

IN THE SUPREME COURT OF TEXAS

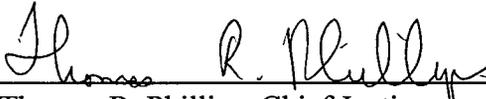
Misc. Docket No. 99- **9243**

PROMULGATION OF FORMS FOR USE IN PARENTAL NOTIFICATION PROCEEDINGS UNDER CHAPTER 33 OF THE FAMILY CODE

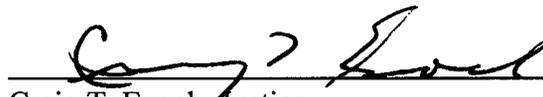
ORDERED that:

1. In compliance with the Legislature's directive, *see* Act of May 25, 1999, 76th Leg., R.S., ch. 395, §§ 2 and 6, 1999 Tex. Gen. Laws 2466 (S.B. 30), the attached forms are adopted for use in proceedings under chapter 33 of the Family Code.
2. The Clerk is directed forthwith:
 - a. to file a copy of this Order with the Secretary of State;
 - b. to mail a copy of this Order to each Member of the Legislature, to each court in which proceedings under chapter 33 may be heard, and to the clerks of such courts; and
 - c. to cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.

SIGNED AND ENTERED this 15th day of December, 1999.


Thomas R. Phillips, Chief Justice

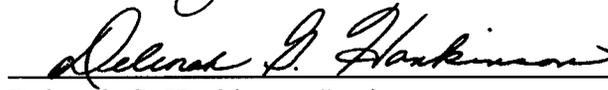

Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriett O'Neill, Justice


Alberto R. Gonzales, Justice

INSTRUCTIONS FOR APPLYING TO THE COURT FOR A WAIVER OF PARENTAL NOTIFICATION

(Form 1A)

Your situation and the law

If you are younger than 18 and have not been legally “emancipated,” you are “unemancipated,” which means that you are legally under the custody or control of your parent(s), managing conservator, or guardian. (A “managing conservator” is a parent, other adult, or agency appointed by a court to have custody or control of you.)

If you are pregnant, unemancipated, and younger than 18, you cannot get an abortion in Texas unless:

- your doctor first informs your parent(s), managing conservator, or guardian at least 48 hours before you can have an abortion,

or unless

- a judge issues an order that “waives,” or removes, the requirement that you must let your parent(s), managing conservator, or guardian know about your planned abortion.

How to get a waiver of parental notification

• Fill out the application

To get a court order waiving the requirement that you tell your parent(s), managing conservator, or guardian about your planned abortion, you or someone acting on your behalf must complete Forms 2A and 2B, *Confidential Application for Waiver of Parental Notification*. Form 2A is the “Cover Page” for the Application; it requests basic information about why you are seeking the order. Form 2B is the “Verification Page,” which requests information about you.

On the Verification Page, you will be asked to tell the court how you may be contacted quickly and confidentially. It is very important that you provide this information because the court may later need to contact you about your application. If you cannot be

contacted, your application will be denied. You may list a phone, pager, beeper, or fax number, or other way that you can be contacted. You can but need not give your own number — instead, you can ask the court to contact you through someone who is helping you or acting on your behalf. You may also list a second person who may be contacted on your behalf.

You or someone acting on your behalf must deliver the forms to the clerk in the district court, county court-at-law, county court, or probate court to be filed. The court clerk can help you complete and file the application, and can help you get a hearing on your request. However, the clerk cannot give you legal advice or counsel you about abortion.

All of the information you put on the application is confidential. You do not have to pay a fee to file this application.

• Your hearing

The court will tell you when to come to the courthouse for your “hearing.” In your hearing, you will meet with a judge to discuss your request. The court will hold your hearing within two days (not counting weekends and holidays) after you file your application.

After you file your application, the court will appoint a person to meet with you before the hearing and help the judge decide your application. The person is called a “guardian ad litem.” In your application you may ask the court to appoint someone you want to be your guardian ad litem (who can be a relative, clergy, counselor, psychiatrist or psychologist, or other adult), but the court is not required to appoint this person.

You must have a lawyer with you at your hearing. You may hire your own lawyer, or you may ask the court to appoint one to represent you for free. The person appointed to be your lawyer might also be appointed to be your guardian ad litem.

• Keeping it confidential

Your hearing will be confidential and private. The only persons allowed to be there are you, your guardian ad litem, your lawyer, court staff, and any person whom you request to be there.

You already know that your application stays confidential. So will everything from your hearing: all testimony, documents and other evidence presented to the court, and any order given by the judge. The court will keep everything sealed. No one else can inspect the evidence.

