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COURTS Minors: Provide for Parental Notification of Abortion

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Minors: Provide for Parental Notification of Abortion

CODE SECTIONS:	O.C.G.A. §§ 15-11-112 to -118 (amended)
BILL NUMBER:	SB 621
ACT NUMBER:	1229
SUMMARY:	The Act amends a 1987 law enjoined and found unconstitutional by a federal district court. The 1988 Act amends the 1987 law by deleting the provisions requiring an adult to accompany a minor seeking an abortion to the abortion facility, by providing alternative methods of verification of parental notification, and by changing certain provisions including those relating to confidentiality, jurisdiction, and the standard for granting judicial waiver.
EFFECTIVE DATE:	July 1, 1988

History

Upon passage of the 1987 Parental Notification Act,[1] the Planned Parenthood Association of the Atlanta Area, Inc., and Planned Parenthood of East Central Georgia, Inc. filed a class action suit against Governor Joe Frank Harris, seeking to enjoin enforcement of the new statute.[2] The plaintiffs challenged the 1987 Act on grounds that the procedures for verifying that a minor's parents had been notified were unconstitutionally burdensome upon a minor's right to privacy,[3] and that the mechanism for judicial bypass provided under the 1987 Act unconstitutionally failed "to guarantee the minor an expeditious and anonymous procedure to seek waiver of the notification requirement."[4] Planned Parenthood Association v. Harris (*Planned Parenthood I*) was filed in June, 1987; temporary and preliminary restraining orders issued in June and July prevented the 1987

1. 1987 Ga. Laws 1013. For a history of the 1987 Parental Notification Act, see *Selected 1987 Georgia Legislation, Minors: Provide for Parental Notification of Abortion*, 3 GA. ST. U.L. REV. 379 (1987). For a summary of the 1987 Act and the rules promulgated by the Supreme Court of Georgia and the Georgia Court of Appeals pursuant to that Act, see Planned Parenthood Ass'n v. Harris, 670 F. Supp. 971, 974—76 (N.D. Ga. 1987) (*Planned Parenthood I*).
2. *Planned Parenthood I*, 670 F. Supp. at 974.
3. *Id.* at 981—82.
4. *Id.* at 982.

Act from taking effect. The district court handed down its final order on September 8, 1987, enjoining the statute as unconstitutional.[5]

The verification procedures of the 1987 Act, particularly the adult escort provisions, were unconstitutionally burdensome[6] and failed "to provide adequate alternative means of verification."[7] Furthermore, the juve-

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5. The *Planned Parenthood I* court heard testimony regarding general facts about pregnant minors, as well as particular testimony regarding the experiences of pregnant teenagers seeking abortions in Georgia, the Act's anticipated repercussions on minors and physicians, and the ability of Georgia's juvenile court system to accommodate the bypass procedures provided for in the 1987 Act. *Id.* at 976. The testimony indicated that fewer than five percent of abortions performed in Georgia were outside of the metropolitan areas of Atlanta, Augusta, Columbus, and Savannah; that slightly more than half of Georgia's minors lived outside of those areas; and that one quarter of the minors obtaining abortions in Georgia traveled 50 miles or more to do so. *Id.* at 976—77.

6. *Id.* at 994. Georgia's 1987 parental notification statute was unique in that it required, as proof of parental notification, that a parent, guardian, or other adult accompany the minor to the abortion facility. In analyzing the practical effects of such an escort requirement in order to determine whether the statute was unduly burdensome, the court held the accompanying adult provision to be unconstitutionally burdensome because "many minors face significant long distance travel to obtain an abortion," which entails increased costs, frequent delays which could result in increased risks to health, and an increased risk that confidentiality would be breached. *Id.* at 986.

