

SENATE BILL 404

Introduced by Bruski, et al.

2/15	Introduced
2/16	First Reading
2/16	Referred to Public Health, Welfare & Safety
2/20	Hearing
2/23	Committee Report--Bill Passed as Amended
2/25	Fiscal Note Requested
2/26	Fiscal Note Printed
2/26	Fiscal Note Received
2/26	2nd Reading Do Not Pass

1 *Senate* BILL NO. *404*
 2 INTRODUCED BY *Bruce Brundage* *Bob Pennington*
 3 *Byron 477 NATH* *Traut* *Harding* *Kennedy* *Reid*
 4 *011 KOENKE* *Gosfield* *Waller* *Keller* *Ellison* *Peterson*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PARENTAL
 6 NOTIFICATION BEFORE A PHYSICIAN MAY PERFORM AN ABORTION UPON
 7 A MINOR; PROVIDING PROCEDURES FOR JUDICIAL EXEMPTION FROM
 8 NOTIFICATION REQUIREMENTS; PROVIDING A MISDEMEANOR OFFENSE
 9 FOR VIOLATION OF NOTIFICATION REQUIREMENTS; AMENDING SECTION
 10 41-1-405, MCA; AND REPEALING SECTION 50-20-107, MCA."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Definitions. As used in
13 [sections 1 through 10], unless the context requires
14 otherwise, the following definitions apply:

- 15 (1) "Emancipated minor" means a minor who:
 - 16 (a) is or has been married;
 - 17 (b) does not reside with a parent or guardian and
 - 18 supports herself from her own earnings or other independent
 - 19 means; or
 - 20 (c) has been granted an order of emancipation by a
 - 21 court.
- 22 (2) "Minor" means a person who is under 18 years of
- 23 age.
- 24 (3) "Parent" means the natural or adoptive parent of a
- 25 minor. The term does not include:

- 1 (a) a person whose parental rights have been terminated
- 2 by a court; or
- 3 (b) a parent who does not have actual care, custody,
- 4 and control of the minor.

5 NEW SECTION. Section 2. Minors -- parental
6 notification requirement -- exceptions. (1) A physician may
7 not perform an abortion upon a minor unless the physician
8 first gives 48 hours actual notice, in person or by
9 telephone, of his intent to perform the abortion to:

- 10 (a) one of the minor's parents;
- 11 (b) the minor's legal guardian; or
- 12 (c) any other person standing in loco parentis if the
- 13 minor's parents are deceased and no guardian has been
- 14 appointed.
- 15 (2) The provisions of subsection (1) do not apply if
- 16 the minor:
 - 17 (a) is an emancipated minor; or
 - 18 (b) has been granted an exemption from the notification
 - 19 requirement of subsection (1) by court order pursuant to
 - 20 [sections 4 through 9].

21 NEW SECTION. Section 3. Constructive notice. If a
22 physician is unable, after reasonable effort, to reach the
23 person required to receive notification under [section 2],
24 the physician shall give constructive notice by certified
25 mail, return receipt requested, to the person's last-known



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1 address. The time of delivery of constructive notice is
2 considered to occur at noon on the next day on which regular
3 mail delivery takes place subsequent to mailing.

4 NEW SECTION. Section 4. Exemption. A minor may be
5 granted an exemption from the notification requirement of
6 [section 2] by the youth court pursuant to the procedures
7 set forth in [sections 5 through 9].

