, scheduling or other*
3 *administrative purposes in any files, documents or records that are*
4 *available to the public, including, without limitation, any index,*
5 *calendar, docket, register, minutes or case management system,*
6 *such identification must contain only the initials of the pregnant*
7 *woman to identify the petitioner and must not contain any*
8 *information that identifies or could lead to the identification of the*
9 *pregnant woman.*

10 5. *If any officer, employee or contractor of this State or a*
11 *political subdivision of this State, including, without limitation,*
12 *any officer, employee or contractor of the district court or*
13 *appellate court or any attorney, guardian ad litem, court appointed*
14 *special advocate or member of support staff, acquires information*
15 *concerning the petition or the proceedings regarding the petition*
16 *in the course of performing the person's duties, the person shall*
17 *take the necessary steps to ensure, preserve and protect the*
18 *confidentiality of the information and shall not disclose the*
19 *information without appropriate authorization.*

20 6. *A person who violates this section is guilty of a*
21 *misdemeanor.*

22 **Sec. 15. 1.** *If a pregnant woman who is a minor or a ward*
23 *files a petition, the district court shall:*

24 (a) *Advise her that she is entitled to be represented by a court-*
25 *appointed attorney; and*

26 (b) *Upon her request, appoint such an attorney to represent*
27 *her at all stages of the proceedings, including, without limitation,*
28 *any appeal.*

29 2. *If the pregnant woman does not request to be represented*
30 *by a court-appointed attorney, the pregnant woman may*
31 *participate in the proceedings on her own behalf, except that the*
32 *district court may appoint an attorney to represent her if the*
33 *district court determines that such representation would be in her*
34 *best interests.*

35 3. *Whether or not the pregnant woman is represented by a*
36 *court-appointed attorney, the district court may appoint a*
37 *guardian ad litem or a court appointed special advocate to*
38 *represent the pregnant woman if the district court determines that*
39 *such representation would be in her best interests.*

40 4. *If the pregnant woman is represented by a court-appointed*
41 *attorney, the district court shall set the compensation and expenses*
42 *of the attorney in a manner that is consistent with the*
43 *compensation and expenses provided in NRS 7.125 and 7.135 for*
44 *similar legal work, and the compensation and expenses of the*
45 *attorney are a charge against the county.*



1 **Sec. 16. 1.** *After a pregnant woman who is a minor or a*
2 *ward files a petition, the district court shall:*

3 (a) *Give the petition and the proceedings priority over other*
4 *pending matters and expedite the proceedings in order to serve the*
5 *best interests of the pregnant woman as soon as possible and*
6 *without delay; and*

7 (b) *As soon as possible but not later than 5 judicial days after*
8 *the date on which the petition is filed, hold an expedited hearing*
9 *on the record regarding the merits of the petition, unless the*
10 *pregnant woman requests the district court to continue the date of*
11 *the hearing.*

12 2. *At the hearing regarding the merits of the petition, the*
13 *district court shall take evidence on the record that may be*
14 *relevant and helpful in determining whether:*

15 (a) *The pregnant woman is sufficiently mature and well-*
16 *informed and, if a ward, competent, to be capable, in consultation*
17 *with a physician, of making a knowing, intelligent and deliberate*
18 *decision to give informed consent concerning a proposed abortion*
19 *without notification of a parent or guardian pursuant to section 12*
20 *of this act; or*

21 (b) *Regardless of whether the pregnant woman is sufficiently*
22 *mature and well-informed and, if a ward, competent, it otherwise*
23 *is or would be in the best interests of the pregnant woman to*
24 *authorize a physician to perform the proposed abortion without*
25 *notification of a parent or guardian pursuant to section 12 of this*
26 *act.*

27 3. *The district court may take evidence on the record of any*
28 *other facts or circumstances that may be relevant and helpful in*
29 *determining whether to authorize a physician to perform the*
30 *proposed abortion without notification of a parent or guardian*
31 *pursuant to section 12 of this act.*