The court reiterated the requirement that a state must draft its laws narrowly to achieve its objective of promoting parental consultation and concluded that Georgia had failed to meet its burden of proving such narrow drafting: "Given the number of constitutionally valid verification measures employed by other states including telephone notice and mail notice, this court can say without hesitation that the attendance requirement . . . is not narrowly drawn and does unduly burden the minor's rights." *Id.* at 987. The court also reasoned that the accompanying adult requirement might allow the parents to exercise a de facto veto over the minor's abortion decision by simply refusing to acknowledge notification. *Id.* at 988. If the parents refused to accompany the minor to the abortion facility and the juvenile and appellate courts subsequently denied the minor a waiver, the minor could be barred from receiving an abortion in spite of the fact that her parents actually had been notified. *Id.*

7. *Id.* at 994. The *Planned Parenthood I* court, applying strict scrutiny, found that the 1987 Act was not narrowly drafted to achieve important state interests and noted that one of those interests is providing the opportunity for parental consultation with a minor seeking an abortion. *Id.* at 983, 986. However, the court found that "a mature minor or an immature minor in whose best interest it is to have an abortion has a constitutional right to have an abortion without notifying her parents." *Id.* The state argued that it was not obligated to provide a judicial waiver of notification provision in the statute. However, the United States Supreme Court has ruled that such a provision is necessary for a parental consent statute to pass constitutional muster in Bellotti v. Baird (*Bellotti II*), 443 U.S. 622, *reh'g denied*, 444 U.S. 887 (1979), but has never specifically applied that rule to a parental notification statute. *See* H.L. v. Matheson, 450 U.S. 398 (1981). The *Planned Parenthood I* court noted that every federal district court to rule on a parental notification act since City of Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (1983), has interpreted that decision's language to require that a judicial waiver alternative be provided in parental notification statutes and concluded that "Georgia must provide a judicial alternative to parental notification." *Planned Parenthood I*, 670 F. Supp. at 985.

nile court rules requiring the minor's signature and social security number on certain documents failed to ensure adequate anonymity by not requiring that the juvenile court records be sealed.[8] Thus, although

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Judicial alternatives in parental consent statutes must assure both confidentiality and quick resolution. *Bellotti II*, 443 U.S. at 644. Because the district court determined that Georgia's Parental Notification Act required a judicial waiver alternative, the court applied parental consent standards to the Act. *Planned Parenthood I*, 670 F. Supp. at 988—89.

Regarding expedition, the *Planned Parenthood I* court examined the case of Planned Parenthood v. Ashcroft, 462 U.S. 476 (1983), in which the Supreme Court upheld Missouri's parental consent statute. In *Ashcroft*, the Supreme Court found that the judicial alternative provisions were constitutionally adequate despite the fact that the state supreme court had promulgated no rules with regard to the expedition of appeals. *Ashcroft*, 462 U.S. at 491 n.16. The Court ruled that a sufficient constitutional "framework" existed for expediting appeals, and noted that there was no reason to believe that Missouri would not do so in compliance with prior cases. *Id.* The *Ashcroft* footnote prompted the state in *Planned Parenthood I* to argue that Georgia's provisions were a fortiori constitutional in that they were far more detailed and stringent than the Supreme Court had required Missouri's provisions to be in order to pass constitutional muster. *Planned Parenthood I*, 670 F. Supp. at 989. The court rejected this argument, reasoning that it was required to examine the actual provisions of the 1987 Act and the rules, whereas the Supreme Court had addressed only the concept of such rules. *Id.* at 989—90.

After *Ashcroft*, the Missouri Supreme Court adopted a rule which simply stated that "appellate review of cases appealed under [the consent statute] shall be expedited." *Id.* (citing Mo. R. Civ. P. 84.02). This simple formula was subsequently upheld by the Eighth Circuit Court of Appeals in T.L.J. v. Webster, 792 F.2d 734 (8th Cir. 1986). However, other district court decisions have found a three-week delay period unconstitutionally burdensome. *Planned Parenthood I*, 670 F. Supp. at 989—90. The 1987 Georgia Act would allow approximately a three-week period between the time a minor filed a petition for judicial waiver and the Georgia Court of Appeals ruled on a motion for rehearing. *Id.* at 989. The *Planned Parenthood I* court opted not to follow the other district courts:

> Where the Supreme Court has upheld the Missouri statute which on its face portends of a longer delay than the Georgia statute and where the Eighth Circuit has specifically upheld a state supreme court rule supplementing that statute which provides only that such appeals "shall be expedited," this court cannot say that the timetable of the Georgia Act fails to guarantee constitutionally adequate expedition of the judicial alternative.

