



Issue Brief

Parental Notification or Consent for Abortion

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“There is general consensus among social scientists that no evidence supports the legal presumption that minors under age 18 are less competent to consent to abortion than legal adults.”

-- B. Ambuel and J. Rappaport, “Development Trends in Adolescents’ Psychological and Legal Competence to Consent to Abortion,” *Law and Human Behavior*, 16:129, 1992.

In 1972, the Supreme Court ruled in **Roe v. Wade** that a woman's right to an abortion falls within the right to privacy protected by the Fourteenth Amendment. The ruling gave women the right to abortion during their entire pregnancy, and defined different levels of state interest for regulating abortion in the second and third trimesters. Since then, those who oppose abortion have made many attempts to limit, restrict, and criminalize the procedure at the state level.

One way states have limited access is through the enactment of parental notification and consent laws, which require that minors notify one or both parents or guardians and/or obtain consent before an abortion can be performed. Forty-four states, including Illinois, have passed parental notification or consent laws, but in Illinois and in ten other states, notification and consent laws are enjoined, or found to be unconstitutional, by the courts.ⁱ Illinois’ Parental Notice of Abortion Act of 1995, **were it to be enforced**, requires the notification of an adult family member, meaning “a person over 21 years of age who is the parent, grandparent, step-parent living in the household, or legal guardian.”ⁱⁱ **In all states where these laws are in effect, except for Utah, there is the option for “judicial bypass” – a process by which the court determines whether or not the minor possesses the maturity to make the decision to have an abortion in the absence of parental notification or consent.** Six states and Washington D.C. have no notification or consent laws.

Proponents of parental notification or consent laws see such legislation as a means of enforcing parents’ authority – in Michigan the legislation is called the Parental Rights Restoration Act (Act 211) – and protecting young people from their own immaturity in decision making. Proponents believe that this protection will come in a caring and positive manner, and that these laws will facilitate healthy communication in families. Parental notification and consent laws, however, have proven to threaten young women’s physical and mental health by increasing the difficulty with which abortions are obtained, causing risky delay in receiving health care, and pushing some young women into volatile family situations with potentially harmful outcomes.

Research by Stanley K. Henshaw and Kathryn Kost shows that the majority of young women seeking abortions involve their parents in their decision regardless of any legal requirement to do so, and that the majority of parents who are included in the decision-making process support their daughters’ decision to have an abortion.ⁱⁱⁱ The same study found that **61% of young women seeking abortions report involving at least one of their parents in their decision**, leaving a minority of teens who do not. Among the minority that did not involve a parent, all of the young women reported having consulted someone besides clinic staff – most often a boyfriend, but also quite frequently another adult in their lives, or a professional.

“One of the very first teens who was forced to notify a parent under Colorado’s parental notice law was kicked out of her home when her mother learned of her pregnancy. Her mother took the money the teen had saved for the abortion and threatened to disown her if she went through with the procedure. When the teen called the clinic to reschedule her appointment, she was living in a friend’s car.”

-- ACLU, *Laws Restricting Teenagers’ Access to Abortion*, 2001

The young women who participated in the Henshaw and Kost study cited a variety of reasons for not involving a parent in their decision. As many as 56% cited histories of violence in their families and fear of physical abuse or mistreatment, as well as fear of being evicted from their homes, as their primary reasons. Other recurring reasons included parents who abused drugs or alcohol, concern over violence between parents, or not living with either parent. Research conducted in states without parental notification or consent laws suggests that the decision whether to

involve a parent is closely linked to the age of the minor seeking the abortion, not a legal requirement.^{iv} Younger teens had a higher probability of consulting a parent, and 90% of teens aged 14 and under reported that at least one of their parents knew about the procedure.^v

The Illinois Parental Notice of Abortion Act of 1995 represents a disconnect between the rights that Illinois youth have regarding consent for reproductive healthcare. Illinois law allows teens to make their own decisions about many

63% of minors who were having abortions after 16 weeks of gestation cited fear of telling their parents as reason for their delay.

