

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER: 5.040

IN RE:

PARENTAL NOTICE OF
ABORTION ACT CASES

WHEREAS, the Parental Notice of Abortion Act (hereinafter "Act"), Florida Statute 390.01114, provides that a termination of a pregnancy may not be performed or induced upon a minor unless the physician performing or inducing the termination of pregnancy has given at least 48 hours actual notice to one parent or the legal guardian of the pregnant minor of his/her intention to perform or induce the termination of pregnancy; and

WHEREAS, the Act further provides for judicial waiver of notice to the parents or legal guardian; and

WHEREAS, the Court is required to give these proceedings precedence over other pending matters to the extent necessary to ensure that the Court reaches a decision within three (3) business days after a petition is filed; and

WHEREAS, it is necessary for the prompt and efficient administration of justice to update the procedures for handling parental notice of abortion act cases to ensure that proceedings under this Act are handled in an expeditious manner; and

WHEREAS, pursuant to the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215(b)(2) and Florida Statute 43.26, it is therefore

ORDERED that:

1. All petitions seeking a judicial waiver of the notice requirements of Florida Statute 390.01114 will be filed in the Juvenile Dependency Division.
2. Immediately upon filing, the Clerk of Court will assign the petition to the appropriate dependency judge based on the location in which the case was filed. The clerk will immediately contact the judge presiding in the division to which the petition is assigned by telephoning the judicial assistant. If the judicial assistant or assigned judge

cannot be immediately contacted, the clerk will notify the duty judge.

3. If the petitioner is not represented by counsel and has requested counsel in the petition, the assigned judge's judicial assistant will contact the next attorney on the registry of attorneys approved in the Chief Judge Registry who has agreed to hear parental notice of abortion act cases. If the attorney is not available to assist the petitioner, the next attorney on the registry shall be contacted until an attorney is located to represent the petitioner.

If the petitioner is not represented by counsel and has not requested counsel in the petition, the judge should immediately conduct a hearing to advise the petitioner that she has a right to court-appointed counsel at no cost to her, and after inquiry, appoint counsel if requested by the petitioner or as the circumstances require.

4. Proceedings arising out of these petitions will be given precedence over other pending matters and will be heard in a closed court immediately, on the same day the petition is filed, if possible. If a hearing cannot be held immediately, the clerk will coordinate a hearing time with the assigned judge and provide notice of the hearing to the petitioner pursuant to Rule 8.805(d)(5), Florida Rule of Juvenile Procedure. The Court must rule and issue written findings of fact and conclusions of law within three (3) business days from the time the petition is filed, unless the three (3) business day limitation is extended at the request of the petitioner. If the court fails to rule within the three (3) business day period and an extension has not been requested, the petitioner may immediately petition for a hearing to the Chief Judge. The Chief Judge will ensure a hearing is held within 48 hours after the receipt of the minor's petition and that an order is entered within 24 hours after said hearing.
5. The judge's office shall immediately contact the court reporting department so that a court reporter can be assigned for the hearing. An expedited transcript must be produced by the court reporter as soon as possible after the hearing and immediately delivered to the court for inclusion with the court's written findings.
6. As provided by Florida Statute 390.01116 and Florida Rule of Juvenile Procedure 8.835(a), any information, including the petition, documents, transcripts, recordings of cases and any other information that could be used to identify a minor who has petitioned the court for a judicial waiver of parental notice of termination of pregnancy is confidential and exempt from public disclosure. As provided by Rule 8.835(b), Florida Rule of Juvenile Procedure, the court file shall be sealed unless otherwise ordered by the court. Judges are encouraged to hold such hearings at a place and time that

will provide the maximum privacy to the minor, ensure that unauthorized persons are not in the courtroom or hearing room and cannot see or hear the proceedings, and recognize the sensitive nature of these proceedings.

7. Attached to this order are the approved forms and orders for use in judicial waiver of parental notice of termination of pregnancy cases. The forms shall be provided by the clerk at no cost to the minor.
 - a. Form 8.987—Petition for Judicial Waiver of Parental Notification of Termination of Pregnancy
 - b. Form 8.988—Sworn Statement of True Name and Pseudonym
 - c. Form 8.989—Advisory Notice to Minor
 - d. Form 8.990—Final Order Granting Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy
 - e. Form 8.991—Final Order Dismissing Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy
 - f. Form 8.992—Minor's Petition to Chief Judge to Require a Hearing on her Petition for Judicial Waiver of Notice
 - g. Form 9.900(f)—Notice of Appeal and Advisory Notice to the Minor

DONE AND ORDERED in Chambers, at Key West, Monroe County, Florida, this 25 day of January, 2012.



David J. Audlin, Jr.
Chief Judge

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

Pseudonym or initials of minor

**PETITION FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF TERMINATION OF
PREGNANCY**

I certify that the following information is true and correct:

1. The pseudonym or initials of the minor (is/are) _____, and the minor has filed a Sworn Statement of True Name and Pseudonym with the clerk.