Id. at 990.

8. *Id.* at 994. The *Planned Parenthood I* court noted that the Supreme Court had ruled the Missouri statute in *Ashcroft* permissible because it allowed the minor to proceed in court using her initials only, when in fact the statute called for the petition to be signed by the minor or her next friend. *Id.* at 991 n.25. The *Planned Parenthood I* court was concerned about requiring the minor's signature, but seemed more troubled by the fact that the Georgia statute allowed the use of the minor's social security number, which could be far more revealing than her initials. *Id.* at 991. Further, the court observed that the 1987 Act did not call for the record of a minor's waiver petition to be sealed until after notice of appeal had been filed. *Id.* The court concluded, "Although admirably including several provisions to aid in maintaining the minor's anonymity, the Act and rules do not go far enough." *Id.* at 991—92.

the 1987 Parental Notification Act failed on two grounds, the district court virtually created a scheme for bringing the statute up to constitutional standards.[9]

Additionally, the *Planned Parenthood I* court stayed further proceedings in the case because a Supreme Court decision in a similar case, *Zbaraz v. Hartigan*,[10] seemed imminent.[11] The state nevertheless appealed the decision to the Eleventh Circuit Court of Appeals. The appeal was still pending when the General Assembly undertook to amend the Act in the 1988 session.[12] Because the leadership of the General Assembly had indicated that no action would be taken until the appeal was settled, there was some surprise when Senator Tom Allgood, majority leader of the Senate and sponsor of the 1987 Act, announced that he wanted to conform the law to the district court's decision.[13] Because the court provided a guide to correct the unconstitutional provisions of the 1987 Act, it seemed that only a few amendments would be necessary to bring it into compliance.[14] With few exceptions,[15] the legislators wanted merely to "fix" what the district court had found wrong, rather than debate the entire parental notification issue.[16] SB 621 was therefore introduced on February 8, 1988, halfway through the forty-day session, and passed on the session's final evening.[17]

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9. *Id.* at 985—93. Regarding verification, the court ruled that the accompanying adult provision of the 1987 Act was unduly burdensome; however, the court indicated that other means of verification would be acceptable, pointing to "the number of constitutionally valid verification measures employed by other states including telephone notice and mail notice." *Id.* at 987. Regarding anonymity, the court said, "[T]hese defects can be easily remedied by amending New Juvenile Court Rule 23 to provide that *all* juvenile court records be sealed." *Id.* at 992.

10. 108 S. Ct. 479 (1987) (Supreme Court affirmed without opinion the decision of the court of appeals by an equally divided vote).

11. *Planned Parenthood I*, 670 F. Supp. at 994.

12. Planned Parenthood Ass'n v. Harris, 691 F. Supp. 1419 (N.D. Ga. 1988), *aff'd*, No. 87-8596 (11th Cir. Sept. 22, 1988) (*Planned Parenthood II*).

13. Interview with Ruth Claiborne, lobbyist for Planned Parenthood of Atlanta, in Atlanta (Sept. 3, 1988) [hereinafter Claiborne Interview].

14. *See supra* note 9.

15. The only senator to speak out against SB 621 in committee was Senator Eugene P. Walker. Claiborne Interview, *supra* note 13. As one of only two senators to vote against the bill on the floor, Senator Walker stated, "Children have constitutional rights to privacy, too. I really object when, in the guise of helping kids, we rob them of their constitutional rights to privacy." Interview with Senator Eugene P. Walker, Senate District No. 43, in Atlanta (Sept. 23, 1988).

