

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, 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. Deliver the forms to the clerk in the district court, county

court-at-law, county court, or probate court. 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.

All of the information you put on the application is confidential. In fact, because the Verification Page contains information about you, no one other than the clerk — not even the judge — will ever see it. You do not have to pay a fee to file this application.

After you file, the court may contact you to get more information about your application. The court will not contact you by phone or mail, unless you tell the court to do so.

• 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 help you at the hearing and to prepare for it. 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 (which can be a relative, clergy, counselor, 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 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 normally issues an order that does one of the following three 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; or

(3) Denies your request because the court

finds that you are not mature enough and do not know enough to choose to have an abortion, and that it is in your best interests to notify your parent(s), managing conservator, or guardian before having the planned abortion.

• **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 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 (Form 2A)

Confidential Application for Waiver of Parental Notification: Cover Sheet

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.

Please continue to the next page.

2. I request this order for one of the following reasons:

- A. 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.
- B. Telling my parent(s), managing conservator, or guardian that I want an abortion is not in my best interest.
- C. Telling my parent(s), managing conservator or guardian that I want an abortion may lead to physical, sexual, or emotional 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.

Lawyer's name: _____

Lawyer's address: _____

Lawyer's phone: _____

4. The court must appoint a "guardian ad litem" for you. A guardian ad litem helps you prepare for your hearing with the judge to discuss your request. Please state whether you want the court to appoint someone you know as your guardian ad litem. This person could be a parent, friend, relative, 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.

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) a separate cover sheet (Form 2A), which asks for basic information about your application; and (2) this 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: _____

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. 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): _____

Phone/pager/beeper number: _____

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 person completing this form

Name of person signing this form, printed or typed

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

Notary Public

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 _____

_____ COURT

_____ 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.: _____

In addition to the foregoing forms, which were specifically prescribed by statute, the Supreme Court also proposes to promulgate the following forms to further facilitate “confidentiality and . . . promptness of disposition” of parental notification proceedings. Act of May 25, 1999, 76th Leg., R.S., ch. 395, 1999 Tex. Gen. Laws 2466 (S.B. 30), at § 2.

**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 _____

_____ COURT

_____ 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 _____. (If you responded to this question, 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 came up for hearing 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" or "no" for each issue addressed. 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 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 AWARDING COSTS IN PARENTAL NOTIFICATION PROCEEDING AND
REIMBURSEMENT BY STATE PURSUANT TO TEXAS FAMILY CODE §33.007
(Form 2F)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COURT,

_____ COUNTY, TEXAS

ORDER

The matter of costs to be awarded in this proceeding came on for hearing on the _____ day of _____, _____. Based on the evidence and testimony presented, this case having been filed under Texas Family Code §33.003, the court orders the costs set forth below to be paid by the State of Texas pursuant to Texas Family Code §33.007.

THEREFORE, IT IS ORDERED THAT THE STATE OF TEXAS SHALL PAY:

1. To _____, reasonable and necessary attorney ad litem fees and expenses of \$_____.

Address:_____.

Telephone:_____. Federal Tax ID:_____.

2. To _____, reasonable and necessary guardian ad litem fees and expenses of \$_____.

Address:_____.

Telephone:_____. Federal Tax ID:_____.

3. To _____, court reporter's fees as certified by the court

reporter.

Address: _____.

Telephone: _____ Federal Tax ID: _____.

4. All costs of court associated with this application as certified by the clerk.

Judge Presiding

**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

_____, 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 p.m. on the second business days after _____. (If you checked this blank, the clerk will notify you concerning the specific time by which the ruling will be made).

_____ 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

_____, 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

Panel # _____.

[Justice]

[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

_____, 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 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 RE JANE DOE

IN THE SUPREME COURT
OF TEXAS

On this _____ day of _____, _____, notice is hereby given that Jane Doe appeals to the Supreme Court of Texas from 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. _____