32 4. *The district court shall order a confidential record of the*
33 *evidence to be maintained.*

34 5. *As soon as possible but not later than 2 judicial days after*
35 *the date of the hearing regarding the merits of the petition, the*
36 *district court shall:*

37 (a) *Issue a written order granting or denying the petition*
38 *which must contain specific findings of fact and conclusions of*
39 *law supporting the decision of the district court; and*

40 (b) *File the written order under seal of confidentiality with the*
41 *district court clerk and serve the pregnant woman with the written*
42 *order by the most expeditious manner of service feasible under the*
43 *circumstances.*



1 6. *The district court shall grant the petition if, based on the*
2 *evidence taken on the record at the hearing, the district court finds*
3 *that:*

4 (a) *The pregnant woman is sufficiently mature and well-*
5 *informed and, if a ward, competent, to be capable, in consultation*
6 *with a physician, of making a knowing, intelligent and deliberate*
7 *decision to give informed consent concerning a proposed abortion*
8 *without notification of a parent or guardian pursuant to section 12*
9 *of this act; or*

10 (b) *Regardless of whether the pregnant woman is sufficiently*
11 *mature and well-informed and, if a ward, competent, it otherwise*
12 *is or would be in the best interests of the pregnant woman to*
13 *authorize a physician to perform the proposed abortion without*
14 *notification of a parent or guardian pursuant to section 12 of this*
15 *act.*

16 7. *If the district court grants the petition:*

17 (a) *The district court shall, in its written order, give judicial*
18 *authorization to permit a physician to perform an abortion upon*
19 *the pregnant woman in accordance with the provisions of NRS*
20 *442.240 to 442.270, inclusive, and without notification of a parent*
21 *or guardian pursuant to section 12 of this act; and*

22 (b) *The district court's written order and its judicial*
23 *authorization are not subject to an appeal, and no person has*
24 *standing to take such an appeal.*

25 8. *If the district court denies the petition, the pregnant*
26 *woman may appeal the district court's written order pursuant to*
27 *section 17 of this act.*

28 **Sec. 17. 1.** *If the district court denies a petition of a*
29 *pregnant woman who is a minor or a ward, the pregnant woman*
30 *may appeal the district court's written order to the appellate court*
31 *of competent jurisdiction pursuant to the rules fixed by the*
32 *Supreme Court pursuant to Section 4 of Article 6 of the Nevada*
33 *Constitution.*

34 2. *To take such an appeal, the pregnant woman must file a*
35 *notice of appeal with the district court clerk not later than 5*
36 *judicial days after the date on which the pregnant woman is served*
37 *with the district court's written order pursuant to section 16 of this*
38 *act.*

39 3. *Not later than 1 judicial day after the date on which the*
40 *pregnant woman files the notice of appeal with the district court*
41 *clerk, the pregnant woman shall file a request for expedited relief*
42 *with the Clerk of the Supreme Court pursuant to the Nevada Rules*
43 *of Appellate Procedure or any applicable rule or order of the*
44 *appellate court.*



1 4. *The record on appeal must be perfected and transmitted to*
2 *the appellate court not later than 5 judicial days after the date on*
3 *which the pregnant woman files the notice of appeal or within*
4 *such earlier time as may be required by any applicable rule or*
5 *order of the appellate court.*

6 5. *The appellate court shall:*

7 (a) *Give the appeal priority over other pending matters and*
8 *expedite the appeal in order to serve the best interests of the*
9 *pregnant woman as soon as possible and without delay; and*

10 (b) *As soon as possible but not later than 5 judicial days after*
11 *the date on which the record on appeal is transmitted to the*
12 *appellate court, issue a written order resolving the appeal.*

13 **Sec. 18.** 1. *Except as otherwise provided in this section, if a*
14 *person knowingly performs an abortion upon a pregnant woman*
15 *who is a minor or a ward in violation of section 12 of this act, the*
16 *person is guilty of a misdemeanor.*