16. Claiborne Interview, *supra* note 13; telephone interview with Representative Charles Thomas, House District No. 69, Chairman of the House Judiciary Committee (Sept. 23, 1988) [hereinafter Thomas Interview]. Committee chairs in both houses tightly restricted the debate solely to the technical issues which would make the bill constitutional. *Id.*

17. Final Composite Status Sheet, Mar. 7, 1988.

SB 621

Despite what seemed to be a straightforward task as outlined by the district court, SB 621 underwent many alterations during the legislative process, reflecting some disagreement about the best way to correct the flaws identified by the district court. The bill went through seven versions before final approval.[18] In spite of its tumultuous journey through the General Assembly, the Act received strong support in both houses. The House passed the Act by a margin of 142-16. Only two senators opposed the bill.

As introduced, SB 621 left intact the 1987 Act's accompanying adult provision. To correct the verification problems identified by the district court, several alternatives were added, making the accompanying adult provision only one of several methods.[19] One new alternative provision allowed the minor to furnish a notarized statement, signed by the parent or guardian, attesting to notification.[20] A second alternative provided that the physician or the physician's agent could give at least twenty-four hours' actual notice, in person or by telephone, to a parent or guardian of the impending abortion and the name and address of the abortion facility. If the person notified unequivocally expressed that he or she did not desire to consult with the minor, the abortion could proceed immediately.[21] A third alternative allowed the physician or agent to give written notice by regular mail. This notice was deemed delivered to the parent or guardian seventy-two hours after mailing,[22] unless otherwise established to be sooner. The abortion could proceed twenty-four hours after delivery of the written notice, unless the parent or guardian unequivocally expressed that he or she did not wish to consult with the minor, in which case the abortion could proceed immediately.[23]

To correct the anonymity problems identified by the *Planned Parenthood I* court,[24] SB 621 amended the 1987 Act to include a provision that all juvenile court records be sealed to preserve anonymity. It

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18. The bill was read for the first time in the Senate on February 8, 1988, then referred to the Senate Special Judiciary Committee. That committee adopted a substitute, which it sent back to the full Senate. The Senate amended the committee substitute before passing the bill. Upon receiving the bill from the Senate, the House referred the bill to its Judiciary Committee. That committee adopted a substitute, which it sent to the full House. The House then passed a floor substitute and floor amendment to the bill. When both the House and the Senate insisted on their respective positions, a Conference Committee was appointed which adopted a version substantially similar to the House version. The Conference Committee version was then passed by both houses of the General Assembly.

19. SB 621, as introduced, 1988 Ga. Gen. Assem.

20. *Id.*

21. *Id.*

22. The time of mailing was to be recorded by the physician in the minor's file. *Id.*

23. *Id.*

24. *Planned Parenthood I*, 670 F. Supp. at 991—92.

further specified that the juvenile court records be cross-indexed to allow retrieval only upon appropriate court order.[25]

SB 621 also addressed several of the plaintiffs' concerns that the court had not found unconstitutional. The plaintiffs had argued that the statute made no provision for a situation in which the juvenile court failed to act on a minor's petition for waiver of the notification requirement and thus failed to guarantee an expeditious resolution.[26] SB 621 amended the 1987 Act by providing that if a hearing was not held within three days of filing the waiver petition, the petition would be deemed granted, allowing the minor to proceed with the abortion.[27] Although SB 621, as introduced, provided that if the juvenile court failed to render a decision within twenty-four hours of the hearing's conclusion, the petition would be deemed denied for the purpose of allowing the minor to expedite her appeal, the final version provided that the petition would be deemed granted in this instance.[28]

The *Planned Parenthood I* plaintiffs had also challenged the 1987 Act for failure to provide "prompt access to court personnel to assist the minor in filing the petition."[29] While the court noted that such a provision would be "helpful to both the state and the minor, [it] is not constitutionally necessary."[30] SB 621 amended O.C.G.A. section 15-11-111(b) to provide for assistance from the juvenile court.[31] This provision was ultimately enacted.[32]

The plaintiffs further argued that the 1987 Act imposed an unconstitutionally high standard for granting a minor judicial waiver of parental notification in that the 1987 Act required the juvenile court to find the minor sufficiently informed to make the abortion decision "on her own" instead of, as in *Roe v. Wade*,[33] "in consultation with [her physician]."[34] Although the court found this provision subject to a constitutional inter-

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25. SB 621, as introduced, 1988 Ga. Gen. Assem.