-- Alan Guttmacher Institute's Survey of Abortion Patients Around the U.S. (Torres and Forrest, 1988).

aspects of their health and consent to a range of medical services, including testing and treatment for HIV and other sexually transmitted diseases, contraception, prenatal care, and surgical procedures such as caesarian sections, without parental notification or consent. The Illinois Parental Notice of Abortion Act of 1995 was written to prevent minors from making decisions without regard for immediate and more long-term medical, psychological, and emotional consequences without parental intervention. The argument that minors will be protected from physical harm by not being able to consent to high-risk procedures, however, is belied by the fact that, in the United States, first-trimester abortion is currently among the safest surgical procedures for women, with complications occurring in fewer than 0.5% of

cases.^{vi} However, the procedure becomes increasingly risky as pregnancy progresses, and rather than preserving the health of minors, parental notification and consent laws often threaten it by causing young women to delay the abortion.

Parental notification and consent laws erode access to reproductive health care services, putting many young women, particularly those from low-income communities, in situations that jeopardize their health and well-being. Fifty-seven percent of women in the United States who have abortions are low-income and disproportionately affected by limited access to a full range of family planning services, including education, counseling, contraceptives, and abortion.^{vii} For young women who cannot involve their parents in the decision to have an abortion, laws requiring them to do so often compel them to travel out of state or seek a judicial bypass in order to access services. Judicial bypasses, although usually granted, are time consuming, unwieldy, and can postpone abortions from one to three weeks or more, often delaying the procedure until the second trimester^{viii}, increasing the price, and decreasing the number of physicians willing to perform it. For all young women, particularly those without the means to travel, navigate the judicial system, or pay additional costs, parental notification and consent laws often deny them their right to abortion.

Although parental notification and consent laws attempt to appeal to societal values about the relationship between parents and their children, proponents have not made a strong case that the government can successfully legislate good family dynamics or strengthen a family's ability to engage in effective and positive communication among its members. Ideally, parents play a critically important role in ensuring the health of their children, but the reality is that too many adolescents do not receive the guidance and support from their families that they need to become healthy adults. Laws presupposing that young people are safely able to involve their parents in the decision to seek an abortion do them a grave disservice. Rather, policymakers have an obligation to ensure that young people can easily and safely access services to which they are entitled. Research clearly shows that, for many young women, laws requiring parental notification or consent for abortion create obstacles, not access, to these services, and do not facilitate the positive and healthy conversations that are desired. Our laws should reflect not just the ideals, but also the realities of our society, and not at the expense of young women seeking health care.

The Illinois Caucus for Adolescent Health's (ICAH) mission is to promote a positive approach to adolescent sexual health and comprehensive support for young parents. ICAH promotes policies that ensure that youth have access to the information, services, and support they need to make healthy decisions. For more information on parental notification and consent laws in Illinois, or to take advantage of opportunities to get involved in advocacy on behalf of Illinois young people, visit www.ica.org.

ⁱ Planned Parenthood Federation of America

ⁱⁱ Illinois Compiled Statutes, 750 ILCS 70

ⁱⁱⁱ Stanley K. Henshaw and Kathryn Kost, "Parental Involvement in Minors' Abortion Decisions," 24 Family Planning Perspectives 196, 200 (1992).

^{iv} Robert Wm. Blum, et al., "The Impact of a Parental Notification Law on Adolescent Abortion Decision-Making," 77 American Journal of Public Health 619, 620 (1987).

^v Stanley K. Henshaw and Kathryn Kost, "Parental Involvement in Minors' Abortion Decisions," 24 Family Planning Perspectives 196, 200 (1992).

^{vi} The Alan Guttmacher Institute, *State Facts About Abortion: Illinois*, 2005.

^{vii} The Alan Guttmacher Institute, *An Overview of Abortion in the United States* (2005).

^{viii} American Civil Liberties Union Foundation Reproductive Freedom Project. (1986). *Parental Consent Laws: Their catastrophic Impact on Teenagers' Right to Abortion*. New York: ACLU.