8 NEW SECTION. Section 5. Petition for exemption from
9 parental notification requirement. (1) A minor who requests
10 an exemption under [section 4] shall petition the youth
11 court for an exemption. The youth court shall assist the
12 minor in preparing the petition required for the hearing
13 pursuant to [section 6] and the notice of appeal required
14 pursuant to [section 9]. The minor shall file the petition,
15 setting forth:

- 16 (a) the name of the minor;
- 17 (b) the age of the minor;
- 18 (c) the name and address of:
 - 19 (i) one of the minor's parents;
 - 20 (ii) the guardian of the minor; or
 - 21 (iii) if the parents are deceased and no guardian has
22 been appointed, any other person standing in loco parentis
23 of the minor;
- 24 (d) a statement that the minor has been fully informed
25 of the risks and consequences of her decision;

1 (e) a statement that the minor is of sound mind and is
2 sufficiently mature to consent to the abortion; and

3 (f) a statement that the minor requests appointment of
4 counsel or a guardian ad litem.

5 (2) The petition must be signed by the minor.

6 NEW SECTION. Section 6. Hearing on petition. A hearing
7 on the petition must be held in accordance with [section 8]
8 as soon as possible within 5 days of the filing of the
9 petition. The minor is not required to pay a filing fee. If
10 the minor is unable to afford counsel, the court shall
11 appoint counsel for the minor. At the hearing, the court
12 shall hear evidence relating to:

13 (1) the emotional development, maturity, intellect, and
14 understanding of the minor;

15 (2) the circumstances of the relationship between the
16 minor and the parent, guardian, or person standing in loco
17 parentis to be notified under [section 2]; and

18 (3) any other matter that the court may find relevant
19 in determining whether the minor should be granted an
20 exemption from the notification requirement of [section 2].

21 NEW SECTION. Section 7. Decision by the court. (1)
22 After holding the hearing pursuant to [section 6], the court
23 shall issue its decree within 24 hours. In the decree, the
24 court shall either:

25 (a) deny the petition for exemption from the

1 notification requirement of [section 2], setting forth the
2 grounds on which the petition is denied; or

3 (b) grant the petition for exemption, if the court
4 finds that:

5 (i) the maturity of the minor has been established by
6 clear and convincing evidence; and

7 (ii) it would be in the best interests of the minor to
8 grant the petition for exemption.

9 (2) In the event the petition for exemption is granted,
10 the court shall issue a written order that must be provided
11 immediately to the minor or her guardian ad litem, attorney,
12 or other individual designated by the court to receive the
13 order.

14 (3) If the court fails to issue its decree within 24
15 hours after holding the hearing required in [section 6], the
16 minor's petition is considered granted.

17 NEW SECTION. **Section 8.** Confidentiality of
18 proceedings. (1) All hearings held on a petition under
19 [sections 5 through 9] are confidential and must be held in
20 closed court without admittance of any person other than the
21 minor, her counsel, or her guardian ad litem.

22 (2) All papers and records pertaining to the petition
23 must be kept as a permanent, sealed record of the court and
24 withheld from public inspection.

25 NEW SECTION. **Section 9.** Appeal of decision -- notice.

1 An appeal from an order issued under the provisions of
2 [section 7] may be taken to the supreme court by the minor.
3 The minor is not required to pay a filing fee for the
4 appeal. The record on appeal must be completed and the
5 appeal perfected within 5 days from the filing of the notice
6 of appeal. Because time may be of the essence regarding the
7 performance of the abortion, the supreme court shall provide
8 for expedited appellate review of cases appealed under this
9 section.

10 NEW SECTION. **Section 10.** Violation. A person convicted
11 of performing an abortion in violation of [section 2 or 3]
12 shall be fined an amount not to exceed \$500 or be imprisoned
13 in the county jail for a term not to exceed 6 months, or
14 both.

15 **Section 11.** Section 41-1-405, MCA, is amended to read:

16 **"41-1-405. Emergencies and special situations.** (1) Any
17 health professional may render or attempt to render
18 emergency service or first aid, medical, surgical, dental,
19 or psychiatric treatment, without compensation, to any
20 injured person or any person regardless of age who is in
21 need of immediate health care when, in good faith, the
22 professional believes that the giving of aid is the only
23 alternative to probable death or serious physical or mental
24 damage.

