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Can My Underage Daughter Get an Abortion Without Me Knowing?

By Amy A. Edwards

This question is equivalent to asking whether your underage daughter has the right to consent to an abortion independently of parents.



Nothing in the law is absolute. The answer to this question is maybe yes, and maybe no. In North Carolina, the law on abortion is the Woman's Right to Know [Act](#), which defines it as:

"The use or prescription of any instrument, medicine, drug, or other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant." Termination is lawful to "preserve the life or health of the child" or to "remove a dead, unborn child who died as the result of . . . natural causes . . . accidental trauma, or . . . a criminal assault on the pregnant woman or her unborn child which causes the premature termination of the pregnancy." Abortion is legal during the first 20 weeks of pregnancy.

Information and Consent of the Female

A medical professional must get any woman's voluntary and informed consent, whether she is a minor (under 18) or an adult, at least 3 days before an abortion. The professional must provide [information](#) on a number of topics to her, including information about the medical risks of both an abortion and carrying a child to term, resources and available options, including adoption, public assistance for prenatal care, childbirth, and neonatal care. She is also informed that "the father is liable to assist in the support of the

child, even if the father has offered to pay for the abortion." The law requires the state to create and maintain a [web site](#) of the information.

Although there is not a certain age when a minor is capable of giving consent to an abortion, she must have the legal capacity to understand her health status and options, and be able to make decisions about them. For example, if a girl is 15 years old, does she truly understand the real consequences of being pregnant, let alone those of having an abortion? A pregnant minor cannot be forced to have an abortion.

Adult Consent

In the more general statutes, a minor who is not [emancipated](#) has the right to consent to certain medical treatment without a parent's consent. Any minor may give effective consent to "medical health services for the prevention, diagnosis and treatment of . . . venereal disease . . . pregnancy . . . This section does not authorize the inducing of an abortion [or the] performance of a sterilization operation." Pregnant minors who want an abortion must have the written consent of a parent with custody, her legal guardian or custodian, a parent who lives with her, or a grandparent she has lived with for at least 6 months.

Minors and the Consent of a Judge

If a pregnant minor chooses to do so, she can attempt to bypass the adult's consent and petition the court. She may petition over the objection of the adult. "At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the parental consent requirement shall be waived." These records are sealed by the court.



How a Contract Magically Becomes a Court Order: Incorporation

By Amy A. Edwards

In the world of family law, there are three ways to address agreements: contracts, court orders and incorporation.

Contracts

Contracts are agreements signed by the parties, such as a [separation agreement](#). If someone violates the contract, it is called breach of contract. A contract is enforced by a "specific performance" lawsuit, asking the court for an order requiring him or her to perform the specifics of the contract, such as signing a deed, refinancing a mortgage obligation, etc. A contract generally can't be changed by the court. However, the court always has the authority to change anything related to child custody and support until a child is 18 years of age, regardless of what the parties set out in a contract.

Court Orders

Court orders are only available after a lawsuit has been filed, and they must be signed by a judge to be valid. The best part about a [court order](#) is the remedy. A party who violates the court order is subject to being held in contempt of court for failure to obey the court order. The contempt power of the court gives the judge discretion to do whatever he or she sees fit to enforce the order,

depending on the circumstances presented. Although they don't usually do so until after someone demonstrates they will remain obstinate, judges have the authority to incarcerate someone who continues to disobey court order. Orders can be registered in any state to be enforced with the full faith and credit of another state.

Incorporation

Our state has what is called incorporation, a special process by which a separation agreement "magically" becomes a court order once a judge signs it. But a judge cannot sign anything until there has been a lawsuit filed. Incorporation is done only by agreement, which is usually mentioned in a separation agreement. After a full year of separation has passed, either spouse can file for a divorce. When the judge signs a divorce decree, he or she also has the authority to *incorporate* it into the decree, permanently making it an order of the court.

Amy A. Edwards is a family law attorney in Greenville, NC, certified by the NC State Bar Board of Legal Specialization as a Family Law Specialist, and is licensed only in NC. Laws change. This article is current as of January 2018. www.AmyEdwardsFamilyLaw.com© 2018.



The Top Five Reasons a Divorce Matters in North Carolina

By Amy A. Edwards

In North Carolina, a spouse can file a claim for divorce only after a separation of at least twelve months. Besides the ability to allow someone to remarry, a divorce is important for a number of reasons. This article isn't legal advice, and it does not cover all of the reasons. But it highlights a few examples of why someone who is served with a complaint absolutely needs to contact a lawyer immediately.

Reason #1 - Marital Property

Married people who separate can file a claim for [equitable distribution](#), asking the court to divide marital property equally (instead of just relying on which name is

on the title or deed). Our state creates a deadline for filing those claims, and the clock starts ticking when a divorce complaint is filed. Failure to properly file for marital property division within the correct time period means it is permanently lost.

Reason #2 - Health Insurance

Family plans that cover both spouses and any children change the moment a divorce decree is entered. As of that moment, a spouse is no longer "related" for purposes of a family plan because they are no longer a family member. Children of the person who provides health insurance remain on a family plan after a divorce.

Reason #3 - Estate Rights

Inheritance rights between spouses are completely different from those of non-spouses. This is a very complicated area of the law that can be related to whether a claim for marital property. Examples of potential rights upon the death of a spouse include an allowance of money, the right to a share of the assets if there is no will, and the right to contest a will. Designation as a spouse or former spouse can involve Social Security benefits, military benefits and other survivor's benefits.

Reason #4 - Liens Against the House

Married people are sometimes protected from creditors if only one of them created a debt in his or her sole name. For example, the innocent spouse who did not sign a credit card application is usually, but not always, protected from money judgments that would otherwise become a lien against the marital residence. The moment the innocent spouse becomes an ex-spouse, this can trigger a lien against the property even if the debt (such as credit card debt) is not in his or her name and he or she never signed the application for the loan or credit card.

Reason #5 - Alimony

Like a claim for equitable distribution of marital property, there is a critical deadline for filing claims for temporary and permanent [alimony](#) once a divorce complaint is filed. A spouse who qualifies for alimony must immediately protect those rights. Failure to properly do so will usually mean the spouse cannot ask for financial assistance once the right to file alimony expires, even if he or she is unemployed or underemployed. Alimony is paid for the support of the spouse, and it is unrelated to child support, which is paid only for the support of children.

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