

CALIFORNIA LEGISLATURE

JOINT INFORMATIONAL HEARING

of the
SENATE HEALTH COMMITTEE
and the
ASSEMBLY HEALTH COMMITTEE

Chairs:

Senator Deborah Ortiz and Assemblymember Wilma Chan

***Proposition 85:
Waiting Period and Parental Notification
Before Termination of Minor's Pregnancy***

Tuesday, September 12, 2006
Milton Marks Conference Center
455 Golden Gate Avenue
San Francisco, CA

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GEORGE RUNNER
VICE CHAIR

SAM AANESTAD
ELAINE ALQUIST
WESLEY CHESBRO
DAVE COX
LIZ FIGUEROA
SHEILA KUEHL
ABEL MALDONADO

California Legislature

SENATE COMMITTEE ON HEALTH

DEBORAH V. ORTIZ
CHAIR



STATE CAPITOL, ROOM 2191
SACRAMENTO, CA 95814
(916) 651-4111
(916) 324-0384 FAX

STAFF DIRECTOR
PETER HANSEL

COMMITTEE ASSISTANT
AMOFIA (MOE) KATSIMBRAS

Joint Informational Hearing of the Senate Health Committee and the Assembly Health Committee

Chairs
Senator Deborah Ortiz
Assemblymember Wilma Chan

Proposition 85: Waiting Period and Parental Notification Before Termination of Minor's Pregnancy

Tuesday, September 12, 2006
10:00 a.m. to 1:00 p.m.
Milton Marks Conference Center
455 Golden Gate Avenue, Auditorium
San Francisco

AGENDA

I. OPENING REMARKS

- *Senator Deborah Ortiz, Chair, Senate Health Committee*
- *Assemblymember Wilma Chan, Chair, Assembly Health Committee*
- *Other Members Present*

II. LEGISLATIVE ANALYST'S ANALYSIS OF PROPOSITION 85

- *Kirk Feely, Legislative Analyst's Office*

III. BACKGROUND

- *Claire Brindis, Dr. P.H., Professor of Pediatrics and Health Policy and Acting Director, Institute for Health Policy Studies, UCSF*



IV. ARGUMENTS IN FAVOR OF PROPOSITION 85

- *Representative from the Parents' Right to Know & Child Protection Initiative – Yes on Prop. 85 (invited)*
- *Karen England, Director of Programs, Capitol Resource Institute (invited)*

V. ARGUMENTS AGAINST PROPOSITION 85

- *Dr. Norma Jo Waxman, Family Physician and Parent*
- *Susan Kitchell, R.N., M.S., P.N.P., School District Nurse*
- *Kathy Kneer, C.E.O. and President and Parent, Planned Parenthood Affiliates of California, Inc.*

VI. PUBLIC COMMENT

VII. CLOSING COMMENTS

BACKGROUND

GEORGE RUNNER
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Joint Hearing on Proposition 85: Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment.

**Senate Health Committee
Assembly Health Committee**

**September 12, 2006
10:00 a.m. to 1:00 p.m.
Milton Marks Conference Center
San Francisco**

On November 7, 2006 voters will consider Proposition 85, which amends the California Constitution to bar abortion, which is defined as "the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant" and excludes the use of a contraceptive drug or device, until at least 48 hours after a physician notifies a minor's parent or legal guardian, except in a medical emergency or with a parental waiver. Proposition 85 permits a judicial waiver of this notice based on clear and convincing evidence of a minor's maturity or best interests. This measure also requires physicians to report abortions performed on minors to the state and requires the state to compile statistics on those reports, as specified. Proposition 85 requires minors to consent to an abortion unless she is mentally incapable or in medical emergency. Finally, the measure permits a minor to seek assistance from the juvenile court if anyone attempts to coerce her into having an abortion.

Background

Other States: Thirty-four states require parental involvement in a minor's decision to have an abortion. Two U.S. Supreme Court rulings prohibit parents from having absolute refusal over their daughters' decision to have an abortion, and most states with parental involvement laws require the consent or notification of only one parent, usually 24 or 48 hours before the procedure. Many of these laws also include a medical emergency exception and a judicial bypass procedure, through which a minor may receive court approval to obtain an abortion without parental involvement. Out of the 22 states that require parental consent, two require both parents to consent. Six states permit grandparents or other adult relatives to act in place of parents; and in cases of neglect or abuse, some states waive the consent or notification requirement altogether. Finally, some state courts have enjoined laws that they have concluded violate their constitution. The following chart summarizes state parental involvement laws. Please note that the chart does not include this information for all states.

PARENTAL INVOLVEMENT IN MINORS' ABORTIONS						
	Require Parental Involvement		Alternatives		Exceptions	
	Consent	Notification	Judicial bypass	Other adult relatives	Medical Emergency	In Cases of Abuse, Assault, Incest or Neglect
Alabama	X		X		X	X
Alaska	Enjoined^					
Arizona	X		X		X	X
Arkansas	X		X		X	X
California	Enjoined					
Colorado		X	X		X	
Delaware		X (age < 16)	X	X	X	
Florida		X	X		X	
Georgia		X	X		X	
Idaho	Temporarily enjoined					
Illinois		Enjoined				
Indiana	X		X		X	
Iowa		X	X	X	X	X
Kansas		X	X		X	X
Kentucky	X		X		X	
Louisiana	X		X			
Maryland		X	X			
Massachusetts	X		X			
Michigan	X		X		X	
Minnesota		X (2 parent)	X		X	X
Mississippi	X (2 parent)		X		X	
Missouri	X		X			
Montana		Enjoined				
Nebraska		X	X		X	X
Nevada		Enjoined				
New Hampshire		Enjoined				
New Jersey		Enjoined				
New Mexico	Enjoined					
North Carolina	X		X	X	X	
North Dakota	X (2 parent)		X		X	
Ohio	X		X			
Oklahoma		X	X		X	
Pennsylvania	X		X		X	
Rhode Island	X		X			
South Carolina	X (age < 17)		X	X	X	X
South Dakota		X	X		X	
Tennessee	X		X		X	X
Texas	X		X		X	
Utah	X	X	X		X	X
Virginia	X		X	X	X	X
West Virginia		X	X		X	
Wisconsin	X		X	X	X	X
Wyoming	X		X		X	
TOTAL	22	13	34	6	28	12

Chart provided by the Alan Guttmacher Institute, Parental involvement in minors' abortions, State Policies in Brief, September 1, 2006 and available at: http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf.

Please note that courts in nine states have permanently or temporarily blocked enforcement of parental involvement laws. In most instances, state courts determined that the law violated the

state's constitution. It is also important to note that in one state, South Dakota, abortions have been outlawed, except where a mother's life is endangered.

Federal Case Law: The U.S. Supreme Court has upheld some state parental notification statutes that require minors seeking an abortion to notify a parent prior to obtaining an abortion, subject to a judicial bypass provision that permits a minor to ask a court for permission to bypass a state's parental notification requirement. [Lambert v. Wicklund, 520 U.S. 292 (1997).]

State Case Law: The California Supreme Court held in American Academy of Pediatrics v. Lungren, 16 Cal. 4th 307 (1997), that a parental consent statute enacted in California in 1987 violated the special right of privacy specifically guaranteed under the California Constitution. AB 2274 (Frazee) Chapter 1237, Statutes of 1987, required that physicians obtain parental consent prior to performing an abortion on a minor and contained a judicial bypass provision. The California Supreme Court held that the California Constitution provides greater privacy protection than the U.S. Constitution, including protecting a woman's right to choose whether to continue her pregnancy. The Court held that a minor who is pregnant also has a protected privacy interest under the California Constitution in making the decision of whether to continue or to terminate her own pregnancy. After finding that a minor has a reasonable expectation of privacy, the Court found that the statute would be a serious invasion of the minor's privacy interest. The Court went on to find that the parental consent requirements could not be sustained on the grounds that its requirements are necessary to protect the health of a pregnant minor or to protect the minor's relationship with her parent. The Court noted that the evidence introduced at trial overwhelmingly indicated that AB 2274 would not serve, but rather impede, the state's interests in protecting the health of minors and enhancing the parent-child relationship.

Previous Ballot Initiative: Proposition 85 is substantially similar to Proposition 73, which was presented to voters at the November 8, 2005 Special Statewide Election. Key distinctions between last year's measure and Proposition 85 include the elimination of language that defined abortion as causing the "death of the unborn child, a child conceived but not yet born," specification that the waiver of parental notification from the parent or guardian is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday, and the collection and reporting of information on minors in regard to the number of the minor's previous abortions and deliveries if known. The vote for the measure was 47.2 percent and the vote against the initiative was 52.8 percent.

Previous Legislative Proposals: California Civil Code Section 34.5 was enacted in 1953 and gave minors the right to consent to hospital, medical, and surgical care related to the prevention or treatment of a pregnancy without the consent of their parents. Over the past ten years, this issue has been introduced in the California Legislature a number of times, including with the passage of AB 2274 (Frazee). There were several measures introduced after the 1997 California Supreme Court ruling. In 1997, ACA 38 (Leonard) would have amended the California Constitution to prohibit any abortion from being performed upon an unemancipated minor without written consent from the minor and one of her parents or legal guardian, except in a medical emergency requiring immediate medical attention or upon court authorization, as specified. ACA 38 failed passage in the Assembly Committee on Health by a vote of 8-8. SCA 17 (Leslie) of 1998 would have required a physician to obtain the written consent of a minor and

one of her parents or guardian, or in the alternative the minor's consent and authorization of the court, prior to providing an abortion and included an exception for medical emergencies. SCA 17 failed passage in the Senate Committee on Judiciary by a vote of 3-4. Several measures have been introduced in the Assembly, but were never heard. AB 2582 (Thompson) of 1998 would have reenacted the provisions of AB 2274 after the California Supreme Court ruling and would have become operative only if an unspecified constitutional amendment were to be adopted. In 2001, ACA 5 (Wyman) and ACA 23 (Briggs) would have prohibited, except in the case of an emergency, an abortion from being performed on an unemancipated minor until the physician has first notified one of her parents or her legal guardian pursuant to specified requirements, or a court permitted waiver of these requirements, if any of certain circumstances were found to exist.

Proposition 85 Overview

Notification Requirement: Proposition 85 requires a physician or his or her agent to notify one parent or legal guardian of a pregnant unemancipated minor, as defined, at least 48 hours before performing an abortion on that minor. Physicians would be permitted to provide notification through a written notice to the parent or guardian in person or through certified mail. If the notification is made through certified mail, it must also be sent by first-class mail. Notification is presumed to be made as of noon on the second day after the notice is mailed. Proposition 85 provides for waivers of the notification as follows:

- *Medical Emergencies:* The notification requirements do not apply if the physician certifies in the minor's medical record that the abortion is necessary to prevent the minor's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."
- *Parent/Guardian Waiver:* A minor's parent or guardian may waive the notification requirements, including the waiting period, by submitting a signed, written waiver to the physician. The parent or guardian shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday.
- *Court Waiver:* A minor is permitted to request that a juvenile court waive the notification requirements, which the court is permitted to do if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interest.

Physician and State Reporting Requirement: Proposition 85 would require physicians to report specified information, including the date and place of the abortion, the patient's month and year of birth, and the number of the minor's previous abortions and deliveries if known, among other data elements, to the Department of Health Services (DHS) within one month of performing an abortion on a minor. Names of the minor and her parent are not reportable and the identity of the physician is required to be kept confidential. The proposition requires DHS to compile an annual report that includes the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the number of prior abortions or deliveries where known, the number of abortions after the different types of notification permitted, and the number and types of waivers granted. This report would be

required to be made available to county public health officials, members of the Legislature, the Governor, and the public.

Penalties: Proposition 85 provides that any person who performs an abortion on a minor and fails to comply with the measure's provisions is liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. The measure also makes any person, other than the minor, her physician, or the physician's agent who knowingly provides false information that the notice of an abortion has been provided guilty of a misdemeanor punishable by a fine of up to \$1,000.

Legislative Analyst's Office Fiscal Analysis

State Health Care Programs: According to the Legislative Analyst's Office (LAO), Proposition 85 could result in a reduction in the number of abortions obtained by minors within California. This reduction might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If Proposition 85 reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs. However, if Proposition 85 results in a decrease in minors' abortions and an increase in the birthrate of children in low-income families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and infant care. The net fiscal effect of these cost and savings factors would probably not exceed costs of a few million dollars annually.

State Administrative Costs: The LAO estimates that DHS would incur first-year state costs of up to \$350,000 to develop required forms, establish a physician reporting system, and prepare the initial annual report. The ongoing state costs for DHS to implement this measure could be as much as \$150,000 annually.

Juvenile and Appellate Court Costs: Proposition 85 would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the notification requirements. The magnitude of these costs is unknown, but could reach several million dollars annually, depending primarily on the number of minors that seek waivers.

Social Services Costs: If Proposition 85 discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, however if all CalWORKs federal funds are committed, these additional costs would be borne by the state.

Impact of Parental Involvement Laws

A search of literature on this subject was conducted by the California Research Bureau for background on this issue. Previous research indicates that parental involvement has an influence

on the way in which some minors seek certain types of health care services. A study published in the Journal of the American Medical Association (JAMA) in August 2002 concluded that mandated parental notification is likely to reduce the use of health care among adolescents with concerns related to sexual behaviors. Nearly one half of single, sexually active girls under 18 years who were surveyed in family planning clinics in Wisconsin reported that they would stop using the clinics under conditions of mandatory parental notification for prescription contraceptives.¹ The authors concluded that this would have an impact not only on receiving those contraceptives, but also receiving other services and would have a substantial impact on the rates of teen pregnancy and sexually transmitted infections (STIs). An editorial in the same issue of JAMA stated that there is no reason that efforts to strengthen communication between adolescents and their parents cannot take place even though confidential health care is available to adolescents.