2. The minor is _____ years old.

3. The minor is pregnant and notice has not been waived.

4. The minor desires to terminate her pregnancy without notice to a parent or legal guardian for one or more of the following reason(s):

[Check all that apply]

___ a. The minor is sufficiently mature to decide whether to terminate her pregnancy, for the following reasons:

___ b. The minor is a victim of child abuse or sexual abuse inflicted by one of both of her parents or a guardian.

___ c. Notification of a parent or guardian is not in the best interest of the minor for the following reason(s):

5. The minor requests that the Court enter an order authorizing her consent to the performance or inducement of a termination of her pregnancy without notification of a parent or legal guardian.

6. The minor requests the appointment of an attorney to represent her in this matter: (check one)

_____yes
_____no

7. The minor elects the following method or methods for receiving notices of hearings or other court actions in this case:

_____Through a third party, whose name is _____
and whose address and phone number for purposes of notice are _____.

_____The minor will contact the office of the Clerk of Court at the following phone number _____

I understand by signing this form that I am swearing to or affirming the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines, imprisonment or both.

Signature: _____

Date: _____

(You may sign a name other than your true name, such as Jane Doe, or other pseudonym under which your petition is being filed.)

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

Pseudonym or initials of minor

SWORN STATEMENT OF TRUE NAME AND PSEUDONYM

NOTICE TO THE CLERK OF COURT: A CERTIFIED COPY OF THIS DECLARATION WITH THE CASE NUMBER NOTED ON IT SHALL BE GIVEN TO THE MINOR AFTER SHE SIGNS IT.

THE ORIGINAL SHALL IMMEDIATELY BE PLACED IN A SEALED ENVELOPE WHICH SHALL BE FILED UNDER SEAL AND KEPT UNDER SEAL AT ALL TIMES.

1. My true name is _____, and my
(print your name)

address is _____
(print your address)

2. My date of birth is _____.

3. I have filed a Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy under the name or initials _____ on _____
(date)

I understand that by signing this form, I am swearing to or affirming the truthfulness of the information herein and that the punishment for knowingly making a false statement includes fines, imprisonment or both.

Dated: _____

Signature: _____

(You must sign your true name)

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

Pseudonym or initials of minor

ADVISORY NOTICE TO MINOR

YOU ARE NOTIFIED as follows:

YOUR CASE NUMBER APPEARS AT THE TOP OF THIS FORM. KEEP IT IN A SAFE PLACE. YOU CAN NOT GET THE INFORMATION FROM THE CLERK WITHOUT THE CASE NUMBER.

YOU HAVE BEEN GIVEN A COPY OF THE SWORN STATEMENT YOU SIGNED WITH YOUR TRUE NAME. KEEP IT IN A SAFE PLACE. YOU MAY NEED TO SHOW IT AND THE FINAL JUDGMENT IN YOUR CASE TO YOUR DOCTOR BEFORE TERMINATING YOUR PREGNANCY.

All information in your case is confidential. No papers will be sent to your home, and you will be contacted by this court only through the method you elected in the petition. Your name will not be on your court papers.

If you would like an attorney to help you with your case, the court will appoint one for you at no cost to you. Your attorney will receive notices about your case so he or she can prepare for and attend hearings with you. You may also name someone else you trust to receive notices for you. You can also contact the clerk of court yourself to check on your case.

You have a right to a hearing and a decision on your case within three (3) business days of filing your petition unless you or your attorney waives this right or asks for an extension of time. If this time limit is not met, you have the right to petition to the Chief Judge of the circuit, who must ensure that a hearing is held within 48 hours.

If the court dismisses your petition, you have the right to appeal. You will be given information regarding how to proceed with an appeal, and if you would like an attorney to help you with an appeal, you may request that the court appoint one.

I certify that I have given a copy of this advisory form to the minor.

Dated: _____

Clerk of the Court
Monroe County Courthouse
_____, Florida

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

_____/_____
(pseudonym or initials of minor)

**FINAL ORDER GRANTING PETITION FOR JUDICIAL WAIVER OF PARENTAL NOTICE OF
TERMINATION OF PREGANANCY**

THIS CAUSE having come before the court on a petition for judicial waiver of parental notice of termination of pregnancy and the court being otherwise advised in the premises, finds the following:

____ The minor has proven by clear and convincing evidence that she is sufficiently mature to decide whether to terminate her pregnancy, for the following reasons:

The court has considered the following factors in reaching this decision that the minor is sufficiently mature to decide whether to terminate her pregnancy and makes the following findings:

The minor's age is _____

The minor's overall intelligence indicates _____

The minor's emotional development and stability indicates _____

The minor's credibility and demeanor as a witness indicates _____

The minor's ability to accept responsibility is demonstrated by _____

The minor's ability to assess both the immediate and long-range consequences of the minor's choice is demonstrated by _____

The minor's ability to understand and explain the medical risks of terminating her pregnancy and to apply that understanding to her decision is indicated by _____

Whether there may be any undue influence by another on the minor's decision to have an abortion. _____

____ The minor has proven by a preponderance of the evidence that she is a victim of child abuse or sexual abuse inflicted by one or both of her parents or guardian, for the following reason(s):

The court, having made a finding under this section, will report the abuse as required by section 39.201, Florida Statutes.

