

Supreme Court of Texas

Misc. Docket No. 22-9077

Order Amending the Rules and Forms for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code

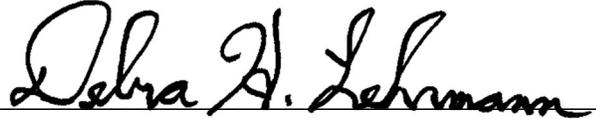
ORDERED that:

1. The Court approves the following amendments to the Rules and Forms for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code.
2. To effectuate the Act of May 29, 2021, 87th Leg., R.S., ch. 800 (H.B. 1280), the amendments are effective immediately. But the amendments may later be changed in response to public comments. The Court requests that comments be submitted in writing to rulescomments@txcourts.gov by December 1, 2022.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. 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*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

Dated: September 6, 2022.



Nathan L. Hecht, Chief Justice



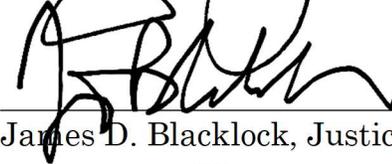
Debra H. Lehrmann, Justice



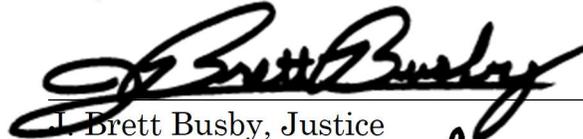
Jeffrey S. Boyd, Justice



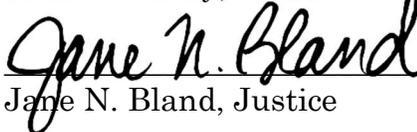
John P. Devine, Justice



James D. Blacklock, Justice



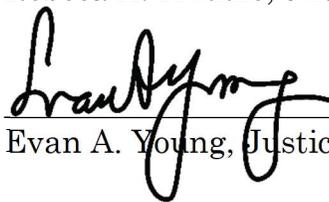
L. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

Rules and Forms for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code (Redline Version)

Explanatory Statement

Chapter 33 of the Texas Family Code provides for judicial authorization of an unemancipated minor to consent to an abortion in Texas without notice to, or the consent of, a parent, managing conservator, or guardian. Sections 33.003 and 33.004, which govern proceedings in the trial and appellate courts, authorize the Court to make rules to ensure that judicial bypass applications are decided confidentially and promptly. *See* TEX. FAM. CODE §§ 33.003(l), 33.004(c). The statute also directs the Court to make forms for use in judicial bypass proceedings. *Id.* §§ 33.003(m), 33.004(d).

The Court approved the first set of rules and forms in 1999, following the enactment of Chapter 33. *See* Misc. Docket No. 99-9247 (Dec. 22, 1999); Act of May 25, 1999, 76th Leg., R.S., ch. 395, 1999 Tex. Gen. Laws 2466 (S.B. 30) (codified at TEX. FAM. CODE § 33.001 *et seq.*). ~~In 2015, the Court amended the rules and forms have been amended~~ to reflect the 2015 amendments to Chapter 33. *See* ~~Misc. Docket No. 15-9246 (Dec. 29, 2015)~~; Act of June 1, 2015, 84th Leg., R.S., ch. 436 (H.B. 3994). ~~The 2022 amendments to the rules and forms track the statutory requirements reflect the enactment of Chapter 170A of the Texas Health and Safety Code. See Act of May 29, 2021, 87th Leg., R.S., ch. 800 (H.B. 1280) (codified at TEX. HEALTH & SAFETY CODE § 170A.001 et seq.).~~

~~They rules and forms~~ do not reflect any judgment by the Court that Chapter 33, or any part of it, is constitutional. Constitutional questions should be resolved in an adversarial proceeding with full briefing and argument. Nor do the rules imply that abortion is—or is not—permitted in any specific situation. *See, e.g., Roe v. Wade, 410 U.S. 113 (1973)*; ~~TEX. HEALTH & SAFETY CODE § 170A.002 (restrictions on third trimester abortions of viable fetuses).~~

The notes and comments appended to the rules are intended to inform their construction and application by courts and practitioners.

Rule 1. General Provisions

1.1 Applicability of These Rules. These rules govern proceedings for obtaining a court order authorizing a minor to consent to an abortion without notice to, or the consent of, a parent, managing conservator, or guardian under Chapter 33, Family Code. All references in these rules to “minor” refer to the minor applicant. Other Texas court rules—including the Rules of Civil Procedure, Rules of Evidence, Rules of Appellate Procedure, Rules of Judicial Administration, and local rules approved by the Supreme Court—also apply, but when the application of another rule would be inconsistent with the

general framework or policy of Chapter 33, Family Code, or these rules, these rules control.