An analysis of birth rates, abortion data, and sexual activity and contraceptive use published in 2003 found that parental involvement laws reduced abortion rates for minors, but did not increase births to minors.² The authors stated that additional evidence indicated that this may have resulted from an increased use of contraception rather than a reduction in sexual activity. A study of the impact of Minnesota's parental notification law found, after the enactment of the law, a marked drop in the abortion-to-birth ratio in 15 to 17 year olds compared to 18 to 19 and 20 to 44 year olds. The study also found an increase in the proportion of late (more than 12 weeks gestation) abortions to early abortions for teens aged 15 to 17.³ A study of the effects of Mississippi's parental consent requirement showed that the ratio of minors to adults who sought abortions declined by 13%, which was offset by a 32% increase in the ratio of minors to adults who obtained abortions out of state. Like the Minnesota study, the authors also found that the requirement increased the ratio of minors to adults who obtained their procedure after 12 weeks of gestation by 19%.⁴ Finally, a study of the parental consent statute in Missouri found a decrease in the selection of abortion as a pregnancy outcome, particularly among white teens. In addition, there was an increase in the percent of abortions among teens taking place in other states and an irregular but steady trend toward later abortions.⁵

The American Medical Association (AMA) issued a code based on a report of its Council on Scientific Affairs stating that when minors request confidential services, physicians should encourage them to involve their parents, but where the law does not require otherwise, should permit a competent minor to consent to medical care and not notify parents without the patient's consent. The AMA stated that for certain services (including pregnancy-related care, STI diagnosis and treatment, drug and alcohol abuse services, and mental health services), "...physicians must recognize that requiring parental involvement may be counterproductive to the health of the patient."⁶

Arguments in Support of Proposition 85

Proponents, including Parents' Right to Know and Child Protection/Yes on Proposition 85, state that more than one million Californians' signatures qualified Proposition 85. Proponents state that it will restore Californians' right to counsel and care for their young daughters before and after an abortion. Parents and daughters in more than 30 other states have benefited for years from laws like Proposition 85. Many times, after such laws pass, there have been substantial reductions in pregnancies and abortions among minors. Their real world experience shows these

laws reduce minors' pregnancy and abortion rates without danger and harm to minors. When parents are involved and minors cannot anticipate secret access to free abortions they more often avoid the reckless behavior which leads to pregnancies. Older men, including Internet predators, are deterred from impregnating minors when secret abortions are not available to conceal their crimes. If she chooses, a minor may petition juvenile court to permit an abortion without notifying a parent. She can request a lawyer to help her. If the evidence shows she is mature enough to decide for herself or that notifying a parent is not in her best interests, the judge will grant her petition. The proceedings must be confidential, prompt, and free. She may also seek help from juvenile court if she is being coerced by anyone to consent to an abortion. Polls show most people support parental notification laws. They know that a minor girl -- pregnant, scared, and possibly abandoned or pressured by an older boyfriend -- needs the advice and support of a parent. Parents have invested more attention and love in raising their daughter, know her personal and medical history better, and care more about her future than strangers employed by abortion clinics profiting from performing many abortions on minors. A minor still has a right to obtain or refuse an abortion, but a parent can help her understand all options, obtain competent care, and provide medical records and history. An informed parent can also get prompt care for hemorrhage, infections and other possibly fatal complications.

Arguments in Opposition to Proposition 85

Opponents, including the California Medical Association, California Nurses Association, American Academy of Pediatrics, California District, and the California Academy of Family Physicians, contend that Proposition 85 will put teenagers in danger. These groups states that they understand that while parents rightfully want to be involved in their teenagers' lives, some California teenagers come from homes where they can't talk to their parents, where there is violence, or where a family member has sexually abused them. These teens can't go to their parents. They fear being kicked out of their homes, beaten, or worse. Proposition 85 forces these teens from violent or dysfunctional homes to navigate through a stressful court proceeding, which will delay critical medical care or force the teen to turn to self-induced or illegal back-alley abortions. Some will go across the border; some will suffer serious injuries or even consider suicide. Opponents state that the proposition puts the health and safety of teenagers at risk and that no law can mandate good communication. Family communication on sensitive issues must begin at home and early. The California Supreme Court found "overwhelming" evidence that similar laws in other states cause real harm to teenagers and families. Opponents point out that that doctors and nurses encourage parental consultation and that most teenagers do consult a parent when confronting an unplanned pregnancy. For ninety years, Planned Parenthood has been a trusted provider of quality healthcare. Caring staff counsel pregnant teens to talk to parents, and most do. Planned Parenthood and other family planning clinics comply with all California laws on child abuse reporting. To charge now that they protect criminals is ridiculous. The federal Department of Health and Human Services' Office of Inspector General's recent investigation didn't find evidence of a single reporting violation.

Conclusion

The current context in California for minors to make health decisions for themselves and their children can be considered in the evaluation of Proposition 85. Most would agree that open communication and the involvement of parents in their daughters' health care should occur when it is a positive and enriching experience. It will be left for the voters to decide in November

whether the state's law will require that a parent is ensured involvement in a minor's decision to obtain an abortion.

¹ Reddy DM, Fleming R, Swain C. Effect of mandatory parental notification on adolescent girls' use of sexual health care services. *JAMA*. 202;288:710-714.

² Levine PB. Parental involvement laws and fertility behavior. *Journal of Health Economics*. 22(2003) 861-878.

³ Rogers, JL, Boruch, RF, Stoms, BA, DeMoya, D: Impact of the Minnesota Parental Notification Law on Abortion and Birth. *Am J Public Health*. 1991;81:294-298.

⁴ Henshaw, SK. The impact of the requirements for parental consent on minors' abortions in Mississippi. *Family Planning Perspectives*; May/June95, Vol 27 Issue 3: 120.

⁵ Pierson VH. Missouri's parental consent law and teen pregnancy outcomes. *Women & health*. [Women Health] 1995; Vol. 22 (3):47-58.

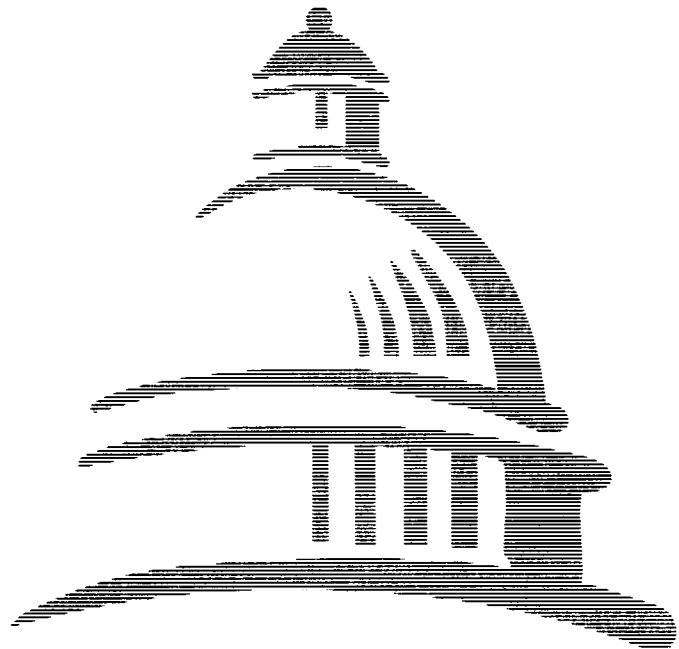
⁶ AMA Code of Ethics: E-5.055 Confidential Care for Minors. Issue June 1994, updated June 1996.

September 12, 2006

Overview of Proposition 85: Parental Notification for Minors' Abortions

LEGISLATIVE ANALYST'S OFFICE

Presented To:
Senate Health Committee and
Assembly Health Committee





General Provisions of Proposition 85

- Abortion Defined.** The proposition defines abortion as “the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant except for the purpose of producing a live birth. ‘Abortion’ shall not include the use of any contraceptive drug or device.”

- Notice Required 48 Hours in Advance.** A physician (or his or her representative) must notify the parent or legal guardian of a minor at least 48 hours before performing an abortion on that minor.

- Personal or Mailed Notification Permissible.** A physician could provide notification by personally giving the minor’s parent or guardian written notice or by sending written notice to the parent or guardian by certified mail, with a copy sent simultaneously by first-class mail. When using the mail option, notification would be presumed to occur at noon on the second day after the notice was mailed.



Exceptions to Notification Requirements

- Medical Emergencies.** The notification requirements would not apply if the physician certified in written records that the abortion was necessary to prevent the mother's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."
- Waivers Approved by Parent or Guardian.** A minor's parent or guardian could waive the notification requirements, including the waiting period, by submitting a signed, written waiver form to the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's eighteenth birthday.
- Waivers Approved by Courts.** The pregnant minor could seek a waiver from a juvenile court, which would generally have to issue a ruling within three court days. To waive the notification requirements, the court would have to find that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interests. The minor's identity would be kept confidential, and she would be exempt from any court fees. The court also would provide her with a temporary guardian for the court proceedings and certain other assistance. The minor could appeal a denial to an appellate court. If the court finds evidence of physical, sexual, or emotional abuse, the court must refer the evidence to the county child protection agency.



Other Provisions of Proposition 85

- Health Services Reporting Requirements.** The proposition requires physicians to report certain information regarding abortions performed on minors to the state Department of Health Services (DHS). These reports would not identify by name the minor, the parent or guardian, or the physician. The DHS would compile certain statistical information received from the physicians into an annual report that would be available to the public.

- Court Reporting Requirements.** The proposition requires the courts to report annually to the state Judicial Council the number of petitions filed and granted or denied. These reports would be publicly available. The Judicial Council is required to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

- Penalties for Noncompliance.** Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for civil damages. Any individual who provides false information with respect to the notification requirements would be guilty of a misdemeanor punishable by a fine.

- Relief From Coercion.** The proposition allows a minor to seek help from the juvenile court if anyone were to attempt to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it finds necessary to prevent coercion.



LAO Estimate of Fiscal Effects of Proposition 85

- ☑ **Potential Overall Costs Up to Several Million Dollars Annually.** Depending primarily on the behavior of minors with respect to childbearing and abortion, we estimate that the net cost to the state would probably not exceed several million dollars annually for health and social services programs, court administration, and health agency administration combined. These fiscal effects, which would not be significant relative to total state spending for these programs, could occur primarily in the following areas:
 - **State Health Care Program Savings and Costs.** State savings could occur from a decrease in the number of abortions provided by Medi-Cal, either because minors obtain abortions outside of California or avoid becoming pregnant. However, an increase in the birthrate to minors could increase the caseload for Medi-Cal or other state health care programs and thereby increase state costs. The net effect of these factors, if any, on the state would probably not exceed costs of a few million dollars annually.
 - **Social Services Program Costs.** If the proposition increases the birthrate among low-income minors, state costs would increase for the California Work Opportunity and Responsibility to Kids program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. There could also be a minor increase in child welfare and foster care costs for the state and counties.



LAO Estimate of Fiscal Effects of Proposition 85

(Continued)

- ***Juvenile and Appellate Court Costs.*** State costs for the courts would likely increase by up to several million dollars annually, depending on the number of minors that seek waivers of the parental notification requirements through the courts.
- ***Health Agency Administrative Costs.*** The DHS would incur first-year costs of up to \$350,000 to develop the new forms, establish the physician reporting system, and prepare the initial annual report. Ongoing state costs for DHS could be as much as \$150,000 annually.

McKean, Ellen

From: Garbien, Ania
Sent: Thursday, September 28, 2006 11:14 AM
To: McKean, Ellen
Subject: FW: COPYRIGHT PERMISSION REQUEST

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This is the response I got regarding copyright use on the document you sent to me yesterday.

If we place the following reference in the publication, will that suffice?

Ania

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<http://www.guttmacher.org/statecenter/spibs/spib_PIMA>, accessed DATE.

Please contact me if you have any questions.

Sincerely,

Sandy Ramashwar
Editorial Assistant

Sandy Ramashwar
Editorial Assistant
☎: 212.248.1111 ext. 2243
F: 212.248.1951
✉: sramashwar@guttmacher.org
Guttmacher Institute
120 Wall Street, 21st Floor
New York, NY 10005
www.guttmacher.org

From: Garbien, Ania [mailto:Ania.Garbien@SEN.CA.GOV]
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9/28/2006

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State Policies in Brief: Parental Involvement in Minors' Abortions (September 1, 2006)

I have a request form to fax over for approval.

Who is the appropriate person and what is the appropriate fax number to send it to?

Thank you for your assistance.

Sincerely,

Ania Garbien, Office Assistant

Senate Health Committee

State Capitol, Room 2191

Sacramento, CA 95610

Phone: 916.651.4111

Fax: 916.324.0384

■ Parental Involvement in Minors' Abortions

BACKGROUND: A majority of states require parental involvement in a minor's decision to have an abortion. In light of two U.S. Supreme Court rulings that prohibit parents from having absolute veto over their daughters' decision to have an abortion, many states require the consent or notification of only one parent, usually 24 or 48 hours before the procedure. Many parental involvement requirements also include a medical emergency exception and a judicial bypass procedure, through which a minor may receive court approval to obtain an abortion without parental involvement. Not all states adhere to this model. On the more stringent end of the spectrum, a handful of states require the consent or notification of both parents, and one lacks a judicial bypass. On the other end, several states allow grandparents or other adult relatives to be involved in place of the minors' parents; in cases of neglect or abuse, some states waive the consent or notification requirement altogether. State court decisions have also contributed to the diversity in requirements: Some state courts have enjoined laws they conclude violate their states' constitutions; at the same time, similar or even more restrictive laws remain in effect in other states.

HIGHLIGHTS:

- 34 states require some parental involvement in a minor's decision to have an abortion.
 - 22 states require parental consent; 2 require both parents to consent.
 - 13 states require parental notification; 1 requires that both parents be notified.
 - 1 state requires both parental consent and notification.

- All of the 34 states that require parental involvement have an alternative process for minors seeking an abortion.
 - 34 states include a judicial bypass procedure, which allows a minor to obtain approval from a court.
 - 6 states also permit a minor to obtain an abortion if a grandparent or other adult relative is involved in the decision.

- Most states that require parental involvement make exceptions under certain circumstances.
 - 28 states permit a minor to obtain an abortion in a medical emergency.
 - 12 states permit a minor to obtain an abortion in cases of abuse, assault, incest or neglect.



Advancing sexual and reproductive health worldwide through research, policy analysis and public education.

120 Wall Street
New York, NY 10005
212.248.1111
www.guttmacher.org
info@guttmacher.org

1301 Connecticut Avenue, N.W.
Washington, DC 20036
202.296.4012
www.guttmacher.org
policyworks@guttmacher.org

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CONTINUED

PARENTAL INVOLVEMENT IN MINORS' ABORTIONS

STATE	REQUIRED PARENTAL INVOLVEMENT		ALTERNATIVES		EXCEPTIONS	
	Consent	Notification	Judicial Bypass	Other Adult Relatives	Medical Emergency	Abuse, Assault, Incest or Neglect
Alabama	X		X		X	X
Alaska	▼					
Arizona	X		X		X	X
Arkansas	X		X		X	X
California	▼					
Colorado		X	X		X	
Delaware		X [†]	X [†]	X [†]	X [†]	
Florida		X	X		X	
Georgia		X	X		X	
Idaho	§					
Illinois		▼				
Indiana	X		X		X	
Iowa		X	X	X	X	X
Kansas		X	X		X	X
Kentucky	X		X		X	
Louisiana	X		X			
Maryland		X*	X*			
Massachusetts	X		X			
Michigan	X		X		X	
Minnesota		Both parents	X		X	X
Mississippi	Both parents		X		X	
Missouri	X		X			
Montana		▼				
Nebraska		X	X		X	X
Nevada		▼				
New Hampshire		▼				
New Jersey		▼				
New Mexico	▼					
North Carolina	X		X	X	X	
North Dakota	Both parents		X		X	
Ohio	X		X			
Oklahoma		X	X		X	
Pennsylvania	X		X		X	
Rhode Island	X		X			
South Carolina	X [†]		X [†]	X [†]	X [†]	X [†]
South Dakota		X	X		X	
Tennessee	X		X		X	X
Texas	X		X		X	
Utah	X	X	X [†]		X	X ^Ω
Virginia	X		X	X	X	X
West Virginia		X*	X*		X	
Wisconsin	X*		X*	X	X	X
Wyoming	X		X		X	
TOTAL	22	13	34	6	28	12

Note: Except where indicated, policies require the involvement of one parent.

