

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 06- 9143

ORDER APPROVING AMENDMENTS TO TEXAS PARENTAL NOTIFICATION RULES AND FORMS FOR USE IN PROCEEDINGS UNDER CHAPTER 33 OF THE FAMILY CODE

ORDERED that:

1. The Texas Parental Notification Rules, adopted by Order of Misc. Docket No. 99-9247 (Dec. 22, 1999) and amended by Order of Misc. Docket No. 00-9171 (Nov. 8, 2000), are revised by amending Rules 1.1, 1.3(c), 1.10, 2.2(f), 2.3(a), and 2.4(d) as follows.

2. The Texas Parental Notification Forms, adopted by Order of Misc. Docket No. 99-9243 (Dec. 15, 1999) and amended by Order of Misc. Docket No. 00-9171 (Nov. 8, 2000), are revised by adding Forms 2I and 2J as follows.

3. These changes, with any modifications made after public comments are received, take effect March 1, 2007. Comments may be submitted to the Court in writing on or before January 30, 2007, and should be directed to: Jody Hughes, Rules Attorney, P.O. Box 12248, Austin TX 78711, or may be emailed to him at jody.hughes@courts.state.tx.us.

4. 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. cause a copy of this Order to be posted on the website of the Supreme Court of Texas at <http://www.supreme.courts.state.tx.us>.

In Chambers, this 14th day of November, 2006.

Wallace B. Jefferson
Wallace B. Jefferson, Chief Justice

Nathan L. Hecht
Nathan L. Hecht, Justice

Harriet O'Neill
Harriet O'Neill, Justice

J. Dale Wainwright
J. Dale Wainwright, Justice

Scott Brister
Scott Brister, Justice

David M. Medina
David M. Medina, Justice

Paul W. Green
Paul W. Green, Justice

Phil Johnson
Phil Johnson, Justice

Don R. Willett
Don R. Willett, Justice

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 either of her parents or a managing conservator or guardian under Chapter 33, Family Code (or as amended). 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.

1.3 Anonymity of Minor Protected.

(c) ~~Notice Required to Minor’s Attorney.~~ With the exception of orders and rulings released under Rule 1.4(b), all service and communications from the court to the minor must be directed to the minor’s attorney with a copy to the guardian ad litem. A minor’s attorney must serve on the guardian ad litem instant a copy of any document filed with the court. A guardian ad litem must serve on a minor’s attorney instant a copy of any document filed with the court. ~~This~~ These requirements takes effect when an attorney appears for the minor, or when the clerk has notified the minor of the appointment of an attorney or guardian ad litem.

1.10 Amicus Briefs. Amicus briefs may be submitted and received by a court – but not filed – under either of the following procedures.

(a) Confidential, Case-Specific Briefs. A non-party who is authorized to attend or participate in a particular proceeding under Chapter 33, Family Code may submit an amicus brief addressing matters, including confidential matters, specific to the proceeding. The brief and the manner in which it is submitted must comply with Rules 1.3 and 1.4 and be directed to the court in which the proceeding is pending. The person must submit the original brief and the same number of copies required for other submissions to the court, and must serve a copy of the brief on the minor’s attorney and guardian ad litem. The court to which the brief is submitted must maintain the brief as part of the confidential case file in accordance with Rule 1.4.

(b) Public or General Briefs. Any person may submit a brief addressing any matter relating to proceedings under Chapter 33, Family Code. Such a brief must not contain any information in violation of Rules 1.3 and 1.4. The person must submit the original brief and the same number of copies required for other submissions to the court. If the brief is submitted to a court of appeals, the original and eleven copies of the brief, plus a computer disk containing an electronic copy of the brief, must also be submitted to the Supreme Court of Texas. When an appeal of a proceeding is filed, the clerk of the court of appeals or the Supreme Court must notify ~~the parties to the appeal~~ minor’s attorney and guardian ad litem of the existence of any brief ~~filed~~ submitted under this subsection and must make the brief available for inspection and copying. Upon submission receipt of an electronic copy of an amicus brief submitted under this subsection, the Clerk of the Supreme Court must, as soon as practicable, have the brief posted on the Texas Judiciary Internet site and make it available to the public for inspection and copying.

