

10-17-1997

Parental Consent Requirement For Abortion On Unemancipated Minor. Medical Emergency Exception. Court Authorization Alternative.

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BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
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1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
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MAR 31 1998


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March 26, 1998

#760

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPONENT (98130)

FROM:


DEIRDRE AVENT
Elections Analyst

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE CONSTITUTIONAL AMENDMENT filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: PARENTAL CONSENT REQUIREMENT FOR ABORTION ON
UNEMANCIPATED MINOR. MEDICAL EMERGENCY EXCEPTION.
COURT AUTHORIZATION ALTERNATIVE.

SUMMARY DATE: October 17, 1997

PROPONENT: Robin Fuller

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DIVISIONS:

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October 17, 1997

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (97165)

FROM:

Deirdre Avent
DEIRDRE AVENT
ELECTIONS ANALYST

SUBJECT: INITIATIVE #760

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OCT 2 1997

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**PARENTAL CONSENT REQUIREMENT FOR ABORTION ON
UNEMANCIPATED MINOR. MEDICAL EMERGENCY EXCEPTION.
COURT AUTHORIZATION ALTERNATIVE.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Robin Fuller
Family Protection Committee
2648 E. Workman Avenue, #455
West Covina, CA 91791
(626) 915-8472

#760

PARENTAL CONSENT REQUIREMENT FOR ABORTION ON UNEMANCIPATED MINOR.
MEDICAL EMERGENCY EXCEPTION. COURT AUTHORIZATION ALTERNATIVE.
INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 693,230
California Constitution, Article II, Section 8(b)

2. Official Summary Date:..... Friday, 10/17/97
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Friday, 10/17/97

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a))Monday, 03/16/98

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b)).....Thursday, 03/26/98

(If the Proponent files the petition with the county on a date prior to 03/16/98,
the county has eight working days from the filing of the petition to determine
the total number of signatures affixed to the petition and to transmit the total to
the Secretary of State) (EC §9030(b)).

 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties (EC §9030(c))..... Saturday, 04/04/98*

 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e))..... Friday, 05/15/98

* Date varies based on receipt of county certification.

INITIATIVE #760

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 04/04/98, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 762,553 or less than 658,569 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 658,569 and 762,553 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a))..... Monday, 05/25/98*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c)).....Monday, 07/06/98

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 05/25/98, the last day is no later than the thirtieth working day after the county's receipt of notification) (EC §9031(b)(c)).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033) Friday, 07/10/98*

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE November 3, 1998 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 25, 1998). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by April 17, 1998. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 1998.

* Date varies based on receipt of county certification.



DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555
Facsimile: (916) 323-2137
(916) 324-5490

October 17, 1997

FILED
In the office of the Secretary of State
of the State of California

OCT 17 1997

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

Bill JONES, Secretary of State

By 
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: PARENTAL CONSENT REQUIREMENT FOR ABORTION ON
UNEMANCIPATED MINOR. MEDICAL EMERGENCY EXCEPTION.
COURT AUTHORIZATION ALTERNATIVE. INITIATIVE
CONSTITUTIONAL AMENDMENT.
File No: SA 97 RF 0029

Dear Mr. Jones:


Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the names and addresses of the proponents are as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General


ROSEMARY R. CALDERON
Initiative Coordinator

RRC/fec
Enclosures

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IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

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Date: October 17, 1997
File No.: SA97RF0029

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

PARENTAL CONSENT REQUIREMENT FOR ABORTION ON UNEMANCIPATED MINOR.
MEDICAL EMERGENCY EXCEPTION. COURT AUTHORIZATION ALTERNATIVE.
INITIATIVE CONSTITUTIONAL AMENDMENT. Adds provision to Constitution to require consent of parent or guardian for abortion on an unemancipated minor. Exception for medical emergency which, without immediate abortion, is life threatening or creates serious risk of substantial and irreversible major bodily function impairment. Alternatively, allows unemancipated minor to seek court authorization for abortion without parental consent or medical emergency. Court must determine minor is sufficiently mature and informed to consent, or, absent mature and informed consent, that abortion is nevertheless in best interest of minor.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The net fiscal impact of this measure on expenditures for the Medi-Cal Program and the courts is unknown, but probably not significant in the context of total expenditures for these programs.