17 2. *In addition to any other remedy or penalty provided by law,*
18 *but except as otherwise provided in this section, if a person*
19 *knowingly performs an abortion upon a pregnant woman who is a*
20 *minor or a ward in violation of section 12 of this act and no parent*
21 *or guardian of the pregnant woman was properly notified because*
22 *of the violation, any parent or guardian of the pregnant woman*
23 *may bring a civil action against the person who performed the*
24 *abortion for:*

25 (a) *Actual and consequential damages;*

26 (b) *Punitive damages, which are subject to the provisions of*
27 *NRS 42.005;*

28 (c) *Reasonable attorney's fees and costs; and*

29 (d) *Any other legal or equitable relief that the court deems*
30 *appropriate.*

31 3. *A person is immune from criminal prosecution and civil*
32 *liability pursuant to this section and no parent or guardian of the*
33 *pregnant woman is entitled to any relief against the person*
34 *pursuant to this section if the person establishes by written*
35 *evidence that, before performing the abortion upon the pregnant*
36 *woman:*

37 (a) *A court gave judicial authorization to perform the abortion*
38 *upon the pregnant woman pursuant to sections 10 to 18, inclusive,*
39 *of this act without notification of a parent or guardian; or*

40 (b) *The person, or the designated agent of the person:*

41 (1) *Attempted with reasonable diligence to deliver the*
42 *notice required by section 12 of this act to at least one parent or*
43 *guardian of the pregnant woman but was unable to do so; or*



1 (2) *Relied upon evidence which would be sufficient to*
2 *convince a careful and prudent person that the representations of*
3 *the pregnant woman regarding information necessary to comply*
4 *with section 12 of this act were bona fide and true.*

5 4. *Any immunity provided by this section extends to the*
6 *performance of the abortion and any necessary accompanying*
7 *services which are performed in a competent manner.*

8 **Sec. 19.** (Deleted by amendment.)

9 **Sec. 20.** (Deleted by amendment.)

10 **Sec. 21.** (Deleted by amendment.)

11 **Sec. 22.** (Deleted by amendment.)

12 **Sec. 23.** (Deleted by amendment.)

13 **Sec. 24.** NRS 442.256 is hereby amended to read as follows:

14 442.256 A physician who performs an abortion shall maintain
15 a record of it for at least 5 years after it is performed. The record
16 must contain:

17 1. The written consent of the woman;

18 2. A statement of the information which was provided to the
19 woman pursuant to NRS 442.253; and

20 3. A description of efforts to give any notice required by ~~NRS~~
21 ~~442.255.]~~ *section 12 of this act.*

22 **Sec. 25.** NRS 3.223 is hereby amended to read as follows:

23 3.223 1. Except if the child involved is subject to the
24 jurisdiction of an Indian tribe pursuant to the Indian Child Welfare
25 Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in
26 which it is established, the family court has original, exclusive
27 jurisdiction in any proceeding:

28 (a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125,
29 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of
30 NRS, except to the extent that a specific statute authorizes the use of
31 any other judicial or administrative procedure to facilitate the
32 collection of an obligation for support.

33 (b) Brought pursuant to ~~NRS 442.255 and 442.2555]~~ *sections*
34 *13 to 16, inclusive, of this act* to request the court to issue an order
35 authorizing an abortion.

36 (c) For judicial approval of the marriage of a minor.

37 (d) Otherwise within the jurisdiction of the juvenile court.

38 (e) To establish the date of birth, place of birth or parentage of a
39 minor.

40 (f) To change the name of a minor.

41 (g) For a judicial declaration of the sanity of a minor.

42 (h) To approve the withholding or withdrawal of life-sustaining
43 procedures from a person as authorized by law.



1 (i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive,
2 for an involuntary court-ordered admission to a mental health
3 facility.

