

IN THE SUPREME COURT OF TEXAS

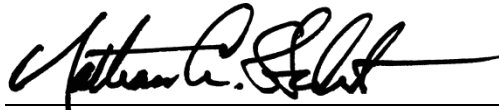
Misc. Docket No. 15-9246

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. This order includes a clean copy and an approximate redline copy of the amended rules and forms. The clean copy is the official version.
2. As soon as practicable, a Spanish version of the forms will be posted on www.txcourts.gov under the “Rules & Forms” link.
3. To effectuate the Act of June 1, 2015, 84th Leg., R.S., ch. 436 (H.B. 3994), the amendments are effective January 1, 2016. But the amendments may later be changed in response to public comments. Any person may submit written comments to Rules Attorney Martha Newton at rulescomments@txcourts.gov. The Court requests that comments be sent by April 1, 2016.
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. submit a copy of the order for publication in the *Texas Register*.

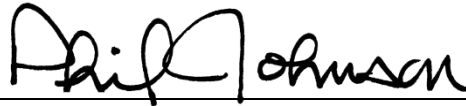
Dated: December 29, 2015.



Nathan L. Hecht, Chief Justice



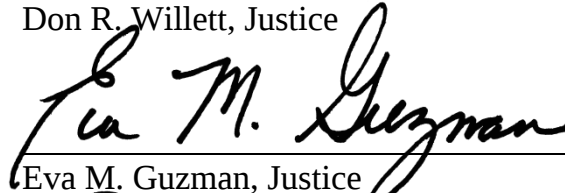
Paul W. Green, Justice



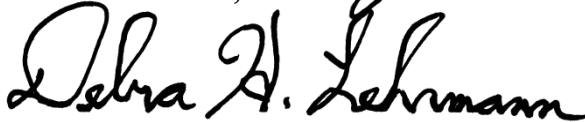
Phil Johnson, Justice



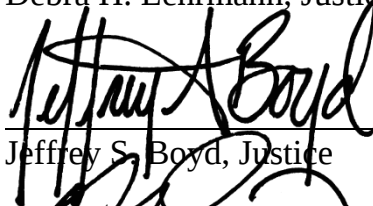
Don R. Willett, Justice



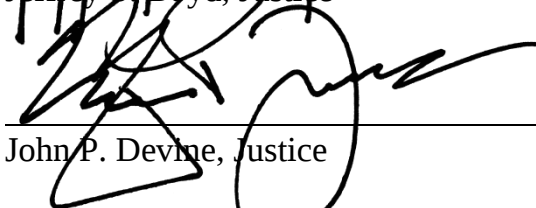
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

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

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.*). The rules and forms have been amended to reflect the 2015 amendments to Chapter 33. *See* Act of June 1, 2015, 84th Leg., R.S., ch. 436 (H.B. 3994). The rules and forms track the statutory requirements. They 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 § 170.002 (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.

1.2 Expedition Required.

- (a) ***Proceedings.*** A court must give proceedings under these rules precedence over all other pending matters to the extent necessary to ensure that applications and appeals are adjudicated as soon as possible and within the time required by Chapter 33, Family Code, and these rules.
- (b) ***Prompt actual notice required.*** Without compromising the confidentiality required by statute and these rules, courts and clerks must serve orders, decisions, findings, and notices required under these rules in a manner designed to give prompt actual notice in order that the deadlines imposed by Chapter 33, Family Code, can be met.

1.3 Identity of Minor Protected.

- (a) ***Generally.*** Proceedings under these rules must be conducted in a way that protects the confidentiality of the identity of the minor.
- (b) ***No reference to minor's identity in proceeding.*** With the exception of the verification page required under Rule 2.1(c)(2) and the communications required under Rule 2.2(e), no reference may be made in any order, decision, finding, or notice, or on the record, to the name of the minor, her address, or other information by which she might be identified by persons not participating in the proceedings. Instead, the minor must be referred to as "Jane Doe" in a numbered cause.
- (c) ***Notice.*** With the exception of orders and rulings released under Rule 1.4(b), all notices and communications from the court to the minor must be directed to the minor's attorney with a copy to the guardian ad litem. The minor's attorney must immediately serve on the guardian ad litem a copy of any document filed with the court. These requirements take effect when an attorney appears for the minor or when the clerk has notified the minor of the appointment of an attorney or a guardian ad litem.

1.4 Confidentiality of Proceedings Required; Exceptions.

- (a) ***Generally.*** All officials and court personnel involved in the proceedings must ensure that the minor's contact with the clerk and the court is confidential and expeditious. Except as permitted by law, officials and court personnel must never disclose to anyone outside the proceeding—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.
- (b) ***Documents and information pertaining to the proceeding.***

- (1) *General rule; disclosure prohibited.* As required by Chapter 33, Family Code, the application and all other court documents and information pertaining to the proceedings are confidential and privileged and are not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process.
- (2) *Exception; disclosure to minor permitted.* The application and any other document in the court file may be disclosed to the minor.
- (3) *Exception; disclosure of order to certain persons.* An order, ruling, opinion, or clerk's certificate may be released to:
 - the minor;
 - the minor's guardian ad litem;
 - the minor's attorney;
 - the physician who is to perform the abortion;
 - a person designated in writing by the minor to receive the order, ruling, opinion, or certificate;
 - a governmental agency or governmental attorney, in connection with a criminal or administrative action seeking to assert or protect the minor's interests; or
 - another court, judge, or clerk in the same or related proceedings.
- (c) ***Filing of court reporter's notes required.*** To ensure confidentiality, the court reporter's notes, in whatever form, must be filed with other court documents in the proceeding.
- (d) ***Duty to report possible abuse.***
 - (1) *Duty of the court.* A judge or justice who, as a result of a court proceeding governed by these rules, has reason to believe that a minor has been or may be physically or sexually abused must report the suspected abuse in accordance with Sections 33.0085 and 33.009, Family Code, and other law.

(2) *Duty of an attorney or guardian ad litem.* An attorney or a guardian ad litem who, as a result of a court proceeding governed by these rules, has reason to believe that a minor has been or may be physically or sexually abused must report the suspected abuse in accordance with Section 33.009, Family Code, and other law.

(e) ***Department of Family and Protective Services or local law enforcement agency to disclose certain information in proceeding.*** The Department of Family and Protective Services or a local law enforcement agency may disclose to the court, the minor's attorney, and the guardian ad litem any information obtained under Sections 33.008, 33.0085, and 33.009, Family Code, without being ordered to do so. The court may order the Department or a local law enforcement agency to disclose the information to the court, the minor's attorney, and the guardian ad litem, and the Department or agency must comply.

1.5 Methods of Transmitting Documents; Hearings Conducted By Remote Electronic Means; Electronic Record Allowed When Necessary.

(a) ***Electronic filing through statewide portal prohibited.*** Documents must not be filed through the electronic filing manager established by the Office of Court Administration.

(b) ***Paper, fax, or email filing permitted.*** Documents may be filed in paper form, by fax, or by email. The clerk of a court must designate an email address or a fax number for the filing of documents in proceedings governed by these rules and must take all reasonable steps to maintain the confidentiality of the filings. An attorney must notify the clerk by telephone before filing a document by email or fax.

(c) ***Fax and email transmission by court and clerk.*** The court and clerk may transmit orders, rulings, notices, and other documents by fax or email. But before the transmission is initiated, the sender must take all reasonable steps to maintain the confidentiality of the transmission. The time and date of a transmission by the court is the time and date when it was initiated.

(d) ***Participation in hearings by electronic means.*** Consistent with the confidentiality requirements of these rules, with the court's permission, a witness may participate in a hearing under these rules by video conferencing, telephone, or other remote electronic means. But the minor must appear before the court in person.

- (e) ***Record of hearing made by electronic means if necessary.*** If the court determines that a court reporter is unavailable for a hearing, the court may have a record of the hearing made by audio recording or other electronic means. If a notice of appeal is filed, the court must have the recording transcribed if possible. The person transcribing the recording must certify to the accuracy of the transcription. The court must transmit both the recording and the transcription to the court of appeals.

1.6 Disqualification, Recusal, or Objection to a Judge.

- (a) ***Time for filing and ruling.*** A motion to recuse or disqualify a trial judge or an objection to a trial judge under Section 74.053, Government Code, must be filed before 10 a.m. of the first business day after an application is filed or promptly after the assignment of a judge to hear the case is made known to the minor's attorney, whichever is later. A motion to recuse or disqualify an appellate judge or an objection to an appellate judge under Section 75.551, Government Code, must be filed before 10 a.m. of the first business day after a notice of appeal is filed or promptly after the assignment of a judge is made known to the minor's attorney, whichever is later. A judge who chooses to withdraw voluntarily must do so immediately. A motion to disqualify or recuse or an objection to an assigned judge does not extend the deadline for ruling on the minor's application.
- (b) ***Voluntary disqualification or recusal; objection.*** A judge who removes himself or herself voluntarily—whether in response to a motion or on the judge's own initiative—or to whom objection is made under Sections 74.053 or 75.551, Government Code, must immediately notify the appropriate authority under rule or statute for assigning another judge. That authority must immediately assign a judge or justice to the proceeding.
- (c) ***Involuntary disqualification or recusal.*** A judge who refuses to remove himself or herself voluntarily from a proceeding in response to a motion must immediately refer the motion to the appropriate judge under rule or statute for determination. The judge to whom the motion is referred must rule on it as soon as possible and may do so with or without a hearing. If the motion is granted, the judge to whom the motion was referred must immediately assign another judge to the proceeding.
- (d) ***Restrictions on the number of motions and objections.*** A minor who objects under Section 74.053 or Section 75.551, Government Code, to a judge assigned to the proceeding may not thereafter file a motion to recuse the judge assigned to replace the judge to whom the objection was made. A minor who files a motion to recuse or disqualify a judge may not thereafter

object under Section 74.053 or Section 75.551, Government Code, to another judge assigned to the proceeding.

- (e) ***Issues on appeal.*** Any error in the denial of a motion to recuse or disqualify, any error in the disallowance of an objection, or any challenge to a judge that a minor is precluded from making by subsections (a) or (d), may be raised only on appeal from the court's denial of the application.

1.7 Rules and Forms to be Made Available.

- (a) ***Online.*** A complete set of these rules and forms must be posted on the Texas Judiciary website at www.txcourts.gov. Forms 1A, 2A, and 2B must be translated into Spanish.
- (b) ***In clerks' offices.*** The clerk of a court in which an application or appeal may be filed must make the rules and forms—including the Spanish version of Form 1A, 2A, and 2B—and any applicable local rules available to a minor without charge.

1.8 Duties of Attorneys Ad Litem. An attorney ad litem must represent the minor in the trial court in the proceeding in which the attorney is assigned and in any appeal under these rules to the court of appeals or the Supreme Court. But an attorney ad litem is not required to represent the minor in any other court or any other proceeding.

1.9 Fees and Costs.

- (a) ***No fees or costs charged to minor.*** No filing fee or court cost may be assessed against a minor for any proceeding in a trial or appellate court.
- (b) ***State ordered to pay fees and costs.***
 - (1) ***Fees and costs that may be paid.*** The State may be ordered to pay the reasonable and necessary fees and expenses of the attorney ad litem, the reasonable and necessary fees and expenses of the guardian ad litem, the court reporter's fee as certified by the court reporter, and trial court filing fees and costs as certified by the clerk. Court costs include the expenses of an interpreter (Form 2H) and an evaluation by a licensed mental health counselor but do not include the fees or expenses of a witness. Court costs do not include fees that must be remitted to the state treasury.

- (2) *To whom order directed and sent.* The order must be directed to the Comptroller of Public Accounts and sent to the Director, Fiscal Division, of the Texas Department of Health.
- (3) *Form and contents of the order.* The order must state the amounts to be awarded the attorney ad litem and the guardian ad litem. The order must be separate from any other order in the proceeding and must not address any subject other than the assessment of fees, expenses, and costs. A trial court may use Forms 2F and 2G, but it is not required to do so.
- (4) *Time for signing and sending order.* The order must be signed by the judge and sent by the clerk to the Department of Health not later than the ninetieth day after the date of the final ruling in a proceeding.
- (c) ***Motion to reconsider; time for filing.*** Within thirty days of actual receipt of the order, the Comptroller or any other person adversely affected by the order may file a motion in the trial court to reconsider the assessment of fees, expenses, or costs. The trial court retains jurisdiction of the case to hear and determine any timely filed motion to reconsider.
- (d) ***Appeal.*** The Comptroller or any other person adversely affected by the order may appeal from the trial court's ruling on the motion to reconsider as from any other final judgment of the court.
- (e) ***Report to the Office of Court Administration.*** The Department of Health must transmit to the Office of Court Administration a copy of every order assessing fees, expenses, or costs in a proceeding under Chapter 33, Family Code. Orders assessing fees, expenses, or costs are not subject to any order of the Supreme Court of Texas requiring mandatory reports of judicial appointments and fees or to the reporting requirements of Chapter 36, Government Code.
- (f) ***Confidentiality.*** When transmitting an order awarding costs to the Department of Health, the clerk must take reasonable steps to preserve its confidentiality. The confidentiality of an order awarding costs—as prescribed by Chapter 33, Family Code—is not affected by its transmission to the Comptroller, Texas Department of Health, or the Office of Court Administration, nor is the order subject to public disclosure in response to a request under any statute, rule, or other law. But these rules do not preclude the Comptroller, the Texas Department of Health, or the Office of Court

Administration from disclosing summary information from orders assessing costs for statistical or other such purposes.

