



NARAL *Foundation*
Reproductive Freedom & Choice

Mandatory Parental Consent and Notice Laws and The Freedom to Choose

Loving parents should be involved when their daughters face crisis pregnancies. Every parent hopes that a child confronting a crisis will seek the advice and counsel of those who care for her most and know her best. In fact, even in the absence of laws mandating parental involvement, many young women do turn to their parents when they are considering an abortion. Yet unfortunately, some young women cannot involve their parents because they come from homes where physical violence or emotional abuse are prevalent or because their pregnancies are the result of incest. In other cases, young women may not realize how supportive their parents can be. In certain circumstances, teens facing a crisis pregnancy travel to another state where there is a less stringent parental involvement law or no such law at all, to avoid telling their parents.

Everyone Wants Healthy Family Communication, but Only Families Can Make It Happen

Government cannot mandate healthy family communication. Laws mandating parental notice or consent actually harm the young women they purport to protect by increasing illegal and self-induced abortion, family violence, suicide, later abortions, and unwanted childbirth.

- In states that enforced no mandatory parental consent or notice requirements, 61 percent of parents knew of their daughters' pregnancy.¹
- The American Medical Association takes the position that: "Physicians should not feel or be compelled to require minors to involve their parents before deciding whether to undergo an abortion. . . . [M]inors should ultimately be allowed to decide whether parental involvement is appropriate."²
- The American Academy of Pediatrics also opposes parental involvement laws: "Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care. . . . [M]inors should not be compelled or required to involve their

parents in their decisions to obtain abortions, although they should be encouraged to discuss their pregnancies with their parents and other responsible adults."³

- Parental involvement laws appear to have had little effect on reducing abortion rates among teens.⁴

Young Women Who Do Not Involve A Parent Have Good Reasons

Most young women find love, support and safety in the home. Many, however, justifiably fear that they would be physically or emotionally abused if forced to disclose their pregnancy. Often, young women who do not involve a parent come from families where government-mandated disclosure would have devastating effects.

- Approximately 3.2 million cases of child abuse were reported in 1998.⁵ Young women considering abortion are particularly vulnerable because family violence is often at its worst during a family member's pregnancy.⁶
- Nearly half of pregnant teens who have a history of abuse report being assaulted during their pregnancy, most often by a family member.⁷ As the Supreme Court has recognized, "Mere notification of pregnancy is frequently a flashpoint for battering and violence within the family. The number of battering incidents is high during the pregnancy and often the worst abuse can be associated with pregnancy."⁸
- Among minors who did not tell a parent of their abortion, 30 percent had experienced violence in their family or feared violence or being forced to leave home.⁹
- In Idaho, a 13-year-old sixth grade student named Spring Adams was shot to death by her father after he learned she was to terminate a pregnancy caused by his acts of incest.¹⁰

Mandatory Parental Consent and Notice Laws Endanger Health

Parental consent and notice laws endanger young women's health by forcing some women, even those from healthy, loving families, to turn to illegal or self-induced abortion, to delay the procedure to the point that it becomes riskier, or to bear a child against their will.

- In Indiana, Rebecca Bell, a young woman who had a very close relationship with her parents, died from an illegal abortion that she sought because she did not want her parents to know about her

pregnancy. Indiana law required parental consent before she could have a legal abortion.¹¹

- The American Medical Association noted that "[b]ecause the need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. They may run away from home, obtain a 'back alley' abortion, or resort to self-induced abortion. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since . . . 1973."¹²
- Recognizing that maintaining confidentiality is essential to minors' willingness to obtain necessary health care related to sexual activity, all 50 states and the District of Columbia authorize minors to consent to the diagnosis and treatment of sexually transmitted diseases without parental consent.¹³
- According to Leslie Tarr Laurie, president of Tapestry Health Systems, a Massachusetts-based health services provider: "Confidentiality is the cornerstone of our services.... We help teenagers avoid not only the costly and often tragic consequences of unintended pregnancy and childbearing, but also an early death from AIDS. The bottom line is, if we don't assure access to confidential health care, teenagers simply will stop seeking the care they desire and need."¹⁴
- The American Medical Association concluded in a 1992 study that parental consent and notice laws "increase the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure."¹⁵ Although a first or second trimester abortion is far safer than childbirth, the risk of death or major complications significantly increases for each week that elapses after eight weeks.¹⁶

Judicial Bypass Provisions Fail to Protect Young Women

In challenges to two different parental involvement laws, the Supreme Court has stated that, in order to be constitutional, a state statute requiring parental involvement must have some sort of bypass procedure, such as a judicial bypass.¹⁷ No one person may have an absolute veto over a minor's decision to have an abortion.¹⁸ Thus, most states that require parental consent or notice provide a judicial bypass through which a young woman can seek a court order allowing an abortion without parental involvement.