4 (j) Brought pursuant to NRS 441A.510 to 441A.720, inclusive,
5 for an involuntary court-ordered isolation or quarantine.

6 2. The family court, where established and, except as otherwise
7 provided in paragraph (m) of subsection 1 of NRS 4.370, the justice
8 court have concurrent jurisdiction over actions for the issuance of a
9 temporary or extended order for protection against domestic
10 violence.

11 3. The family court, where established, and the district court
12 have concurrent jurisdiction over any action for damages brought
13 pursuant to NRS 41.134 by a person who suffered injury as the
14 proximate result of an act that constitutes domestic violence.

15 **Sec. 26.** NRS 239.010 is hereby amended to read as follows:

16 239.010 1. Except as otherwise provided in this section and
17 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
18 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
19 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
20 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
21 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
22 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
23 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
24 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
25 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
26 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
27 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
28 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
29 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
30 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
31 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
32 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
33 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
34 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
35 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
36 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
37 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
38 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
39 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
40 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
41 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
42 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
43 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
44 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
45 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,



1 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
2 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
3 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
4 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
5 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
6 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
7 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
8 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
9 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
10 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
11 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
12 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110,
13 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015,
14 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131,
15 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418,
16 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
17 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212,
18 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315,
19 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
20 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
21 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
22 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
23 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
24 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
25 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
26 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
27 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
28 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
29 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077,
30 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
31 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420,
32 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325,
33 706.1725, 710.159, 711.600, *and section 14 of this act*, sections 35,
34 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
35 chapter 391, Statutes of Nevada 2013 and unless otherwise declared
36 by law to be confidential, all public books and public records of a
37 governmental entity must be open at all times during office hours to
38 inspection by any person, and may be fully copied or an abstract or
39 memorandum may be prepared from those public books and public
40 records. Any such copies, abstracts or memoranda may be used to
41 supply the general public with copies, abstracts or memoranda of the
42 records or may be used in any other way to the advantage of the
43 governmental entity or of the general public. This section does not
44 supersede or in any manner affect the federal laws governing
45 copyrights or enlarge, diminish or affect in any other manner the



1 rights of a person in any written book or record which is
2 copyrighted pursuant to federal law.

3 2. A governmental entity may not reject a book or record
4 which is copyrighted solely because it is copyrighted.

5 3. A governmental entity that has legal custody or control of a
6 public book or record shall not deny a request made pursuant to
7 subsection 1 to inspect or copy or receive a copy of a public book or
8 record on the basis that the requested public book or record contains
9 information that is confidential if the governmental entity can
10 redact, delete, conceal or separate the confidential information from
11 the information included in the public book or record that is not
12 otherwise confidential.

13 4. A person may request a copy of a public record in any
14 medium in which the public record is readily available. An officer,
15 employee or agent of a governmental entity who has legal custody
16 or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in a
18 readily available medium because the officer, employee or agent has
19 already prepared or would prefer to provide the copy in a different
20 medium.

21 (b) Except as otherwise provided in NRS 239.030, shall, upon
22 request, prepare the copy of the public record and shall not require
23 the person who has requested the copy to prepare the copy himself
24 or herself.

25 **Sec. 27.** NRS 442.255, 442.2555 and 442.268 are hereby
26 repealed.

27 **Sec. 28.** This act becomes effective:

28 1. Upon passage and approval for the purpose of adopting any
29 regulations and performing any other preparatory administrative
30 tasks necessary to carry out the provisions of this act; and

31 2. On October 1, 2015, for all other purposes.

TEXT OF REPEALED SECTIONS

442.255 Notice to custodial parent or guardian; request for authorization for abortion; rules of civil procedure inapplicable.

1. Unless in the judgment of the attending physician an abortion is immediately necessary to preserve the patient's life or health or an abortion is authorized pursuant to subsection 2 or NRS 442.2555, a physician shall not knowingly perform or induce an abortion upon an unmarried and unemancipated woman who is under the age of 18 years unless a custodial parent or guardian of the



woman is personally notified before the abortion. If the custodial parent or guardian cannot be so notified after a reasonable effort, the physician shall delay performing the abortion until the physician has notified the parent or guardian by certified mail at the last known address of the parent or guardian.