▼ Enforcement permanently enjoined by court order; policy not in effect.

§ Temporarily blocked by court order, policy not in effect.

* Allows specified health professionals to waive parental involvement if judge is unavailable.

† While most states laws apply to minors under 18, South Carolina's law applies to women under 17 and Delaware's law applies to women under 16.

‡ The provision only applies to parental consent requirements.

Ω The provision only applies to the parental notice requirements.

Note: Oklahoma's new law requiring both parental consent and notification goes into effect in November.

FOR MORE INFORMATION:

For information on state legislative and policy activity click on Guttmacher's [Monthly State Update](#) and for state level information and data on reproductive health issues, click on Guttmacher's [State Center](#).

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WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Amends California Constitution to prohibit abortion for unemancipated minor until 48 hours after physician notifies minor's parent or legal guardian, except in medical emergency or with parental waiver.
- Permits minor to obtain court order waiving notice based on clear and convincing evidence of minor's maturity or best interests.
- Mandates various reporting requirements, including reports from physicians regarding abortions performed on minors.
- Authorizes monetary damages against physicians for violation.
- Requires minor's consent to abortion, with certain exceptions.
- Permits judicial relief if minor's consent coerced.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

In 1953, a state law was enacted that allowed minors to receive, without parental consent or notification, the same types of medical care for a pregnancy that are available to an adult. Based on this law and later legal developments related to abortion, minors were able to obtain abortions without parental consent or notification.

In 1987, the Legislature amended this law to require minors to obtain the consent of either a parent or a court before obtaining an abortion. However, due to legal challenges, the law was never implemented, and the California Supreme Court ultimately struck it down in 1997. Consequently, minors in the state currently receive abortion services to the same extent as adults. This includes minors in various state health care programs, such as the Medi-Cal health care program for low-income individuals.

PROPOSAL

Notification Requirements

This proposition amends the California Constitution to require, with certain exceptions, a physician (or his or her representative) to *notify* the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an "unemancipated" minor. The proposition identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents' or guardians' custody and control under state law.

A physician would provide the required notification in either of the following two ways:

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Personal Written Notification. Written notice could be provided to the parent or guardian personally—for example, when a parent accompanied the minor to an office examination.

Mail Notification. A parent or guardian could be sent a written notice by certified mail so long as a return receipt was requested by the physician and delivery of the notice was restricted to the parent or guardian who must be notified. An additional copy of the written notice would have to be sent at the same time to the parent or guardian by first-class mail. Under this method, notification would be presumed to have occurred as of noon on the second day after the written notice was mailed.

Exceptions to Notification Requirements

The measure provides the following exceptions to the notification requirements:

Medical Emergencies. The notification requirements would not apply if the physician certifies in the minor's medical record that the abortion is necessary to prevent the mother's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."

Waivers Approved by Parent or Guardian. A minor's parent or guardian could waive the notification requirements and the waiting period by completing and signing a written waiver form for the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's 18th birthday. The form would need to be notarized unless the parent or guardian delivered it personally to the physician.

Waivers Approved by Courts. The pregnant minor could ask a juvenile court to waive the

notification requirements. A court could do so if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interest. If the waiver request is denied, the minor could appeal that decision to an appellate court.

A minor seeking a waiver would not have to pay court fees, would be appointed a temporary guardian and provided other assistance in the case by the court, and would be entitled to an attorney appointed by the court. The identity of the minor would be kept confidential. The court would generally have to hear and issue a ruling within three business days of receiving the waiver request. The appellate court would generally have to hear and decide any appeal within four business days.

The proposition also requires that, in any case in which the court finds evidence of physical, sexual, or emotional abuse, the court must refer the evidence to the county child protection agency.

State Reporting Requirements

Physicians are required by this proposition to file a form reporting certain information to the state Department of Health Services (DHS) within one month after performing an abortion on a minor. The DHS form would include the date and facility where the abortion was performed, the minor's month and year of birth, and certain other information about the minor and the circumstances under which the abortion was performed. The forms that physicians would file would not identify the minor or any parent or guardian by name. Based on these forms, DHS would compile certain statistical information relating to abortions performed on minors in an annual report that would be available to the public.

The courts are required by the measure to report annually to the state Judicial Council the number

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ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

of petitions filed and granted or denied. The reports would be publicly available. The measure also requires the Judicial Council to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

Penalties

Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

Relief From Coercion

The measure allows a minor to seek help from the juvenile court if anyone attempts to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it found necessary to prevent coercion.

FISCAL EFFECTS

The fiscal effects of this measure on state government would depend mainly upon how these new requirements affect the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of this measure on the birthrate for California minors would be limited, if any. If it were to increase the birthrate for California minors, the net cost to the state would probably not exceed several million dollars annually for health and social services programs, the courts, and state administration combined. We discuss the potential major fiscal effects of the measure below.

Savings and Costs for State Health Care Programs

Studies of other states with laws similar to the one proposed in this measure suggest that it could result in a reduction in the number of abortions obtained by minors within California. This reduction in abortions performed in California might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If, for either reason, this proposition reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal Program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs.

This measure could also result in some unknown additional costs for state health care programs. If this measure results in a decrease in minors' abortions and an increase in the birthrate of children in low-income families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and follow-up care.

The net fiscal effect, if any, of these or other related cost and savings factors would probably not exceed costs of a few million dollars annually to the state. These costs would not be significant compared to total state spending for programs that provide health care services. The Medi-Cal Program alone is estimated to cost the state \$13.8 billion in 2006-07.

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State Health Agency Administrative Costs

The DHS would incur first-year state costs of up to \$350,000 to develop the new forms needed to implement this measure, establish the physician reporting system, and prepare the initial annual report containing statistical information on abortions obtained by minors. The ongoing state costs for DHS to implement this measure could be as much as \$150,000 annually.

Juvenile and Appellate Court Administrative Costs

The measure would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the notification requirements. The magnitude of these costs is unknown, but could reach several million dollars annually, depending primarily on the number of minors that sought waivers. These costs would not be significant compared to total state expenditures for the courts, which are estimated to be \$2 billion in 2006–07.

Social Services Program Costs

If this measure discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, but because all CalWORKs federal funds are capped, these additional costs would probably be borne by the state. These costs would not be significant compared to total state spending for CalWORKs, which is estimated to cost about \$5 billion in state and federal funds in 2006–07. Under these circumstances, there could also be a minor increase in child welfare and foster care costs for the state and counties.

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ARGUMENT IN FAVOR OF PROPOSITION 85

IN CALIFORNIA, a daughter under 18 can't get aspirin from the school nurse, get a flu shot, or have a tooth pulled without a parent knowing.

BUT, UNBELIEVABLY, surgical or chemical abortions can be secretly performed on minor girls—even 12-year-olds—without parents' knowledge.

PARENTS are then not prepared to help young daughters with the serious physical, emotional, or psychological complications which may result from an abortion or to protect their daughters from further sexual abuse, exploitation, and pregnancies.

A study of over 46,000 pregnancies of SCHOOL-AGE GIRLS in California found that over two-thirds were impregnated by ADULT MEN whose mean age was 22.6 years.

Investigations have shown that secret abortions on minors in California are RARELY REPORTED to child protective services although these pregnancies are evidence of statutory rape and sexual abuse. This leaves these girls vulnerable to further SEXUAL ABUSE, RAPES, pregnancies, abortions, and sexually transmitted diseases.

That's why more than ONE MILLION SIGNATURES were submitted to allow Californians to vote on the "Parents' Right to Know and Child Protection" / Proposition 85.

PROP. 85 will require that doctors notify a parent or guardian at least 48 hours before performing abortions on minor daughters.

PARENTS AND DAUGHTERS in more than 30 other states have benefited for years from laws like Prop. 85. Many times, after such laws pass, there have been substantial reductions in pregnancies and abortions among minors.

When parents are involved and minors cannot anticipate secret access to free abortions they more often avoid the reckless behavior which leads to pregnancies. Older men, including Internet predators, are deterred from impregnating minors when secret abortions are not available to conceal their crimes.

If she chooses, a minor may petition juvenile court to permit an abortion without notifying a parent. She can request a lawyer to help her. If the evidence shows she is mature enough to decide for herself or that notifying a parent is not in her best interests, the judge will grant her petition. The proceedings must be confidential, prompt, and free. She may also seek help from juvenile court if she is being coerced by anyone to consent to an abortion.

POLLS SHOW most people support parental notification laws. They know that a minor girl—pregnant, scared, and possibly abandoned or pressured by an older boyfriend—NEEDS the advice and support of a parent.

PARENTS have invested more attention and love in raising their daughter, know her personal and medical history better, and care more about her future than STRANGERS employed by abortion clinics PROFITING from performing many abortions on minors.

A minor still has a legal right to obtain or refuse an abortion, but a parent can help her understand all options, obtain competent care, and provide medical records and history.

An informed parent can also get PROMPT CARE for hemorrhage, infections, and other possibly fatal complications.

VOTE "YES" on PROPOSITION 85 TO ALLOW PARENTS TO CARE FOR AND PROTECT THEIR MINOR DAUGHTERS' WELL-BEING, HEALTH, and SAFETY!

www.YESon85.net

WILLIAM P. CLARK, California Supreme Court Justice (Ret.)

MARY L. DAVENPORT, M.D., Fellow American College of Obstetricians and Gynecologists

PROFESSOR JOSEPH R. ZANGA, M.D., FAAP, Past President American Academy of Pediatrics

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 85

NO LAW CAN FORCE FAMILIES TO COMMUNICATE.

Of course, parents rightfully want to be involved in their teenagers' lives, but in the REAL WORLD, some teenagers live in dangerous homes. Some parents are violent or sexually abuse their daughters.

IN THE REAL WORLD, Proposition 85:

- WON'T STOP CHILD PREDATORS. Backers are exploiting our fear of predators to advance their own political agenda.
- WON'T REDUCE TEEN PREGNANCY.
- PUTS TEENS AT RISK. Scared, pregnant teens from abusive families won't go to court . . . but they may resort to dangerous back-alley abortions—or even consider suicide.
- MEANS DANGEROUS DELAYS IN CRITICAL MEDICAL CARE. *The New England Journal of Medicine* reported that, after a law like this took effect, some pregnant teens waited months to seek care, getting riskier second trimester abortions.

The California Supreme Court found "overwhelming" evidence that similar laws in other states cause real harm to teenagers and families.

Don't be misled.

For ninety years, Planned Parenthood has been a trusted provider of quality healthcare. Caring staff counsel pregnant teens to talk to parents—and most do.

Planned Parenthood and other family planning clinics COMPLY WITH ALL CALIFORNIA LAWS ON CHILD ABUSE REPORTING. To charge NOW that they protect criminals is ridiculous. DHHS's Office of Inspector General's recent investigation didn't find evidence of a single reporting violation.

The *San Jose Mercury News* says Proposition 85 is "PART OF A LARGER STRATEGY TO CHIP AWAY AT LEGALIZED ABORTION IN THE UNITED STATES."

Prop. 85 threatens teens . . . and a whole lot more.

VOTE NO.

DONNA W. CHIPPS, Executive Vice President League of Women Voters of California

BO GREAVES, M.D., President California Academy of Family Physicians

JEANNE A. CONRY, M.D., Vice Chair The American College of Obstetricians and Gynecologists, District IX California

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ARGUMENT AGAINST PROPOSITION 85

DOCTORS AND NURSES, including the California Medical Association, the California Nurses Association, American Academy of Pediatrics-California District, California Academy of Family Physicians, and the American College of Obstetricians and Gynecologists-District IX California, **STRONGLY OPPOSE PROPOSITION 85.**

They understand that while PARENTS RIGHTFULLY WANT TO BE INVOLVED IN THEIR TEENAGERS' LIVES, *in the real world*, SOME California TEENAGERS COME FROM HOMES where they can't talk to their parents, *where there is violence*, or WHERE A FAMILY MEMBER HAS SEXUALLY ABUSED THEM.

THESE TEENS CAN'T GO TO THEIR PARENTS. They fear being kicked out of their homes, beaten, or worse. *Proposition 85 forces these teens to delay critical medical care or turn to self-induced or illegal back-alley abortions.* Some will go across the border; some will suffer serious injuries or even consider suicide.

PROPOSITION 85 PUTS THE HEALTH AND SAFETY OF TEENAGERS AT RISK.

No law can mandate *good* family communication. *The real answer to teen pregnancy and abortion is strong, caring families and comprehensive sex education, including abstinence.* But sadly, not all California teens live in homes with strong, caring families.

For OUR MOST VULNERABLE TEENAGERS—*those who most need protection*—PROPOSITION 85 PUTS THEM IN HARM'S WAY OR FORCES THEM TO GO TO COURT.

FORCING A SCARED, PREGNANT TEENAGER who can't go to her parents INTO CALIFORNIA'S OVERCROWDED COURT SYSTEM WON'T WORK—AND COULD CAUSE TEENS MORE HARM. Courts are already backlogged, there's a lot of red tape, and they are hard to navigate, even for adults.

Think about it. The teen is scared, pregnant, her family might be abusive. SHE DOESN'T NEED A JUDGE. SHE NEEDS A COUNSELOR AND GOOD MEDICAL CARE—WITHOUT DELAY.

Proposition 85's new bureaucratic rules WON'T GUARANTEE that parents are notified. Who will sign for the mail? What happens when the mail is delayed, or the parents aren't home, or the teen intercepts the letter?

The real answer to teen pregnancy is prevention and caring families—NOT NEW LAWS THAT ENDANGER OUR DAUGHTERS.