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. If the brief is filed in paper form, the person must submit the original brief and the same number of copies required for other paper submissions to the court. The person 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. The brief must not contain any information in violation of Rules 1.3 and 1.4. If the brief is filed in paper form, the person must submit the original brief and the same number of copies required for other paper submissions to the court. If the brief is submitted to a court of appeals, one copy of the brief must also be submitted to the Supreme Court of Texas. Upon receipt 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 website.

Notes and Comments

- 1. Rule 1.1 contemplates that other court rules of procedure and administration remain as a “default” governing matters not addressed in these rules. Thus, for example, these rules do not state a deadline for filing notices of appeal, so the ordinary 30-day deadline controls, see Tex. R. App. P. 26.1, but these rules control over inconsistent provisions in the appellate rules governing the docketing statement, the record, and briefing.
- 2. Rule 1.1 also contemplates that individual jurisdictions may enact local rules pursuant to Tex. R. Civ. P. 3a, Tex. R. App. P. 1.2, or Tex. R. Jud. Admin. 10, to the extent consistent with Chapter 33, Family Code, and with these rules, to tailor the implementation of the statute and these rules to local needs and preferences. Local rules may address, for example, the specific location or office where

applications are to be filed, how applications are to be assigned for hearing, and whether an appellate court will permit or require briefing or oral argument. *See also* Rule 2, Comment 1.

3. Any judge involved in a proceeding—whether as the judge assigned to hear and decide the application; the judge assigned to hear and decide any disqualification, recusal, or objection; a judge authorized to transfer the application or assign another judge to it; or an appellate judge—may have access to all information (including the verification page) in the proceeding or any related proceeding, such as a prior filing by the minor. Similarly, a minor’s attorney and guardian ad litem must, of course, have access to the case file to the extent necessary to perform their respective duties.
4. Sections 33.008, 33.0085, and 33.009, Family Code, require physicians, judges, attorneys, and guardians ad litem to report suspected physical or sexual abuse to the Texas Department of Family and Protective Services and to a local law enforcement agency. Section 33.010 makes confidential—“[n]otwithstanding any other law”—all information obtained by the Department or a law enforcement agency under Sections 33.008, 33.0085, and 33.009 except to the extent necessary to prove certain criminal conduct. Rule 1.4(e) construes Section 33.010 in harmony with Section 33.003(i-2), which makes past or potential future abuse relevant to a claim that notifying or attempting to obtain the consent of a parent, managing conservator, or guardian would not be in the minor’s best interest.
5. Rule 1.6 controls to the extent that it conflicts with other provisions regarding the disqualification or recusal of judges, such as Tex. R. Civ. P. 18a, Tex. R. App. P. 16, and Tex. Gov’t Code 25.00255.
6. The archival requirements relating to proceedings under Chapter 33, Family Code, and these rules is governed by Sections 441.158 and 441.185, Government Code, and the schedules promulgated by the Texas State Library and Archives Commission pursuant to those authorities.
7. Orders awarding fees, expenses, and costs contain information that is made confidential by Chapter 33, Family Code. The confidentiality of the information should not be affected by the transmission of the order to the Texas Department of Health and to the Comptroller, which is necessary to effectuate payment, or to the Office of Court Administration, which is necessary to oversee the costs associated with the proceedings. Rule 1.9(f) does not preclude either the Comptroller, the Texas Department of Health, or the Office of Court Administration from disclosing total amounts paid for all proceedings, the average amount awarded per proceeding, or other statistical summaries or analyses that do not impair the confidentiality of the proceedings.

8. Rule 1.10 adds a procedure for filing amicus curiae briefs uniquely designed for the expedited and confidential nature of judicial bypass cases.

RULE 2. PROCEEDINGS IN THE TRIAL COURT

2.1 Where to File an Application; Court Assignment and Transfer; Application Form; Effect of a Nonsuit or Prior Determination.

- (a) ***Counties in which an application may be filed.*** An application for an order under Section 33.003, Family Code, must be filed in the minor's county of residence, unless one of the following exceptions applies.
- (1) *Minor's parent is a presiding judge.* If the minor's parent, managing conservator, or guardian is a presiding judge of a court described in (b)(1) in the county of the minor's residence, the application must be filed in:
- (A) a contiguous county; or
- (B) the county where the minor intends to obtain the abortion.
- (2) *Residence in a county with a population of less than 10,000.* If the minor's county of residence has a population of less than 10,000, the application must be filed in:
- (A) the minor's county of residence;
- (B) a contiguous county; or
- (C) the county where the minor intends to obtain the abortion.
- (3) *Nonresident minor.* If the minor is not a Texas resident, the application must be filed in the county where the minor intends to obtain the abortion.
- (b) ***Courts in which an application may be filed; assignment and transfer.***
- (1) *Courts with jurisdiction.* An application may be filed in a district court (including a family district court), a county court at law, or a court having probate jurisdiction.

- (2) *Application filed with district or county clerk.* An application must be filed with either the district clerk or the county clerk, who will assign the application to a court as provided by local rule or these rules. The clerk to whom the application is tendered cannot refuse to accept it because of any local rule or other rule or law that governs the filing and assignment of applications or cases. The clerk must accept the application and transfer it immediately to the proper clerk, advising the person tendering the application where it is being transferred.
- (3) *Court assignment and transfer by local rule.* The courts in a county that have jurisdiction to hear applications may determine by local rule how applications will be assigned between or among them. A local rule must be approved by the Supreme Court under Rule 3a, Texas Rules of Civil Procedure.
- (4) *Initial court assignment if no local rule.* Absent a local rule, the clerk who files an application—whether the district clerk or the county clerk—must assign it as follows:
- (A) to a district court, if the active judge of the court, or a judge assigned to it, is available;
 - (B) if the application cannot be assigned under (A), then to a statutory county or probate court, if the active judge of the court, or a judge assigned to it, is available;
 - (C) if the application cannot be assigned under (A) or (B), then to the constitutional county court, if it has probate jurisdiction, and if the active judge of the court, or a judge assigned to it, is available;
 - (D) if the application cannot be assigned under (A), (B), or (C), then to the district court.
- (5) *Judges who may hear and determine applications.* An application may be heard and determined by the active judge of the court to which the application is assigned, by any judge authorized to sit for the active judge, or by any judge who may be assigned to the court in which the application is pending. An application may not be heard or determined, or any proceedings under these rules conducted, by a master or magistrate.

- (c) ***Application form.*** An application consists of two pages—a cover page and a separate verification page—if the minor is not represented by an attorney at the time of filing. If the minor is represented by an attorney at the time of filing, the application must include a third page, the attorney’s sworn statement or declaration made under penalty of perjury.
- (1) *Cover page.* The cover page may be submitted on Form 2A, but use of the form is not required. The cover page must be styled “In re Jane Doe” and must not disclose the name of the minor or any information from which the minor’s identity could be derived. The cover page must state:
- (A) that the minor is pregnant;
 - (B) that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed under Chapter 31, Family Code;
 - (C) that the minor wishes to have an abortion without notifying or obtaining consent from either of her parents or a managing conservator or guardian, and the statutory ground or grounds on which she relies;
 - (D) that venue is proper in the county in which the application has been filed;
 - (E) whether the minor has retained an attorney, and if so, the attorney’s name, email address, mailing address, and telephone number;
 - (F) whether the minor requests the court to appoint a particular person as her guardian ad litem; and
 - (G) that, concerning her current pregnancy, the minor has not previously filed an application that was denied; or
 - (H) if the minor has filed a previous application with respect to the current pregnancy that was denied, that this application is being filed in the same court that denied the previous application and that there has been a material change in circumstances since the time the previous application was denied.

- (2) *Verification page.* The verification page may be submitted on Form 2B, but use of the form is not required. The verification page must be separate from the cover page, must be signed by the minor under oath or under penalty of perjury, and must state:
 - (A) the minor's full name, date of birth, physical address, mailing address, and telephone number;
 - (B) the name, address, telephone number, and relationship to the minor of any person the minor requests the court to appoint as her guardian ad litem;
 - (C) if the minor has not retained an attorney, a telephone number—whether that of the minor or someone else (such as a physician, friend, or relative)—at which the minor may be contacted immediately and confidentially until an attorney is appointed to represent her; and
 - (D) that all information contained in the application, including both the cover page and the verification page, is true.
- (3) *Attorney's statement.* The minor's attorney must file with the application a sworn statement or unsworn declaration made under penalty of perjury that attests to the truth of the minor's claims regarding venue and prior applications.
- (d) ***Time of filing.*** An application is filed when it is actually received by the district or county clerk.
- (e) ***Nonsuit requires permission.*** A minor may not withdraw or nonsuit an application without permission of the court.
- (f) ***Res judicata effect of prior determination.***
 - (1) *General rule.* A minor who has filed an application and obtained a determination by the court under Rule 2.5 may not initiate a new application proceeding with respect to the same pregnancy, and the prior determination is res judicata on the issue whether the minor may consent to an abortion without notification to, or consent of, a parent, managing conservator, or guardian.
 - (2) *Exception for material change in circumstances.* A minor whose application is denied may submit a new application to the court that

denied the application if the minor shows that there has been a material change in circumstances since the prior application was denied.

2.2 Clerk's Duties.

- (a) ***Assistance in filing.*** The clerk must give prompt assistance—in a manner designed to protect the minor's confidentiality—to persons seeking to file an application. If requested, the clerk must administer the oath for the verification page or provide a person authorized to do so. The clerk must also redact from the cover page any information identifying the minor. The clerk must ensure that both the cover page and the separate verification page are completed in full.
- (b) ***Filing procedure.*** The clerk must assign the application a cause number that does not identify the assigned judge and affix it to both the cover page and the verification page. The clerk must then provide a certified copy of the verification page to the person filing the application. The clerk must file the verification page under seal in a secure place where access is limited to essential court personnel.
- (c) ***Distribution.*** When an application is filed, the clerk must distribute the cover page and verification page, or a copy of them, to the appropriate court immediately. If appointment of a specific person as guardian ad litem has been requested, the clerk must also communicate the information to the appropriate court immediately.
- (d) ***If judge of assigned court not available.*** The clerk must determine immediately whether the judge of the court to which the application is assigned is available to hear the application within the prescribed time period. If that judge is not available, the clerk must immediately notify the local administrative judge or judges and the presiding judge of the administrative judicial region and must send them any information requested, including the cover page and verification page.
- (e) ***Notice of hearing and appointments.*** When the clerk is advised by the court of a time for the hearing or of the appointment of a guardian ad litem or an attorney ad litem, the clerk must immediately give notice—as directed in the verification page and to each appointee—of the hearing time or appointment. A court coordinator or other court personnel may give notice instead of the clerk.

- (f) **Orders.** The clerk must provide the minor's attorney and the guardian ad litem with copies of all court orders, including findings of fact and conclusions of law.
- (g) **Certificate of court's failure to rule within time prescribed by statute.** If the court fails to rule on an application within the time required by Section 33.003(h), Family Code, then, upon the minor's request, the clerk must immediately issue a certificate to that effect, stating that the application is deemed to be denied. The clerk may use Form 2E but is not required to do so.

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;
- (b) unless the minor has a retained attorney, appoint an attorney ad litem for the minor, who must not be the same person appointed as guardian ad litem;
- (c) set a hearing on the application; and
- (d) advise the clerk of the appointments and the hearing time.

2.4 Hearing.

(a) **Time.**

- (1) **General rule.** The court must conduct a hearing in time to rule on the application by the deadline stated in Rule 2.5(f).
- (2) **Minor may request postponement.** The minor may postpone the hearing by written request to the clerk. The request may be submitted on Form 2C, but use of the form is not required. The request must either specify a date on which the minor will be ready for the hearing or state that the minor will later provide a date on which she will be ready for the hearing. Once the minor determines when she will be ready for the hearing, she must notify the clerk of that time in writing. The postponed hearing must be conducted in time for the court to rule on the application by the deadline stated in Rule 2.5(f).

- (b) **Place.** The hearing should be held in a location, such as a judge's chambers, that will ensure confidentiality. The hearing may be held away from the courthouse.
- (c) **Persons attending.** The hearing must be closed to the public. Only the judge, the court reporter, other essential court personnel, the minor, her attorney, her guardian ad litem, and witnesses on the minor's behalf may be present.
- (d) **Record.** The court, the minor, 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, the minor's attorney, or the 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, if she has requested the record; 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 immediately if it has been requested for appeal or to demonstrate the past or potential abuse of the minor. 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).
- (e) **Hearing to be informal.** The court should attempt to rule on the application without regard to technical defects in the application or the evidence. Affidavits of persons other than the minor are admissible. Statements in the application cannot be offered as evidence to support the application. If necessary, the court may assist the minor in remedying technical defects in the application and in presenting relevant and material facts.

