

2018 -- S 2791

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Senator Elizabeth A. Crowley

Date Introduced: April 05, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by  
2 adding thereto the following section:

3 **11-9-4.1. Contributing to delinquency -- Causing, aiding in or assisting in an**  
4 **abortion prohibited.**

5 Any person except for a minor who knowingly or willfully encourages, aids, or  
6 contributes to the transportation of a child under the age of eighteen (18) years across a state line  
7 with the intent that the minor child obtain an abortion without the consent required pursuant to §  
8 23-4.7-6 shall, in addition to any civil penalties imposed thereunder, be guilty of a felony and,  
9 upon conviction, be subject to imprisonment for not more than five (5) years, a fine of not more  
10 than five thousand dollars (\$5,000), or both.

11 SECTION 2. Section 23-4.7-6 of the General Laws in Chapter 23-4.7 entitled "Informed  
12 Consent for Abortion" is hereby amended to read as follows:

13 **23-4.7-6. ~~Minors -- Parental consent -- Judicial proceedings.~~Minors -- Parental**  
14 **consent -- Judicial proceedings -- Causing, aiding, or assisting a minor to obtain an abortion**  
15 **prohibited.**

16 (a) Except in the case of a minor who has been found by a court of competent jurisdiction  
17 to be emancipated, if a pregnant woman is less than eighteen (18) years of age and has not  
18 married, an abortion shall not be performed upon her unless both the consent of the pregnant  
19 woman and that of at least one of her parents is obtained, except as provided in this section. In

1 deciding whether to grant consent, a pregnant woman's parents shall consider only their child's  
2 best interests. If both parents have died or are otherwise unavailable to the physician within a  
3 reasonable time and in a reasonable manner, consent of the pregnant woman's legal guardian or  
4 one of her guardians shall be sufficient. If a pregnant woman less than eighteen (18) years of age  
5 has not married and if neither of her parents or guardians agree to consent to the performance of  
6 an abortion, or if she elects not to seek the consent of either of her parents or guardians, a judge of  
7 the family court shall, upon petition, or motion, and after an appropriate hearing, authorize a  
8 physician to perform the abortion, if the judge determines that the pregnant woman is mature and  
9 capable of giving informed consent to the proposed abortion or if the judge determines that she is  
10 not mature, but that the performance of an abortion upon her would be in her best interests. A  
11 pregnant woman less than eighteen (18) years of age may participate in proceedings in the family  
12 court on her own behalf, and she shall be represented in her proceeding by a guardian ad litem.  
13 Proceedings in the family court under this section shall be confidential and shall be given such  
14 precedence over other pending matters that the court may reach a decision promptly and without  
15 delay so as to serve the best interests of the pregnant woman. A judge of the family court who  
16 conducts proceedings under this section shall make in writing specific factual findings and legal  
17 conclusions supporting his or her decision and shall order a record of the evidence to be  
18 maintained including his or her own findings and conclusions.

19 (b) No person shall intentionally cause, aid, or assist a minor to obtain an abortion  
20 without the consent or consents required pursuant to subsection (a) of this section.

21 (c) Any person who knowingly transports a minor across a state line with the intent that  
22 such minor obtain an abortion without the consent or consents required by subsection (a) of this  
23 section shall, in addition to the penalties specified in subsection (d) of this section, be guilty of a  
24 felony pursuant to § 11-9-4.1.

25 (d) Penalties. Any person except for a minor who violates subsection (b) of this section  
26 shall be civilly liable to the minor and to the person or persons required to give the consent or  
27 consents under subsection (a) of this section. A court may award damages to the person or  
28 persons adversely affected by a violation of subsection (b) of this section including compensation  
29 for any emotional injury which shall be compensable without the need for personal presence at  
30 the act or event causing the injury, and the court may further award attorneys' fees, litigation  
31 costs, and punitive damages. Provided, however, any adult who engages in or consents to another  
32 person engaging in a sex act with a minor which results in the minor's pregnancy shall not be  
33 awarded damages under this section.

34 (e) It shall not be a defense to a civil claim or prosecution brought under subsections (b)

1 and (c) of this section respectively, or § 11-9-4.1, that the abortion was performed or induced  
2 pursuant to consent to the abortion given in a manner that is otherwise lawful in the state or place  
3 where the abortion was performed or induced.

4 (f) It shall be an affirmative defense to any civil claim or criminal prosecution based on a  
5 violation of subsections (b) and (c) of this section, respectively, that the defendant reasonably  
6 believed, based on information the defendant obtained directly from a parent of the minor, that  
7 before the minor obtained the abortion the consent or consents required under subsection (a) of  
8 this section had been obtained or that the defendant was presented with documentation showing  
9 with a reasonable degree of certainty that a judge of the family court authorized a physician to  
10 perform the abortion as provided under subsection (a) of this section.

11 (g) An unemancipated minor shall not be deemed to have the capacity to consent to any  
12 action in violation of sections (b) and (c) of this section.

13 (h) Any minor upon whom an abortion was performed or attempted shall not be  
14 criminally prosecuted under § 11-9-4.1 or be subject to civil liability for a violation of this  
15 chapter. A parent or guardian of a minor upon whom an abortion was performed or attempted in  
16 violation of this chapter shall not be subject to civil liability or prosecuted for a violation of  
17 subsections (b) and (c) of this section, respectively, unless the parent or guardian engages in a sex  
18 act with the minor which results in the minor's pregnancy, in which case, any consent given by  
19 such parent or guardian in satisfaction of the requirements of subsection (a) of this section shall  
20 be considered invalid and said parent or guardian may be sued or prosecuted for a violation of  
21 subsections (b) and (c) of this section, respectively.

22 (g) A court may enjoin conduct that would be in violation of subsections (b) and (c) of  
23 this section upon petition by the attorney general, or any person adversely affected or who  
24 reasonably may be adversely affected by such conduct, upon a showing that such conduct:

25 (1) Is reasonably anticipated to occur in the future; or

26 (2) Has occurred in the past, whether with the same minor individual or others, and that it  
27 is not unreasonable to expect that such conduct will be repeated.

28 SECTION 3. Chapter 23-4.7 of the General Laws entitled "Informed Consent for  
29 Abortion" is hereby amended by adding thereto the following sections:

30 **23-4.7-9. Privacy of a woman upon whom an abortion is performed or attempted.**

31 In every proceeding or action brought under this chapter, the anonymity of any woman  
32 upon whom an abortion was performed or attempted in violation of this chapter shall be  
33 preserved from public disclosure unless consent to such disclosure is granted by the woman. The  
34 court, upon motion or sua sponte, shall issue orders to the parties, witnesses, and counsel, and

1 shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing  
2 rooms, to the extent necessary to safeguard the woman's identity from public disclosure. In the  
3 absence of written consent of the woman upon whom an abortion was performed or attempted in  
4 violation of this chapter, anyone who brings an action under this chapter shall do so under a  
5 pseudonym.

6 **23-4.7-10. Construction.**

7 (a) Nothing in this chapter shall be construed as creating or recognizing a right to  
8 abortion.

9 (b) It is not the intention of this chapter to make lawful an abortion that is currently  
10 unlawful.

11 (c) The adoption of this chapter does not repeal or modify, by implication or otherwise,  
12 any provision of state law not expressly amended by this chapter.

13 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- CHILDREN

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1           This act would make the practice of aiding a minor in the process of getting an abortion a  
2 civil and criminal offense.

3           This act would take effect upon passage.

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