• **The court's decision**

The court must "rule" — issue a decision on your application — before 5:00 p.m. on the second day after the day you filed your application, not counting weekends and holidays.

If the court fails to rule within that time, it counts as an "OK" to you — it is an automatic waiver of the requirement that you inform your parent(s), managing conservator, or guardian about your planned abortion. If this happens, you can get a certificate from the court clerk that says that your request is "deemed granted," which means that your application was approved.

If the court *does* rule within the required time, the court issues an order that does one of the following four things:

(1) Approves your request because the court finds that you are mature enough and know enough to choose on your own to have an abortion;

(2) Approves your request because it is in your best interests to *not* notify your parent(s), managing conservator, or guardian before getting the abortion;

(3) Approves your request because notifying your parent(s), managing conservator, or guardian before getting the abortion may lead to physical, sexual, or emotional abuse of you; or

(4) Denies your request because the court does not find (1), (2) or (3).

If you claim that you have been or may be sexually abused, the court must treat your claim as a very serious matter and may be required to refer it to the

police or other authorities for investigation.

• **Appealing the court's decision**

If the court denies your request, you may ask another court to hear your case. This request is called an "appeal," and the new court will be the Court of Appeals.

To appeal the first court's decision, have your own lawyer or your court-appointed lawyer fill out Form 3A, *Notice of Appeal in Parental Notification Proceeding*. The lawyer must file it with the clerk of the court that denied your request for a waiver of parental notification.

You will *not* have to go to the Court of Appeals. Instead, the Court of Appeals will review the written record and will issue a written ruling on your appeal no later than 5:00 p.m. on the second day after the day you file the *Notice of Appeal*, not counting weekends and holidays.

The Court of Appeals will provide its ruling to you, the lawyer, your guardian ad litem, or any other person designated by you to receive the ruling.

The same guardian ad litem and lawyer who helped you with your first hearing can help with your appeal.

• **Getting the forms you need**

Forms 2A and 2B, the Cover Page and Verification Page to the *Confidential Application for Waiver of Parental Notification*, and Form 3A, *Notice of Appeal in Parental Notification Proceeding*, should all be attached to these instructions.

If these forms are not attached to these instructions, you can get them from the clerk of the district, county court-at-law, county, or probate court or Court of Appeals. These forms are also available on the Texas Judiciary Internet website at www.courts.state.tx.us.

Attention Clerk: Please Expedite

Confidential Application for Waiver of Parental Notification: Cover Page (Form 2A)

As prescribed by the Clerk of the Supreme Court of Texas pursuant to Tex. Fam. Code § 33.003(m).

(Do not complete this section. Court staff will complete this section.)

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

Important: Your Application has two parts: (1) this cover sheet (Form 2A), which asks for basic information about your application; and (2) a separate verification page (Form 2B), which asks for information about you and for you to swear to the truth of everything you say in the cover sheet and verification page. You or someone acting on your behalf must complete both of these forms. If you are completing this application for a minor, remember that "I" or "my" refers to the minor rather than to you.

1. I ask the court for an order that allows me to have an abortion without first telling my parent(s), managing conservator, or guardian before I have an abortion. I swear or affirm that (place a check mark in all the blanks for which you answer "yes"):

_____ I am pregnant.

_____ I am unmarried and younger than 18 years of age.

_____ I do not have an order from a Texas court that gives me the same legal rights and responsibilities as an adult.

2. I request this order for one of the following reasons (place a check mark beside any that apply):

_____ I am mature enough to decide to have an abortion without telling my parent(s), managing conservator, or guardian. I also know enough about abortion to make this decision.

Please continue to the next page.

Telling my parent(s), managing conservator, or guardian that I want an abortion is not in my best interest.

Telling my parent(s), managing conservator or guardian that I want an abortion may lead to physical or emotional abuse of me.

Telling my parent(s), managing conservator or guardian that I want an abortion may lead to sexual abuse of me.

3. Please check one of the following statements:

I do **not** have a lawyer. (The court will appoint one for you).

I have a lawyer, who is:

Lawyer's name: _____

Lawyer's address: _____

Lawyer's phone: _____

4. The court must appoint a "guardian ad litem" for you. A guardian ad litem meets with you before the hearing and helps the judge decide your application. Please state whether you want the court to appoint someone you know as your guardian ad litem. This person could be a relative, a member of the clergy, a counselor, a psychiatrist or psychologist, or other adult, or your lawyer. You do not have to ask the court to appoint someone you know. Keep in mind that the court may appoint the person you request, but it does not have to.