2.5 Ruling.

- (a) **Form of ruling.** The court's ruling on the application must include a signed order and written findings of fact and conclusions of law. The findings and conclusions may be included in the order. The court may use Form 2D, but it is not required to do so.
- (b) **Grounds for granting application.** The court must grant the application if the minor establishes, by clear and convincing evidence:

- (1) that the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notice to, or consent of, a parent, managing conservator, or guardian; or
 - (2) that the notification or attempt to obtain consent would not be in the minor's best interest.
- (c) ***The mature-and-informed inquiry.*** In determining whether the minor meets the requirements of (b)(1), the court must consider the experience, perspective, and judgment of the minor. The court may:
- (1) consider all relevant factors, including:
 - (A) the minor's age;
 - (B) the minor's life experiences, such as working, traveling independently, or managing her own financial affairs; and
 - (C) steps taken by the minor to explore her options and the consequences of those options;
 - (2) inquire as to the minor's reasons for seeking an abortion;
 - (3) consider the degree to which the minor is informed about the state-published informational materials described by Chapter 171, Health and Safety Code; and
 - (4) require the minor to be evaluated by a licensed mental health counselor, who must return the evaluation to the court for review within three business days.
- (d) ***The best-interest inquiry.*** In determining whether the minor meets the requirements of (b)(2), the court may inquire as to:
- (1) the minor's reasons for not wanting to notify and obtain consent from a parent, managing conservator, or guardian;
 - (2) whether notification or the attempt to obtain consent may lead to physical or sexual abuse;
 - (3) whether the pregnancy was the result of sexual abuse by a parent, managing conservator, or guardian; and

- (4) any history of physical or sexual abuse from a parent, managing conservator, or guardian.
- (e) ***Grounds for denying the application.*** The court must deny the application if:
 - (1) the minor does not establish either ground in (b) by clear and convincing evidence; or
 - (2) the minor does not attend the hearing; and
 - (A) the minor had actual knowledge of the setting; or
 - (B) diligent attempts were made to notify the minor of the setting.
- (f) ***Time for ruling.*** The court must rule on an application as soon as possible after it is filed, subject to any postponement requested by the minor, and immediately after the hearing is concluded. Section 33.003(h), Family Code, states that a court must rule on an application by 5 p.m. on the fifth business day after the day the application is filed, or if the minor requests a postponement, by 5 p.m. on the fifth business day after the date the minor states she is ready for the hearing.
- (g) ***Failure to timely rule.*** If the court fails to timely rule on an application, the application is deemed to be denied.
- (h) ***Notification of the right to appeal.*** If the court denies the application, it must inform the minor of her right to appeal under Rule 3 and furnish her with the notice of appeal form, Form 3A.

Notes and Comments

1. Section 33.003(b), Family Code, permits an application to be filed in “a county court at law, court having probate jurisdiction, or district court, including a family district court, in the minor’s county of residence” or, if an exception applies, in a contiguous county or the county where the abortion would be performed. The initial assignment of an application to a specific court in a county is made by the clerk with whom the application is filed (not by the minor). Given the diversity of needs and circumstances among Texas courts, these rules allow the courts in each county to tailor the procedures for filing, handling, and assigning applications prescribed by these rules to best meet those needs and circumstances. Chapter 74, Subchapter C, Government Code, affords the presiding judge of an administrative judicial region broad discretion to assign active judges within the region, as well

as visiting judges, to hear matters pending in courts within the region. *See* Tex. Govt. Code §§ 74.054, 74.056; *see also id.* § 74.056(b) (presiding judges may request judges from other judicial regions for assignment); § 74.057 (Chief Justice may assign judges from one judicial region to another). Section 25.0022, Government Code, provides for assignment of probate judges. Furthermore, Chapter 74, Subchapter D, Government Code, authorizes district and statutory county court judges within a county to hear matters pending in any district or statutory county court in the county. *Id.* § 74.094(a). Finally, Section 74.121, Government Code, permits courts within a county to transfer cases among courts having jurisdiction over the case. If no local rule governs assignments, then Rule 2.1(b)(4) controls.

2. Because an application is considered filed when it is actually received by the clerk, the timing provisions relating to filing by mail of Tex. R. Civ. P. 21a are inapplicable.
3. Section 33.003(f), Family Code, provides that a guardian ad litem may be (1) a person who may consent to treatment for the minor under Sections 32.001(a)(1)-(3), Family Code; (2) a psychiatrist or an individual licensed or certified as a psychologist under Chapter 501, Occupations Code; (3) an appropriate employee of the Department of Family and Protective Services; (4) a member of the clergy; or (5) another appropriate person selected by the court. The trial court may also consider appointing a qualified person requested by the minor. Although not directly applicable to these proceedings, the standards embodied in Chapter 107, Family Code, reflect legislative intent that competent and qualified persons be appointed to serve as ad litem and may provide general guidance concerning the nature of those qualifications. Appointment of an employee of the Department of Family and Protective Services to serve as guardian ad litem may give rise to a conflict of interest not immediately apparent at the time since the Department may be involved with the minor's family due to an abuse or neglect investigation, or may be party to a suit affecting the parent-child relationship, or may already be serving as the child's managing conservator.
4. The duties of guardians ad litem are not susceptible of precise definition. Generally, a guardian ad litem should interview the minor and conduct any investigation the guardian believes to be appropriate, without violating Rules 1.3 and 1.4, to assist the court in arriving at an opinion whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to, or consent of, either of her parents or a managing conservator or guardian or whether notification or the attempt to obtain consent would not be in the best interest of the minor. Rule 2.5(c) and (d) list some nonexclusive factors outlined in Section 33.003(i-1)-(i-2), Family Code, that a court may consider in deciding whether the statutory criteria for a bypass have

been met. Factors that have been considered in other jurisdictions with similar parental notification and consent statutes include:

- whether the minor has been examined by a doctor of medicine, doctor of osteopathy, or registered nurse—who is licensed to practice in Texas—and has given that health care provider an accurate and complete statement of her medical history;
- whether the minor has been provided with information or counseling bearing on her decision to have an abortion;
- whether the minor desires further counseling;
- whether, based on the information or counseling provided to the minor, she is able to give informed consent;
- whether the minor is attending school, or is or has been employed;
- whether the minor has previously filed an application that was denied;
- whether the minor lives with her parents;
- whether the minor desires an abortion or has been threatened, intimidated, or coerced into having an abortion;
- whether the pregnancy resulted from sexual assault, sexual abuse, or incest;
- whether there is a history or pattern of family violence; and
- whether the minor fears for her safety.

These considerations may not be relevant in every case, are not exclusive, and may not be sufficient to discharge the guardian ad litem's responsibilities in every case. Use of these factors as a basis for civil liability or as a statement of the standard of care is contrary to their intended purpose. Nothing in this comment alters existing standards of conduct under the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, or the Code of Judicial Conduct.

In addition to these general guidelines, Chapter 107, Family Code, sets forth duties of guardians and attorneys ad litem appointed in suits affecting the parent-child relationship. These duties are not directly applicable to proceedings under Chapter

33, Family Code, and may be incompatible with the confidential and expeditious nature of such proceedings, but they reflect general legislative intent concerning the responsibilities of ad litem.

5. Under Rule 2.5(b), once a court concludes that an application should be granted on a single ground, it need not address other grounds. But in addressing any ground, the court should attempt to ascertain, among other factors, whether the pregnancy resulted from sexual assault, sexual abuse, or incest. The legislative history of Chapter 33, Family Code, indicates that one of the principal purposes of the statute was to screen for sexual crimes and abuse of minors so as to protect them against further victimization.

RULE 3. APPEAL FROM DENIAL OF APPLICATION

- 3.1 **How to Appeal.** To appeal the denial of an application, the minor must file a notice of appeal with the clerk of the court that denied the application, file a copy of the notice of appeal with the clerk of the court of appeals to which an appeal is to be taken, and advise the clerk of the court of appeals by telephone that an appeal is being taken under Chapter 33, Family Code. The minor may use Form 3A but is not required to do so. The notice of appeal must:

- (a) be styled “In re Jane Doe”;
- (b) state the number of the cause in the trial court;
- (c) be addressed to a court of appeals with jurisdiction in the county in which the application was filed;
- (d) state an intention to appeal; and
- (e) be signed by the minor’s attorney.

3.2 Clerk’s Duties.

- (a) ***Assistance in filing.*** The trial court clerk must give prompt assistance—in a manner designed to protect the minor’s confidentiality—to persons seeking to file an appeal. The clerk must ensure that the notice of appeal is addressed to the proper court of appeals and that the minor’s name and identifying information are not disclosed.
- (b) ***Forwarding record to court of appeals.*** Upon receipt of a notice of appeal, the trial court clerk must immediately forward to the clerk of the court of appeals the notice of appeal, the clerk’s record excluding the verification

page, and the reporter's record. The trial court clerk must deliver the record to the clerk of the court of appeals by hand or send it by fax or email. The clerk must not send the record by mail.

- (c) ***Certificate of court's failure to rule within time prescribed by statute.*** If the court of appeals fails to rule on an application within the time required by Section 33.004(b), Family Code, then, upon the minor's request, the clerk of the court of appeals must immediately issue a certificate to that effect, stating that the trial court's order is affirmed. The clerk may use Form 3D but is not required to do so.

3.3 Proceedings in the Court of Appeals.

- (a) ***Briefing and argument.*** A minor may request to be allowed to submit a brief and to present oral argument, but the court may decide to rule without a brief or oral argument.
- (b) ***Ruling.*** The court of appeals—sitting in a three-judge panel—must issue a judgment affirming or reversing the trial court's order denying the application. The court may use Form 3C but is not required to do so.
- (c) ***Time for ruling.*** The court of appeals must rule on an appeal as soon as possible, subject to any postponement requested by the minor. Section 33.004(b), Family Code, states that a court must rule on an appeal by 5 p.m. on the fifth business day after the notice of appeal is filed with the court that denied the application, or if the minor requests a postponement, by 5 p.m. on the fifth business day after the date the minor states she is ready to proceed.
- (d) ***Postponement by minor.*** The minor may postpone the time of ruling by written request filed either with the trial court clerk at the time she files the notice of appeal or thereafter with the court of appeals clerk. The request may be submitted on Form 3B, but use of the form is not required. The request must either specify a date on which the minor will be ready to proceed to ruling, or state that the minor will later provide a date on which she will be ready to proceed to ruling. Once the minor determines when she will be ready to proceed to ruling, she must notify the court of appeals clerk of that date in writing.
- (e) ***Opinion.***
 - (1) ***Opinion optional; must preserve confidentiality.*** A court of appeals may issue an opinion explaining its ruling, but it is not required to do

so. An opinion that is designated for publication or public release must be written in a way to preserve the confidentiality of the identity of the minor.

(2) *Time.* Any opinion must issue not later than:

(A) ten business days after the day on which a notice of appeal is filed in the Supreme Court, if an appeal is taken to the Supreme Court; or

(B) sixty days after the day on which the court of appeals issued its judgment, if no appeal is taken to the Supreme Court.

(3) *Transmission to Supreme Court and trial court.* When the court of appeals issues an opinion, the clerk must transmit it immediately to the Supreme Court and to the trial court. If the opinion is not designated for publication or public release, the transmission must be confidential.

(f) ***Failure to timely rule.*** If the court of appeals fails to timely rule on the appeal, the trial court's judgment is deemed to be affirmed.

Notes and Comments

1. Chapter 33, Family Code, provides for no appeal from an order granting an application.
2. A request to postpone the ruling of the court of appeals may be used in conjunction with a request for oral argument or to submit briefing.
3. Neither Chapter 33, Family Code, nor these rules prescribe the appellate standard of review.
4. The 2015 amendments to Chapter 33, Family Code, permit the court of appeals to publish an opinion "if the opinion is written in a way to preserve the confidentiality of the identity of the pregnant minor." TEX. FAM. CODE § 33.004(c-1). Any opinion that is released to the public must not only omit the minor's name and other directly identifying information but it must also describe the facts in a way that those who know the minor would not be able to recognize her.

RULE 4. APPEAL TO THE SUPREME COURT

4.1 How to Appeal to the Supreme Court. To appeal from the court of appeals to the Supreme Court, the minor must file a notice of appeal with the clerk of the Supreme Court, file a copy of the notice of appeal with the clerk of the court of appeals, and advise the clerk of each court by telephone that an appeal is being taken under Chapter 33, Family Code. The minor may use Form 4A but is not required to do so. The notice of appeal must:

- (a) be styled “In re Jane Doe”;
- (b) state the number of the cause in the court of appeals;
- (c) state an intention to appeal; and
- (d) be signed by the minor’s attorney.

4.2 Clerk’s Duties.

- (a) ***Assistance in filing.*** The clerk of the Supreme Court must give prompt assistance—in a manner designed to protect the minor’s confidentiality—to any person seeking to file an appeal. The clerk must ensure that the notice of appeal is addressed to the Supreme Court and that the minor’s name and identifying information are not disclosed.
- (b) ***Forwarding record to Supreme Court.*** Upon receipt of a notice of appeal to the Supreme Court, the clerks of the court of appeals and Supreme Court must immediately forward to the Supreme Court the record that was before the court of appeals.

4.3 Proceedings in the Supreme Court. A minor may request to be allowed to submit a brief and to present oral argument, but the Court may decide to rule without a brief or oral argument. The Court must rule as soon as possible.

Instructions for Applying to the Court for a Waiver of Parental Notification and Consent (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 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.

How to get a waiver of parental notification and consent

Fill out the application

To get a court order waiving the requirements that you tell a parent or your managing conservator or guardian about your planned abortion and obtain his or her consent, you 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 number, email address, or any 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 five 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 also 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.

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 p.m. on the fifth day after the day you filed your application, not counting weekends and holidays.

If the court fails to rule within that time, then your request is automatically denied. You can get a certificate from the court clerk that says that your request is “deemed denied.” If you choose to appeal, the certificate will be sent to the appellate court to explain what happened in your case.

If the court *does* rule within the required time, the court 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 *not* to notify or to attempt to obtain the consent of your parent or your managing conservator or guardian before getting the abortion; or
- (3) denies your request because the court does not find (1) or (2).

If you say, or if there is evidence, 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 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 in person. Instead, the court of appeals will review the written record and will issue a written ruling on your appeal no later than 5 p.m. on the fifth 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, your 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 from the clerk of the court of appeals. These forms are also available on the Texas Judiciary website at www.txcourts.gov.