Proceedings under these rules are not intended to create—and an order issued under these rules should not be construed as—a judicial determination that the minor has a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the minor at risk of death or poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed or induced. See TEX. HEALTH & SAFETY CODE § 170A.002.

Instructions for Applying to the Court for a Waiver of Parental Notification and Consent (Form 1A)

Your situation and the law

An abortion in Texas is available only if a doctor, in the exercise of reasonable medical judgment, determines that you have a life-threatening physical condition aggravated by, caused by, or arising from your pregnancy that places you at risk of death or poses a serious risk of substantial impairment of one of your major bodily functions unless the abortion is performed or induced.

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 parents (or one of your parents), a managing conservator, or a guardian. (A “managing conservator” is an 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 informs one of your parents or your managing conservator or guardian at least 48 hours before the abortion and obtains the consent of your parent, managing conservator, or guardian; *or*
- a judge issues an order that “waives” or removes the requirement that you must let a parent or your managing conservator or guardian know about your planned abortion and obtain his or her consent to it.

Rules and Forms for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code (Clean Version)

Explanatory Statement

Chapter 33 of the Texas Family Code provides for judicial authorization of an unemancipated minor to consent to an abortion in Texas without notice to, or the consent of, a parent, managing conservator, or guardian. Sections 33.003 and 33.004, which govern proceedings in the trial and appellate courts, authorize the Court to make rules to ensure that judicial bypass applications are decided confidentially and promptly. *See* TEX. FAM. CODE §§ 33.003(l), 33.004(c). The statute also directs the Court to make forms for use in judicial bypass proceedings. *Id.* §§ 33.003(m), 33.004(d).

The Court approved the first set of rules and forms in 1999, following the enactment of Chapter 33. *See* Misc. Docket No. 99-9247 (Dec. 22, 1999); Act of May 25, 1999, 76th Leg., R.S., ch. 395, 1999 Tex. Gen. Laws 2466 (S.B. 30) (codified at TEX. FAM. CODE § 33.001 *et seq.*). In 2015, the Court amended the rules and forms to reflect the 2015 amendments to Chapter 33. *See* Misc. Docket No. 15-9246 (Dec. 29, 2015); Act of June 1, 2015, 84th Leg., R.S., ch. 436 (H.B. 3994). The 2022 amendments to the rules and forms reflect the enactment of Chapter 170A of the Texas Health and Safety Code. *See* Act of May 29, 2021, 87th Leg., R.S., ch. 800 (H.B. 1280) (codified at TEX. HEALTH & SAFETY CODE § 170A.001 *et seq.*).

The rules and forms do not reflect any judgment by the Court that Chapter 33, or any part of it, is constitutional. Constitutional questions should be resolved in an adversarial proceeding with full briefing and argument. Nor do the rules imply that abortion is—or is not—permitted in any specific situation. *See, e.g.*, TEX. HEALTH & SAFETY CODE § 170A.002 (restrictions on abortions).

The notes and comments appended to the rules are intended to inform their construction and application by courts and practitioners.

Rule 1. General Provisions

1.1 Applicability of These Rules. These rules govern proceedings for obtaining a court order authorizing a minor to consent to an abortion without notice to, or the consent of, a parent, managing conservator, or guardian under Chapter 33, Family Code. All references in these rules to “minor” refer to the minor applicant. Other Texas court rules—including the Rules of Civil Procedure, Rules of Evidence, Rules of Appellate Procedure, Rules of Judicial Administration, and local rules approved by the Supreme Court—also apply, but when the application of another rule would be inconsistent with the general framework or policy of Chapter 33, Family Code, or these rules, these rules control.

Proceedings under these rules are not intended to create—and an order issued under these rules should not be construed as—a judicial determination that the minor has a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the minor at risk of death or poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed or induced. *See* TEX. HEALTH & SAFETY CODE § 170A.002.

Instructions for Applying to the Court for a Waiver of Parental Notification and Consent (Form 1A)

Your situation and the law

An abortion in Texas is available only if a doctor, in the exercise of reasonable medical judgment, determines that you have a life-threatening physical condition aggravated by, caused by, or arising from your pregnancy that places you at risk of death or poses a serious risk of substantial impairment of one of your major bodily functions unless the abortion is performed or induced.

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 parents (or one of your parents), a managing conservator, or a guardian. (A “managing conservator” is an adult or agency appointed by a court to have custody or control of you.)

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