26. *Planned Parenthood I*, 670 F. Supp. at 990. The court "presume[d] that the judges of the Georgia juvenile court system will discharge their duties in a timely manner." *Id.* Further, the court assumed that if the juvenile court failed to act, the petition would be deemed denied, allowing the minor to appeal to the Georgia Court of Appeals. *Id.* The court did note, however, that a Pennsylvania statute was struck down because it did not provide for the juvenile court's failure to act. *Id. See* American College of Obstetricians and Gynecologists v. Thornburgh, 656 F. Supp. 879, 888—89 (E.D. Pa. 1987).

27. O.C.G.A. § 15-11-113 (Supp. 1988).

28. *Compare* SB 621, as introduced, 1988 Ga. Gen. Assem. *with* O.C.G.A. § 15-11-114(d) (Supp. 1988).

29. *Planned Parenthood I*, 670 F. Supp. at 993.

30. *Id.*

31. SB 621, as introduced, 1988 Ga. Gen. Assem.

32. O.C.G.A § 15-11-112(b) (Supp. 1988).

33. 410 U.S. 113 (1973).

34. *Planned Parenthood I*, 670 F. Supp. at 993 (emphasis omitted).

pretation,[35] SB 621 clarified this issue by amending O.C.G.A. § 15-11-114(c)(1) to reflect the plaintiffs' concerns. With minor changes by the House Committee on Judiciary, that section was enacted requiring the minor to be "well enough informed to make the abortion decision in consultation with her physician, independently of the wishes of such minor's parent, guardian, or person standing in loco parentis."[36]

The Senate Special Judiciary Committee made major revisions to SB 621. The committee produced a substitute bill which deleted the accompanying adult provision.[37] It removed the requirement that a statement verifying notification be notarized.[38] To conform the Act with the deleted accompanying adult provision, it also amended O.C.G.A. § 15-11-117 to absolve from liability any physician or other health care personnel who relied in good faith upon the representations of the minor or any other person providing the information required by the Act; this amendment was enacted.[39] The committee also increased by two days the time a juvenile court judge was allowed to render a decision on a minor's petition for waiver of the notification requirement and provided that if the juvenile court judge did not render a timely decision, the petition would be deemed granted, rather than denied.[40] Lastly, the committee amended Code section 15-11-112(b) to extend jurisdiction for the judicial bypass to *any* juvenile court in the state instead of the more restrictive provision in the 1987 Act providing for jurisdiction in the minor's home county or the county in which the abortion was to be performed.[41] Planned Parenthood had argued that the limited jurisdictional provisions of the 1987 Act compromised the anonymity of the minor and subjected her to unconstitutional delays.[42] The court, although indicating concern, did not find the problem to be fatal.[43] This final provision evoked little controversy, and was ultimately enacted.[44]

The Senate amended SB 621 on the floor to change the date the Act

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35. *Id.* The district court held that the 1987 Act's standard for granting the petition was subject to two reasonable interpretations, one of which found the statute to say that the minor's petition should be granted if the minor was sufficiently informed to make the decision without parental consultation. *Id.* at 993. Applying the principle that, when a statute is subject to more than one reasonable interpretation, it should be construed in favor of constitutionality, the court adopted this reading. *Id.*

36. O.C.G.A. § 15-11-114(c)(1) (Supp. 1988).

37. SB 621 (SCS), 1988 Ga. Gen. Assem.

38. *Id.*

39. O.C.G.A. § 15-11-112(b) (Supp. 1988).

40. SB 621 (SCS), 1988 Ga. Gen. Assem.

41. *Id.*

42. *Planned Parenthood I*, 670 F. Supp. at 990 (N.D. Ga. 1987).