AND PROPOSITION 85 IS NOT ABOUT PROTECTING TEENS FROM OLDER MEN AND SEXUAL PREDATORS. *Clinics already provide counseling about responsible behavior and report illegal activities.*

Proposition 85 won't reduce teen pregnancy rates, can't force families to communicate, is complicated and unworkable . . . and is not about predators—BUT IT WILL PUT GENERATIONS OF CALIFORNIA'S TEENAGERS AT RISK.

WE ALL MUST CARE *enough* about Proposition 85 to VOTE NO because DEFEATING Prop. 85 is about KEEPING OUR DAUGHTERS SAFE and PROTECTING THE RIGHT TO CHOOSE.

SUPPORTERS of Proposition 85—including the Traditional Values Coalition, Evangelicals for Social Action, and Right to Life of Central California—ARE THE SAME PEOPLE WHO WANT TO OVERTURN *ROE v. WADE* and BAN ALL ABORTIONS. Despite what they say, Proposition 85 ISN'T ABOUT PARENTAL RIGHTS; IT'S ABOUT *THEIR* POLITICAL AGENDA.

Join PARENTS, DOCTORS, NURSES, PLANNED PARENTHOOD, and THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA and VOTE NO on 85. For more information about REAL TEEN SAFETY, VISIT OUR WEBSITE, www.noon85.com. VOTE NO ON PROP. 85.

JACK LEWIN, M.D., CEO, California Medical Association

ROBERT L. BLACK, M.D.
American Academy of Pediatrics, California District

KATHY KNEER, CEO
Planned Parenthood Affiliates of California

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REBUTTAL TO ARGUMENT AGAINST PROPOSITION 85

When parents learn their daughter is pregnant, *ALMOST ALL RESPOND WITH LOVE AND SUPPORT.*

PROPOSITION 85 OFFERS CLEAR BENEFITS TO YOUNG GIRLS:

- The parent can assist her daughter in selecting a doctor. Many abortion clinics employ doctors who have been *disciplined by the medical board* for *INCOMPETENCE, NEGLIGENCE, CRIMINAL CONVICTIONS, OR SEXUAL MISCONDUCT.* Many have been *cited by health officials* for *UNSAFE CONDITIONS.*
- An informed parent can *respond quickly* to post-abortion complications. Abortion complications can result in permanent injury, even death. Teens who have *secret abortions* often *delay seeking treatment.* *PARENTS WHO DON'T KNOW, CAN'T HELP.*
- Parents who learn their daughters are *victims of sexual assaults* can *intervene to protect them.* Many abortion providers *CHOOSE NOT TO REPORT SEXUAL ABUSE, abandoning these girls to FURTHER SEXUAL ABUSE.* www.ChildPredators.com

In the rare case of familial abuse, a court will permit a minor to obtain an abortion without notifying a parent—then *notify child protective services* so she can be helped, *NOT*

LEFT VULNERABLE TO FURTHER HARM.

A parent of two young teenage daughters, GOVERNOR ARNOLD SCHWARZENEGGER said it would be *" . . . THE ULTIMATE OF BEING OUTRAGED . . . "* if someone took *his* daughter for a *secret abortion.*

OVER THIRTY STATES already have laws like PROPOSITION 85, and THEIR EXPERIENCE SHOWS THESE LAWS *REDUCE MINORS' PREGNANCY AND ABORTION RATES WITHOUT DANGER AND HARM TO MINORS.*

Currently, the state PAYS FOR SECRET ABORTIONS FOR MINOR GIRLS. *PUT PARENTS IN CHARGE, NOT THE GOVERNMENT!*

VOTE "YES" on PROPOSITION 85! PROTECT OUR DAUGHTERS! See: www.YESon85.net

PROFESSOR TERESA STANTON COLLETT, J.D.
National Authority on Parental Notification and Involvement Laws

JANE E. ANDERSON, M.D., FAAP, Clinical Professor of Pediatrics

PROFESSOR JOSEPH R. ZANGA, M.D., FAAP, Past President American Academy of Pediatrics

and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

75084. There shall be collected annually in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do so and perform each and every act that is necessary to collect that additional sum.

75085. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 75086, appropriated without regard to fiscal years.

75086. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this division. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds that would otherwise be deposited in that fund.

75087. All money derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

75088. Any bonds issued or sold pursuant to this division may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of the bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

75090. The people of California hereby find and declare that inasmuch as the proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitation imposed by that article.

SEC. 2. If any provision of this Act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 3. This Act is an exercise of the public power of the People of the State of California for the protection of their health, safety, and welfare and shall be liberally construed to effectuate those purposes.

PROPOSITION 85

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the Parents' Right to Know and Child Protection Initiative.

SEC. 2. Declaration of Findings and Purposes

The people of California have a special and compelling interest in and responsibility for protecting the health and well-being of children, ensuring that parents are properly informed of potential health-related risks and medical decisions involving their children, and promoting and enabling parental care and responsibility.

SEC. 3. Parental Notification

Section 32 is added to Article I of the California Constitution, to read:

SEC. 32. (a) For purposes of this section, the following terms shall be defined to mean:

(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant, except for the purpose of producing a live birth. "Abortion" shall not include the use of any contraceptive drug or device.

(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(3) "Notice" means a written notification, signed and dated by a physician or his or her agent and addressed to a parent or guardian of an unemancipated minor, informing the parent or guardian that she is pregnant and that she has requested an abortion.

(4) "Parent or guardian" means a person who, at the time notice or waiver is required under this section, is either a parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.

(5) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this section, pregnancy does not emancipate a female under the age of 18 years.

(6) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.

(b) Notwithstanding Section 1 of Article I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until the physician or the physician's agent has provided written notice to her parent or guardian personally as provided for in subdivision (c) and a reflection period of at least 48 hours has elapsed after personal delivery of notice; or until the physician can presume that notice has been delivered by mail as provided in subdivision (d) and a reflection period of at least 48 hours has elapsed after presumed delivery of notice by mail; or until the physician or the physician's agent has received a valid written waiver of notice as provided for in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h), (i), or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this section.

(c) The written notice shall be delivered to the parent or guardian personally by the physician or the physician's agent unless delivered by mail, as provided in subdivision (d). A form for the notice shall be prescribed by the State Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.

(d) The written notice may be delivered by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee. To help ensure timely notice, a copy of the written notice shall also be sent at the same time by first-class mail to the parent or guardian. Notice can only be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.

(e) Notice of an unemancipated minor's intent to obtain an abortion and the reflection period of at least 48 hours may be waived by her parent or guardian. The waiver must be in writing, on a form prescribed by the State Department of Health Services, signed by a parent or guardian, dated, and notarized. The parent or guardian shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent

TEXT OF PROPOSED LAWS ★ ★ ★

or guardian personally delivers it to the physician or the physician's agent. The form shall include the following statement:

“WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian.” The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.

(f) Notice shall not be required under this section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency.

(g) Notice shall not be required under this section if waived pursuant to this subdivision and subdivision (h), (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the minor or person designated by the minor in preparing the documents required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. The unemancipated minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. If the guardian ad litem requests an extension, that extension may not be granted for more than one court day without the consent of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.

(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent or guardian.

(2) If the judge finds, by clear and convincing evidence, that notice to a parent or guardian is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice to a parent or guardian is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse, the court shall ensure that such evidence is brought to the attention of the appropriate county child protective agency.

(3) If the judge does not make a finding specified in paragraph (1) or (2), the judge shall deny the petition.

(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.

(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. Judgment shall be entered within one court day of submission of the matter. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.

(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings, and entry of judgment as it deems necessary and may prescribe forms for such

proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report of the number of petitions filed, the number of petitions granted under paragraph (1) or (2) of subdivision (h), deemed granted under subdivision (i), denied under paragraph (3) of subdivision (h), and granted and denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.

(l) The State Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the unemancipated minor or her parent(s) or guardian by name or request other information by which the unemancipated minor or her parent(s) or guardian might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed after personal delivery of a notice, pursuant to subdivision (c); or was an abortion performed after presumed delivery of a notice by mail, pursuant to subdivision (d); or was an abortion performed after receiving a waiver of notice, pursuant to subdivision (e); or was an abortion performed without notice, pursuant to subdivision (f); or was an abortion performed after receiving any judicial waiver of notice, pursuant to subdivision (h), (i), or (j).

(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning it with the State Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.

(n) The State Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the numbers of prior abortions or deliveries where known, and the numbers of abortions performed after personal delivery of a notice, pursuant to subdivision (c); the numbers of abortions performed after presumed delivery of a notice by mail, pursuant to subdivision (d); the numbers of abortions performed after a waiver of notice, pursuant to subdivision (e); the numbers of abortions performed without notice, pursuant to subdivision (f); and the numbers of abortions performed after any judicial waivers, pursuant to subdivision (h), (i), or (j). The annual statistical report shall be made available to county public health officials, Members of the Legislature, the Governor, and the public.

(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent or guardian wrongfully denied notification. A person shall not be liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the parent or guardian may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of ten thousand dollars (\$10,000). In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this section shall abrogate, limit, or restrict the common law rights of parents or guardians, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.

(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's

agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this section notice has been or will be delivered, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to one thousand dollars (\$1,000).

(q) Notwithstanding any notices delivered pursuant to subdivision (c) or (d) or waivers received pursuant to subdivision (e), (h), (i), or (j), except where the particular circumstances of a medical emergency or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.

(r) Notwithstanding any notices delivered pursuant to subdivision (c) or (d) or waivers received pursuant to subdivision (e), (h), (i), or (j), an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

(s) This section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The State Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (e), and (l).

(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.

(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this section, nothing in this section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.

PROPOSITION 86

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the California Constitution and the Health and Safety Code, the Insurance Code, the Revenue and Taxation Code, and the Welfare and Institutions Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE TOBACCO TAX ACT OF 2006

SECTION 1. Statement of Findings

(a) Cigarette smoking and other uses of tobacco are leading causes of many serious health problems, including cancer, heart disease and respiratory diseases. The treatment of tobacco-related diseases imposes a significant burden upon California's already overstressed health care system. Prior efforts to curb the use of tobacco have not sufficiently eased the health care burden on the taxpayers of California.

(b) Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.

(c) Currently, the state imposes a tax on cigarettes and tobacco products. Funds from that tax are used in part by the state to fund programs to offset the adverse health consequences of tobacco use. The tobacco tax is an appropriate source to fund prevention, research and treatment of chronic diseases, including improved access to health care for children and adults.

(d) The tax on tobacco products in California has not been raised since 1998. As a consequence, the total tax levied on tobacco products is much less than in many other states. Yet the health consequences to our citizens, particularly children and young adults, and the corresponding

burden on our state's health care system continue.

(e) The deterioration of the state's hospital emergency services network has left many communities unable to adequately cope with the normal flow of emergency services. This emergency services crisis imposes a significant burden on our community clinics and keeps them from fulfilling their important health care function for low income children and adults.

(f) Funds which could be used to provide pioneering research into the prevention and treatment of chronic diseases, and health insurance for our most vulnerable children, are increasingly diverted to address the health care crisis caused, in part, by tobacco-related illnesses.

(g) Almost 80% of adult smokers become addicted to tobacco before age 18. Increasing the cost of cigarettes and other tobacco products and providing a comprehensive tobacco control program have proven to be two of the most effective ways to reduce smoking among youth and the associated health problems and economic costs.

(h) The establishment of programs designed to (1) reduce the consumption of tobacco in the first instance, (2) fund research, early detection and treatment of chronic diseases, and (3) preserve access to emergency hospital services performed by well-trained doctors and nurses, is vital to the public's interest.

SEC. 2. Statement of Purpose

(a) The people of California hereby increase the tax on tobacco to reduce the economic costs of tobacco use in California and to provide supplemental funding to:

- (1) promote medical research into chronic diseases, particularly cancer;
- (2) reduce the impact of chronic diseases through prevention, early detection, treatment and comprehensive health insurance; and
- (3) improve access to and delivery of health care, particularly emergency health services.

SEC. 3. Tobacco Tax

Article 4 (commencing with Section 30132) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. The Tobacco Tax of 2006 Trust Fund

30132. The Tobacco Tax of 2006 Trust Fund ("Tobacco Trust Fund") is hereby created in the State Treasury. The fund shall consist of all revenues deposited therein pursuant to this Article, including interest and investment income. Moneys deposited into the Tobacco Tax of 2006 Trust Fund shall be allocated and are continuously appropriated for the exclusive purpose of funding the programs and services in Section 30132.3 and shall be available for expenditure without regard to fiscal years.

30132.1. (a) In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101) and Article 2 (commencing with Section 30121) and Article 3 (commencing with Section 30131) and any other taxes in this Chapter, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred thirty mills (\$0.130) for each cigarette distributed.

(b) For purposes of this Article, the term "cigarette" has the same meaning as in Section 30003, as it read on January 1, 2005.

(c) The tax imposed by this Section, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be imposed on every cigarette and on all tobacco products in the possession or under the control of every dealer, wholesaler, and distributor on and after 12:01 a.m. on January 1, 2007, pursuant to rules and regulations promulgated by the State Board of Equalization.

30132.2. The State Board of Equalization shall determine within one year of the passage of this Act, and annually thereafter, the effect that the additional tax imposed on cigarettes by this Act, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a direct result of the additional tax imposed by this Act, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the California Children and Families Trust Fund created by Proposition 10 (1998). Funds shall be transferred from the

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Adolescents & Parental Notification for Abortion

What Can California Learn from the Experiences of Other States?

About this Brief

Rates of pregnancies, births, and abortions among adolescents in the U.S. have declined significantly over the past decade.

The U.S. pregnancy rate for 15 to 17 year olds declined over 30% between 1991 and 2000, from 80 to 48 per 1,000 women. The birth rate declined as well: from 39 to 22 per 1,000 women aged 15 to 17 between 1991 and 2004.^{1,2}

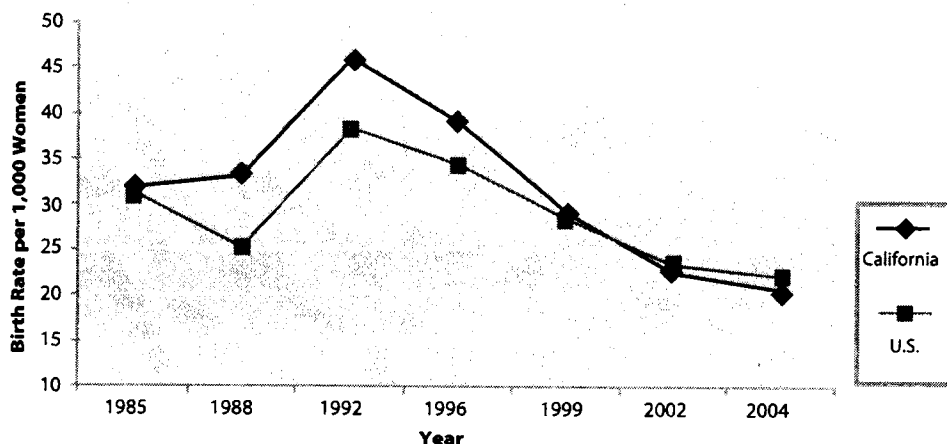
- These declines resulted from a combination of delayed sexual activity and increased contraceptive use among adolescents.³
 - Between 1988 and 2002, the percent of adolescent women ages 15 to 17 who have ever had sexual intercourse declined from 37% to 30%.⁴
 - Between 1995 and 2002, the percent of adolescent women ages 15 to 17 that used contraception at most recent intercourse increased from 71% to 83%.⁵
- The abortion rate for adolescents also declined significantly. Between 1991 and 2000, the abortion rate fell over 36%: from 24 to 14.5 per 1000 women ages 15 to 17.⁶

California's adolescent pregnancy rates declined even more steeply than those in the rest of the country.