Family Protection Committee

SA 97 RF 0029
Amdt. #2-NS

2648 E. Workman Avenue. #455, West Covina, CA 91791

626-915-8472

I.D. #971346

September 11, 1997

RECEIVED
SEP 11 1997

Honorable Dan Lungren
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

RE: California Parental Rights and Child Protection Initiative

Dear Attorney General Lungren:

The proposed California Parental Rights and Child Protection Initiative, which we submitted for title and summary on September 3, 1997, will require an additional technical amendment:

In Section 3, we have proposed to amend Article 1 of the California Constitution by adding Section 31, but since Section 31 has already been added by Proposition 209, it will be necessary to amend by adding Section 32.

Included here is the California Parental Rights and Child Protection Initiative, with all technical amendments to date incorporated.

Respectfully submitted,



Robin Fuller

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CALIFORNIA PARENTAL RIGHTS AND CHILD PROTECTION INITIATIVE

SECTION 1. Title.

This initiative shall be known and may be cited as the California Parental Rights and Child Protection Initiative.

SECTION 2. Findings and Declarations:

The people of California find and declare that:

(a) The state of California has a special and compelling interest in, and responsibility for, protecting the health and well-being of children, insuring that parents are informed of potential health-related risks to their children, and promoting the parent-child relationship.

(b) In 1987, the California Legislature enacted a law which provided for parents to be informed and to grant consent before a pregnant minor, as young as 13 or 14, could obtain an abortion. In the rare instances in which parents do not have the best interests of their daughters in mind, this measure provides the option of judicial involvement.

(c) In 1996, the California Supreme Court found this law to be appropriate and constitutional, however, in 1997, after a change in membership, the California Supreme Court in a 4-3 decision declared this same statute unconstitutional.

(d) Some 30 other states, including Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Virginia and Wyoming have enacted parental notice or consent laws.

(e) The United States Supreme Court has upheld the constitutionality of numerous parental consent laws virtually identical to the provisions of this constitutional amendment. This constitutional amendment is the least intrusive alternative available and is narrowly drawn as to not impinge upon any constitutionally protected area any more than is necessary to accomplish the state's legitimate goals.

SECTION 3.

Article 1 of the California Constitution is amended by adding Section 32 to read as follows:



Article 1, Section 32. (a) Notwithstanding Article 1, Section 1, or any other provision of this Constitution, except in a medical emergency requiring immediate medical action, no abortion shall be performed upon an unemancipated minor unless the physician has first obtained the informed written consent of the minor and the written consent of one of her parents or legal guardian, or has received an authorization from the court as referenced in subdivision (c). For purposes of this section “medical emergency” means a condition that, on the basis of the physician’s good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