For adults, going to court for a judicial order is difficult. For young women, it is overwhelming and at times impossible. Some young women cannot maneuver the legal procedures required, or cannot attend hearings scheduled during school hours. Others

do not go or delay going because they fear that the proceedings are not confidential or that they will be recognized by people at the courthouse. Many experience fear and distress and do not want to reveal intimate details of their personal lives to strangers.¹⁹ The time required to schedule the court proceeding may result in a delay of a week or more, thereby increasing the health risks of the abortion.²⁰ Some young women who manage to arrange a hearing face judges who are vehemently anti-choice and who routinely deny petitions, despite rulings by the U.S. Supreme Court that a minor must be granted a bypass if she is mature or if an abortion is in her best interests.

- In denying the petition of one young woman, a Missouri judge stated: "Depending upon what ruling I make I hold in my hands the power to kill an unborn child. In our society it's a lot easier to kill an unborn child than the most vicious murderer. . . . I don't believe that this particular juvenile has sufficient intellectual capacity to make a determination that she is willing to kill her own child."²¹
- A Toledo, Ohio judge denied permission to a 17-year-old woman, an "A" student who planned to attend college and who testified she was not financially or emotionally prepared for college and motherhood at the same time, stating that the girl had "not had enough hard knocks in her life."²²
- The Ohio Supreme Court upheld the denial of a petition of a 17-year-old who testified that her father beat her. At the time, she was a senior in high school with a 3.0 average, active in team sports, worked 20-25 hours a week, and paid for her automobile expenses and medical care.²³
- In Louisiana, a judge denied a 15-year-old a bypass petition after asking her a series of inappropriate questions including what the minor would say to the fetus about her decision. Her request was granted only after a rehearing by six appellate court judges.²⁴
- A Pennsylvania study found that of the 60 judicial districts in the state, only eight were able to provide complete information about Pennsylvania's judicial bypass procedure. Some county courts referred minors to anti-choice crisis pregnancy centers that typically provide false and misleading information about abortion and pressure women to carry their pregnancies to term.²⁵
- The Alabama Supreme Court upheld a trial court's denial of a petition for a 17-year-old because the minor's testimony appeared "rehearsed" and she did not show "any emotion." The trial court refused to find that the minor was mature and well-informed enough to make her own decision or that an abortion was in her best interests – despite the fact that the 17-year-old high school senior

had a 3.0 grade point average, had been accepted to college, had discussed her options with the "father" of the fetus, had spoken to a doctor, a counselor, her godmother, and her 20-year-old sister, was able to describe the abortion procedure, was informed about its risks, and had testified that her legal guardian had thrown a teenage relative out of the house when she became pregnant.²⁶

The Effects of Teenage Childbearing Can Be Devastating

The forced childbearing among teenagers that can result from parental consent and notice laws can have devastating effects on the life opportunities of young women and their children.

- Approximately 40 percent of American women become pregnant before the age of 20.²⁷
- Teenage girls are more than 24 times more likely to die from childbirth than from first trimester legal abortions.²⁸
- Fewer than 60 percent of teen mothers graduate from high school by age 25 – compared to 90 percent of those who postpone childbearing.²⁹ Additionally, those who postpone childbearing until age 20 are more likely to complete some college education.³⁰
- Twenty-eight percent of teen mothers are poor in their 20s and early 30s as compared to seven percent of women who have their first child after adolescence. Nearly 80 percent of teen mothers eventually go on welfare.³¹ Teen mothers are also more likely to have lower family incomes in later life.³²
- Infants of teen mothers are one-third more likely to suffer from low birthweight (less than 5.5 pounds) than those born to older mothers.³³ The children of teenage parents have an increased risk of abuse and neglect and are more likely to become teenage parents themselves, thus perpetuating the cycle of poverty.³⁴

Making Abortion Less Necessary Among Teenagers Requires A Comprehensive Effort to Reduce Teen Pregnancy

Abortion among teenagers should be made less necessary, not more difficult and dangerous. A comprehensive approach to promoting adolescent reproductive health and reducing teen pregnancy will require an array of components, including:

- age-appropriate health and sexuality education with medically accurate information;

- access to confidential health services, including family planning and abortion;
- life options programs that offer teens practical life skills and the motivation to delay sexual activity;
- and programs for pregnant and parenting teens that teach parenting skills and help ensure that teens finish school.

Such an approach has never been implemented on a significant scale in the United States, and several studies of specific sexuality and AIDS education programs demonstrate positive outcomes such as increased knowledge, delay in onset of sex, reduction in the frequency of sex, or increased contraceptive use.³⁵ The wisest policy gives teenagers the tools they need to avoid pregnancy and forsakes misguided efforts to insert the government into delicate family situations.

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NOTES

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