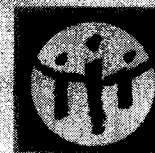
California's adolescent pregnancy rate fell by 46% over the past decade: from 102 to 55 per 1,000 women aged 15 to 17, representing the second largest decline in the country (Hawaii's rate fell by 47%). Furthermore, the teen birth rate fell by 41%, from 46 to 27 per 1,000 women aged 15 to 17, and the estimated abortion rate fell by 50% for the same age group.⁷ As a result, California's adolescent birth rate now stands below the national average.

The decline in unintended pregnancy in California has been attributed to laws and policies promoting comprehensive, medically accurate sex education and confidential access to low cost family planning services.⁸ Continued promotion of these strategies, resulting in better contraceptive use by adolescents in California, averts an estimated 236,000 pregnancies to teens annually.⁹

Trends in Adolescent Birth Rates (Ages 15-17), California vs United States¹⁰



Legislatures and voters in states across the country have passed legislation mandating that parents be notified of and/or give consent for their daughter aged 17 and under to seek abortion care. This brief provides information on such legislation, beginning with trends in pregnancy and abortion rates and the characteristics of adolescents having abortions. Next, it highlights research on parent-daughter communication about abortion decisions and on the effect of parental involvement requirements on abortion rates and the percent of abortions occurring after the 1st trimester. Finally, it details current laws in other states that limit adolescents' access to abortion through parental involvement requirements, and draws from existing research to suggest what California can learn from other states' experiences.



Bixby Center for
Reproductive
Health Research
& Policy

UCSF

University of California San Francisco

Despite this tremendous progress, 1 in 5 sexually active adolescents aged 15 to 17 in the U.S. experiences an unintended pregnancy annually. In California, unintended pregnancies result in approximately 19,000 births, 16,000 abortions, and 7,000 miscarriages among 15 to 17 year olds each year.¹¹

Adolescents across all ethnic, racial, and socioeconomic groups seek abortion care. However:

- Socio-economically disadvantaged women living at or below 100% of the federal poverty level are over four times more likely than women not living below poverty to have an abortion.^{12, 13}
- Hispanic and African American adolescents have abortions at rates that are 2 to 3.5 times higher, respectively, than non-Hispanic white women, largely due to the fact that they experience higher pregnancy rates as well.¹⁴
- Older youth (aged 18 to 19) have abortions at 3.5 times the rate of younger adolescents (aged 15 to 17).¹⁵

Given these documented patterns, it is likely that poor adolescents and adolescents of color will bear a larger proportion of the likely impact of a parental involvement mandate.

Parental communication on issues related to sex is strong without mandates.

- Over 70% of young women in the US report discussing topics related to sex with their parents.¹⁶
- In California, the vast majority (79%) of young women ages 14 to 17 report that their parents are aware of their sexual activities.¹⁷

Most young women communicate with their parents about their decision to have an abortion.

Even without a government mandate, a majority (61%) of young women under age 18 report that at least one parent is aware of their decision to seek abortion care. Parental involvement is even higher among younger adolescents; over 90% of 14 year olds and 74% of 15 year olds report having at least one parent involved in their decision.¹⁸

A minority of young women choose not to involve their parents in their abortion decision, and they have valid concerns for doing so.

Over 30% of young women who choose not to involve their parents cite fear of physical harm, being kicked out of the house, or other abuse as part of their reason not to tell their parents.¹⁹ Many others report that they choose not to involve their parents because of a difficult family situation, including drug dependency, loss of jobs, health problems, and marital strain.²⁰

The Experience of Other States

Thirty-five states currently enforce parental consent or notification laws.

There is tremendous variation in laws by state. The table at the end of this document summarizes the current status of such laws. The recent increase in parental involvement legislation has come in concert with other forms of legislation designed to limit adolescents' access to safe and confidential reproductive healthcare. Recent studies suggest that this trend will negatively impact the health of adolescents. In one study, adolescents reported that they would discontinue using most reproductive health services if confidentiality is not guaranteed and furthermore would not refrain from having sex.²¹ Additional research documents that when teens fear that confidentiality is not guaranteed, they are less likely to disclose all pertinent medical history to their medical provider and less likely to return for necessary follow-up visits.²² In Texas, the loss of confidentiality associated with the recent enactment of a parental consent mandate for contraception led to an additional 5,300 births and 1,650 abortions to teens in the state, at a cost of over 43 million dollars.²³

Parental notification and consent laws delay minors' abortions.

Induced abortion is one of the safest medical procedures for women in the U.S.; however, the risk of complications increases if an abortion is delayed into the 2nd trimester. Adolescent women are most likely to experience such delays, as they take an average of one week longer to identify a pregnancy and two weeks longer to seek abortion care than adult women.²⁴ Parental involvement laws increase the likelihood of delay even further. For example, adolescents who obtained an abortion after Mississippi's parental consent requirements took effect were 10-20% more likely to do so in the second trimester.²⁵ The odds of a 2nd trimester abortion increased significantly for young women ages 17.5 and older after implementation of Texas' parental notification law, indicating that these women delayed their abortion care well into the 2nd trimester as a consequence of parental notification requirements.²⁶

Mandated parental notification does not increase parental involvement in adolescents' abortion decisions.

A comparison of adolescents visiting abortion clinics in states with (Minnesota) and without (Wisconsin) notification requirements demonstrates that adolescents involve their parents in their decision at similar rates (65% and 62%, respectively).²⁷ There is no evidence that a government mandate will positively increase the frequency or quality of communication between adolescents and their families.

Rather than encourage family communication, parental notification and consent laws will likely increase utilization of a judicial bypass option for adolescents who cannot involve their parents.

Young women can bypass parental involvement requirements by going before a judge. If the judge determines that parental notification is not in the best interest of the minor or that the minor is mature enough to make the decision on her own, the parental involvement requirement can be waived. In 2003, 540 adolescents in Massachusetts obtained a judicial bypass in order to obtain abortion care, representing nearly 10% of all adolescents having abortions in the state that year.²⁸

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The court system may not be prepared to handle judicial bypass requests from adolescents, placing the adolescent at increased risk of a delayed and potentially riskier abortion.

A study of Pennsylvania's juvenile court system demonstrated that only 8 of 60 judicial court districts provided complete information to young women inquiring about the judicial bypass option.²⁹ Additionally, a study in Alabama found that a young woman's access to accurate information about the bypass option was largely subject to the knowledge and willingness of individuals in her local court to disclose the information.³⁰

The passage of parental notification and consent laws has been shown to increase the frequency with which adolescents travel out-of-state for abortion care.

Incomplete data on travel and out-of-state abortion rates make it difficult to quantify the complete impact of travel on abortion rates; nonetheless, it is estimated that:

- In the 20 months following implementation of Massachusetts' parental consent law, half as many minors obtained an abortion as had done so prior to the law's implementation. During this same time period, more than 1800 minors (88% of the decrease in abortions) traveled to 5 neighboring states to have an abortion.³¹
- In Mississippi, the abortion rate among minors did not significantly decline (<3%) after the state's parental consent law was implemented. Abortions occurring both in-state and out-of-state were included in the rate.³²
- After Missouri implemented its parental notification law, the in-state abortion rate for women under age 18 fell by 20%. During the same time period, the likelihood that a woman in this age group traveled out of state to obtain abortion care increased by 52%.³³

Parental notification laws have not been shown to change the age dynamics of relationships.

Three-quarters of young women in the US choose sexual partners who are within three years of their own age.³⁴ There is no evidence to support the claim that parental involvement laws will change the age dynamics of relationships or identify increased cases of sexual abuse. For example, after implementation of parental involvement laws in Texas and Arizona, the proportion of births to teen mothers involving significantly older fathers did not change. In 1999, 7.6% of fathers in births to mothers aged 17 and under in Texas were significantly older (>=25 years). By 2003, three years after implementation of the state's parental notification requirements, that number had not changed significantly (7.2%).³⁵

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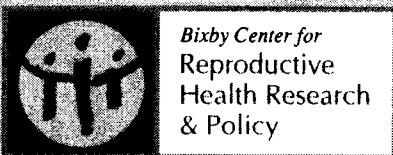
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Conclusions: Over the past decade, California has been at the forefront of successful efforts to reduce teen pregnancy and abortion rates. The state supports comprehensive family life education including key messages about both abstinence and contraception, and ensures the provision of contraceptive services for teens in a confidential manner. Adolescents in California are reporting delayed sexual activity and increases in contraceptive use. As a result, fewer adolescents experience unintended pregnancy and abortion each year. Requiring parental notification will not prevent abortion or the need for abortion, nor will it improve minors' communication with parents about abortion decisions, as evidenced by research from other states. This research also suggests that parental notification can have the negative consequence of putting adolescents' health at risk by delaying and otherwise complicating access to care.

	Require Parental Involvement		Alternatives		Exceptions	
	Consent	Notification	Judicial Bypass	Other Adult Relatives	In Medical Emergency	In Cases of Abuse, Assault, Incest, & Neglect
Alabama	X		X		X	X
Alaska	Enjoined*					
Arizona	X		X		X	X
Arkansas	X		X		X	X
California	Enjoined					
Colorado		X	X		X	
Delaware		X (age <16)	X	X	X	
Florida		X	X		X	
Georgia		X	X		X	
Idaho	Temporarily Enjoined					
Illinois		Enjoined				
Indiana	X		X		X	
Iowa		X	X	X	X	X
Kansas		X	X		X	X
Kentucky	X		X		X	
Louisiana	X		X			
Maryland		X	X			
Massachusetts	X		X			
Michigan	X		X		X	
Minnesota		X (2 parents)	X		X	X
Mississippi	X (2 parents)		X		X	
Missouri	X		X			
Montana		Enjoined				
Nebraska		X	X		X	X
Nevada		Enjoined				
New Hampshire		Enjoined				
New Jersey		Enjoined				
New Mexico	Enjoined					
North Carolina	X		X	X	X	
North Dakota	X (2 parents)		X		X	
Ohio	X		X		X	
Oklahoma		X	X		X	
Pennsylvania	X		X		X	
Rhode Island	X		X			
South Carolina	X (age <17)		X	X	X	X
South Dakota		X	X		X	
Tennessee	X		X		X	X
Texas	X		X		X	
Utah	X	X	X		X	X
Virginia	X		X	X	X	X
West Virginia		X	X		X	
Wisconsin	X		X	X	X	X
Wyoming	X		X		X	
Total	22	13	34	6	30	12

* Courts in nine states have permanently or temporarily blocked enforcement of parental involvement laws. In most instances, state courts determined that the law violated the state's constitution.

Ralph L & Brindis CD. *Adolescents and Parental Notification for Abortion. What Can California Learn from the Experience of Other States?* (Updated, September 2006). The Bixby Center for Reproductive Health Research & Policy, University of California, San Francisco, CA. Fall 2006. Available at: <http://crhrp.ucsf.edu>.



California Mandatory Notice Initiatives¹

Initiative Information/Provisions	Prop 73	Prop 85
Attorney General ID	SA2004RF0030, Amdt. #1-S	SA2005RF0132, Amdt. #1-S
Statement to Secretary of State	<p>We the undersigned, registered, qualified voters of California, residents of the afore-described County (or City and County), on the signature page of this petition section, hereby propose an amendment to the Constitution of the State of California relating to parental notification prior to the performance of an abortion on a pregnant unemancipated minor and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed amendment reads as follows:</p>	<p>We the undersigned, registered, qualified voters of California, residents of the afore-described County (or City and County), on the signature page of this petition section, hereby propose an amendment to the Constitution of the State of California relating to parental notification and personal consent prior to the performance of an abortion on a pregnant unemancipated minor and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed amendment reads as follows:</p>
Proponents' Title Sec. 1	Parents' Right to Know and Child Protection Initiative	Parents' Right to Know and Child Protection Initiative
Declarations of Findings and Purposes Sec. 2 (Sec. 1 in Version 2)	<p>The People of California have a special and compelling interest in and responsibility for protecting the health and well-being of children, ensuring that parents are properly informed of potential health-related risks to their children, and promoting parent-child communication and parental responsibility.</p>	<p>The People of California have a special and compelling interest in and responsibility for protecting the health and well-being of children, ensuring that parents are properly informed of potential health-related risks and medical decisions involving to their children, and promoting parent-child communication and enabling parental care and responsibility.</p>
Constitutional Provisions Sec. 3 Parental Notification (Sec. 2 in Version 2)	<p>Section 32 of Article 1 of the California Constitution is added to read:</p> <p>SEC. 32 (a) For purposes of this Section, the following terms shall be defined to mean:</p>	<p>Section 32 of Article 1 of the California Constitution is added to read:</p> <p>SEC. 32 (a) For purposes of this Section, the following terms shall be defined to mean:</p>

1. New language in **bold**; deleted language in **bold strikethrough**.

Mandatory Notice Comparison – 2

Initiative Information/Provisions	Prop 73	Prop 85
<p>Definitions</p>	<p>(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child, a child conceived but not yet born. For purposes of this Section, "abortion" shall not include the use of any contraceptive drug or device.</p> <p>(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.</p> <p>(3) "Notice" means a written notification, signed and dated by a physician or his or her agent and addressed to a parent or guardian, informing the parent or guardian that the unemancipated minor is pregnant and that she has requested an abortion.</p> <p>(4) "Parent or guardian" means either parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of a minor.</p> <p>(5) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this Section, pregnancy does not emancipate a female under the age of 18 years.</p>	<p>(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child, a child conceived but not yet born except for the purpose of producing a live birth. For purposes of this Section, "abortion" shall not include the use of any contraceptive drug or device.</p> <p>(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.</p> <p>(3) "Notice" means a written notification, signed and dated by a physician or his or her agent and addressed to a parent or guardian of an unemancipated minor, informing the parent or guardian that the unemancipated minor she is pregnant and that she has requested an abortion.</p> <p>(4) "Parent or guardian" means a person who, at the time notice or waiver is required under this Section, is either parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.</p> <p>(5) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this Section, pregnancy does not emancipate a female under the age of 18 years.</p>

