

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1108

Introduced by Conrad, 46.

Read first time January 22, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to abortion; to amend section 71-6903, Revised
2 Statutes Cumulative Supplement, 2012; to change a
3 standard used by a court in finding a pregnant woman
4 sufficiently mature to decide to have an abortion; and to
5 repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-6903, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 71-6903 (1) The requirements and procedures under this
4 section are available to pregnant women whether or not they are
5 residents of this state.

6 (2) If a pregnant woman elects not to obtain the consent
7 of her parents or guardians, a judge of a district court, separate
8 juvenile court, or county court sitting as a juvenile court shall,
9 upon petition or motion and after an appropriate hearing, authorize a
10 physician to perform the abortion if the court determines ~~by clear~~
11 ~~and convincing evidence~~ that the pregnant woman is ~~both~~ sufficiently
12 mature ~~and well-informed~~ to decide whether to have an abortion. If
13 the woman has completed the steps necessary to appear at the judicial
14 bypass hearing, which could include navigating the legal system,
15 navigating a transportation system, completing the requisite medical
16 counseling concerning abortion, overcoming all obstacles to securing
17 a hearing under this section, and providing the court with a coherent
18 explanation as to why she is sufficiently mature to make the decision
19 herself, she will be presumed to be sufficiently mature to give
20 informed consent for the proposed abortion unless the court is
21 presented with credible evidence indicating otherwise. If the court
22 does not make the finding specified in this subsection or subsection
23 (3) of this section, it shall dismiss the petition.

24 (3) If the court finds, ~~by clear and convincing evidence,~~
25 that there is evidence of abuse as defined in section 28-351, sexual

1 abuse as defined in section 28-367, or child abuse or neglect as
2 defined in section 28-710 of the pregnant woman by a parent or a
3 guardian or that an abortion without the consent of a parent or a
4 guardian is in the best interest of the pregnant woman, the court
5 shall issue an order authorizing the pregnant woman to consent to the
6 performance or inducement of an abortion without the consent of a
7 parent or a guardian. If the court does not make the finding
8 specified in this subsection or subsection (2) of this section, it
9 shall dismiss the petition.

10 (4) A facsimile copy of the petition or motion may be
11 transmitted directly to the court for filing. If a facsimile copy is
12 filed in lieu of the original document, the party filing the
13 facsimile copy shall retain the original document for production to
14 the court if requested to do so.

15 (5) A court shall not be required to have a facsimile
16 machine nor shall the court be required to transmit orders or other
17 material to attorneys or parties via facsimile transmission.

18 (6) The pregnant woman may commence an action for waiver
19 of the consent requirement by the filing of a petition or motion
20 personally, by mail, or by facsimile on a form provided by the State
21 Court Administrator.

22 (7) The State Court Administrator shall develop the
23 petition form and accompanying instructions on the procedure for
24 petitioning the court for a waiver of consent, including the name,
25 address, telephone number, and facsimile number of each court in the

1 state. A sufficient number of petition forms and instructions shall
2 be made available in each courthouse in such place that members of
3 the general public may obtain a form and instructions without
4 requesting such form and instructions from the clerk of the court or
5 other court personnel. The clerk of the court shall, upon request,
6 assist in completing and filing the petition for waiver of consent.

7 (8) Proceedings in court pursuant to this section shall
8 be confidential and shall ensure the anonymity of the pregnant woman.
9 The pregnant woman shall have the right to file her petition in the
10 court using a pseudonym or using solely her initials. Proceedings
11 shall be held in camera. Only the pregnant woman, the pregnant
12 woman's guardian ad litem, the pregnant woman's attorney, and a
13 person whose presence is specifically requested by the pregnant woman
14 or the pregnant woman's attorney may attend the hearing on the
15 petition. All testimony, all documents, all other evidence presented
16 to the court, the petition and any order entered, and all records of
17 any nature and kind relating to the matter shall be sealed by the
18 clerk of the court and shall not be open to any person except upon
19 order of the court for good cause shown. A separate docket for the
20 purposes of this section shall be maintained by the clerk of the
21 court and shall likewise be sealed and not opened to inspection by
22 any person except upon order of the court for good cause shown.

23 (9) A pregnant woman who is subject to this section may
24 participate in the court proceedings on her own behalf, and the court
25 may appoint a guardian ad litem for her. The court shall advise the

1 pregnant woman that she has a right to court-appointed counsel and
2 shall, upon her request, provide her with such counsel. Such counsel
3 shall receive a fee to be fixed by the court and to be paid out of
4 the treasury of the county in which the proceeding was held.

5 (10) Proceedings in court pursuant to this section shall
6 be given such precedence over other pending matters so that the court
7 may reach a decision promptly and without delay to serve the best
8 interest of the pregnant woman. In no case shall the court fail to
9 rule within seven calendar days from the time the petition is filed.
10 If the court fails to rule within the required time period, the
11 pregnant woman may file an application for a writ of mandamus with
12 the Supreme Court. If cause for a writ of mandamus exists, the writ
13 shall issue within three days.

14 (11) The court shall issue a written order which includes
15 specific factual findings and legal conclusions supporting its
16 decision which shall be provided immediately to the pregnant woman,
17 the pregnant woman's guardian ad litem, the pregnant woman's
18 attorney, and any other person designated by the pregnant woman to
19 receive the order. Further, the court shall order that a confidential
20 record of the evidence and the judge's findings and conclusions be
21 maintained. At the hearing, the court shall hear evidence relating to
22 the emotional development, maturity, intellect, and understanding of
23 the pregnant woman.

24 Sec. 2. Original section 71-6903, Revised Statutes
25 Cumulative Supplement, 2012, is repealed.