I am requesting that the court appoint someone I know as my guardian ad litem (you will identify this person on your verification page)

I am not requesting the court to appoint someone I know as my guardian ad litem. (The court will appoint someone it chooses).

5. Please state whether you have filed a Confidential Application for Waiver of Parental Notification other than this one.

I have filed another Confidential Application for Waiver of Parental Notification.

I have **not** filed another Confidential Application for Waiver of Parental Notification.

(End of Cover Page)

CAUSE NO. _____

(Do not fill in the blank above. Court staff will fill in the blank.)

**Confidential Application for Waiver of Parental Notification:
Verification Page
(Form 2B)**

As prescribed by the Clerk of the Supreme Court of Texas pursuant to Tex. Fam. Code §33.003(m)

Important: Your Application has two parts: (1) this cover sheet (Form 2A), which asks for basic information about your application; and (2) a separate verification page (Form 2B), which asks for information about you and for you to swear to the truth of everything you say in the cover sheet and verification page. You or someone acting on your behalf must complete both of these forms. If you are completing this application for a minor, remember that "I" or "my" refers to the minor rather than to you.

1. If you are requesting the court to appoint someone you know as your guardian ad litem (*see* Question 4 on the Cover Sheet, Form 2A), please identify them:

Name: _____ Relationship: _____

Address: _____ Phone: _____

2. If you do not have a lawyer, please complete the two blanks below. Tell us how the court, the lawyer appointed by the court, and the guardian ad litem appointed by the court can quickly contact you. If you cannot be contacted, your application will be denied. You can choose to be contacted by telephone, pager/beeper, or any other method by which you can be contacted immediately and confidentially. You do not have to give us your own telephone number, and you can have us contact someone else who helps you.

Person to be contacted (you or another person) Another person to be contacted (optional)

Phone/pager/beeper/fax number(s) Phone/pager/beeper/fax number(s)

Important: Please sign your name in the blank below. You must sign your name before a notary public, court clerk, or other person authorized to give oaths.

I swear or affirm that the information in my Application (both the Cover Sheet and this Verification Page) is true and correct.

Signature of minor or other person
completing this form

Full name of minor printed or typed
(if minor is not person completing this form)

Name of person completing this form printed or typed

Minor's date of birth

Sworn to or affirmed in my presence this _____ day of _____, _____.

Notary Public, Clerk or other person authorized to give oaths

**REQUEST TO POSTPONE TRIAL COURT HEARING
IN PARENTAL NOTIFICATION PROCEEDING;
DESIGNATION OF ALTERNATIVE TIME FOR HEARING
(Form 2C)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

Please check and complete any questions below that apply:

_____ I request that the court postpone its hearing on my application. The hearing currently is due to be held on
or by _____ at _____ a.m./p.m.

_____ Please rule on my application by 5 p.m. on the second business day after (please state a date after which
you will be ready to have the hearing): _____. The clerk will notify you concerning the
specific time of the hearing.

_____ I will contact you at a later time to determine a time for the hearing.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**JUDGMENT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON APPLICATION IN PARENTAL NOTIFICATION PROCEEDING
(Form 2D)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This matter was heard on this ____ day of _____, _____. Based on the testimony and evidence presented, this court finds:

1. The applicant is pregnant.
2. The applicant is unmarried and under 18 years of age.
3. The applicant has not had her disabilities as a minor removed under Chapter 31 of the Texas Family Code.
4. The applicant wishes to have an abortion without her doctor notifying either of her parents, her managing conservator or guardian.
5. A preponderance of the evidence supports the following [State "yes" beside any issue for which the court finds in favor of the applicant by a preponderance of the evidence. If any one issue is decided in favor of the applicant, the court need not consider other issues]:

_____ The applicant is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents, her managing conservator or guardian.

Comment: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian would not be in her best interest.

Comment: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian may lead to physical, sexual, or emotional abuse of the applicant.

Comment: _____

THEREFORE, IT IS ORDERED

_____ The application is GRANTED and the applicant is authorized to consent to the performance of an abortion without notifying either of her parents or a managing conservator or guardian.

_____ The application is DENIED. The applicant is advised of her right to appeal under Rule 3 of the Texas Parental Notification Rules and will be furnished a Notice of Appeal form, Form 3A.

All costs shall be paid by the State of Texas pursuant to Family Code Chapter 33.