Mandatory Notice Comparison – 3

Initiative Information/Provisions	Prop 73	Prop 85
<p>Definitions</p> <p>Prohibitions, Notice & Waiver Provisions</p>	<p>(6) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.</p> <p>(b) Notwithstanding article 1, section I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until after the physician or the physician's agent has first provided written notice to a parent or guardian either personally as provided for in subdivision (c) and a reflection period of at least forty-eight (48) hours has elapsed after personal delivery of notice; or until the physician can presume that notice has been delivered by mail as provided in subdivision (d) and a reflection period of at least forty-eight (48) hours has elapsed after presumed delivery of notice by mail; or until the physician or the physician's agent has received from a parent or guardian a written waiver of notice as provided for in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h) or (i) or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this Section.</p> <p>(c) The written notice shall be delivered to the parent or guardian personally by the physician or the physician's agent. A form for the notice shall be prescribed by the Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.</p>	<p>(6) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.</p> <p>(b) Notwithstanding article 1, section I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until after the physician or the physician's agent has first provided written notice to a her parent or guardian either personally as provided for in subdivision (c) and a reflection period of at least forty-eight (48) hours has elapsed after personal delivery of notice; or until the physician can presume that notice has been delivered by mail as provided in subdivision (d) and a reflection period of at least forty-eight (48) hours has elapsed after presumed delivery of notice by mail; or until the physician or the physician's agent has received from a parent or guardian a written waiver of notice as provided for in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h) or (i) or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this Section.</p> <p>(c) The written notice shall be delivered to the parent or guardian personally by the physician or the physician's agent unless delivered by mail as provided in subdivision (d). A form for the notice shall be prescribed by the Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.</p>

Mandatory Notice Comparison – 4

Initiative Information/Provisions	Prop 73	Prop 85
<p>Prohibitions, Notice & Waiver Provisions</p>	<p>(d) In lieu of the personal delivery required in subdivision (c) of this Section, written notice may be made by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee, which means a postal employee may only deliver the mail to the authorized addressee. To help ensure timely notice, a copy of the written notice shall also be sent at the same time by first class mail to the parent or guardian. Notice can only be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.</p> <p>(e) Notice of an unemancipated minor's intent to obtain an abortion and the reflection period of at least forty-eight (48) hours may be waived by a parent or guardian. The waiver must be in writing, on a form prescribed by the Department of Health Services, signed by a parent or guardian, dated, and notarized. The written waiver need not be notarized if the parent or guardian personally delivers it to the physician or the physician's agent. The form shall include the following statement: "WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian." The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.</p>	<p>(d) In lieu of the personal delivery required in subdivision (c) of this Section, The written notice may be made by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee, which means a postal employee may only deliver the mail to the authorized addressee. To help ensure timely notice, a copy of the written notice shall also be sent at the same time by first class mail to the parent or guardian. Notice can only be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.</p> <p>(e) Notice of an unemancipated minor's intent to obtain an abortion and the reflection period of at least forty-eight (48) hours may be waived by a parent or guardian. The waiver must be in writing, on a form prescribed by the Department of Health Services, signed by a parent or guardian, dated, and notarized. The parent or guardian shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent or guardian personally delivers it to the physician or the physician's agent. The form shall include the following statement: "WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian." The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.</p>

Mandatory Notice Comparison – 5

Initiative Information/Provisions	Prop 73	Prop 85
<p>Prohibitions, Notice & Waiver Provisions</p>	<p>(f) Notice shall not be required under this Section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency as defined in subdivision (a)(2) of this Section.</p> <p>(g) Notice shall not be required under this Section if waived pursuant to this subdivision and subdivisions (h) or (i) or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the unemancipated minor or person designated by the unemancipated minor in preparing the petition and notifications required pursuant to this Section. The petition shall set forth with specificity the unemancipated minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. An unemancipated pregnant minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. If the guardian ad litem requests an extension, that extension may not be granted for more than one court day without the consent of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.</p>	<p>(f) Notice shall not be required under this Section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency as defined in subdivision (a)(2) of this Section.</p> <p>(g) Notice shall not be required under this Section if waived pursuant to this subdivision and subdivisions (h) or (i) or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the unemancipated minor or person designated by the unemancipated minor in preparing the petition and notifications documents required pursuant to this Section. The petition shall set forth with specificity the unemancipated minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. An The unemancipated pregnant minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. If the guardian ad litem requests an extension, that extension may not be granted for more than one court day without the consent of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.</p>

Mandatory Notice Comparison – 6

Initiative Information/Provisions	Prop 73	Prop 85
<p>Prohibitions, Notice & Waiver Provisions</p>	<p>(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent or guardian.</p> <p>(2) If the judge finds, by clear and convincing evidence, that notice of a parent or guardian is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice of a parent or guardian is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse by a parent or guardian, the court shall ensure that such evidence is brought to the attention of the appropriate county child protective agency.</p> <p>(3) If the judge does not make a finding specified in subdivision (h)(1) or (h)(2), the judge shall deny the petition.</p> <p>(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.</p> <p>(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time and place of the hearing. Judgment shall be entered within one court day of submission of the matter. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.</p>	<p>(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent or guardian.</p> <p>(2) If the judge finds, by clear and convincing evidence, that notice of a parent or guardian is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice of a parent or guardian is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse by a parent or guardian, the court shall ensure that such evidence is brought to the attention of the appropriate county child protective agency.</p> <p>(3) If the judge does not make a finding specified in subdivision (h)(1) or (h)(2), the judge shall deny the petition.</p> <p>(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.</p> <p>(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time and place of the hearing. Judgment shall be entered within one court day of submission of the matter. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.</p>

Mandatory Notice Comparison – 7

Initiative Information/Provisions	Prop 73	Prop 85
<p>Waiver rules, forms & reporting</p>	<p>(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report, by judge, of the number of petitions filed, the number of petitions granted under subdivisions (h)(1) or (h)(2), deemed granted under subdivision (i) denied under subdivision (h)(3) and granted and denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by court or by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.</p> <p>(l) The Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the minor or her parent(s) or guardian by name or request other information by which the minor or her parent(s) or guardian might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the physician who performed the abortion, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed at least forty-eight (48) hours after either personal delivery of a notice pursuant to subdivision (c) or presumed delivery of a notice by mail pursuant to subdivision (d) to a parent or guardian; or was an abortion performed after a parent's or guardian's waiver of notice pursuant to subdivision (e); or was an emergency abortion performed without a notice pursuant to subdivision (f); or was an abortion performed after a judicial waiver of notice pursuant to subdivisions (h)(1) or (h)(2) or (i) or (j).</p>	<p>(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report, by judge, of the number of petitions filed, the number of petitions granted under subdivisions (h)(1) or (h)(2), deemed granted under subdivision (i) denied under subdivision (h)(3) and granted and denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by court or by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.</p> <p>(l) The Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the unemancipated minor or her parent(s) or guardian by name or request other information by which the unemancipated minor or her parent(s) or guardian might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the physician who performed the abortion, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed at least forty-eight (48) hours either after personal delivery of a notice pursuant to subdivision (c) or was an abortion after presumed delivery of a notice by mail, pursuant to subdivision (d) to a parent or guardian, or was an abortion performed after a parent's or guardian's waiver of notice receiving a waiver of notice, pursuant to subdivision (e); or was an emergency abortion performed without a notice pursuant to subdivision (f); or was an abortion performed after receiving</p>

Mandatory Notice Comparison – 8

Initiative Information/Provisions	Prop 73	Prop 85
<p>Waiver rules, forms & reporting</p>	<p>(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning it with the Department of Health Services on forms prescribed pursuant to subdivision (1). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.</p> <p>(n) The Department of Health Services shall compile an annual statistical report from the information specified in subdivision (1). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, and the numbers of abortions performed after notice to a parent or guardian pursuant to subdivisions (c) or (d); the numbers of emergency abortions performed without notice to a parent or guardian pursuant to subdivision (f); the numbers performed after a parent's or guardian's waiver of notice pursuant to subdivision (e); and the number of abortions performed after judicial waivers pursuant to (h)(l) or (h)(2) or (i) or (j). The annual statistical report shall be made available to county public health officials, members of the legislature, the governor, and the public.</p>	<p>any judicial waiver of notice, pursuant to subdivisions (h)(4) or (h)(2)-or (i) or (j).</p> <p>(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning it with the Department of Health Services on forms prescribed pursuant to subdivision (1). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.</p> <p>(n) The Department of Health Services shall compile an annual statistical report from the information specified in subdivision (1). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the number of prior abortions or deliveries where known, and the numbers of abortions performed after notice to a parent or guardian personal delivery of notice, pursuant to subdivisions (c) or (d); the numbers of abortions performed after presumed delivery of notice by mail, pursuant to subdivision (d); the numbers performed after a parent's or guardian's waiver of notice, pursuant to subdivision (e); the numbers of emergency abortions performed without notice to a parent or guardian, pursuant to subdivision (f); and the number of abortions performed after judicial waivers, pursuant to (h)(4) or (h)(2) or (i), or (j). The annual statistical report shall be made available to county public health officials, members of the legislature, the governor, and the public.</p>
<p>Penalties</p>	<p>(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this Section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent or guardian wrongfully denied notification. A person shall not be liable under this Section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a</p>	<p>(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this Section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent or guardian wrongfully denied notification. A person shall not be liable under this Section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a</p>

Mandatory Notice Comparison – 9

Initiative Information/Provisions	Prop 73	Prop 85
<p>Penalties</p>	<p>careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this Section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the parent or guardian may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of \$10,000. In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this Section shall abrogate, limit, or restrict the common law rights of parents or guardians, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.</p> <p>(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this Section notice has been or will be delivered, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to \$1,000.</p>	<p>careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this Section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the parent or guardian may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of \$10,000. In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this Section shall abrogate, limit, or restrict the common law rights of parents or guardians, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.</p> <p>(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this Section notice has been or will be delivered, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to \$1,000.</p>
<p>Minor's consent</p>	<p>(q) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e) or (h)(1) or (h)(2) or (i) or (j), except where the particular circumstances of a medical emergency as defined in subdivision (a)(2) or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.</p>	<p>(q) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e), or (h)(1) or (h)(2) or (i) or (j) (g), (h), (i), or (j), except where the particular circumstances of a medical emergency as defined in subdivision (a)(2) or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.</p>

Mandatory Notice Comparison – 10

Initiative Information/Provisions	Prop 73	Prop 85
<p>Coerced abortion</p> <p>Effective date</p> <p>Severability</p>	<p>(r) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e) or (h)(1) or (h)(2) or (i) or (j), an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.</p> <p>(s) This Section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (e), and (l).</p> <p>(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this Section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase or word of this Section would have been approved by voters irrespective of the fact than any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.</p> <p>(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this Section, nothing in this Section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.</p>	<p>(r) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e) or (h)(1) or (h)(2) (h), or (i) or (j), an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.</p> <p>(s) This Section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (e), and (l).</p> <p>(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this Section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase or word of this Section would have been approved by voters irrespective of the fact than any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.</p> <p>(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this Section, nothing in this Section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.</p>

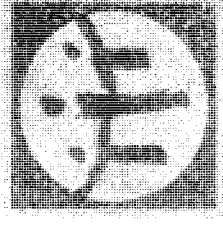
Mandatory Notice Comparison – 11

Initiative Information/Provisions	Prop 73	Prop 85
Statutory Provisions	None	None
Proponents	Paul E. Laubacher, RN and Barbara R. Laubacher, RN of Sacramento County	Paul E. Laubacher, RN and Barbara R. Laubacher, RN of Sacramento County

SUBMITTED

TESTIMONY

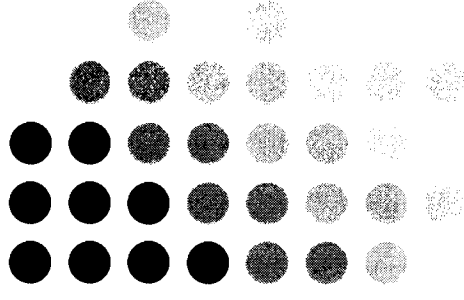
Parental Involvement Legislation for Abortion in California

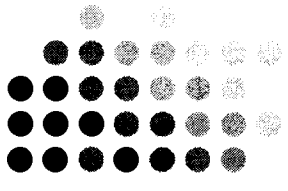


PROPOSITION 85: Constitutional amendment to prohibit abortion for unemancipated minors until 48 hours after physician notifies minor's parent or legal guardian, except in medical emergency or parental waiver.