43. *Id.* The court stated "that the evidence on the current record, though indicating some burden on the minor, is insufficient to conclude that the Georgia Juvenile Court System suffers from systemic defects significant enough to unduly burden minor's [sic] rights by denying minors an expeditious waiver hearing." *Id.* (citations omitted).

44. O.C.G.A. § 15-11-112(b) (Supp. 1988).

was to take effect to July 1, 1988.[45] As introduced, the Act was to take effect upon "approval by the Governor or upon its becoming law without such approval."[46] A floor amendment changed the effective date to July 1, 1988. This provision was amended at the request of Atlanta attorney Margie Pitts Hames, one of plaintiffs' counsel in *Planned Parenthood I*, to allow plaintiffs time to examine the new provisions of the act.[47]

The House Judiciary Committee produced a substitute bill introducing many changes which were incorporated into the final version. The most significant change was to reduce the number of hours for written notice of the pending abortion to the parents to be deemed delivered from seventy-two hours to forty-eight hours.[48] The committee also reduced the number of hours in which the juvenile court judge was required to render a decision on a minor's petition for waiver of parental notification from seventy-two hours to twenty-four hours.[49] Anonymity provisions were strengthened as well.[50] The House committee also added the phrase "or person standing in loco parentis" to the persons eligible to receive notice when a minor seeks an abortion.[51]

The House amended SB 621 on the floor to replace all the accompanying adult provisions which the Senate Special Judiciary Committee had removed from the original bill.[52] This replacement was made so that the state would not have to pay prevailing plaintiffs' attorneys' fees on appeal to the Eleventh Circuit Court of Appeals.[53]

The House also added a second floor amendment which provided that "any person who intentionally encourages another to provide false information pursuant to this article shall be guilty of a misdemeanor."[54] Some

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45. SB 621 (SCSFA), 1988 Ga. Gen. Assem.

46. SB 621, as introduced, 1988 Ga. Gen. Assem.

47. Interview with Margie Pitts Hames in Atlanta (Nov. 8, 1988). *See also* Palmer, *Bill to Amend Teen Abortion Law Approved*, Atlanta J., Feb. 23, 1988, at 3B, col. 1.

48. O.C.G.A. § 15-11-112(a)(1)(C) (Supp. 1988).

49. O.C.G.A. § 15-11-114(d) (Supp. 1988).

50. O.C.G.A. § 15-11-114(b), (e) (Supp. 1988). The House Judiciary Committee inserted language to provide for "complete anonymity" and further provided that "[i]n no event shall the name, address, birth date, or social security number of such minor be disclosed." O.C.G.A. § 15-11-114(b) (Supp. 1988). Similar changes were made to O.C.G.A. § 15-11-114(e) regarding the expedited appeal of a juvenile court's decision to deny a petition for waiver. The full House passed these provisions without further amendment. SB 621 (HFSFA), 1988 Ga. Gen. Assem. The Conference Committee also included these provisions, and thus they were enacted. O.C.G.A. § 15-11-114(b), (e) (Supp. 1988).

51. O.C.G.A. § 15-11-112(a)(1) (Supp. 1988).

52. SB 621 (HFSFA), 1988 Ga. Gen. Assem.

53. Thomas Interview, *supra* note 16; Claiborne Interview, *supra* note 13. If the General Assembly removed the language which the district court found unconstitutional, "the Eleventh Circuit might say the state threw in the towel on this and admitted defeat; the offshoot of this would be that the state would get socked with attorneys' fees." Thomas Interview, *supra* note 16.

