

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS**

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

**(Insert 100 word title and summary)**

**To the Honorable Secretary of State of California:**

**We the undersigned, registered, qualified voters of California, residents of the afore-described County (or City and County), on the signature page of this petition section, hereby propose an amendment to the Constitution of the State of California relating to parental notification prior to the performance of an abortion on a pregnant minor, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed amendment reads as follows:**

**SECTION 1. Title**

This amendment shall be known and may be cited as the Family Communication Act.

**SECTION 2. Declarations of Findings and Purposes**

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

(b) The People find that there exists a compelling and important State interest in protecting minors, in fostering the family structure and preserving it as the primary social unit, and in protecting the rights of parents and children. A minor faced with medical, psychological and emotional decisions related to pregnancy is better able to make fully informed decisions with serious and lasting consequences after open communications with her parents. Such communication

protects against the undue influence of adult men who seek to avoid discovery of their sexual exploitation of minors, ensures adult guidance and support by those responsible for a minor's well-being, as well as careful monitoring for post-abortion complications. Currently, a pregnant minor, as young as 13 or 14, can obtain an abortion without any notification to her parents or guardian.

(c) The United States Supreme Court has upheld the constitutionality of parental notification of a minor's intent to obtain an abortion.

### SECTION 3. Parental Notification

Section 32 of Article 1 of the California Constitution is added to read:

SEC. 32 (a) Notwithstanding Article 1, Section 1, or any other provision of this Constitution, except in a medical emergency, or when a waiver of notification has been obtained pursuant to this Section and statutes and regulations, no abortion shall be performed upon a pregnant unemancipated minor until at least forty-eight (48) hours after the physician has first provided notice to one of her parents or to her legal guardian pursuant to this Section and statutes and regulations.

(b) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this Section, nothing in this Section shall be construed to grant, secure, or deny any right relating to abortion or the funding thereof.

(c) For purposes of this Section, the following terms shall be defined to mean:

(1) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device or means with the intent to terminate the pregnancy of a female known by the attending physician to be pregnant, with knowledge that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription or means is not an abortion if done with the intent to:

- (A) save the life or preserve the health of the unborn child,
- (B) remove a dead unborn child caused by spontaneous abortion; or
- (C) remove an ectopic pregnancy.

(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor 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.

(3) "Notice" means a written notification, signed by a physician or his or her agent and addressed to a parent or guardian, informing the parent or guardian that the unemancipated minor is pregnant and that she has requested an abortion.

(4) "Parent or guardian" means either parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of a minor.

(5) "Unemancipated minor" means a female under the age of 18 years who is unmarried and is not currently serving active duty in one of the military services of the United States of America and who has not been declared emancipated pursuant to state law, or a female for whom a guardian has been appointed because of a finding of incompetency. For the purposes of this Section, pregnancy does not emancipate a female under the age of 18 years.

(d) Notwithstanding any other provision of law to the contrary and except as provided in subsection (h), an abortion shall not be performed upon a pregnant unemancipated minor until at least forty-eight (48) hours has elapsed after written notice has been delivered pursuant to subsection (e); or at least forty-eight (48) hours after written notice can be presumed to have been delivered pursuant to subsection (f); or until at least twenty-four (24) hours after a waiver of notification from a parent or guardian of the unemancipated minor as provided in subsection (g) has been received by the physician; or until the physician has received a copy of a waiver of notification from the court as provided in subsection (j) or (l) of this Section. A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or his or her agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this Section.

(e) The notice shall be delivered to the parent or guardian personally by the physician or his or her agent.

(f) In lieu of the personal delivery required in subsection (e) of this Section, notice may be made by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee, which means a postal employee may only deliver the mail to the authorized addressee. Notice can only be presumed to have

been delivered under the provisions of this subsection at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.

(g) Notice of a unemancipated minor's intent to obtain an abortion may be waived by a parent or guardian. The waiver must be in writing, addressed to the abortion facility or physician, signed by a parent or guardian, notarized, and dated.

(h) Notice shall not be required under this Section if the attending physician certifies in the unemancipated minor's medical records that the abortion is necessary due to a medical emergency as defined in subsection (c)(2) of this Section.

(i) Notice shall not be required under this Section if waived pursuant to this subsection. If the pregnant unemancipated minor elects not to permit notification of a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subsection, an unemancipated minor seeks to file a petition, the court shall assist the unemancipated minor or person designated by the unemancipated minor in preparing the petition and notices required pursuant to this Section. The petition shall set forth with specificity the unemancipated minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. An unemancipated pregnant minor shall appear personally in the proceedings in juvenile court, and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. Notice shall be given to the unemancipated minor of the date, time and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.

(j) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notification.