2. An unmarried or unemancipated woman who is under the age of 18 years may request a district court to issue an order authorizing an abortion. If so requested, the court shall interview the woman at the earliest practicable time, which must be not more than 2 judicial days after the request is made. If the court determines, from any information provided by the woman and any other evidence that the court may require, that:

(a) She is mature enough to make an intelligent and informed decision concerning the abortion;

(b) She is financially independent or is emancipated; or

(c) The notice required by subsection 1 would be detrimental to her best interests,

↳ the court shall issue an order within 1 judicial day after the interview authorizing a physician to perform the abortion in accordance with the provisions of NRS 442.240 to 442.270, inclusive.

3. If the court does not find sufficient grounds to authorize a physician to perform the abortion, it shall enter an order to that effect within 1 judicial day after the interview. If the court does not enter an order either authorizing or denying the performance of the abortion within 1 judicial day after the interview, authorization shall be deemed to have been granted.

4. The court shall take the necessary steps to ensure that the interview and any other proceedings held pursuant to this subsection or NRS 442.2555 are confidential. The rules of civil procedure do not apply to any action taken pursuant to this subsection.

442.2555 Procedure if district court denies request for authorization for abortion: Petition; hearing on merits; appeal.

1. If the order is denied pursuant to NRS 442.255, the court shall, upon request by the minor if it appears that she is unable to employ counsel, appoint an attorney to represent her in the preparation of a petition, a hearing on the merits of the petition, and on an appeal, if necessary. The compensation and expenses of the attorney are a charge against the county as provided in the following schedule:

(a) For consultation, research and other time reasonably spent on the matter, except court appearances, \$20 per hour.

(b) For court appearances, \$30 per hour.



2. The petition must set forth the initials of the minor, the age of the minor, the estimated number of weeks elapsed from the probable time of conception, and whether maturity, emancipation, notification detrimental to the minor's best interests or a combination thereof are relied upon in avoidance of the notification required by NRS 442.255. The petition must be initialed by the minor.

3. A hearing on the merits of the petition, on the record, must be held as soon as possible and within 5 judicial days after the filing of the petition. At the hearing the court shall hear evidence relating to:

(a) The minor's emotional development, maturity, intellect and understanding;

(b) The minor's degree of financial independence and degree of emancipation from parental authority;

(c) The minor's best interests relative to parental involvement in the decision whether to undergo an abortion; and

(d) Any other evidence that the court may find useful in determining whether the minor is entitled to avoid parental notification.

4. In the decree, the court shall, for good cause:

(a) Grant the petition, and give judicial authorization to permit a physician to perform an abortion without the notification required in NRS 442.255; or

(b) Deny the petition, setting forth the grounds on which the petition is denied.

5. An appeal from an order issued under subsection 4 may be taken to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution, which shall suspend the Nevada Rules of Appellate Procedure pursuant to NRAP 2 to provide for an expedited appeal. The notice of intent to appeal must be given within 1 judicial day after the issuance of the order. The record on appeal must be perfected within 5 judicial days after the filing of the notice of appeal and transmitted to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court. The appellate court of competent jurisdiction, shall, by court order or rule, provide for a confidential and expedited appellate review of cases appealed under this section.

442.268 Civil immunity of person performing judicially authorized abortion in accordance with provisions of NRS 442.240 to 442.270, inclusive. If an abortion is judicially authorized and the provisions of NRS 442.240 to 442.270, inclusive, are complied with, an action by the parents or guardian of the minor against persons performing the abortion is barred. This civil



immunity extends to the performance of the abortion and any necessary accompanying services which are performed in a competent manner. The costs of the action, if brought, must be borne by the parties respectively.