2.2 Clerk's Duties.

(f) *Orders.* The clerk must provide the minor's ~~and the attorney~~ and the guardian ad litem with copies of all court orders, including findings of fact and conclusions of law.

2.3 Court's Duties. Upon receipt of an application from the clerk, the court must promptly:

(a) appoint a qualified person to serve as guardian ad litem for the minor applicant;

2.4 Hearing.

(d) *Record.* ~~If the minor appeals, or if there is evidence of past or potential abuse of the minor, the hearing must be transcribed instanter. The court, the minor's attorney, or the guardian ad litem may request that the record — the clerk's record and reporter's record — be prepared. A request by the minor's attorney or guardian ad litem must be in writing and may be, but is not required to be, on Form 2I (if an appeal will be taken) or 2J (if an appeal will not be taken). The court reporter must provide an original and two copies of the reporter's record to the clerk. When the record has been prepared, the clerk must contact the minor's attorney and the guardian ad litem at the telephone numbers shown on Form 2I or 2J and make it available to them. The record must be prepared and made available instanter if it has been requested for appeal or if a belief that there is evidence of past or potential abuse of the minor is stated on the record or submitted to the court in writing. When a notice of appeal is filed, the clerk must forward the record to the court of appeals in accordance with Rule 3.2(b).~~

Form 2I: NOTICE TO CLERK AND COURT REPORTER TO PREPARE RECORDS

CAUSE NO. _____

IN RE JANE DOE:

This matter was heard on the _____ day of _____, _____. The Court has issued a final judgment. **Jane Doe may desire to appeal.** Jane Doe requests the court reporter and appropriate clerk to prepare instant a record of the trial proceedings and make it available to:

(Name and address of guardian ad litem)

(Name and address of minor's attorney)

Immediately upon completion of the record, the clerk must contact both the undersigned attorney and the guardian ad litem at the following telephone numbers to advise that the record is available:

(Telephone number for guardian ad litem)

(Telephone number for minor's attorney)

A copy of this notice has been given to both the appropriate clerk and court reporter and no additional request for the record of the trial proceedings is required. The filing of this document with the clerk constitutes proof that written request for preparation of the trial record was made.

Signed the _____ day of _____, _____ at _____ [time] a.m./p.m [circle one]

ATTORNEY

GUARDIAN AD LITEM

Caution: no officials or court personnel involved in the proceedings may ever disclose to anyone outside the proceedings—including the minor's parent, managing conservator, or legal guardian—that the minor is or has ever been pregnant, or that she wants or has ever wanted an abortion, except as permitted by law.

Form 2J: NOTICE TO CLERK AND COURT REPORTER TO PREPARE RECORDS

CAUSE NO. _____

IN RE JANE DOE:

This matter was heard on the _____ day of _____, _____. The Court has issued a final judgment and **no appeal will be taken.** Jane Doe’s attorney/guardian ad litem requests the court reporter and appropriate clerk to prepare a record of the trial proceedings and make it available to:

(Name and address of guardian ad litem)

(Name and address of minor’s attorney)

Upon completion of the record, the clerk must contact both the undersigned attorney and the guardian ad litem at the following telephone numbers to advise that the record is available:

(Telephone number for guardian ad litem)

(Telephone number for minor’s attorney)

A copy of this notice has been given to both the appropriate clerk and court reporter and no additional request for the record of the trial proceedings is required. The filing of this document with the clerk constitutes proof that written request for preparation of the trial record was made.

Signed the _____ day of _____, _____ at _____ [time] a.m./p.m [circle one]

ATTORNEY

GUARDIAN AD LITEM

Caution: no officials or court personnel involved in the proceedings may ever disclose to anyone outside the proceedings—including the minor’s parent, managing conservator, or legal guardian—that the minor is or has ever been pregnant, or that she wants or has ever wanted an abortion, except as permitted by law.