Attention Clerk: Please Expedite

**Confidential Application for Waiver of
Parental Notification and Consent: 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 must complete both of these forms.

1. I ask the court for an order that allows me to have an abortion without first telling and obtaining the consent of my parent, managing conservator, or guardian. 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 and obtaining the consent of my parent, managing conservator, or guardian. I also know enough about abortion to make this decision.
- ☐ Telling my parent, managing conservator, or guardian that I want an abortion and attempting to obtain his or her consent is not in my best interest.
- ☐ Telling my parent, managing conservator, or guardian that I want an abortion may lead to physical or emotional abuse of me.
- ☐ Telling my parent, managing conservator, or guardian that I want an abortion may lead to sexual abuse of me.

3. Please check all that apply:

- ☐ I live in the county where this application is being filed.
- ☐ My parent, managing conservator, or guardian is a presiding judge of a district court, a county court at law, or a court having probate jurisdiction in the county where I live, and **(check any that apply)**:
 - ☐ The county where I live is contiguous to (shares a border with) this one.
 - ☐ I intend to obtain the abortion in this county.
- ☐ The population of the county where I live has a population of less than 10,000, and **(check any that apply)**:
 - ☐ The county where I live is contiguous to (shares a border with) this one.
 - ☐ I intend to obtain the abortion in this county.
- ☐ I am not a Texas resident, but I intend to obtain the abortion in this county.

4. 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 email address: _____

Lawyer's address: _____

Lawyer's phone: _____

5. 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 another adult. 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.)

6. Please state whether you have filed a Confidential Application for Waiver of Parental Notification and Consent other than this one with respect to your current pregnancy.

- ☐ I have filed another Confidential Application for Waiver of Parental Notification and Consent with respect to my current pregnancy.
- ☐ I have **not** filed another Confidential Application for Waiver of Parental Notification and Consent with respect to my current pregnancy.

7. If you have filed another Confidential Application for Waiver of Parental Notification and Consent with respect to your current pregnancy, please answer the following questions. If you have not filed another Application with respect to your current pregnancy, do not answer these questions.

What court ruled on your previous application? _____

Has there been a material change in circumstances since the time your previous application was denied? (Write “yes” or “no.”) _____

CAUSE NO. _____

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

**Confidential Application for Waiver of Parental
Notification and Consent: 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) the 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 must complete both of these forms.

1. Please provide the following information.

Your full name: _____

Your date of birth: _____

Your address (if the place you receive mail is different than the place you actually live, list both addresses): _____

Your telephone number: _____

2. If you are requesting the court to appoint someone you know as your guardian ad litem (see Question 5 on the Cover Sheet, Form 2A), please identify them:

Name: _____

Relationship: _____

Address: _____

Phone: _____

3. 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 or any other method by which you can be contacted immediately and confidentially. If you share a telephone number with another person, or there is another reason why you do not

want to be contacted at the telephone number you provided above, you can have us contact someone else who helps you.

Person to be contacted (you or another person): _____

Phone number or other contact information: _____

Another person to be contacted (optional): _____

Phone number or other contact information: _____

Important: Please complete either Option 1 or Option 2 below. You do not have to complete both. If you complete Option 1, you must sign your name before a notary public, court clerk, or another person authorized to give oaths. If you complete Option 2, you do not have to sign your name before a notary public or any other person, but you must swear that the information in your Application is true “under penalty of perjury.” “Perjury” means lying to a judge, and it is a crime. If you swear that a statement is true “under penalty of perjury,” and you make the statement knowing that it is false, you could be prosecuted in criminal court.

Option 1

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

Name of minor printed or typed

Minor’s date of birth

Sworn to or affirmed in my presence this _____ day of _____, 20____.

Signature of notary public, clerk, or other person authorized to give oaths

(Option 2 is on the next page)

Option 2

My name is _____ (*First*) _____ (*Middle*) _____ (*Last*), my date of birth is _____, and my address is _____ (*Street*), _____ (*City*), _____ (*State*), _____ (*Zip Code*), and _____ (*Country*). I declare under penalty of perjury that the information in my Application (both the Cover Sheet and the Verification Page) is true and correct.

Executed in _____ (*County*), State of _____, on the _____ day of _____ (*Month*), _____ (*Year*).

Signature of minor

**Request to Postpone Trial Court Hearing in Proceeding to Waive Parental
Notification and Consent; Designation of Alternate 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 fifth business day after (please state a date after which you will be ready to have a 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 Email Address: _____

Attorney's Fax No.: _____

Judgment and Findings of Fact and Conclusions of Law on Application in Proceeding to Waive Parental Notification and Consent (Form 2D)

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This matter was heard on this ____ day of _____, 20____. 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 and obtaining the consent of either of her parents, her managing conservator, or her guardian.
5. Clear and convincing evidence supports the following: [State “yes” beside an issue for which the court finds in favor of the applicant by clear and convincing evidence. If any one issue is decided in favor of the applicant, the court need not consider the other issues.]

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

Finding of Facts and Conclusions of Law:

- Notifying and attempting to obtain the consent of either of the applicant's parents, her managing conservator, or her guardian would not be in her best interest.

Findings of Facts and Conclusions of Law:

THEREFORE, IT IS ORDERED:

- The application is GRANTED and the applicant is authorized to consent to the performance of an abortion without notifying and obtaining the consent of 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 Rules for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code 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 Denial of Application in Proceeding to Waive Parental
Notification and Consent (Form 2E)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This will certify that on the _____ day of _____, 20____, Jane Doe filed an application for a court order authorizing her to consent to an abortion without the parental notice and consent required by Sections 33.002 and 33.0021, Family Code. The court did not rule on the application by 5 p.m. on the fifth business day after the day the application was filed. Accordingly, under Rule 2.5(g) of the Rules for a Judicial Bypass of Parental Notice and Consent Under Chapter 33, Family Code, the application is deemed to be DENIED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

**Order that Costs in Proceeding to Waive Parental Notification and Consent Be
Paid by the State Pursuant to Texas Family Code § 33.007 (Form 2F)**

Notice: To guarantee reimbursement, this Order must be served on the Director, Fiscal Division, Texas Department of Health, within the deadlines imposed by Rule 1.9(b) of the Rules for a Judicial Bypass of Notice and Consent Under Chapter 33 of the Family Code.

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 _____, 20____, 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

**Clerk's Certification of Court Costs and Fees and Transmission of Order for
Payment in Proceeding to Waive Parental Notification and Consent
(Form 2G)**

Director, Fiscal Division
Texas Department of Health
1100 West 49th Street
Austin TX 78756

Re: *In re Jane Doe*

Cause No. _____

Court: _____

County: _____

Dear Sir or Madam:

Please find enclosed a certified copy of an Order issued on _____, 20____,
in the referenced case. Please pay the amounts to the payees as stated in the Order.

In accordance with the Order, I certify the following fees and costs for payment
as follows:

Amount: \$_____

Name of the Clerk: _____

Address : _____

Tax Identification No.: _____

Thank you.

Sincerely,

[seal]

Name: _____

Position: _____

Encl.: Certified copy of Order

**Order Appointing Interpreter for Proceeding to Waive Parental Notification
and Consent Under Chapter 33, Family Code (Form 2H)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

ORDERED that for good cause, the following person is appointed an interpreter to assist the applicant in applying for relief under Chapter 33, Family Code:

Name: _____ State Bar No. _____

Address: _____

Telephone: _____ Federal Tax ID: _____

Signed: this _____ day of _____, 20__.

Judge

OATH FOR INTERPRETER

I, _____, do swear or affirm that I am competent and well versed in the _____ language and will: (1) make a true interpretation of all the proceedings to the applicant; and (2) repeat verbatim all statements, questions, and answers of all persons who are a part of the proceeding to the applicant, counsel, the court, and others in the English language and in the _____ language, using my best skill and judgment.

I will not: (1) participate in any manner other than as an interpreter in the decision making or adjudicative process; (2) communicate with any other person regarding the proceedings except a literal translation of questions, answers, or remarks made during the proceeding; or (3) disclose or discuss any of the proceedings with any person following entry of judgment.

Signature

Printed Name

Address

Telephone Number

SWORN TO AND SUBSCRIBED before me on _____, 20__.

[Seal]

Notice to Clerk and Court Reporter to Prepare Records (Form 2I)

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 request the court reporter and appropriate clerk to immediately 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)

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 official 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.

Notice to Clerk and Court Reporter to Prepare Records (Form 2J)

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 or guardian ad litem requests the court reporter and the 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 the 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 official 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.

Attention Clerk: Please Expedite

Notice of Appeal in Proceeding to Waive Parental Notification and Consent (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 should fill out the information below.

On this ____ day of _____, 20____, 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 and consent required by Sections 33.002 and 33.0021, Family Code.

Attorney's Signature _____

Attorney's Name, Printed _____

State Bar No. _____

Attorney's Address _____

Attorney's Telephone _____

Attorney's Email Address _____

Attorney's Fax No. _____

**Request to Postpone Court of Appeals' Ruling in Proceeding to Waive Parental
Notification and Consent; 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 5 p.m. on _____.
- ☐ Please rule on my appeal by 5 p.m. on the fifth business day after (state a date after which you will be ready to proceed) _____. If the court holds oral argument, the clerk will notify you of its date and time.
- ☐ 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 Email Address _____

Attorney's Fax No. _____

**Judgment on Appeal in Proceeding to Waive Parental Notification and Consent
(Form 3C)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT, 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 and consent required by Sections 32.002 and 33.0021, Family Code, is:

- ☐ Affirmed. The minor will be advised of her right to appeal under Rule 4 of the Rules for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code 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 Affirmance of Order On Appeal in Proceeding to
Waive Parental Notification and Consent (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 _____, 20____, 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 and consent required by Sections 33.002 and 33.0021, Family Code. The court of appeals did not rule on her appeal by 5 p.m. on the fifth business day after the day the notice of appeals was filed. Accordingly, the order is deemed to be AFFIRMED.

Signed this _____ day of _____, 20____.

Judge Presiding or Clerk

ATTENTION CLERK: PLEASE EXPEDITE

Notice of Appeal to the Texas Supreme Court in Proceeding to Waive Parental Notification and Consent (Form 4A)

CAUSE NO. _____

IN THE SUPREME COURT OF TEXAS

IN RE JANE DOE

On this _____ day of _____, 20____, 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 and consent required by Sections 33.002 and 33.0021, Family Code.

Attorney's Signature _____

Attorney's Name, Printed _____

Attorney's State Bar No. _____

Attorney's Address _____

Attorney's Telephone _____

Attorney's Email Address _____

Attorney's Fax No. _____

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

Explanatory Statement

Chapter 33 of the Texas Family Code, ~~adopted by Act of May 25, 1999, 76th Leg., R.S., ch. 395, 1999 Tex. Gen. Laws 2466 (S.B. 30),~~ provides for judicial authorization of an unemancipated minor to consent to an abortion in Texas without notice to, ~~or the consent of, a her~~ parents, managing conservator, or guardian. ~~Section 2 of the Act states: “The Supreme Court of Texas shall issue promptly such rules as may be necessary in order that the process established by 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. Family Code, as added by this Act, may be conducted in a manner that will ensure confidentiality and sufficient precedence over all other pending matters to ensure promptness of disposition.” See ALSO 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. Section 6 of the Act adds: “The clerk of the Supreme Court of Texas shall adopt the application form and notice of appeal form to be used under Sections 33.003 and 33.004, Family Code, as added by this Act, not later than December 15, 1999.” See also Tex. Fam. Code §§ 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; 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.). The rules and forms have been amended to reflect the 2015 amendments to Chapter 33. See Act of June 1, 2015, 84th Leg., R.S., ch. 436 (H.B. 3994). The rules and forms track the statutory requirements. They do not reflect any judgment by the Court that Chapter 33, or any part of it, is constitutional. Constitutional questions must be resolved in an adversarial proceeding with full briefing and argument. Nor do the rules ~~The following rules and forms are promulgated as directed by the Act without any determination that the Act or any part of it comports with the United States Constitution or the Texas Constitution. During the public hearings and debates on the rules and forms, questions were raised concerning the constitutionality of Chapter 33, among which were whether the statute can make court rulings secret, and whether the statute can require courts to act within the specified, short deadlines it imposes. Because such issues should not be resolved outside an adversarial proceeding with full briefing and argument, the rules and forms merely track statutory requirements of the Legislature. Adoption of these rules does not, of course, 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 § 170.002 Tex. Rev. Civ. Stat. Ann. art. 4495b, § 4.011 (restrictions on third trimester abortions of viable fetuses).~~

~~In 2005, the Legislature amended the Texas Occupations Code to prohibit a physician from performing an abortion on an unemancipated minor~~

~~without the written consent of the child's parent, managing conservator, or legal guardian or without a court order, as provided by Section 33.003 or 33.004, Family Code, authorizing the minor to consent to the abortion, unless the physician concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the pregnant minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and that there is insufficient time to obtain the consent of the child's parent, managing conservator, or legal guardian.~~

~~Act of May 27, 2005, 79th Leg., R.S., ch. 269, §1.42, 2005 Tex. Gen. Laws 734 (S.B. 419) (codified at Tex. Occ. Code §164.052(a)(19)). The parental consent law does not direct the Supreme Court to provide procedural rules implementing its provisions but instead expressly references the judicial bypass provisions in the parental notification law as providing an exception to the parental consent requirement. The procedures governing application for a judicial bypass to the parental notification requirement are set forth in the existing Parental Notification Rules. In addition, the parental consent law requires the Texas Medical Board to adopt the forms necessary for physicians to obtain the consent required by law to perform an abortion upon an unemancipated minor. See *id.* (codified at Tex. Occ. Code § 164.052(c)). Those forms are published at 22 Tex. Admin. Code §165.6(f) and are available on the Texas Medical Board's website, at www.tmb.state.tx.us/rules/docs/Current%20Rules%20-%20%201-4-07.doc.~~

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 ~~either of her~~ parent, ~~s 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.

