

Judicial Waiver Proceedings



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By: Sara DePasquale
Associate Professor
School of Government, UNC Chapel Hill

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Questions that will be answered

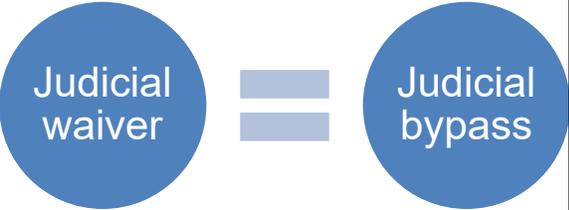
- What is judicial waiver
- What is the clerk's role

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Lets start with terms...



Judicial waiver = Judicial bypass

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What is it?

- A pregnant minor's right to decide in consultation with her medical provider
- No other person's consent is required
- Informed consent requirements apply
 - G.S. 90-21.82
 - Minors: G.S. 90-21.87



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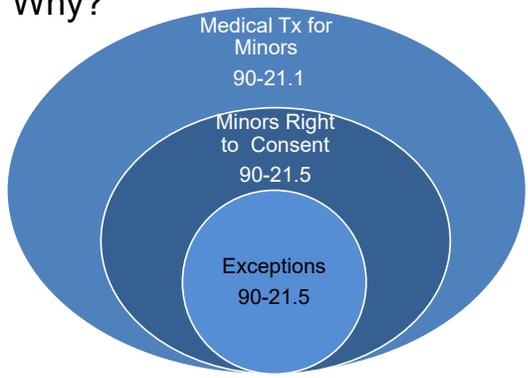
Who Does It Apply To?

- **Unemancipated** pregnant minors
 - Under 18
 - Not married
 - Not emancipated by court order



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Why?



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Minors Right to Consent

Prevention, diagnosis, and treatment of:

- STD and other reportable public health conditions
- Abuse of controlled substances or alcohol
- Emotional disturbance
- Pregnancy



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Why?

EXCEPTIONS

- Abortion
- Sterilization
- MH admission
- 24 hours



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Abortion: 2 Consents Required G.S. 90-21.7

Written Consent

Minor and

Adult

Parent with custody

Legal guardian/custodian

Parent the minor lives with, or

Grandparent the minor has lived with at least 6 months



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Abortion: 1 Consent Required
G.S. 90-21.7

Written Consent — Minor

Constitutional Rights



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What is it not?

- The Court giving consent
- The Court approving her consent
- The Court substituting its judgment



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Characteristics of Proceeding

Absolutely Confidential	Expedited Hearing/Appeal
Nonadversarial	Petitioner = A Minor Female



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When is Waiver Sought?

G.S. 90-21.7(b)

None of the persons whose consent is required is available within a reasonable time or manner

All the persons whose consent is required refuses

OR

The minor elects to not ask for consent

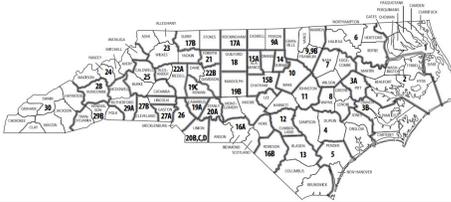


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Venue

Heard by district court judge assigned to juvenile proceedings

- G.S. 90-21.7(b)
 - Where the minor resides or is physically present



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Petition Filed by

The minor on her own

Appointed GAL
• G.S. 90-21.7(b),
-21.8(b)

Appointed Attorney
• G.S. 90-21.8(c)



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Right to Counsel: G.S. 90-21.8(c)

- Court shall advise her of right to appointed counsel
- If request by minor, appointed via IDS rules

ORDER APPOINTING ATTORNEY	
The attorney named below is appointed to represent the minor in this proceeding.	
Name, Address and Telephone No. Of Attorney	Title
Signature	
<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
<input type="checkbox"/> District Court Judge	<input type="checkbox"/> Superior Court Judge

- AOC-J-601



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or GAL Appointment, AOC-J-600

REQUEST FOR GUARDIAN AD LITEM	
<small>(check only one)</small>	
<input type="checkbox"/> 1. I am a minor and I want the person named below, an adult who has agreed to help me in this proceeding, to be appointed as my guardian ad litem.	
<input type="checkbox"/> 2. I am a minor and I want the Court to appoint an adult as my guardian ad litem.	
<input type="checkbox"/> 3. I am an adult who has agreed to assist the minor and I ask the Court to appoint me as guardian ad litem.	
Name, Address And Telephone No. Of Guardian Ad Litem	Date
Signature	
<input type="checkbox"/> Minor	<input type="checkbox"/> Adult



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No Fees /Costs

NOTE TO CLERK: Pursuant to G.S. 90-21.8(b), the Court shall ensure that the minor or her guardian ad litem is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept confidential.

(1) Do not calendar or take minutes of this proceeding. This proceeding is completely confidential.

(2) Do not serve a copy of the petition, notice, or other papers on the minor's parents, legal guardian, or custodian unless the minor so requests in the petition.

(3) The minor is not required to pay any court costs. No judgment for attorney fees or guardian ad litem fees should be entered.

(4) This matter must be given precedence over other pending matters to ensure that the court reaches a decision promptly - at least within 7 days of the filing of the petition.



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Fee Application by Attorney

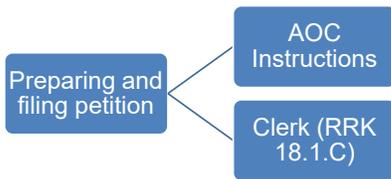
- AOC-G-200
- "Jane Doe" as the client
- Back side of the form
 - No Soc. Sec. #
 - Write "Judicial Waiver" for name/address & proceeding
 - Nothing else completed since a judgment against the minor or her parents for the fees must never be entered



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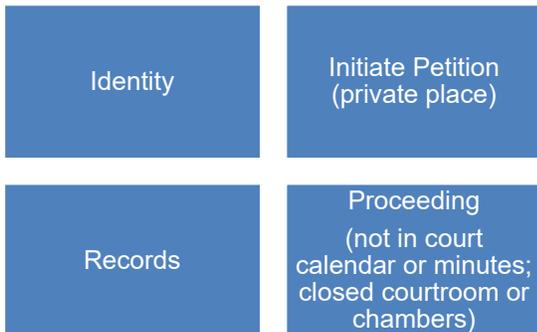
Assistance to Minor and/or GAL

- G.S. 90-21.8(b)



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Confidentiality: G.S. 90-21.8(b), (d), (f), (h)



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Timing

- G.S. 90-21.8(d)
 - Given precedence over other pending matters
 - Must rule w/in 7 days of filing
 - Extended only at request of minor



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Rules of Recordkeeping

- A verbatim record of the proceeding must be made
- Given to clerk immediately
- Store with the case file, in a locked cabinet
- Petition granted, may destroy immediately
- Petition denied & no appeal, may destroy after time to file an appeal
- No AOC approval needed to destroy



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Order

The Court ORDERS:

- The parental consent requirement IS WAIVED.
- The parental consent requirement IS NOT WAIVED.

NOTE: [See important appeal information on reverse side of form.]

The Court Further ORDERS:

1. That a confidential record be maintained.
2. That no copies of this Order or any other document from the file of this case be given, without specific court order, to anyone other than the petitioner, her guardian ad litem, her attorney, or person(s) to whom the petitioner asked that such papers be sent.
3. That no costs be assessed in this matter.



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Resources

- G.S. 90-21.6 – 21.10
- AOC Forms and Instructions
 - AOC-J-600 to 605
- AOC Rules of Record Keeping XVIII
- Supreme Court Rules for Appeal
- Local Rules