54. O.C.G.A. § 15-11-118 (Supp. 1988); SB 621 (HFSFA), 1988 Ga. Gen. Assem.

outside the General Assembly felt this amendment was a warning to abortion providers not to encourage minors to evade the new law's requirements.[55] Others insist the amendment was simply in keeping with the spirit of the whole bill, which was aimed not at punishing minors seeking abortion but rather those who perform or encourage abortions for minors.[56]

In the Conference Committee, the accompanying adult provision again was deleted, and the bill finally passed both houses without that language.[57] The bill was signed by the Governor on March 31, 1988.[58] However, on May 27, 1988, the *Planned Parenthood I* plaintiffs again filed a class action lawsuit in federal district court challenging the amended Act, and again were successful in having the Act enjoined.[59] The Eleventh Circuit Court of Appeals remanded *Planned Parenthood I* to the district court, and the two cases were consolidated.[60] After a hearing on June 29, 1988, the court temporarily enjoined the amended Act, and on July 11, 1988, a preliminary injunction for the plaintiffs was granted.[61]

Plaintiffs challenged the amended Act on a number of grounds. They successfully challenged the failure of the statute to recognize "more expeditious forms of written notice [under § 15-11-112(a)(1)(C)] such as Express Mail, Federal Express, telegrams or private messenger services."[62] Because the statute provided only for written notice by regular mail, the court found the failure to "provide an expeditious written notice alternative . . . unduly burdensome to the exercise of the minor's rights."[63]

The *Planned Parenthood II* court also found several Uniform Juvenile Court Rules unconstitutional. The amended Act deemed the waiver petition granted when the juvenile court failed to act within the specified period of time,[64] whereas the *Planned Parenthood I* court presumed the petition would be deemed denied.[65] If the petition was deemed denied, the minor could immediately appeal. However, if the petition was deemed granted, the Act did not provide for documentation to show that the juvenile court had failed to act, thereby possibly subjecting the abortion provider to criminal liability if the abortion was performed in violation of the

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55. Claiborne Interview, *supra* note 13.

56. Telephone interview with Representative Tommy Smith, House District No. 152 (Dec. 9, 1988).

57. *See* O.C.G.A. § 15-11-112 (Supp. 1988).

58. O'Shea, *Bill Signed That Requires Parental Notice Before Abortions*, Atlanta J., Apr. 1, 1988, at A15, col 3.

59. Planned Parenthood Ass'n v. Harris, 691 F. Supp. 1419 (N.D. Ga. 1988), *aff'd*, No. 87-8596 (11th Cir. Sept. 22, 1988) (*Planned Parenthood II*).

60. *Id.* at 1421.

61. *Id.* at 1430.

62. *Id.* at 1428.

63. *Id.*

64. O.C.G.A. §§ 15-11-113, -114(d) (Supp. 1988) (requiring the juvenile court to hold the hearing within three days and to rule within twenty-four hours of the hearing).

65. *Planned Parenthood I*, 670 F. Supp. at 990. *See supra* note 26.

Act.[66] The court found that abortion providers may be unwilling to perform abortions under such circumstances, thereby unconstitutionally burdening minors whose petitions were not dealt with in a timely fashion.[67] The court felt that the solution lay in amending the Uniform Juvenile Court Rules.[68]

The *Planned Parenthood II* court also was troubled by rules requiring screening of all waiver petitions by intake officers, requiring appointment of a guardian ad litem of minors seeking waiver, and the lack of a rule providing for the permanent sealing of the juvenile court records.[69] The order again provides a guide for the General Assembly to correct the statute. However, since the court's decision, two circuit courts of appeals have handed down two quite different opinions on similar statutes. In *Hodgson v. Minnesota*,[70] the Eighth Circuit Court of Appeals, sitting en banc, found a Minnesota parental notification statute consitutional. Four days later, the Sixth Circuit, in *Akron Center for Reproductive Health v. Slaby*,[71] found a similar parental notification statute unconstitutional. Because the Court was divided in *Zbaraz*, and the two opinions from the Eighth and Sixth Circuits conflict, it would appear, now that the Supreme Court is at full strength, that certiorari soon will be granted in one or both of these cases.

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66. *Planned Parenthood II*, 691 F. Supp. at 1424.
67. *Id.*
68. *Id.*
69. *Id.* at 1430.
70. 853 F.2d 1452 (8th Cir. 1988).
71. 854 F.2d 852 (6th Cir. 1988).