1.2 Expedition Required.

- (a) **Proceedings.** A court must give proceedings under these rules precedence over all other pending matters to the extent necessary to ensure ~~assure~~ that applications and appeals are adjudicated as soon as possible and within the time required by Chapter 33, Family Code, and these r~~Rules 2.4(a), 2.5(d), and 3.3(e).~~
- (b) **Prompt actual notice required.** Without compromising the confidentiality ~~and anonymity~~ required by statute and these rules, courts and clerks must serve orders, decisions, findings, and notices required under these rules in a manner designed to give prompt actual notice in order that the deadlines imposed by Chapter 33, Family Code, can be met.
- ~~(c) **Instant.** “Instant” means immediately, without delay. An action required by these rules to be taken instant should be done at the first possible time and with the most expeditious means available.~~

1.3 Identity ~~Anonymity~~ of Minor Protected.

- (a) **Generally.** Proceedings under these rules must be conducted in a way that protects the confidentiality ~~anonymity~~ of the identity of the minor.
- (b) **No reference to minor’s identity in proceeding.** With the exception of the verification page required under Rule 2.1(c)(2) and the communications required under Rule 2.2(e), no reference may be made in any order, decision, finding, or notice, or on the record, to the name of the minor, her address, or other information by which she might be identified by persons not participating in the proceedings. Instead, the minor must be referred to as “Jane Doe” in a numbered cause.
- (c) **Notice.** With the exception of orders and rulings released under Rule 1.4(b), all service notices and communications from the court to the minor must be directed to the minor’s attorney with a copy to the guardian ad litem. ~~The~~A minor’s attorney must immediately serve on the guardian ad litem ~~instant~~ a copy of any document filed with the court. These requirements take effect when an attorney appears for the minor; or when the clerk has notified the minor of the appointment of an attorney or a guardian ad litem.

1.4 Confidentiality of Proceedings Required; Exceptions.

- (a) **Generally.** All officials and court personnel involved in the proceedings must ensure that the minor’s contact with the clerk and court is confidential and expeditious. Except as permitted by law, no officials or court personnel

involved in the proceedings may ever disclose to anyone outside the proceeding—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.

(b) Documents and information pertaining to the proceeding.

(1) General rule; disclosure prohibited. As required by Chapter 33, Family Code, the application and all other court documents and information pertaining to the proceedings are confidential and privileged and are not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process.

(2) Exception; disclosure to minor permitted. The application and any other document in the court file may be disclosed to the minor.

(3) Exception; disclosure of order to certain persons. But documents and information may be disclosed when expressly authorized by these rules, and An order, ruling, opinion, or clerk’s certificate may be released to:

- (1) the minor;
- (2) the minor’s guardian ad litem;
- (3) the minor’s attorney;
- the physician who is to perform the abortion;
- (4) a person designated in writing by the minor to receive the order, ruling, opinion, or certificate;
- (5) a governmental agency or governmental attorney, in connection with a criminal or administrative action seeking to assert or protect the minor’s interests; or
- (6) another court, judge, or clerk in the same or related proceedings.

(c) Filing of court reporter’s notes required—permitted. To ensure ~~assure~~ confidentiality, court reporter notes, in whatever form, must ~~may~~ be filed with other court documents in the proceeding.

(d) **Duty to report possible ~~sexual~~ abuse.**

(1) ~~Duty of the court. A judge or justice A court, guardian ad litem, or attorney ad litem who, as a result of a court proceeding governed by these rules, has reason to believe that a minor has been or may be physically or sexually abused must report the suspected abuse in accordance with Sections 33.0085 and 33.009, Family Code, and other law.~~

(2) ~~Duty of an attorney or guardian ad litem. An attorney or a guardian ad litem who, as a result of a court proceeding governed by these rules, has reason to believe that a minor has been or may be physically or sexually abused must report the suspected abuse in accordance with Section 33.009, Family Code, and other law. reasonably believes, based on information obtained in the proceeding, that a violation of Section 22.011, 22.021, or 25.02, Penal Code, has occurred must report the information to the appropriate officials or agencies as required by Section 33.009, Family Code.~~

(e) **Department of Family and Protective ~~and Regulatory~~ Services or local law enforcement agency to disclose certain information in proceeding.** The Department of Family and Protective ~~and Regulatory~~ Services or a local law enforcement agency may disclose to the court, the minor's attorney-ad litem, and the guardian ad litem any information obtained under Sections 33.008, 33.0085, and 33.009, Family Code, without being ordered to do so. The ~~trial~~ court may order the Department or a local law enforcement agency to disclose the such information to the court, the minor's attorney, and the guardian ad litem, such persons, and the Department or agency must comply.

1.5 **Methods of Transmitting Electronic Transmission of Documents; Hearings Conducted By Remote Electronic Means; Electronic Record Allowed When Necessary.**

(a) (a)—Electronic filing through statewide portal prohibited. Documents must not be filed through the electronic filing manager established by the Office of Court Administration.

(b) Paper, Fax, or email filing permitted. Documents may be filed in paper form, by fax, or by email. The clerk of a court must designate an email address or a fax number for the filing of documents in proceedings

governed by these rules and must take all reasonable steps to maintain the confidentiality of the filings. An attorney must notify the clerk by telephone before filing a document by email or fax.

Electronic filing. Documents may be filed by facsimile or other electronic data transmission. If the sender communicates directly with the clerk the time at which the transmission will occur, the clerk must take all reasonable steps to assure that the confidentiality of the received transmission will be maintained.

(c) (b) — Fax and email Electronic transmission by court and clerk. The court and clerk may transmit orders, rulings, notices, and other documents by ~~fax facsimile or email~~ other electronic data transmission. But before the transmission is initiated, the sender must take all reasonable steps to ~~maintain the confidentiality of the transmission~~ assure that the confidentiality of the received transmission will be maintained. The time and date of a transmission by the court is the time and date when it was initiated.

(de) Participation in hHearings by electronic means. Consistent with the ~~anonymity and~~ confidentiality requirements of these rules, with the court's permission, ~~the attorney ad litem, the guardian ad litem, and any a~~ witnesses may participate in ~~a~~ hearings under these rules by video conferencing, telephone, or other remote electronic means. ~~But t~~The minor must appear before the court in person. ~~unless the court determines that the minor's appearance by video conferencing will allow the court to view the minor during the hearing sufficiently well to assess her credibility and demeanor.~~

(ed) Record of hearing made by electronic means if necessary. If the court determines that a court reporter is unavailable for a hearing, the court may have a record of the hearing made by audio recording or other electronic means. If a notice of appeal is filed, the court must have the recording transcribed if possible. The person transcribing the recording must certify to the accuracy of the transcription. The court must transmit both the recording and the transcription to the court of appeals.

1.6 Disqualification, Recusal, or Objection to a Judge.

(a) Time for filing and ruling. ~~An objection to a trial judge, or a~~ A motion to recuse or disqualify a trial judge, ~~or an objection to a trial judge under~~ Section 74.053, Government Code, must be filed before 10:00 a.m. of the first business day after an application is filed or promptly after the assignment of a judge to hear the case is made known to the minor's ~~or her~~

attorney, whichever is later. ~~An objection to an appellate judge, or a~~ A motion to recuse or disqualify an appellate judge or an objection to an appellate judge under Section 75.551, Government Code, must be filed before 10 a.m. of the first business day after a notice of appeal is filed or promptly after the assignment of a judge is made known to the minor's attorney, whichever is later. A judge who chooses to ~~recuse~~ withdraw voluntarily must do so ~~immediately~~ instantly. ~~An objection to a judge or a~~ A motion to disqualify or recuse or an objection to an assigned judge does not extend the deadline for ruling on the minor's application.

- (b) ***Voluntary disqualification or recusal, ~~or~~ objection.*** A judge who removes himself or herself voluntarily—whether in response to a motion or on the judge's own initiative—or to whom objection is made under ~~Chapter Sections 74.053 or 75.551, Government Code,~~ or a judge or justice who voluntarily does not sit, must immediately notify ~~instantly~~ the appropriate authority under rule or statute for assigning another judge ~~by local rules or by statute~~. That authority must immediately ~~instantly~~ assign a judge or justice to the proceeding.
- (c) ***Involuntary disqualification or recusal.*** A judge ~~or justice~~ who refuses to remove himself or herself voluntarily from a proceeding in response to a motion must immediately ~~instantly~~ refer the motion to the appropriate judge ~~or justice, pursuant to local~~ under rule, ~~rule,~~ or statute, for determination. The judge ~~or justice~~ to whom the motion is referred must rule on it as soon as possible and may do so with or without a hearing. If the motion is granted, the judge ~~or justice~~ to whom the motion was referred must immediately ~~instantly~~ assign another judge ~~or justice~~ to the proceeding.
- (d) ***~~Only one objection or motion to recuse permitted~~ Restrictions on the number of motions and objections.*** A minor who objects under Section 74.053 or Section 75.551, Government Code, to a judge assigned to the proceeding may not thereafter file a motion to recuse ~~or disqualify the judge assigned to replace the judge to whom the objection was made,~~ and ~~a~~ A minor who files a motion to recuse or disqualify a judge may not thereafter object under Section 74.053 or Section 75.551, Government Code, to another judge assigned to the proceeding.
- (e) ***Issues on appeal.*** Any error in the denial of a motion to recuse or disqualify, ~~or~~ any error in the disallowance of an objection, or any challenge to a judge that a minor is precluded from making by subsections (a) or (d), may be raised only on appeal from the court's denial of the application.

1.7 Rules and Forms to be Made Available. ~~A copy of these rules, and a copy of the attached forms in English and Spanish, must be made available to any person without charge in the clerk's offices of all courts in which applications or appeals may be filed under these rules, on the Texas Judiciary Internet site at www.courts.state.tx.us, and by the Office of Court Administration upon request. A copy of a court's local rules relating to proceedings under Chapter 33, Family Code, must be made available to any person without charge in the office of the clerk for that court where applications may be filed. Rules and forms may be copied.~~

(a) *Online.* A complete set of these rules and forms must be posted on the Texas Judiciary website at www.txcourts.gov. Forms 1A, 2A, and 2B must be translated into Spanish.

(b) *In clerks' offices.* The clerk of a court in which an application or appeal may be filed must make the rules and forms—including the Spanish version of Form 1A, 2A, and 2B—and any applicable local rules available to a minor without charge.

1.8 Duties of Attorneys Ad Litem. An attorney ad litem must represent the minor in the trial court in the proceeding in which the attorney is assigned, and in any appeal under these rules to the court of appeals or the Supreme Court. But an attorney ad litem is not required to represent the minor in any other court or any other proceeding.

1.9 Fees and Costs.

(a) *No fees or costs charged to minor.* No filing fee or court cost may be assessed against a minor for any proceeding in a trial or appellate court.

(b) *State ordered to pay fees and costs.*

(1) *Fees and costs that may be paid.* The State may be ordered to pay the reasonable and necessary fees and expenses of the attorney ad litem, the reasonable and necessary fees and expenses of the guardian ad litem, the court reporter's fee as certified by the court reporter, and trial court filing fees and costs as certified by the clerk. Court costs include the expenses of an interpreter (Form 2H) and an evaluation by a licensed mental health counselor but do not include the fees or expenses of a witness. Court costs do not include fees which-that must be remitted to the state treasury.

- (2) *To whom order directed and sent.* The order must be directed to the Comptroller of Public Accounts ~~and but should be sent by the clerk~~ to the Director, Fiscal Division, of the Texas Department of Health.
- (3) *Form and contents of the order.* The order must state the amounts to be awarded the attorney ad litem and the guardian ad litem. The order must be separate from any other order in the proceeding and must not address any subject other than the assessment of fees, expenses, and costs. A trial court may use Forms 2F and 2G, but it is not required to do so.
- (4) *Time for signing and sending order.* ~~To be valid,~~ the order must be signed by the judge and sent by the clerk to the Department of Health not later than the ninetieth day after the date of the final ruling in a proceeding, ~~whether the application is granted, deemed granted, or denied, or the proceeding is dismissed or nonsuited.~~
- (c) ***Motion to reconsider; time for filing.*** Within thirty days of actual receipt of the order, the Comptroller or any other person adversely affected by the order may file a motion in the trial court to reconsider the assessment of fees, expenses, or costs. The trial court retains jurisdiction of the case to hear and determine any timely filed motion to reconsider.
- (d) ***Appeal.*** The Comptroller or any other person adversely affected by the order may appeal from the trial court's ruling on the motion to reconsider as from any other final judgment of the court.
- (e) ***Report to the Office of Court Administration.*** The Department of Health must transmit to the Office of Court Administration a copy of every order assessing fees, expenses, or costs in a proceeding under Chapter 33, Family Code. ~~Such Orders assessing fees, expenses, or costs~~ are not subject to any order the Amended Order of the Supreme Court of Texas requiring, dated September 21, 1994, in Misc. Docket No. 94-9143, regarding mandatory reports of judicial appointments and fees or to the reporting requirements of Chapter 36, Government Code.
- (f) ***Confidentiality.*** When transmitting an order awarding costs to the Department of Health, the clerk must take reasonable steps to preserve its confidentiality. The confidentiality of an order awarding costs—as prescribed by Chapter 33, Family Code—is not affected by its transmission to the Comptroller, Texas Department of Health, or the Office of Court Administration, nor is the order subject to public disclosure in response to a request under any statute, rule, or other law. But these rules do not preclude

the Comptroller, Texas Department of Health, and the Office of Court Administration from disclosing summary information from orders assessing costs for statistical or other such purposes.