____ The minor has proven by clear and convincing evidence that notification of a parent or guardian is not in the best interest of the minor, for the following reason(s):

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The Petition for judicial waiver of parental notice of termination of pregnancy is GRANTED.
2. The minor may consent to the performance or inducement of a termination of pregnancy without notice to a parent or guardian.
3. The clerk shall keep and maintain a confidential record of these proceedings as provided in section 390.0116, Florida Statutes, and shall seal the record.

DONE AND ORDERED in the Circuit Court in and for Monroe County, Florida on this ____ day of _____, _____.

Circuit Court Judge

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

_____/_____
(pseudonym or initials of minor)

**FINAL ORDER DISMISSING PETITION FOR JUDICIAL WAIVER OF
PARENTAL NOTICE OF TERMINATION OF PREGANANCY**

THIS CAUSE having come before the court on a petition for judicial waiver of parental notice of termination of pregnancy and the court being otherwise advised in the premises, finds the following:

The minor has not proved by sufficient evidence any of the criteria that would permit a judicial waiver of the parental notification requirements of section 390.01114(3), Florida Statutes for the following reasons: _____

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The petition for judicial waiver of parental notification of termination of pregnancy is DISMISSED.
2. The clerk shall keep and maintain a confidential record of these proceedings as provided by section 390.01116, Florida Statutes and shall seal the record.
3. The clerk shall immediately provide Form 9.900(f) Notice of Appeal of an Order Dismissing a Petition for Judicial Waiver of Parental Notice of Termination of Pregnancy and Advisory Notice to the minor or petitioner if other than the minor.

DONE AND ORDERED in the Circuit Court in and for Monroe County, Florida on this ____ day of _____, _____.

Circuit Court Judge

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

_____/_____
(pseudonym or initials of minor)

**MINOR'S PETITION TO CHIEF JUDGE TO REQUIRE A HEARING ON HER
PETITION FOR JUDICIAL WAIVER OF NOTICE**

I _____ hereby petition the chief judge of this judicial circuit for an order directing the judge to whom this case is assigned to hold a hearing within 48 hours after receipt of this petition by the chief judge, and requiring the court to enter an order on my petition for judicial waiver of notice within 24 hours after hearing.

In support of this petition I say:

My petition for judicial waiver of notice was filed with the Clerk on _____ (date).

The third business day from the date of filing my petition was _____ (date).

I have not requested an extension of time for the hearing to be conducted.

No hearing has been conducted by the court within the time required by statute.

WHEREFORE, I ask the chief judge to enter an order requiring the hearing on the petition for judicial waiver to be conducted within the next 48 hours, and requiring the court to enter its order within 24 hours after that hearing.

Signature: _____

Date: _____

Time: _____

(to be stamped by the Clerk)

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

_____/
(pseudonym or initials of minor)

Appellant.

NOTICE IS GIVEN that _____ (your pseudonym or initials), appeals to the 3rd District Court of Appeals, the order of this court rendered _____ (enter the date that the order was filed on the clerk's docket.) [See rule 9.020(h)]. The nature of the order is a final order dismissing a petition for judicial waiver of termination of pregnancy.

Signature:

(As signed on your petition for
judicial waiver if you are
representing yourself.)

OR

Attorney for _____
(pseudonym or initials of appellant)

Address and phone number of attorney

Florida Bar No. _____

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

IN THE INTEREST OF:

Case No.:

_____/_____
(pseudonym or initials of minor)

Appellant.

ADVISORY NOTICE TO THE MINOR

YOU ARE NOTIFIED AS FOLLOWS:

1. You are entitled to appeal the order dismissing your petition for a judicial waiver of parental notice of termination of pregnancy. You do not have to pay a filing fee for the appeal.
2. If you wish to appeal, you must file a notice of appeal. A form for the notice of appeal (Florida Rules of Appellate Procedure 9.900(f)) will be provided to you with the order dismissing your petition. You must fill in every blank on the form with the information requested. If you need assistance with the form, the clerk of the circuit court will help you complete it.
3. You must file the notice of appeal with the clerk of the circuit court where your case was heard. The notice of appeal must be filed within thirty (30) days of the date when the judge's written order dismissing your petition was filed with the clerk of the circuit court. If you do not file your notice of appeal within this time period, your appeal will not be heard.
4. The notice of appeal is the only document you need to file in connection with your appeal. You may file a motion to seek permission to file a brief in your case, or to request oral argument of your case. These motions or any other motions or documents you file concerning your appeal, except the notice of appeal, must be mailed or delivered to the appellate court for filing. The appellate court that will be reviewing your case is:

The 3rd District Court of Appeal
2001 S.W.117th Avenue
Miami, FL 33175

5. You may request a lawyer to represent you in your appeal. You must tell the judge who heard your petition for a judicial waiver of parental notification of termination of pregnancy that you wish to have a lawyer appointed.