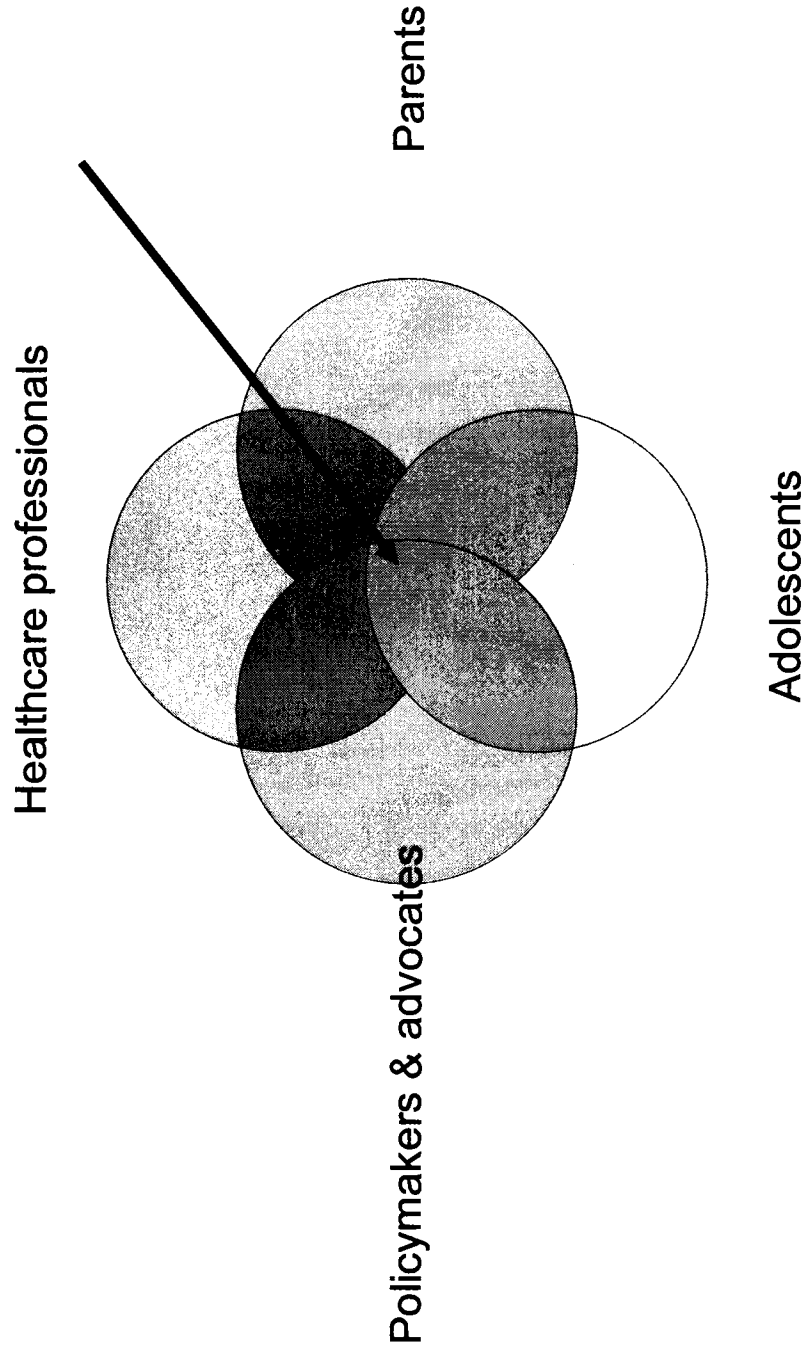
Claire Brindis, Dr.P.H.

Professor, Department of Pediatrics
Department of Obstetrics, Gynecology & Reproductive Sciences
Bixby Center for Reproductive Health Research & Policy
Acting Director, Institute for Health Policy Studies
University of California, San Francisco

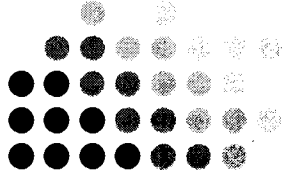




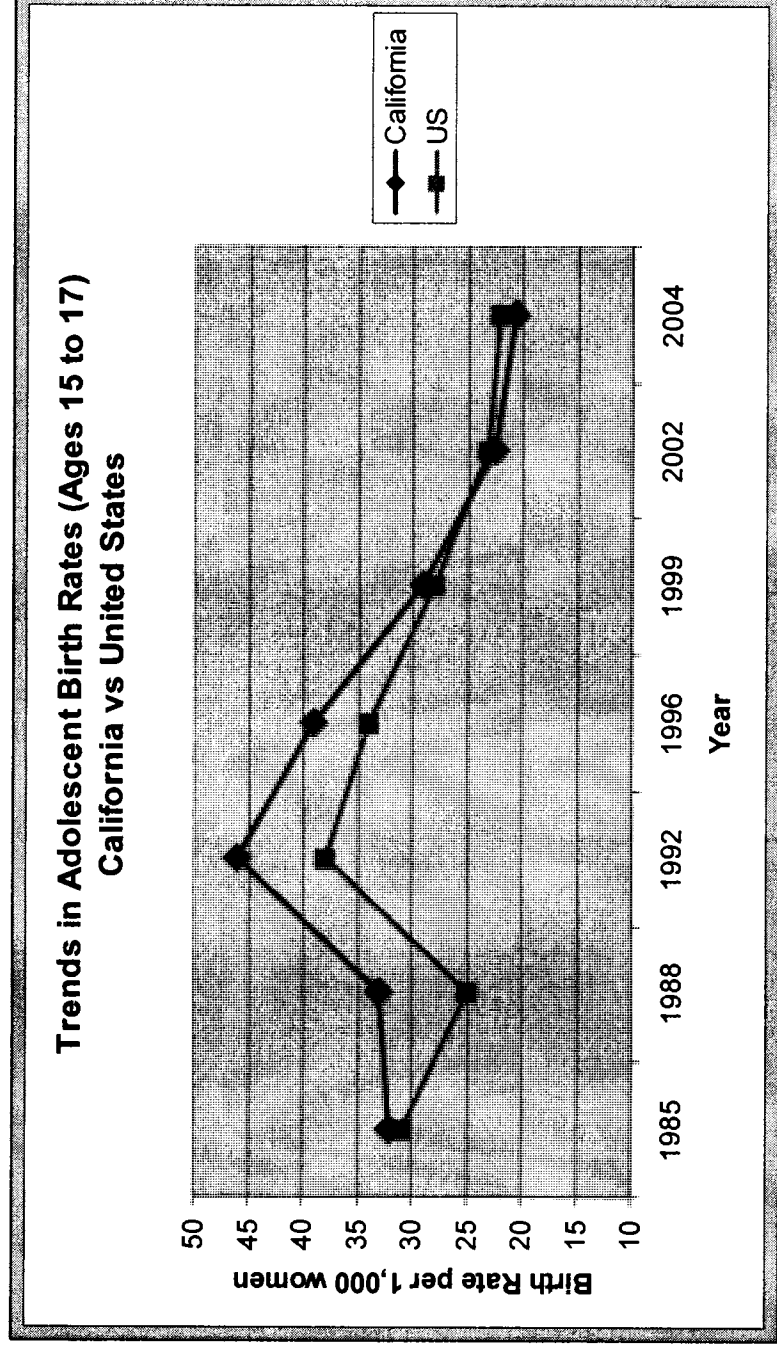
Confluence of Factors



The frequency of adolescent pregnancies, births, and abortions

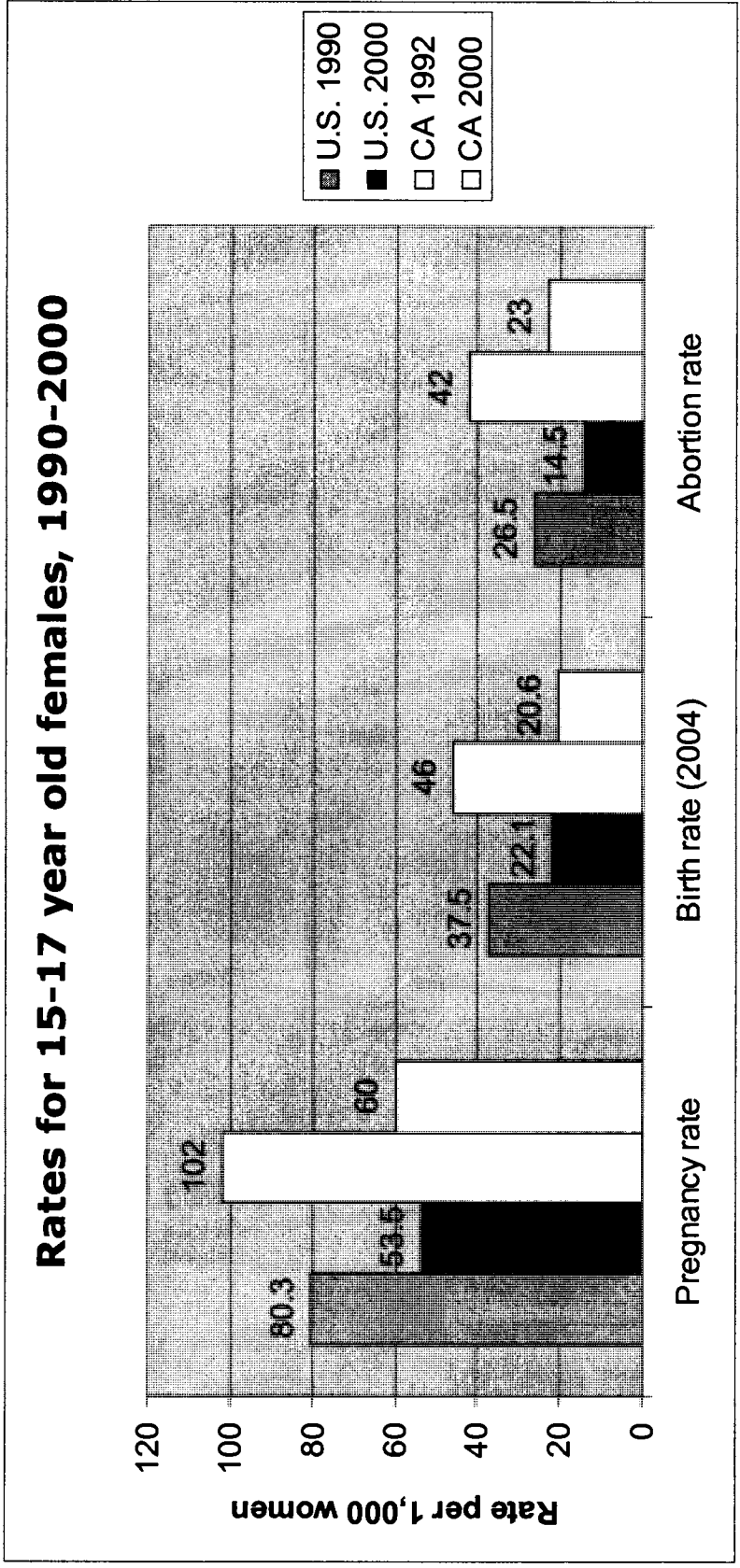
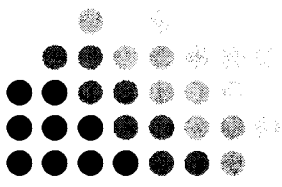


- Adolescent pregnancy, birth, and abortion rates are currently at their lowest levels since the mid-1970's.

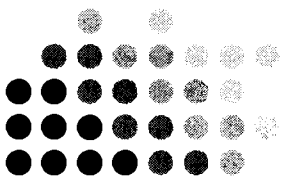


Source: National Center for Health Statistics, 2004 & The Alan Guttmacher Institute, 2004.

The frequency of adolescent pregnancies, births, and abortions has substantially decreased



Source: The Alan Guttmacher Institute, 2004 & Sutton & Matthews, 2004



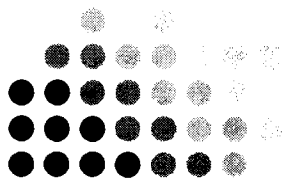
Will a policy have a significant impact?

Will there be a decline in the frequency with which young women seek abortion care or complications in access to care?

Will there be an increase in parental communication and involvement in issues of sex & sexuality?

Even when parents are involved, why is confidential healthcare important for adolescents?

Will parental involvement requirements change the age dynamics of relationships?

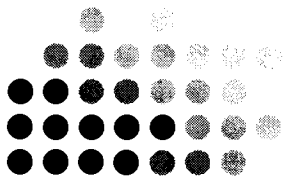


Will there be a decline in the frequency with which young women seek abortion care or will there be complications in access to care?

On the frequency of abortion and out-of-state travel

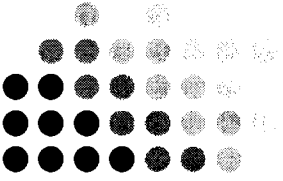
- Massachusetts
 - After implementation of a parental consent requirement, half as many minors obtained an in-state abortion.
 - Clinic personnel estimate that 75% of these young women had obtained parental consent, whereas 25% had obtained judicial bypass
 - An increase in out-of-state travel during this same time period accounted for 95% of the decline in the abortion rate.
 - Over 1,800 minors traveled to 5 neighboring states to obtain out-of-state abortion care in the 20 months following the law's implementation.
 - 1 out of every 3 minors seeking abortion care traveled out of state for care after implementation of the state law

The impact of parental involvement requirements



What is the effect of these laws on the timing of adolescents' abortions?

- There is an increased risk of complications if an abortion is delayed into the 2nd trimester
 - Adolescents, on average, take 1 week longer to identify a pregnancy and 2 weeks longer to seek abortion care than adult women (Boonstra et al., 2006).
- In Mississippi, adolescents were 10-20% more likely to delay their abortion into the 2nd trimester after implementation of a parental consent requirement (Henshaw, 1995).
- Following implementation of Missouri's parental involvement requirements, a steady but irregular increase in the percent of abortions to young women occurring after 12 weeks gestation was observed, from 17% (1980) to 26% (1992) (Ellerston, 1997).



Will there be an increase in parental communication and involvement on issues of sex and sexuality?

- **Teens report that parents are the individuals that most influence their decisions about sex**

(National Campaign to Prevent Teen Pregnancy, 2004).

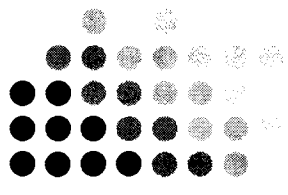
Nationally

- **Nearly 3/4 of adolescent women aged 15-17 reported having discussed sex or sexuality with at least one parent (Abma et al, 2004).**
- **60% of adolescents reported that a parent or guardian was aware that they were accessing family planning services at the clinic (Jones et al., 2005).**

California

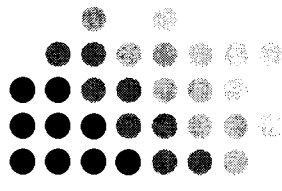
- **The vast majority (79%) of teens in California indicated that their parents were aware of their sexual activities (CHIS, 2002).**

Parental involvement in minors' abortion decisions



- Most parents (61%) are aware of their daughters' decision to seek abortion care.
- Among younger adolescents, parental involvement is even higher
 - Over 90% of 14 year olds & 75% of 15 year olds report the involvement of at least one parent.
 - When one parent is involved, young women involve their mothers (59%) more frequently than their fathers (26%).
- Over 80% of adolescents report that they involved at least one adult (such as a parent, nurse, counselor, or clergy member) in their decision.

The impact of parental involvement requirements

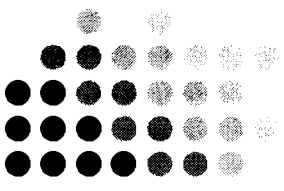


Will parental involvement legislation increase the frequency with which adolescents communicate with their parents?

- A comparison of two states, with and without mandated notification requirements, demonstrated that parental involvement rates were similar regardless of the state law (Resnick & Blum, 1987)

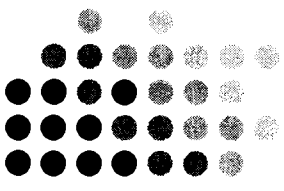
	Minnesota	Wisconsin
Parental notification requirement	Yes, one parent	None
Frequency of parental involvement in abortion decision	65%	62%

Even when parents are involved, why is confidential healthcare important for adolescents?