25 (2) Any health professional may render nonemergency

1 services to minors for conditions which will endanger the
2 health or life of the minor if services would be delayed by
3 obtaining consent from spouse, parent, parents, or legal
4 guardian.

5 (3) No consent shall be required of any minor who does
6 not possess the mental capacity or who has a physical
7 disability which renders him incapable of giving his consent
8 and who has no known relatives or legal guardians, if a
9 physician determines the health service should be given.

10 (4) Self-consent of minors shall not apply to
11 sterilization or abortion, except as provided in [sections 1
12 through 10]."

13 NEW SECTION. Section 12. Repealer. Section 50-20-107,
14 MCA, is repealed.

15 NEW SECTION. Section 13. Codification instruction.
16 [Sections 1 through 10] are intended to be codified as an
17 integral part of Title 50, chapter 20, and the provisions of
18 Title 50, chapter 20, apply to [sections 1 through 10].

19 NEW SECTION. Section 14. Severability. If a part of
20 [this act] is invalid, all valid parts that are severable
21 from the invalid part remain in effect. If a part of [this
22 act] is invalid in one or more of its applications, the part
23 remains in effect in all valid applications that are
24 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0404, 2nd Reading Copy.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act requiring parental notification before a physician may perform an abortion upon a minor; providing procedures for a counseling or judicial exemption from notification requirements; providing a misdemeanor offense for violation of notification requirements; amending section 41-1-405, MCA; and repealing section 50-20-107, MCA."

ASSUMPTIONS:

Department of Family Services:

1. DFS would be financially responsible to pay for counseling for all minors (not just DFS clients) who request it prior to an abortion.
2. The costs are estimated at 1,200 possible clients per year at a cost of \$280 per client.
3. As DFS currently does not have funding for this purpose, it could only reimburse for the counseling if specific funding were provided. It would pay for counseling up to the amount authorized.
4. Federal funding would not be available through DFS for these services; therefore, the cost would be 100% general fund.

Judiciary:

5. The effect of court appointed counsel in each county would locally impact in varying amounts because of the number of petition hearings due to population differences.
6. Because this bill requires the youth court judge to have a hearing within 5 days of filing the petition, a regular jury trial may need to be stopped and resumed. This would have a local funding impact.
7. A filing fee is not required but costs are involved with any type of petition. Clerk of court costs will have a local funding impact.
8. Courts do not keep statistics on this type of activity, so an estimate cannot be made of the number of petitions that may be filed in each youth court.

FISCAL IMPACT:

Department of Family Service

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Contracted Services	0	336,000	336,000	0	336,000	336,000
<u>Funding:</u>						
General Fund	0	336,000	336,000	0	336,000	336,000
Impact to General Fund			(336,000)			(336,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Unknown costs for court-appointed counsel, mandatory five-day hearings, and clerk of court costs.

by Rod Sundsted
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

2/26/91
 BETTY BRUSKI, PRIMARY SPONSOR DATE

SENATE BILL NO. 404

INTRODUCED BY BRUSKI, BARNETT, REA, PIPINICH, BURNETT,
NATHE, TVEIT, HARDING, KENNEDY, DEVLIN, GAGE, KOEHNKE,
GROSFIELD, SWIFT, PINSONEAULT, CRIPPEN, WALLIN, KELLER,
ELLIS, ELLISON, PETERSON, SPRING, GILBERT, J. RICE,
MESSMORE, T. NELSON, TUNBY, FOSTER, MERCER, KASTEN,
PECK, GALVIN, WHALEN, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PARENTAL
NOTIFICATION BEFORE A PHYSICIAN MAY PERFORM AN ABORTION UPON
A MINOR; PROVIDING PROCEDURES FOR A COUNSELING OR JUDICIAL
EXEMPTION FROM NOTIFICATION REQUIREMENTS; PROVIDING A
MISDEMEANOR OFFENSE FOR VIOLATION OF NOTIFICATION
REQUIREMENTS; AMENDING SECTION 41-1-405, MCA; AND REPEALING
SECTION 50-20-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Definitions. As used in
[sections 1 through ~~10~~ 11], unless the context requires
otherwise, the following definitions apply:

- (1) "COUNSELOR" MEANS THE FOLLOWING:
- (A) A PSYCHIATRIST;
- (B) AN ORDAINED MEMBER OF THE CLERGY;
- (C) A PSYCHOLOGIST LICENSED UNDER 37-17-301;
- (D) A PROFESSIONAL COUNSELOR LICENSED UNDER 37-23-201;

(E) A REGISTERED PROFESSIONAL NURSE OR A CERTIFIED
NURSE PRACTITIONER LICENSED UNDER 37-8-407;

(F) A PRACTICAL NURSE LICENSED UNDER 37-8-417;

(G) A SOCIAL WORKER LICENSED UNDER 37-22-305;

(H) A PHYSICIAN ASSISTANT-CERTIFIED APPROVED UNDER
37-20-402; OR

(I) A TRAINED HEALTH CARE WORKER.

~~(1)~~ (2) "Emancipated minor" means a minor who:

- (a) is or has been married;
- (b) does not reside with a parent or guardian and supports herself from her own earnings or other independent means; or
- (c) has been granted an order of emancipation by a court.

~~(2)~~ (3) "Minor" means a person who is under 18 years of age.

~~(3)~~ (4) "Parent" means the natural or adoptive parent of a minor. The term does not include:

- (a) a person whose parental rights have been terminated by a court; or
- (b) a parent who does not have actual care, custody, and control of the minor.

NEW SECTION. **Section 2.** Minors -- parental notification requirement -- exceptions. (1) A physician may not perform an abortion upon a minor unless the physician

1 first gives 48 hours actual notice, in person or by
2 telephone, of his intent to perform the abortion to:

- 3 (a) one of the minor's parents;
4 (b) the minor's legal guardian; or
5 (c) any other person standing in loco parentis if the
6 minor's parents are deceased and no guardian has been
7 appointed.

8 (2) The provisions of subsection (1) do not apply if
9 the minor:

- 10 (a) is an emancipated minor; or
11 (B) HAS RECEIVED COUNSELING AS PROVIDED IN [SECTION
12 10]; OR

13 {b}{C} has been granted an exemption from the
14 notification requirement of subsection (1) by court order
15 pursuant to [sections 4 through 9].

16 NEW SECTION. Section 3. Constructive notice. If a
17 physician is unable, after reasonable effort, to reach the
18 person required to receive notification under [section 2],
19 the physician shall give constructive notice by certified
20 mail, return receipt requested, to the person's last-known
21 address. The time of delivery of constructive notice is
22 considered to occur at noon on the next day on which regular
23 mail delivery takes place subsequent to mailing.

24 NEW SECTION. Section 4. Exemption. A minor may be
25 granted an exemption from the notification requirement of

1 [section 2] by:

2 (1) RECEIVING COUNSELING AS PROVIDED IN [SECTION 10];

3 OR

4 (2) the youth court pursuant to the procedures set
5 forth in [sections 5 through 9].

6 NEW SECTION. Section 5. Petition for exemption from
7 parental notification requirement. (1) A minor who requests
8 an exemption under [section 4(2)] shall petition the youth
9 court for an exemption. The youth court shall assist the
10 minor in preparing the petition required for the hearing
11 pursuant to [section 6] and the notice of appeal required
12 pursuant to [section 9]. The minor shall file the petition,
13 setting forth:

- 14 (a) the name of the minor;
15 (b) the age of the minor;
16 (c) the name and address of:
17 (i) one of the minor's parents;
18 (ii) the guardian of the minor; or
19 (iii) if the parents are deceased and no guardian has
20 been appointed, any other person standing in loco parentis
21 of the minor;
22 (d) a statement that the minor has been fully informed
23 of the risks and consequences of her decision;
24 (e) a statement that the minor is of sound mind and is
25 sufficiently mature to consent to the abortion; and

1 (f) a statement that the minor requests appointment of
2 counsel or a guardian ad litem.