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, ~~c~~Case-sSpecific ~~b~~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. If the brief is filed in paper form, tThe person must submit the original brief and the same number of copies required for other paper submissions to the court. The person ,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 ~~q~~General ~~b~~Briefs.** Any person may submit a brief addressing any matter relating to proceedings under Chapter 33, Family Code. The Such a brief must not contain any information in violation of Rules 1.3 and 1.4. If the brief is filed in paper form, tThe person must submit the original brief and the same number of copies required for other paper submissions to the court. If the brief is submitted to a court of appeals, one 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. Upon receipt 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 website. When an appeal of a proceeding is filed, the clerk of the court of appeals or the Supreme Court must notify the minor’s attorney and guardian ad litem of the existence of any brief submitted under this subsection and must make the brief available for inspection and copying.

Notes and Comments

1. Rule 1.1 contemplates that other court rules of procedure and administration remain as a “default” governing matters not addressed in these rules. Thus, for example, these rules do not state a deadline for filing notices of appeal, so the ordinary 30-day deadline controls, see Tex. R. App. P. 26.1, but these rules control over inconsistent provisions in the appellate rules governing the docketing statement, the record, and briefing.

2. Rule 1.1 also contemplates that individual jurisdictions may enact local rules pursuant to Tex. R. Civ. P. 3a, Tex. R. App. P. 1.2, or Tex. R. Jud. Admin. 10, to the extent consistent with Chapter 33, Family Code, and with these rules, to tailor the implementation of the statute and these rules to local needs and preferences. Local rules may address, for example, the specific location or office where applications are to be filed, how applications are to be assigned for hearing, and whether an appellate court will permit or require briefing or oral argument. See *also* Rule 2, Comment 1.
3. Any judge involved in a proceeding, whether as the judge assigned to hear and decide the application, the judge assigned to hear and decide any disqualification, recusal or objection, a judge authorized to transfer the application or assign another judge to it, or an appellate judge, may have access to all information (including the verification page) in the proceeding or any related proceeding, such as a prior filing by the minor. Similarly, a minor's attorney and guardian ad litem must, of course, have access to the case file to the extent necessary to perform their respective duties.
4. Sections 33.008, 33.0085, and 33.009, Family Code, requires ~~a physicians, judges, attorneys, and guardians ad litem to report suspected physical or sexual abuse who suspects that a minor has been physically or sexually abused by a person responsible for the minor's care to report the matter~~ to the Texas Department of Family and Protective and Regulatory Services and to a local law enforcement agency. ~~That section also requires the Department to investigate and to assist the minor in making an application, if appropriate.~~ Section 33.010 makes confidential—"[n]otwithstanding any other law"—all information obtained by the Department or a law enforcement agency under Sections 33.008, 33.0085, and 33.009 except to the extent necessary to prove certain criminal conduct. Rule 1.4(e) construes Section 33.010 in harmony with Section ~~33.008 33.003(i-2)~~, which makes past or potential future abuse relevant to a claim under Section 33.003(i)(2) that notifying or attempting to obtain the consent of a parent, managing conservator, or guardian would not be in the minor's best interest. ~~If Section 33.010 precluded the Department from disclosing information obtained under Section 33.008 to the court, the attorney ad litem, and the guardian ad litem in proceedings under section 33.003, the Department's statutorily mandated role in such proceedings would be seriously impaired. The Department could be required by Section 33.008 to assist a minor in filing an application but prohibited by Section 33.010 from providing the court with information supporting the application. The disclosure permitted and required by Rule 1.4(e) avoids this result.~~

- ~~5. Rule 1.5(a) constitutes the approval required by Section 51.803, Government Code, for electronic filing of documents in proceedings under these rules. To facilitate expedition of proceedings, restrictions imposed on electronic filing in other cases are not imposed here. However, electronic filing is only permitted, not required, and Rule 1.5(a) does not necessitate the provision of means for electronic filing. A person filing by electronic means cannot, of course, expect that the document will be treated confidentiality upon receipt unless the recipient has been told the time the transmission will occur.~~
56. Rule 1.6 controls to the extent that it conflicts with other provisions regarding the disqualification or recusal of judges, such as Tex. R. Civ. P. 18a, Tex. R. App. P. 16, and Tex. Gov't Code 25.00255. ~~But the rule incorporates the referral and reassignment processes otherwise applicable by local rule, rule, or statute.~~
67. The archival requirements relating to proceedings under Chapter 33, Family Code, and these rules is governed by Sections 441.158 and 441.185, Government Code, and the schedules promulgated by the Texas State Library and Archives Commission pursuant to those authorities.
78. Because orders awarding fees, expenses, and costs contain information made confidential by Chapter 33, Family Code, that confidentiality should not be affected by the transmission to the Texas Department of Health and to the Comptroller, which is necessary to effectuate payment, or to the Office of Court Administration, which is necessary to oversee the costs associated with the proceedings. Rule 1.9(f) does not preclude either the Comptroller, Texas Department of Health, or the Office of Court Administration from disclosing total amounts paid for all proceedings, the or average amount awarded per proceeding, or other ~~such~~ statistical summaries or analyses that ~~which~~ do not impair the confidentiality of the proceedings.
89. Rule 1.10 adds a procedure for filing amicus curiae briefs uniquely designed for the expedited and confidential nature of parental notification judicial bypass cases.

RULE 2. PROCEEDINGS IN THE TRIAL COURT

- 2.1 Where to File an Application; Court Assignment and Transfer; Application Form; Effect of a Nonsuit or Prior Determination.**
- (a) ***Counties in which an application may be filed.*** An application for an order under Section 33.003, Family Code, must may be filed in any county, regardless of the minor's county of residence, unless one of the following exceptions applies. ~~or where the abortion sought is to be performed.~~

- (1) Minor's parent is a presiding judge. If the minor's parent, managing conservator, or guardian is a presiding judge of a court described in (b)(1) in the county of the minor's residence, the application must be filed in:
 - (A) a contiguous county; or
 - (B) the county where the minor intends to obtain the abortion.
- (2) Residence in a county with a population of less than 10,000. If the minor's county of residence has a population of less than 10,000, the application must be filed in:
 - (A) the minor's county of residence;
 - (B) a contiguous county; or
 - (C) the county where the minor intends to obtain the abortion.
- (3) Nonresident minor. If the minor is not a Texas resident, the application must be filed in the county where the minor intends to obtain the abortion.

(b) Courts in which an application may be filed; assignment and transfer.

- (1) *Courts with jurisdiction.* An application may be filed in a district court (including a family district court), a county court-at-law, or a court having probate jurisdiction.
- (2) *Application filed with district or county clerk.* An application must be filed with either the district clerk or the county clerk, who will assign the application to a court as provided by local rule or these rules. The clerk to whom the application is tendered cannot refuse to accept it because of any local rule or other rule or law that governs the provides for filing and assignment of such applications or cases. but The clerk must accept the application and transfer it immediately instanter to the proper clerk, advising the person tendering the application where it is being transferred.
- (3) *Court assignment and transfer by local rule.* The courts in a county that have jurisdiction to hear applications may determine by local rule how applications will be assigned between or among them. A

local rule must be approved by the Supreme Court under Rule 3a, Texas Rules of Civil Procedure.

- (4) *Initial court assignment if no local rule.* Absent a local rule, the clerk that files an application—whether the district clerk or the county clerk—must assign it as follows:

(Ai) to a district court, if the active judge of the court, or a judge assigned to it, is available~~then present in the county~~;

(Bii) if the application cannot be assigned under (Ai), then to a statutory county or probate court, if the active judge of the court, or a judge assigned to it, is available~~then present in the county~~;

(Ciii) if the application cannot be assigned under (Ai) or (Bii), then to the constitutional county court, if it has probate jurisdiction, and if the active judge of the court, or a judge assigned to it, is available~~then present in the county~~;

(Div) if the application cannot be assigned under (Ai), (Bii), or (Ciii), then to the district court.

- (5) *Judges who may hear and determine applications.* An application may be heard and determined (~~i~~) by the active judge of the court to which the application is assigned, ~~or (ii)~~ by any judge authorized to sit for the active judge, or (~~iii~~) by any judge who may be assigned to the court in which the application is pending. An application may not be heard or determined, or any proceedings under these rules conducted, by a master or magistrate.

- (c) ***Application form.*** An application consists of two pages—~~a cover page and a separate verification page~~—if the minor is not represented by an attorney at the time of filing. If the minor is represented by an attorney at the time of filing, the application must include a third page, the attorney’s sworn statement or declaration made under penalty of perjury.

- (1) *Cover page.* The cover page may be submitted on Form 2A, but use of the form is not required. The cover page must be styled “In re Jane Doe” and must not disclose the name of the minor or any information from which the minor’s identity could be derived. The cover page must state:

- (A) that the minor is pregnant;
 - (B) that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed under Chapter 31, Family Code;
 - (C) that the minor wishes to have an abortion without notifying or obtaining consent from either of her parents or a managing conservator or guardian, and the statutory ground or grounds on which she relies;
 - (D) that venue is proper in the county in which the application has been filed;
 - (E) whether the minor has retained an attorney, and if so, the attorney's name, email address, mailing address, and telephone number;
 - (F) whether the minor requests the court to appoint a particular person as her guardian ad litem; and
 - (G) ~~that whether~~, concerning her current pregnancy, the minor has not previously filed an application that was denied; or
 - (H) if the minor has filed a previous application with respect to the current pregnancy that was denied, that this application is being filed in the same court that denied the previous application and that there has been a material change in circumstances since the time the previous application was denied, and if so, where the application was filed.
- (2) *Verification page.* The verification page may be submitted on Form 2B, but use of the form is not required. The verification page must be separate from the cover page, must be signed ~~under oath~~ by the minor under oath or under penalty of perjury ~~person completing the application~~, and must state:
- (A) the minor's full name, ~~and~~ date of birth, physical address, mailing address, and telephone number;
 - (B) the name, address, telephone number, and relationship to the minor of any person the minor requests the court to appoint as her guardian ad litem;

- (C) if the minor has not retained an attorney, a telephone ~~or pager~~ number—whether that of the minor or someone else (such as a physician, friend, or relative)—at which the minor may be contacted immediately and confidentially until an attorney is appointed to represent her; and
- (D) that all information contained in the application, including both the cover page and the verification page, is true.

(3) Attorney's statement. The minor's attorney must file with the application a sworn statement or unsworn declaration made under penalty of perjury that attests to the truth of the minor's claims regarding venue and prior applications.

(d) ***Time of filing.*** An application is filed when it is actually received by the district or county clerk.

(e) ***Nonsuit requires permission.*** A minor may not withdraw or nonsuit an application without permission of the court.

(f) ***Res judicata effect of prior determination.***

(1) General rule. A minor who has filed an application and obtained a determination by the court under Rule 2.5 may not initiate a new application proceeding with respect to the same pregnancy, and the prior determination is res judicata on the issue whether the minor may consent to an abortion without notification to, or consent of, a parent, managing conservator, or guardian.

(2) Exception for material change in circumstances. A minor whose application is denied may submit a new application to the court that denied the application if the minor shows that there has been a material change in circumstances since the prior application was denied.

2.2 Clerk's Duties.

(a) ***Assistance in filing.*** The clerk must give prompt assistance—in a manner designed to protect the minor's confidentiality ~~and anonymity~~—to persons seeking to file an application. If requested, the clerk must administer the oath required for the verification page or provide a person authorized to do so. The clerk must ~~should~~ also redact from the cover page any information

identifying the minor. The clerk ~~must~~ ~~should~~ ensure that both the cover page and the separate verification page are completed in full.

- (b) ***Filing procedure.*** The clerk must assign the application a cause number ~~that does not identify the assigned judge~~ and affix it to both the cover page and the verification page. The clerk must then provide a certified copy of the verification page to the person filing the application. The clerk must file the verification page under seal in a secure place where access is limited to essential court personnel.
- (c) ***Distribution.*** When an application is filed, the clerk must distribute the cover page and verification page, or a copy of them, to the appropriate court ~~immediately~~ ~~instantly~~. If appointment of a specific person as guardian ad litem has been requested, the clerk must also communicate the information to the appropriate court- ~~immediately~~ ~~instantly~~.
- (d) ***If judge of assigned court not- ~~available~~ ~~present in county~~.*** The clerk must determine ~~immediately~~ ~~instantly~~ whether the judge of the court to which the application is assigned is- ~~available to hear the application within the prescribed time period~~ ~~present in the county~~. If that judge is not ~~available~~ ~~present in the county~~, the clerk must ~~immediately~~ ~~instantly~~ notify the local administrative judge or judges and the presiding judge of the administrative judicial region and must send them any information requested, including the cover page and verification page.
- (e) ***Notice of hearing and appointments.*** When the clerk is advised by the court of a time for ~~the~~ hearing or ~~of the~~ ~~an~~ appointment of a guardian ad litem or ~~an~~ attorney ad litem, the clerk must ~~immediately~~ ~~instantly~~ give notice—as directed in the verification page and to each appointee—of the hearing time or appointment. A court coordinator or other court personnel may give notice instead of the clerk.
- (f) ***Orders.*** The clerk must provide the minor’s attorney and the guardian ad litem with copies of all court orders, including findings of fact and conclusions of law.
- (g) ***Certificate of court’s failure to rule within time prescribed by statute.*** If the court fails to rule on an application within the time required by Section ~~33.002(g) and (h)~~ ~~33.003(h)~~, Family Code, upon the minor’s request, the clerk must ~~immediately~~ ~~instantly~~ issue a certificate to that effect, stating that the application is deemed ~~by statute~~ to be- ~~denied~~ ~~granted~~. The clerk may use Form 2E but is not required to do so.

