

106TH CONGRESS  
2D SESSION

# S. 3102

To require the written consent of a parent of an unemancipated minor prior to the referral of such minor for abortion services.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 22), 2000

Mr. ASHCROFT introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To require the written consent of a parent of an unemancipated minor prior to the referral of such minor for abortion services.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Putting Parents First  
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the family plays a unique role in our cul-  
9 ture, it is the institution by which we inculcate and  
10 pass down many of our most cherished values;

1           (2) the custody, care, and nurture of the child  
2       reside first in the parents, whose primary function  
3       and freedom include preparation for obligations the  
4       State can neither supply nor hinder;

5           (3) parents have the right and duty to be in-  
6       volved in helping their minor children make impor-  
7       tant life decisions;

8           (4) whether or not to beget a child is the most  
9       fundamental decision in our culture;

10          (5) parental involvement in this crucial decision  
11       is necessary to ensure that the sanctity of human  
12       life is given appropriate consideration;

13          (6) parental inclusion will result in the protec-  
14       tion of human life; and

15          (7) Congress is granted authority in section 5  
16       of the 14th Amendment to the Constitution of the  
17       United States to enact laws that protect the right to  
18       life.

19 **SEC. 3. PARENTAL CONSENT OR JUDICIAL BYPASS RE-**  
20 **QUIRED.**

21       (a) IN GENERAL.—No individual shall knowingly per-  
22       form an abortion upon or prescribe an abortifacient to a  
23       pregnant woman under the age of 18 years unless—

1           (1) the attending physician has secured the in-  
2           formed written consent of the minor and a parent or  
3           guardian of the minor; or

4           (2) the attending physician has secured the in-  
5           formed written consent of the minor and a court  
6           order waiving the need for the consent of a parent  
7           or guardian pursuant to the judicial bypass proce-  
8           dure described in section 4.

9           (b) PENALTY.—Any person who violates subsection  
10          (a) shall be fined not more than \$25,000, or imprisoned  
11          for not more than 1 year, or both.

12          **SEC. 4. JUDICIAL BYPASS.**

13          (a) IN GENERAL.—A court of competent jurisdiction  
14          shall issue an order waiving the requirement for the in-  
15          formed written consent of a parent or guardian under sec-  
16          tion 3 if the court finds by clear and convincing evidence  
17          on an individual basis that—

18                 (1) the process of obtaining the informed writ-  
19                 ten consent of such parent or guardian is not in the  
20                 best interests of the minor petitioner; or

21                 (2) the minor petitioner is an emancipated  
22                 minor.

23          (b) PROCEDURES.—

24                 (1) CONFIDENTIAL PROCEEDINGS.—A pro-  
25                 ceeding under this section shall be done under seal,

1 be confidential, and ensure the anonymity of the  
2 minor petitioner.

3 (2) FILING.—A minor or a minor’s legal rep-  
4 resentative may file a petition under this section  
5 using the initials of the minor.

6 (3) PREFERENCE.—Proceedings under this sec-  
7 tion shall—

8 (A) be given preference over other pro-  
9 ceedings;

10 (B) be expedited to the extent possible;  
11 and

12 (C) be concluded not later than 72 hours  
13 after the filing of the petition unless an exten-  
14 sion is sought by the minor petitioner.

15 (4) FINDINGS.—A court that conducts pro-  
16 ceedings under this section shall make written find-  
17 ings of fact and conclusions of law supporting its de-  
18 cision and shall maintain a confidential record of the  
19 proceedings to facilitate appellate review.

20 (5) REVIEW.—A decision under this section de-  
21 nying a request to waive the requirement for the in-  
22 formed consent of a parent or guardian under sec-  
23 tion 3 shall be eligible for expedited appellate review.

24 (c) DEFINITIONS.—In this section:

1           (1) COURT OF COMPETENT JURISDICTION.—  
2           The term “court of competent jurisdiction” means  
3           any State court eligible to hear juvenile or family  
4           law matters, except that States may designate spe-  
5           cific State courts to consider petitions for judicial  
6           bypass under this section.

7           (2) EXPEDITED APPELLATE REVIEW.—The  
8           term “expedited appellate review” means review by  
9           whatever court juvenile or family law matters are  
10          generally appealed to, except that States may des-  
11          ignate specific appellate courts to consider appeals  
12          under this section.

13 **SEC. 5. APPLICATION OF STATE LAWS.**

14          The provisions of this Act shall not be construed to  
15          preempt provisions of State law that provide greater pro-  
16          tections to parents of minors seeking abortions than the  
17          protections provided by this Act.

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