3 (2) The petition must be signed by the minor.

4 NEW SECTION. Section 6. Hearing on petition. A hearing
5 on the petition must be held in accordance with [section 8]
6 as soon as possible within 5 days of the filing of the
7 petition. The minor is not required to pay a filing fee. If
8 the minor is unable to afford counsel, the court shall
9 appoint counsel for the minor. At the hearing, the court
10 shall hear evidence relating to:

11 (1) the emotional development, maturity, intellect, and
12 understanding of the minor;

13 (2) the circumstances of the relationship between the
14 minor and the parent, guardian, or person standing in loco
15 parentis to be notified under [section 2]; and

16 (3) any other matter that the court may find relevant
17 in determining whether the minor should be granted an
18 exemption from the notification requirement of [section 2].

19 NEW SECTION. Section 7. Decision by the court. (1)
20 After holding the hearing pursuant to [section 6], the court
21 shall issue its decree within 24 hours. In the decree, the
22 court shall either:

23 (a) deny the petition for exemption from the
24 notification requirement of [section 2], setting forth the
25 grounds on which the petition is denied; or

1 (b) grant the petition for exemption, if the court
2 finds that:

3 (i) the maturity of the minor has been established by
4 clear and convincing evidence; and

5 (ii) it would be in the best interests of the minor to
6 grant the petition for exemption.

7 (2) In the event the petition for exemption is granted,
8 the court shall issue a written order that must be provided
9 immediately to the minor or her guardian ad litem, attorney,
10 or other individual designated by the court to receive the
11 order.

12 (3) If the court fails to issue its decree within 24
13 hours after holding the hearing required in [section 6], the
14 minor's petition is considered granted.

15 NEW SECTION. Section 8. Confidentiality of
16 proceedings. (1) All hearings held on a petition under
17 [sections 5 through 9] are confidential and must be held in
18 closed court without admittance of any person other than the
19 minor, her counsel, or her guardian ad litem.

20 (2) All papers and records pertaining to the petition
21 must be kept as a permanent, sealed record of the court and
22 withheld from public inspection.

23 NEW SECTION. Section 9. Appeal of decision -- notice.
24 An appeal from an order issued under the provisions of
25 [section 7] may be taken to the supreme court by the minor.

1 The minor is not required to pay a filing fee for the
 2 appeal. The record on appeal must be completed and the
 3 appeal perfected within 5 days from the filing of the notice
 4 of appeal. Because time may be of the essence regarding the
 5 performance of the abortion, the supreme court shall provide
 6 for expedited appellate review of cases appealed under this
 7 section.

8 NEW SECTION. SECTION 10. COUNSELING OF MINOR PRIOR TO
 9 ABORTION -- WAIVER OF NOTIFICATION. (1) PRIOR TO THE
 10 PERFORMANCE OF AN ABORTION UPON A MINOR, A PHYSICIAN OR
 11 COUNSELOR SHALL, UPON REQUEST OF THE MINOR, PROVIDE
 12 PREGNANCY INFORMATION AND COUNSELING IN A MANNER AND IN
 13 LANGUAGE THAT WILL BE UNDERSTOOD BY THE MINOR. THE PHYSICIAN
 14 OR COUNSELOR SHALL:

15 (A) DISCUSS THE IMPORTANCE OF INVOLVING THE MINOR'S
 16 PARENTS, GUARDIAN, OR OTHER ADULT FAMILY MEMBERS IN THE
 17 DECISIONMAKING PROCESS CONCERNING THE PREGNANCY AND WHETHER
 18 THE MINOR BELIEVES THAT INVOLVEMENT WOULD BE IN HER BEST
 19 INTERESTS;