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;
- (b) unless the minor has a retained attorney, appoint an attorney ad litem for the minor, who must not may be the same person appointed as guardian ad litem; ~~if that person is an attorney admitted to practice law in Texas and there is no conflict of interest in the same person serving as attorney ad litem and guardian ad litem;~~
- (c) set a hearing on the application ~~in accordance with Rule 2.4(a);~~ and
- (d) advise the clerk of the ~~appointment or~~ appointments and the hearing time.

2.4 Hearing.

(a) Time.

(1) General rule. The court must conduct a hearing in time to rule on the application ~~as required by~~ the deadline stated in Rule 2.5(~~fd~~).

(2) Minor may request postponement. ~~But t~~The minor may postpone the hearing by written request to the clerk ~~when the application is filed or thereafter~~. The request may be submitted on Form 2C, but use of the form is not required. The request must either specify a date on which the minor will be ready for the hearing, or state that the minor will later provide a date on which she will be ready for the hearing. Once the minor determines when she will be ready for the hearing, she must notify the clerk of that time in writing. The postponed hearing must be conducted in time for the court to rule on the application ~~as required by~~ the deadline stated in Rule 2.5(~~fd~~).

(b) **Place.** The hearing should be held in a location, such as a judge's chambers, that will ensure ~~assure~~ confidentiality. The hearing may be held away from the courthouse.

(c) **Persons attending.** The hHearings must be closed to the public. Only the judge, the court reporter, ~~and any~~ other essential court personnel, the minor, her attorney, her guardian ad litem, and witnesses on the minor's behalf may be present.

- (d) **Record.** The court, the minor, 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, the minor's attorney, or the 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, if she has requested the record; 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 immediately ~~instantly~~ if it has been requested for appeal or to demonstrate ~~the 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).
- (e) **Hearing to be informal.** The court should attempt to rule on the application without regard to technical defects in the application or the evidence. Affidavits of persons other than the minor applicants are admissible. Statements in the application cannot be offered as evidence to support the application. If necessary, the court may assist the minor in remedying technical defects in the application and in presenting relevant and material facts.

2.5 Ruling.

- (a) **Form of ruling.** The court's ruling on the application must include a signed order and written findings of fact and conclusions of law. The findings and conclusions may be included in the order. The court may use Form 2D, but it is not required to do so.
- (b) **Grounds for granting application.** The court must grant the application if the minor establishes, by clear and convincing a preponderance of the evidence, ~~that~~:
- (1) that the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notice to, or consent of, notifying either of the minor's parents, the minor's managing conservator, or the minor's legal guardian, ~~as the case may be; or~~
 - (2) that the notification or attempt to obtain consent notifying either of the minor's parents, the minor's managing conservator, or the

~~minor's legal guardian, as the case may be, would not be in the minor's best interest; or~~

~~(3) notifying either of the minor's parents, the minor's managing conservator, or the minor's legal guardian, as the case may be, may lead to physical, sexual, or emotional abuse of the minor.~~

(c) **The mature-and-informed inquiry.** In determining whether the minor meets the requirements of (b)(1), the court must consider the experience, perspective, and judgment of the minor. The court may:

(1) consider all relevant factors, including:

(A) the minor's age;

(B) the minor's life experiences, such as working, traveling independently, or managing her own financial affairs; and

(C) steps taken by the minor to explore her options and the consequences of those options;

(2) inquire as to the minor's reasons for seeking an abortion;

(3) consider the degree to which the minor is informed about the state-published informational materials described by Chapter 171, Health and Safety Code; and

(4) require the minor to be evaluated by a licensed mental health counselor, who must return the evaluation to the court for review within three business days.

(d) **The best-interest inquiry.** In determining whether the minor meets the requirements of (b)(2), the court may inquire as to:

(1) the minor's reasons for not wanting to notify and obtain consent from a parent, managing conservator, or guardian;

(2) whether notification or the attempt to obtain consent may lead to physical or sexual abuse;

(3) whether the pregnancy was the result of sexual abuse by a parent, managing conservator, or guardian; and

(4) any history of physical or sexual abuse from a parent, managing conservator, or guardian.

(ee) Grounds for denying application. The court must deny the application if:

(1) If the minor ~~can~~ does not establish ~~none of the either~~ grounds in Rule 2.5(b) by a preponderance of the clear and convincing evidence, the court must deny the application.; or

(2) If the court, the guardian ad litem, or the attorney ad litem are unable to contact the minor before the hearing despite diligent attempts to do so, or if the minor does not attend the hearing, the court must deny the application without prejudice.; and

(A) the minor had actual knowledge of the setting; or

(B) diligent attempts were made to notify the minor of the setting.

(fd) Time for ruling. The court must rule on an application as soon as possible after it is filed, subject to any postponement requested by the minor, and immediately after the hearing is concluded. Section 33.003(h), Family Code, states that a court must rule on an application by 5:00 p.m. on the fifth second business day after the day the application is filed, or if the minor requests a postponement, by 5 p.m. on the fifth business day after the date the minor states she is ready for the hearing, ~~and that if the court does not rule within this time, the application is deemed to be granted.~~

(g) Failure to timely rule. If the court fails to timely rule on an application, the application is deemed to be denied.

(he) Notification of the right to appeal. If the court denies the application, it must inform the minor of her right to appeal under Rule 3 and furnish her with the notice of appeal form, Form 3A.

Notes and Comments

1. Section 33.003(b), Family Code, permits an application to be filed in “~~any~~ county court at law, court having probate jurisdiction, or district court, including a family district court, in the minor’s county of residence this state.” or, if an exception applies, in a contiguous county or the county where the abortion would be performed. The initial assignment of an application to a specific court in a county is made by the clerk with whom the application is filed (not by the minor). Given the diversity of needs and circumstances among Texas courts, these rules allow the

courts in each county to tailor the procedures for filing, handling, and assigning applications prescribed by these rules to best meet those needs and circumstances. Chapter 74, Subchapter C, Government Code, affords the presiding judge of an administrative judicial region broad discretion to assign active judges within the region, as well as visiting judges, to hear matters pending in courts within the region. See Tex. Govt. Code §§ 74.054, 74.056; see also *id.*, § 74.056(b) (presiding judges may request judges from other judicial regions for assignment); § 74.057 (Chief Justice may assign judges from one judicial region to another). Section 25.0022, Government Code, provides for assignment of probate judges. Furthermore, Chapter 74, Subchapter D, Government Code, authorizes district and statutory county court judges within a county to hear matters pending in any district or statutory county court in the county. *Id.*, § 74.094(a). Finally, Section 74.121, Government Code, permits courts within a county to transfer cases among courts having jurisdiction over the case. If no local rule governs assignments, then Rule 2.1(b)(4) controls. **(2001-change)**

2. Because an application is considered filed when it is actually received by the clerk, the timing provisions relating to filing by mail of Tex. R. Civ. P. 21a are inapplicable.
3. Section 33.003(f), Family Code, provides that a guardian ad litem may be (1) a person who may consent to treatment for the minor under Sections 32.001(a)(1)-(3), Family Code; (2) a psychiatrist or an individual licensed or certified as a psychologist under ~~Chapter 501, Occupations Code~~ the Psychologist's Licensing Act, Article 4512c, Vernon's Texas Civil Statutes; (3) an appropriate employee of the Department of Family and Protective ~~or Regulatory~~ Services; (4) a member of the clergy; or (5) another appropriate person selected by the court. The trial court may also consider appointing a qualified person requested by the minor. Although not directly applicable to these proceedings, the standards embodied in Chapter 107, Family Code, reflect legislative intent that competent and qualified persons be appointed to serve as ad litem and may provide general guidance concerning the nature of those qualifications. Appointment of an employee of the Department of Family and Protective ~~and Regulatory~~ Services to serve as guardian ad litem may give rise to a conflict of interest not immediately apparent at the time since the Department may be involved with the minor's family due to an abuse or neglect investigation, or may be party to a suit affecting the parent-child relationship, or may already be serving as the child's managing conservator.
4. The duties of guardians ad litem are not susceptible of precise definition. Generally, a guardian ad litem should interview the minor and conduct any investigation the guardian believes to be appropriate, without violating Rules 1.3 and 1.4, to assist the court in arriving at an opinion whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed

without notification to, or consent of, either of her parents or a managing conservator or guardian; or whether notification or the attempt to obtain consent would not be in the best interest of the minor. ~~or whether notification may lead to physical, sexual, or emotional abuse of the minor.~~ Rule 2.5(c) and (d) list the nonexclusive factors outlined in Section 33.003(i-1)-(i-2), Family Code, that a court may consider in deciding whether the statutory criteria for a bypass have been met. In making these determinations, the following factors that have been considered in other jurisdictions with similar parental notification and consent statutes include:

- (1)• wWhether the minor has been examined by a doctor of medicine, doctor of osteopathy, or registered nurse—who is licensed to practice in Texas—and has given that health care provider an accurate and complete statement of her medical history;
- (2)• wWhether the minor has been provided with information or counseling bearing on her decision to have an abortion;
- (3)• wWhether the minor desires further counseling;
- (4)• wWhether, based on the information or counseling provided to the minor, she is able to give informed consent;
- (5)• wWhether the minor is attending school, or is or has been employed;
- (6)• wWhether the minor has previously filed an application that was denied;
- (7)• wWhether the minor lives with her parents;
- (8)• wWhether the minor desires an abortion or has been threatened, intimidated, or coerced into having an abortion;
- (9)• wWhether the pregnancy resulted from sexual assault, sexual abuse, or incest;
- (10)• wWhether there is a history or pattern of family violence; and
- (11)• wWhether the minor fears for her safety.

These considerations may not be relevant in every case, are not exclusive, and may not be sufficient to discharge the guardian ad litem's responsibilities in every case. Use of these factors as a basis for civil liability or as a statement of the

standard of care is contrary to their intended purpose. Nothing in this comment alters existing standards of conduct under the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, or the Code of Judicial Conduct.

In addition to these general guidelines, Chapter 107, Family Code, sets forth duties of guardians and attorneys ad litem appointed in suits affecting the parent-child relationship. These duties are not directly applicable to proceedings under Chapter 33, Family Code, and may be incompatible with the confidential and expeditious nature of such proceedings, but they reflect general legislative intent concerning the responsibilities of ad litem.

5. Under Rule 2.5(b), once a court concludes that an application should be granted on a single ground, it need not address other grounds. But in addressing any ground, the court should attempt to ascertain, among other factors, whether the pregnancy resulted from sexual assault, sexual abuse, or incest. The legislative history of Chapter 33, Family Code, indicates that one of the principal purposes of the statute was to screen for sexual crimes and abuse of minors so as to protect them against further victimization.

RULE 3. APPEAL FROM DENIAL OF APPLICATION

- 3.1 **How to Appeal.** To appeal the denial of an application, the minor must simultaneously file a notice of appeal with the clerk of the court that denied the application, file a copy of the notice of appeal with the clerk of the court of appeals to which an appeal is to be taken, and advise the clerk of the court of appeals by telephone that an appeal is being taken under Chapter 33, Family Code. The minor may use Form 3A but is not required to do so. The notice of appeal must:

- (a) be styled “In re Jane Doe”;
- (b) state the number of the cause in the trial court;
- (c) be addressed to a court of appeals with jurisdiction in the county in which the application was filed;
- (d) state an intention to appeal; and
- (e) be signed by the minor’s attorney ~~or attorney ad litem appointed by the trial court.~~

3.2 Clerk’s Duties.

- (a) **Assistance in filing.** The trial court clerk must give prompt assistance—in a manner designed to protect the minor’s confidentiality—to persons seeking to file an appeal. The clerk must ~~Such assistance must include ensure~~ assuring that the notice of appeal is addressed to the proper court of appeals and that the minor’s name and identifying information are not disclosed.
- (b) **Forwarding record to court of appeals.** Upon receipt of a notice of appeal, the trial court clerk must immediately ~~instanter~~ forward to the clerk of the court of appeals the notice of appeal, the clerk’s record ~~(original papers or copies)~~ excluding the verification page, and the reporter’s record. The trial court clerk must deliver the record to the clerk of the court of appeals by hand or send it by fax or email. The clerk must not send the record ~~to the clerk of the court of appeals by mail, but must, if feasible, deliver it by hand or transmit it by facsimile or other electronic means. If neither of these methods is feasible, then the record may be sent by overnight delivery.~~
- (c) **Certificate of court’s failure to rule within time prescribed by statute.** If the court of appeals fails to rule on an application within the time required by Section 33.004(b), Family Code, upon the minor’s request, the clerk of the court of appeals must immediately ~~instanter~~ issue a certificate to that effect, stating that the trial court’s order is affirmed ~~reversed and judgment is rendered that the application is deemed by statute to be granted~~. The clerk may use Form 3D but is not required to do so.