Judge Presiding

**CERTIFICATE OF DEEMED GRANTING OF
APPLICATION IN PARENTAL NOTIFICATION PROCEEDING
(Form 2E)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This will certify that on the _____ day of _____, _____, Jane Doe filed an application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code. The court did not rule on the application by 5:00 p.m. on the second business day after the day the application was filed. Accordingly, under Section 33.003(h), Family Code, the application is deemed to be GRANTED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

**ORDER THAT COSTS IN PARENTAL NOTIFICATION PROCEEDING
BE PAID BY STATE PURSUANT TO TEXAS FAMILY CODE §33.007
(Form 2F)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

In this proceeding filed under Texas Family Code § 33.003, the court heard evidence on the _____ day of _____, _____, concerning court costs. Based on the evidence presented, pursuant to Texas Family Code § 33.007, the State of Texas is ordered to pay:

1. Reasonable and necessary attorney ad litem fees and expenses of \$ _____ to:

Name: _____ State Bar No. _____

Address: _____

Telephone: _____ Federal Tax ID: _____

2. Reasonable and necessary guardian ad litem fees and expenses of \$ _____ to:

Name: _____

Address: _____

Telephone: _____ Federal Tax ID: _____

3. Court reporter's fees certified by the court reporter to:

Name: _____

Address: _____

Telephone: _____ Federal Tax ID: _____

4. All court costs certified by the clerk.

Judge Presiding

Attention Clerk: Please Expedite

Notice of Appeal in Parental Notification Proceeding (Form 3A)

As prescribed by the Clerk of the Supreme Court of Texas pursuant to Tex. Fam. Code § 33.004(d).

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

(Important: Your lawyer or court-appointed lawyer should fill out the information below.)

On this _____ day of _____, _____, notice is hereby given that Jane Doe appeals to the _____ Court of Appeals from the final order entered in the above-referenced cause denying her application for a court order authorizing her to consent to an abortion without the parental notification required by Section 33.002, Family Code.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**REQUEST TO POSTPONE COURT OF APPEALS' RULING
IN PARENTAL NOTIFICATION PROCEEDING;
DESIGNATION OF ALTERNATIVE TIME FOR RULING
(Form 3B)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT OF TEXAS

AT _____, TEXAS

Please check and complete any questions below that apply:

_____ I request that the court postpone its ruling on my appeal. The appeal currently is due to be ruled on by _____ at _____ a.m./p.m.

_____ Please rule on my appeal by 5:00 p.m. on the second business day after (please state a date after which you will be ready to have the hearing): _____. The clerk will notify you concerning the specific time of the hearing.

_____ I will contact you at a later time to determine a time for ruling on my appeal.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**JUDGMENT ON APPEAL IN PARENTAL NOTIFICATION
PROCEEDING
(Form 3C)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE
_____ DISTRICT OF TEXAS
AT _____, TEXAS

It is ORDERED that the trial court's final order in this cause denying the minor's application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code, is:

_____ Affirmed. The minor will be advised of her right to appeal under Rule 4 of the Texas Parental Notification Rules and furnished a Notice of Appeal form, Form 4A.

_____ Reversed and the application is GRANTED.

_____ Opinion to follow.

_____ No opinion to follow.

Justice

Other Members of the Panel:

Justice _____

Justice _____

Date: _____

**CERTIFICATION OF DEEMED REVERSAL OF ORDER ON APPEAL
IN PARENTAL NOTIFICATION PROCEEDING
(Form 3D)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT OF TEXAS

AT _____, TEXAS

This will certify that on the _____ day of _____, _____, Jane Doe filed her notice of appeal from an order denying her application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code. The court of appeals did not rule on her appeal by 5:00 p.m. on the second business day after the day the notice of appeals was filed. Accordingly, under Section 33.004(b), Family Code, the order is deemed to be REVERSED and the application is deemed to be GRANTED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

ATTENTION CLERK: PLEASE EXPEDITE

**NOTICE OF APPEAL TO TEXAS SUPREME COURT
IN PARENTAL NOTIFICATION PROCEEDING
(Form 4A)**

CAUSE NO. _____

IN THE SUPREME COURT OF TEXAS

IN RE JANE DOE

On this _____ day of _____, _____, notice is hereby given that Jane Doe petitions the Supreme Court of Texas for review of the order entered in Cause No. _____, in the _____ Court of Appeals affirming the denial of her application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

January 7, 2000

Office of the Secretary of State
Statutory Filings Section
Room 214 Rudder Building
1019 Brazos Street
Austin, Texas 78701

By order of the Supreme Court of Texas, the enclosed two orders are forwarded for appropriate filing. Please contact this office if you have questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

January 7, 2000

Ms. Kelley King, Editor
The Texas Bar Journal
1414 Colorado Street
Austin, Texas 78701

Dear Ms. King,

Please find enclosed, copies of two orders of the Supreme Court of Texas. Per these orders, copies are to be published as soon as possible in the Texas Bar Journal. You may contact the undersigned if there are any questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.