20 (B) EXPLAIN THAT THE INFORMATION PROVIDED TO THE MINOR
 21 IS BEING GIVEN OBJECTIVELY AND IS NOT INTENDED TO COERCE OR
 22 PERSUADE THE MINOR TO CHOOSE TO HAVE AN ABORTION OR TO CARRY
 23 THE PREGNANCY TO TERM;

24 (C) EXPLAIN THAT THE MINOR MAY WITHDRAW A DECISION TO
 25 HAVE AN ABORTION AT ANY TIME BEFORE THE ABORTION IS

1 PERFORMED OR MAY RECONSIDER A DECISION NOT TO HAVE AN
 2 ABORTION AT ANY TIME PRIOR TO VIABILITY OF THE FETUS OR IF
 3 AN ABORTION IS NECESSARY TO PRESERVE HER LIFE OR HEALTH;

4 (D) EXPLAIN TO THE MINOR THE ALTERNATIVE CHOICES
 5 AVAILABLE FOR MANAGING THE PREGNANCY, INCLUDING:

6 (I) CARRYING THE PREGNANCY TO TERM AND KEEPING THE
 7 CHILD;

8 (II) CARRYING THE PREGNANCY TO TERM AND PLACING THE
 9 CHILD FOR ADOPTION OR WITH A RELATIVE OR OBTAINING VOLUNTARY
 10 POSTER CARE FOR THE CHILD; OR

11 (III) HAVING AN ABORTION;

12 (E) EXPLAIN THAT PUBLIC AND PRIVATE AGENCIES ARE
 13 AVAILABLE TO ASSIST THE MINOR WITH THE ALTERNATIVE SHE
 14 CHOOSES AND THAT A LIST OF THESE AGENCIES AND THE SERVICES
 15 AVAILABLE FROM EACH WILL BE PROVIDED UPON REQUEST;

16 (F) EXPLAIN THAT PUBLIC AND PRIVATE AGENCIES ARE
 17 AVAILABLE TO PROVIDE BIRTH CONTROL INFORMATION AND THAT A
 18 LIST OF THESE AGENCIES AND THE SERVICES AVAILABLE FROM EACH
 19 WILL BE PROVIDED UPON REQUEST; AND

20 (G) PROVIDE ADEQUATE OPPORTUNITY FOR THE MINOR TO ASK
 21 ANY QUESTIONS CONCERNING THE PREGNANCY, ABORTION, CHILD
 22 CARE, AND ADOPTION, ALONG WITH INFORMATION THE MINOR SEEKS
 23 OR, IF THE PHYSICIAN OR COUNSELOR CANNOT PROVIDE THE
 24 INFORMATION, INDICATE WHERE THE MINOR CAN RECEIVE THE
 25 INFORMATION.

1 (2) THE PHYSICIAN OR COUNSELOR PROVIDING THE
 2 INFORMATION AND COUNSELING SHALL SIGN AND DATE A FORM
 3 INDICATING THAT THE REQUIREMENTS OF SUBSECTION (1) WERE
 4 COMPLIED WITH AND SHALL INCLUDE HIS BUSINESS ADDRESS AND
 5 TELEPHONE NUMBER. A COPY OF THE SIGNED FORM MUST BE PLACED
 6 IN THE MINOR'S MEDICAL RECORD. THE MEDICAL RECORD MUST BE
 7 MAINTAINED AS PROVIDED BY LAW.

8 (3) THE WRITTEN FORM CONTAINING THE INFORMATION AND
 9 STATEMENTS PROVIDED IN THIS SECTION AND SIGNED BY THE MINOR
 10 WILL BE PRESUMED TO BE EVIDENCE OF COMPLIANCE WITH THE
 11 REQUIREMENTS OF THIS SECTION.