3.3 Proceedings in the Court of Appeals.

- (a) **Briefing and argument.** A minor may request to be allowed to submit a brief and to present oral argument, but the c~~C~~ourt may decide to rule without a brief or oral argument.
- (b) **Ruling.** The court of appeals—sitting in a three-judge panel—must issue a judgment affirming or reversing the trial court’s order denying the application. The court may use Form 3C but is not required to do so.
- (c) **Time for ruling.** The court of appeals must rule on an appeal as soon as possible, subject to any postponement requested by the minor. Section 33.004(b), Family Code, states that a court must rule on an appeal by 5 ~~:00~~ p.m. on the fifth ~~second~~ business day after the notice of appeal is filed with the court that denied the application, or if the minor requests a postponement, by 5 p.m. on the fifth business day after the date the minor

states she is ready to proceed, ~~and that if the court does not rule within this time, the appeal is deemed to be granted.~~

- (d) ***Postponement by minor.*** The minor may postpone the time of ruling by written request filed either with the trial court clerk at the time she files the notice of appeal or thereafter with the court of appeals clerk. The request may be submitted on Form 3B, but use of the form is not required. The request must either specify a date on which the minor will be ready to proceed to ruling, or state that the minor will later provide a date on which she will be ready to proceed to ruling. Once the minor determines when she will be ready to proceed to ruling, she must notify the court of appeals clerk of that date in writing.

(e) ***Opinion.***

- (1) *Opinion optional; must preserve confidentiality.* A court of appeals may issue an opinion explaining its ruling, but it is not required to do so. An opinion that is designated for publication or public release must be written in a way to preserve the confidentiality of the identity of the minor.
- (2) *Time.* Any opinion must issue not later than:
- (A) ten business days after the day on which a notice of appeal is filed in the Supreme Court, if an appeal is taken to the Supreme Court; or
- (B) sixty days after the day on which the court of appeals issued its judgment, if no appeal is taken to the Supreme Court.
- (3) ~~*Confidential transmission to Supreme Court*~~ and trial court. When the court of appeals issues an opinion, the clerk must ~~confidentially~~ transmit it immediately ~~instantly~~ to the Supreme Court and to the trial court. If the opinion is not designated for publication or public release, the transmission must be confidential.

- (f) ***Failure to timely rule.*** If the court of appeals fails to timely rule on the appeal, the trial court's judgment is deemed to be affirmed.

Notes and Comments

1. Chapter 33, Family Code, provides for no appeal from an order granting an application.

2. A request to postpone the ruling of the court of appeals may be used in conjunction with a request for oral argument or to submit briefing.
3. Neither Chapter 33, Family Code, nor these rules prescribes the appellate standard of review.
4. The 2015 amendments to Chapter 33, Family Code, permit the court of appeals to publish an opinion “if the opinion is written in a way to preserve the confidentiality of the identity of the pregnant minor.” TEX. FAM. CODE § 33.004(c-1). Any opinion that is released to the public must not only omit the minor’s name and other directly identifying information but it must also describe the facts in a way that those who know the minor would not be able to recognize her. Although publication of appellate court opinions is prohibited by statute, the Supreme Court may amend these rules to address issues arising from their application and interpretation.

RULE 4. APPEAL TO THE SUPREME COURT

4.1 How to Appeal to the Supreme Court. To appeal from the court of appeals to the Supreme Court, the minor must simultaneously file a notice of appeal with the clerk of the Supreme Court, file a copy of the notice of appeal with the clerk of the court of appeals, and advise the clerk of each court by telephone that an appeal is being taken under Chapter 33, Family Code. The minor may use Form 4A but is not required to do so. The notice of appeal must:

- (a) be styled “In re Jane Doe”;
- (b) state the number of the cause in the court of appeals;
- (c) state an intention to appeal; and
- (d) be signed by the minor’s attorney ~~or attorney ad litem appointed by the trial court.~~

4.2 Clerk’s Duties.

- (a) **Assistance in filing.** The clerk of the Supreme Court must give prompt assistance—in a manner designed to protect the minor’s confidentiality—to any persons seeking to file an appeal. The clerk must ensure Such assistance must include assuring that the notice of appeal is addressed to the

Supreme Court and that the minor's name and identifying information are not disclosed.

(b) ***Forwarding record to Supreme Court.*** Upon receipt of a notice of appeal to the Supreme Court, the clerks of the court of appeals and Supreme Court must immediately ~~instanter have forwarded~~ to the Supreme Court the record that was before the court of appeals.

4.3 Proceedings in the Supreme Court. A minor may request to be allowed to submit a brief and to present oral argument, but the Court may decide to rule without a brief or oral argument. The Court must rule as soon as possible.

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

(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 (or one of your parents)), a managing conservator, or a guardian. (A “managing conservator” is an 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 one of your parent(s or your), managing conservator, or guardian at least 48 hours before the you can have an abortion and obtains the consent of your parent, managing conservator, or guardian;

or
~~unless~~

- a judge issues an order that “waives,” or removes, the requirement that you must let ~~your~~ parent(s) or your, managing conservator, or guardian know about your planned abortion and obtain his or her consent to it.

How to get a waiver of parental notification

• Fill out the application

To get a court order waiving the requirement that you tell a your parent(s), or your 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”² 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 number, email address, pager, beeper, or fax number, or any 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 five ~~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 also 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 fifth ~~second~~ day after the day you filed your application, not counting weekends and holidays.

If the court fails to rule within that time, then your request is automatically denied. 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 ~~denied~~granted.” If you choose to appeal, the certificate will be sent to the appellate court to explain what happened in your case, 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 three ~~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 not to ~~not~~ notify or to attempt to obtain the consent of your parent(s), or your managing conservator, or guardian before getting the abortion; or

~~(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~~

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

If you say, or if there is evidence, 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 ~~c~~Court of ~~a~~Appeals in person. Instead, the ~~c~~Court of ~~a~~Appeals will review the written record and will issue a written ruling on your appeal no later than 5:00 p.m. on the fifth second day after the day you file the *Notice of Appeal*, not counting weekends and holidays.

The ~~c~~Court of ~~a~~Appeals will provide its ruling to you, ~~your~~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 from the clerk of the cCourt of ~~a~~Appeals. These forms are also available on the Texas Judiciary ~~Internet~~-website at www.txcourts.gov.courts.state.tx.us-

Attention Clerk: Please Expedite

Confidential Application for Waiver of Parental Notification and Consent: 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 and obtaining the consent of 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 and obtaining the consent of 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 and attempting to obtain his or her consent 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 another 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 and Consent other than this one.

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

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

(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 and Consent: 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) ~~the~~ cover sheet (Form 2A), which asks for basic information about your application; and (2) ~~this 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 ~~number or other contact information/pager/beeper/fax number(s)~~ _____ Phone number or other contact information/pager/beeper/fax number(s) _____

Important: Please complete either Option 1 or Option 2 ~~sign your name in the blank~~ below. You do not have to complete both. If you complete Option 1, you must sign your name before a notary public, court clerk, or another person authorized to give oaths. If you complete Option 2, you do not have to sign your name before a notary public or any other person, but you must swear that the information in your Application is true “under penalty of perjury.” “Perjury” means lying to a judge, and it is a crime. If you swear that a statement is true “under penalty of perjury” and you made the statement knowing that it was false, you could be prosecuted in criminal court.

Option 1

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 ~~minor 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

Option 2

My name is _____ (First) _____ (Middle) _____ (Last), my date of birth is _____, and my address is _____ (Street), _____ (City), _____ (State), _____ (Zip Code), and _____ (Country). I declare under penalty of perjury that the information in my Application (both the Cover Sheet and the Verification Page) is true and correct. Executed in _____ (County), State of _____, on the _____ day of _____ (Month), _____ (Year).

Signature of minor

**REQUEST TO POSTPONE TRIAL COURT HEARING IN
PROCEEDING TO WAIVE PARENTAL NOTIFICATION
AND CONSENT 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 ~~fifth~~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 Email Address: _____

Attorney's Fax No.: _____

**JUDGMENT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON APPLICATION IN PROCEEDING TO WAIVE PARENTAL
NOTIFICATION AND CONSENT 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:

3. The applicant is pregnant.
4. The applicant is unmarried and under 18 years of age.
5. The applicant has not had her disabilities as a minor removed under Chapter 31 of the Texas Family Code.
6. The applicant wishes to have an abortion without her doctor notifying and obtaining the consent of either of her parents, her managing conservator, or her guardian.
7. Clear and convincing~~A preponderance of the~~ evidence supports the following [State “yes” beside any issue for which the court finds in favor of the applicant by clear and convincing~~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 or the consent of either of her parents, her managing conservator, or her guardian.

Findings of Fact/Conclusions of Law: _____

____ Notifying and attempting to obtain the consent of either of the applicant's parents, her managing conservator, or her guardian would not be in her best interest.

Findings of Fact/Conclusions of Law: _____

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

~~Findings of Fact/Conclusions of Law:_____~~

THEREFORE, IT IS ORDERED

____ The application is GRANTED and the applicant is authorized to consent to the performance of an abortion without notifying and obtaining the consent of 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 for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code 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 ~~DENIAL~~GRANTING OF
APPLICATION IN PROCEEDING TO WAIVE PARENTAL
NOTIFICATION AND CONSENT 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 and consent required by Sections 33.002 and 33.0021, Family Code. The court did not rule on the application by 5:00 p.m. on the ~~fifth~~second business day after the day the application was filed. Accordingly, under Rule 2.5(g) of the Rules for a Judicial Bypass of Parental Notice and Consent Under Chapter 33, Section 33.003(h), Family Code, the application is deemed to be- ~~DENIED~~GRANTED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

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

Notice: To guarantee reimbursement, this Order must be served on the Director, Fiscal Division, Texas Department of Health, within the deadlines imposed by Rule 1.9(b) of the Rules for a Judicial Bypass of Notice and Consent Under Chapter 33 of the Family Code~~Tex. Paren. Notif. R 1.9(b).~~

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

**CLERK'S CERTIFICATION OF COURT COSTS AND FEES AND
TRANSMISSION OF ORDER FOR PAYMENT IN PROCEEDING
TO WAIVE PARENTAL NOTIFICATION AND
CONSENTIFICATION PROCEEDING
(Form 2G)**

Director, Fiscal Division
Texas Department of Health
1100 West 49th Street
Austin TX 78756

Re: *In re Jane Doe*

Cause No. _____

Court: _____

County: _____

Dear Sir or Madam:

Please find enclosed a certified copy of an Order issued on _____, 20____, in the referenced case. Please pay the amounts to the payees as stated in the Order.

In accordance with the Order, I certify the following fees and costs for payment as follows:

Amount: \$ _____

Name of the Clerk: _____

Address : _____

Tax Identification No.: _____

Thank you.

Sincerely,

[seal]

Name: _____

Encl: Certified copy of Order

Position: _____

**ORDER APPOINTING INTERPRETER FOR A
PROCEEDING TO WAIVE PARENTAL
NOTIFICATION AND CONSENT UNDER
CHAPTER 33, FAMILY CODE ~~PROCEEDINGS~~**
(Form 2H)

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

ORDERED that for good cause, the following person is appointed an interpreter to assist the applicant in applying for relief under Chapter 33, Family Code:

Name: _____ State Bar No. _____

Address: _____

Telephone: _____ Federal Tax ID: _____

Signed: this ____ day of _____, 20____.

Judge

OATH FOR INTERPRETER

I, _____, do swear or affirm that I am competent and well versed in the _____ language and ~~will~~shall: (1) make a true interpretation of all the proceedings to the applicant;

and (2) repeat verbatim all statements, questions, and answers of all persons who are a part of the proceeding, to applicant, counsel, the court, and others in the English language and in the _____ language, using my best skill and judgment.

I ~~will~~shall not: (1) participate in any manner other than as an interpreter in the decision making or adjudicative process; (2) communicate with any other person regarding the proceedings except a literal translation of questions, answers, or remarks made during the proceeding~~s~~; or (3) disclose or discuss any of the proceedings with any person following entry of judgment.

Print Name: _____

Address: _____

Telephone: _____

SWORN TO AND SUBSCRIBED before me on _____, 20____

[seal]

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 request the court reporter and appropriate clerk to immediately prepare ~~instanter~~ 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 or guardian ad litem requests the court reporter and the 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 the 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.

Attention Clerk: Please Expedite

Notice of Appeal in Proceeding to Waive Parental Notification and Consentification 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 and consent required by Sections 33.002 and 33.0021, Family Code.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Email Address: _____

Attorney's Fax No.: _____

**REQUEST TO POSTPONE COURT OF APPEALS' RULING
IN PROCEEDING TO WAIVE PARENTAL NOTIFICATION
AND CONSENT-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 fifthsecond 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 Email Address: _____

Attorney's Fax No.: _____

JUDGMENT ON APPEAL IN PROCEEDING TO WAIVE PARENTAL NOTIFICATION AND CONSENT 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 and consent required by Sections 33.002 and 33.0021, Family Code, is:

_____ Affirmed. The minor will be advised of her right to appeal under Rule 4 of the ~~Texas Parental Notification~~ Rules for a Judicial Bypass of Parental Notice and Consent Under Chapter 33 of the Family Code 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 AFFIRMANCE ~~REVERSAL~~ OF ORDER ON APPEAL

**IN PROCEEDING TO WAIVE PARENTAL
NOTIFICATION AND CONSENT 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 and consent required by Sections 33.002 and 33.0021, Family Code. The court of appeals did not rule on her appeal by 5:00 p.m. on the fifth~~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 AFFIRMED~~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 **PROCEEDING TO WAIVE PARENTAL** **NOTIFICATION AND CONSENT** **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 **and consent** required by Sections 33.002 **and 33.0021**, Family Code.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Email Address: _____

Attorney's Fax No.: _____