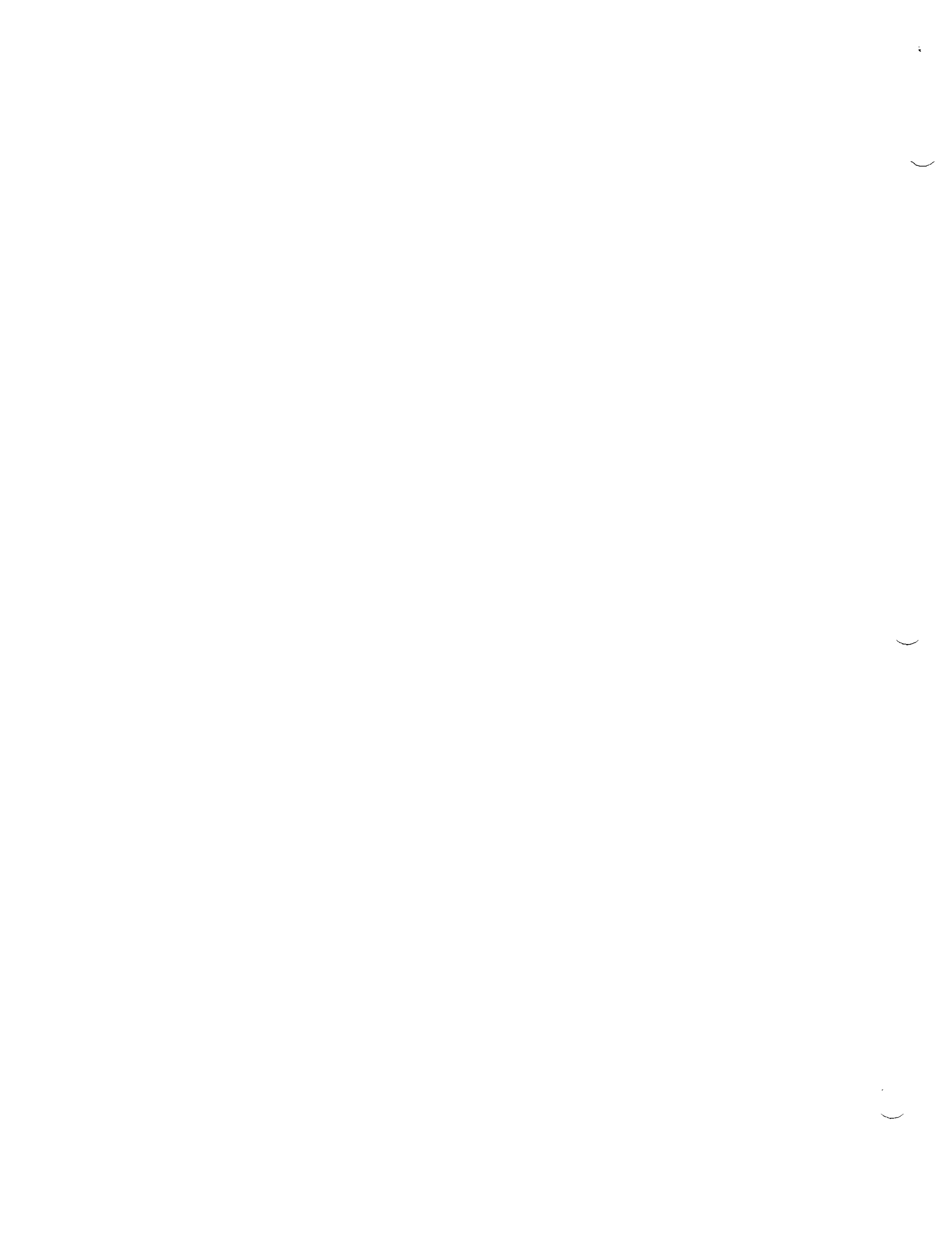
(b) If one or both of an unemancipated, pregnant minor’s parents or her guardian refuse to consent to the performance of an abortion, or if the minor elects not to seek the consent of one or both of her parents or her guardian, an unemancipated pregnant minor may file a petition with the juvenile court. If, pursuant to this subdivision, a minor seeks a petition, the court shall assist the minor or person designated by the minor in preparing the petition and notices required pursuant to this section. The petition shall set forth with specificity the minor’s reasons for the request. The court shall ensure that the minor’s identity is confidential. The minor may file the petition using only her initials or a pseudonym. An unemancipated pregnant minor may participate in the proceedings in juvenile court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The hearing shall be set within three days of the filing of the petition. A notice shall be given to the minor of the date, time, and place of the hearing on the petition.

(c) At the hearing on a minor’s petition brought pursuant to subdivision (b) for the authorization of an abortion, the court shall consider all evidence duly presented, and order either of the following:

(1) If the court finds that the minor is sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, and that the minor has on that basis, consented thereto, the court shall grant the petition.

(2) If the court finds that the minor is not sufficiently mature and sufficiently informed to make the decision on her own regarding an abortion, the court shall then consider whether performance of the abortion would be in the best interest of the minor. In the event that the court finds that the performance of the abortion would be in the minor’s best interest, the court shall grant the petition ordering the performance of the abortion without consent of, or notice to, the parents or guardians. In the event that the court finds that the performance of the abortion is not in the best interest of the minor, the court shall deny the petition.

Judgment shall be entered within one court day of submission of the matter.



(d) The minor may appeal the judgment of the juvenile court by filing a written notice of appeal at any time after the entry of the judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed. These procedures shall require that the notice of the date, time, and place of hearing, which shall be set within five court days of the filing of notice of appeal, shall be mailed to the parties by the clerk of the court. The appellate court shall ensure that the minor's identity is confidential. The minor may file the petition using only her initials or a pseudonym.

Judgment on appeal shall be entered within one court day of submission of the matter.

(e) No fees or costs incurred in connection with the procedures required by this section shall be chargeable to the minor or her parents, or either of them, or to her legal guardian.

(f) Nothing in this Section shall be construed to grant, secure, or deny any right relating to abortion or the funding thereof.