12 (4) THE COUNSELOR MUST BE SELECTED BY THE MINOR. THE
 13 PHYSICIAN SELECTED TO PERFORM THE ABORTION MAY REFUSE TO
 14 ACCEPT A PARTICULAR COUNSELOR OR THE SIGNED FORM OF THE
 15 COUNSELOR AND MAY RECOMMEND ANOTHER COUNSELOR.

16 (5) THE REQUIREMENTS OF THIS SECTION DO NOT APPLY WHEN,
 17 IN THE BEST MEDICAL JUDGMENT OF THE PHYSICIAN AND BASED ON
 18 THE FACTS OF THE CASE BEFORE HIM, A MEDICAL EMERGENCY EXISTS
 19 THAT SO COMPLICATES THE PREGNANCY OR THE HEALTH, SAFETY, OR
 20 WELL-BEING OF THE MINOR THAT AN IMMEDIATE ABORTION IS
 21 REQUIRED. A PHYSICIAN WHO, BASED ON THE MEDICAL EMERGENCY
 22 EXCEPTION, DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS
 23 SECTION SHALL STATE IN THE MEDICAL RECORD OF THE ABORTION
 24 THE MEDICAL INDICATIONS ON WHICH HIS JUDGMENT WAS BASED.

25 (6) COMPLIANCE WITH THE PROVISIONS OF THIS SECTION

1 CONSTITUTES AN EXCEPTION TO PARENTAL NOTIFICATION AS
 2 PROVIDED IN [SECTION 2(2)(B)].

3 (7) REIMBURSEMENT FOR COUNSELING SERVICES PERFORMED
 4 UNDER THIS SECTION MUST BE MADE BY THE DEPARTMENT OF FAMILY
 5 SERVICES FROM FUNDING PROVIDED FOR THIS PURPOSE. A PHYSICIAN
 6 OR COUNSELOR MAY APPLY TO THE DEPARTMENT OF FAMILY SERVICES
 7 FOR REIMBURSEMENT.

8 NEW SECTION. Section 11. Violation. A person convicted
 9 of performing an abortion in violation of [section 2 or 3]
 10 shall be fined an amount not to exceed \$500 or be imprisoned
 11 in the county jail for a term not to exceed 6 months, or
 12 both.

13 Section 12. Section 41-1-405, MCA, is amended to read:

14 "41-1-405. Emergencies and special situations. (1) Any
 15 health professional may render or attempt to render
 16 emergency service or first aid, medical, surgical, dental,
 17 or psychiatric treatment, without compensation, to any
 18 injured person or any person regardless of age who is in
 19 need of immediate health care when, in good faith, the
 20 professional believes that the giving of aid is the only
 21 alternative to probable death or serious physical or mental
 22 damage.

23 (2) Any health professional may render nonemergency
 24 services to minors for conditions which will endanger the
 25 health or life of the minor if services would be delayed by

1 obtaining consent from spouse, parent, parents, or legal
2 guardian.

3 (3) No consent shall be required of any minor who does
4 not possess the mental capacity or who has a physical
5 disability which renders him incapable of giving his consent
6 and who has no known relatives or legal guardians, if a
7 physician determines the health service should be given.

8 (4) Self-consent of minors shall not apply to
9 sterilization or abortion, except as provided in [sections 1
10 through 11]."

11 NEW SECTION. Section 13. Repealer. Section 50-20-107,
12 MCA, is repealed.

13 NEW SECTION. Section 14. Codification instruction.
14 [Sections 1 through 11] are intended to be codified as an
15 integral part of Title 50, chapter 20, and the provisions of
16 Title 50, chapter 20, apply to [sections 1 through 11].

17 NEW SECTION. Section 15. Severability. IF a part of
18 [this act] is invalid, all valid parts that are severable
19 from the invalid part remain in effect. If a part of [this
20 act] is invalid in one or more of its applications, the part
21 remains in effect in all valid applications that are
22 severable from the invalid applications.

-End-