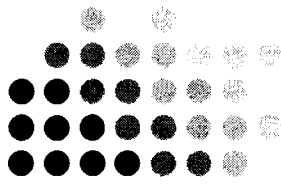
- In a recent national survey, 1/3 of students who did not seek needed healthcare reported that one of their reasons was “not wanting to tell their parents” (Klein et al, 1999).
- **Assurances of confidentiality increase:**
 - the number of adolescents willing to disclose sensitive health information (from 39% to 47%)
 - the commitment of adolescents to return for future healthcare visits (from 53% to 67%) (Ford et al, 1997).
- Privacy concerns can also deter adolescents from communicating openly with providers about certain health concerns (Ford et al, 1997).

Confidential reproductive healthcare & adolescents



- The proportion of adolescents who report that they would forgo care for contraceptives, STIs, substance use, and mental health is higher than those that would forgo **general health care** if confidentiality was not ensured (Marks et al, 1983).
- Nearly 1/2 of young, sexually active females visiting a family planning in Wisconsin reported that they would stop using all sexual health services if parental notification were required, however the vast majority indicated that they would *not* stop having sex (Reddy et al, 2002).
- One in 5 adolescents would stop using contraception or rely on an ineffective method (such as withdrawal) as one response to mandated parental notification for reproductive health care visits (Jones et al, 2005).

The impact of parental involvement requirements



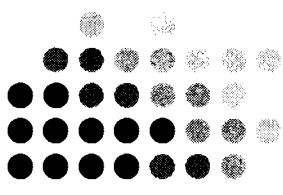
- A study in Pennsylvania found that only 8 out of 60 judicial court districts provided complete information to young women inquiring about the judicial bypass option (Silverstein, 1999).
- A study of Alabama's juvenile court system found the information received was inconsistent and oftentimes reflected the court employee's personal opinion on abortion (Silverstein & Speitel, 2002).

“Call information... just ask for an abortion clinic. If they say you need parental approval, then you're going to have to have parental approval, because I don't think a judge can order an abortion.”

“You'll have to go to Jefferson County to get that done. Our judge doesn't do it; he doesn't believe in it.”

“Honey, I have no idea, I just have no idea. I feel like I don't believe a judge or even a lawyer actually would do that...It would be best for you to talk to your parents.”

Parental involvement in minors' abortion decisions

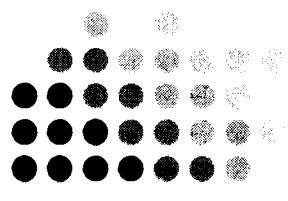


Why teens do not involve their parents

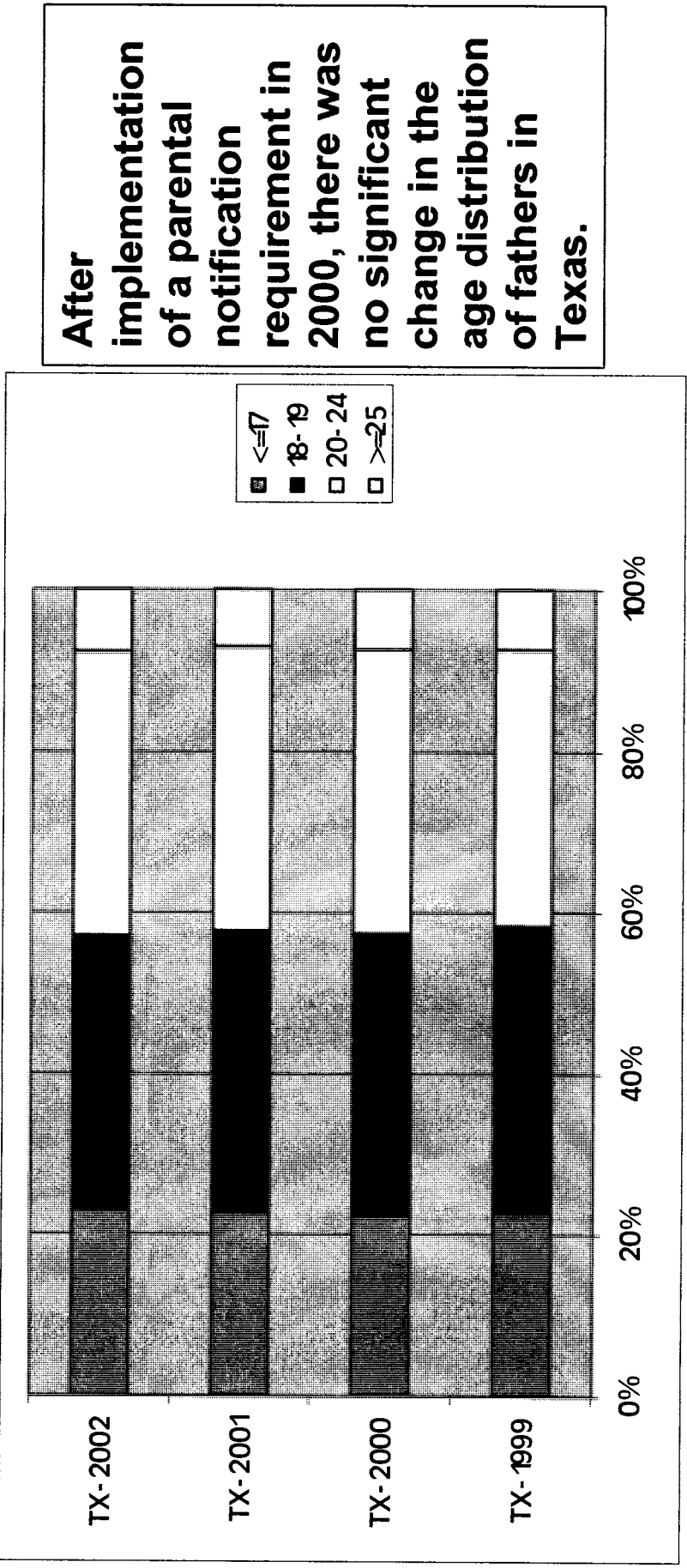
- Over 30% of young women who chose not to involve their parents in their abortion decision cited:
 - Fear of physical harm,
 - Being kicked out of the house, or
 - Other abuse as part of their decision not to involve their parents.
- A study of the judicial bypass procedure also revealed that many other women choose not to involve their parents because of an existing difficult family situation, including drug dependency, loss of jobs, health problems, and marital strain.

Source: Henshaw, 1992 & Donovan, 1983.

Will parental involvement requirements change the age dynamics of relationships?

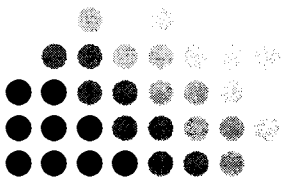


On age differences between adolescent women and their sexual partners



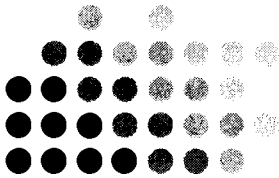
After implementation of a parental notification requirement in 2000, there was no significant change in the age distribution of fathers in Texas.

Source: Texas Department of Health Services, special request of data. August 2006.



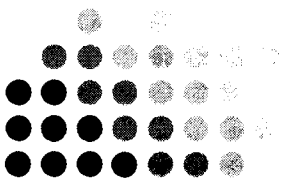
Existing Evidence Points to:

- **Patchwork of Laws:** Existing parental notification and consent laws vary across the country, resulting in a variety of outcomes that have deep repercussions for adolescents' lives. Without mandates, California leads the nation in reducing the incidence of pregnancy, births, and abortions.
- **Many of the laws have negative impacts** - delays in seeking abortion care, judicial bypass, travel out of state, without significantly impacting the number of abortions sought.
- **Medical care providers and other professionals have an important role to play** in encouraging parent and adolescent communication, without creating barriers for adolescents when they do not have the option to speak with their families.



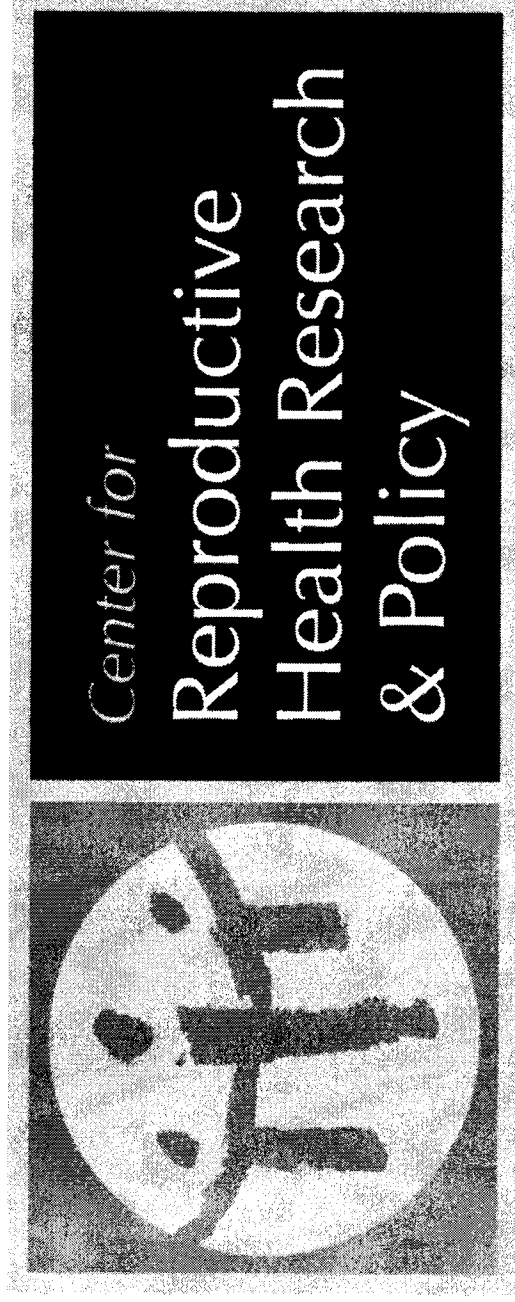
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Thank You

UNIVERSITY OF CALIFORNIA, SAN FRANCISCO



[http:// crhrp.ucsf.edu/](http://crhrp.ucsf.edu/)

Claire Brindis

Claire.Brindis@ucsf.edu

Special thanks to Lauren Ralph, M.P.H.

TODAY: Jane Goes to the Doctor

Jane has a positive pregnancy test at the doctor's office.

She gets counseling on all her options, and is strongly encouraged to consult her parents. Jane talks it over with supportive adults and makes her decision.

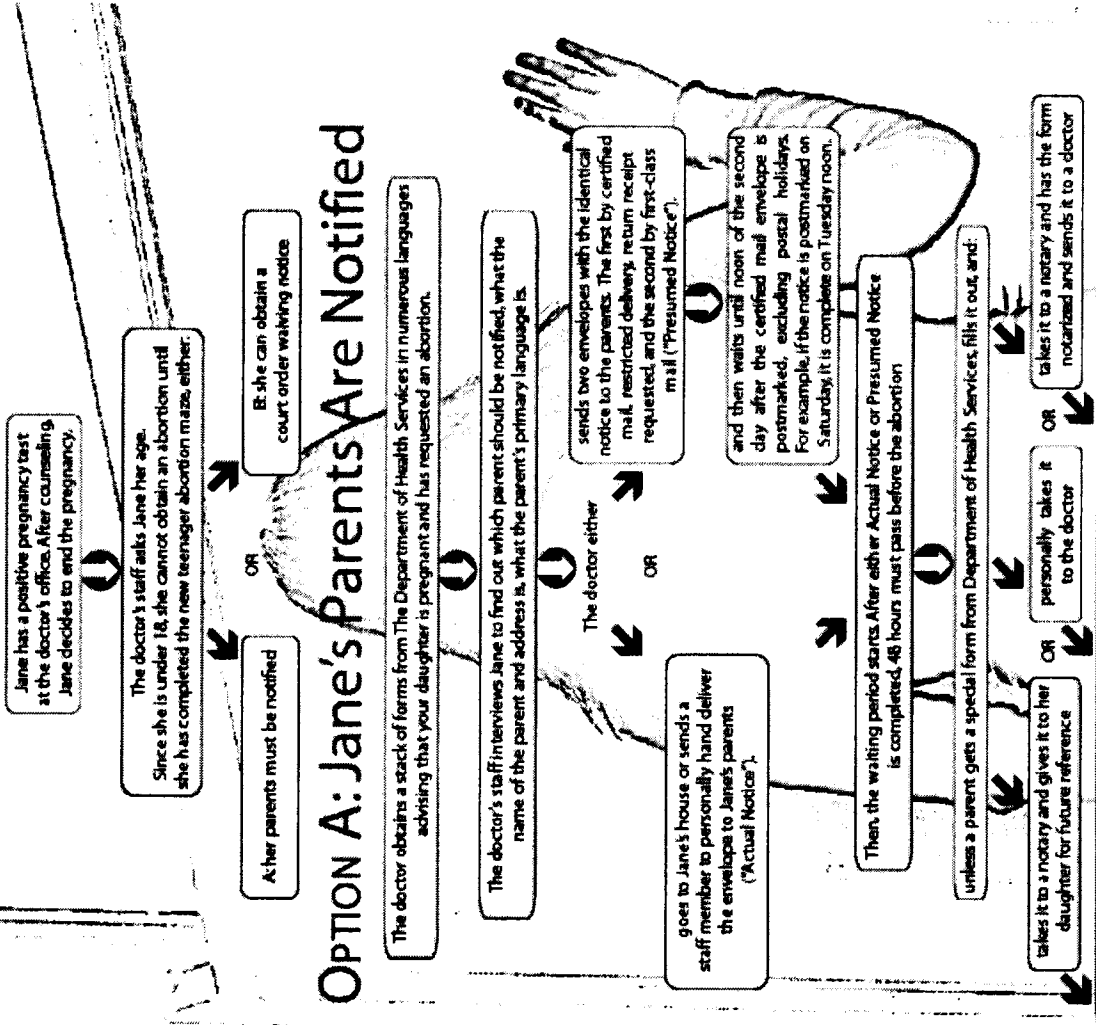
If Jane decides to continue the pregnancy, she schedules prenatal care. After delivery, she decides to raise the child or relinquish the baby for adoption. No parental notice or consent required for pregnancy, childbirth or adoption.

Proposition 85 will not require parental involvement for those options.

If Jane decides to end her pregnancy, she makes an appointment for an abortion. She gets more counseling on the day of the abortion, focused on the nature of the procedure, and the doctor ensures that she is capable of giving informed consent and that this is what she wants. After the abortion, she gets follow-up care and counseling.

Proposition 85 will greatly complicate access to care and counseling.

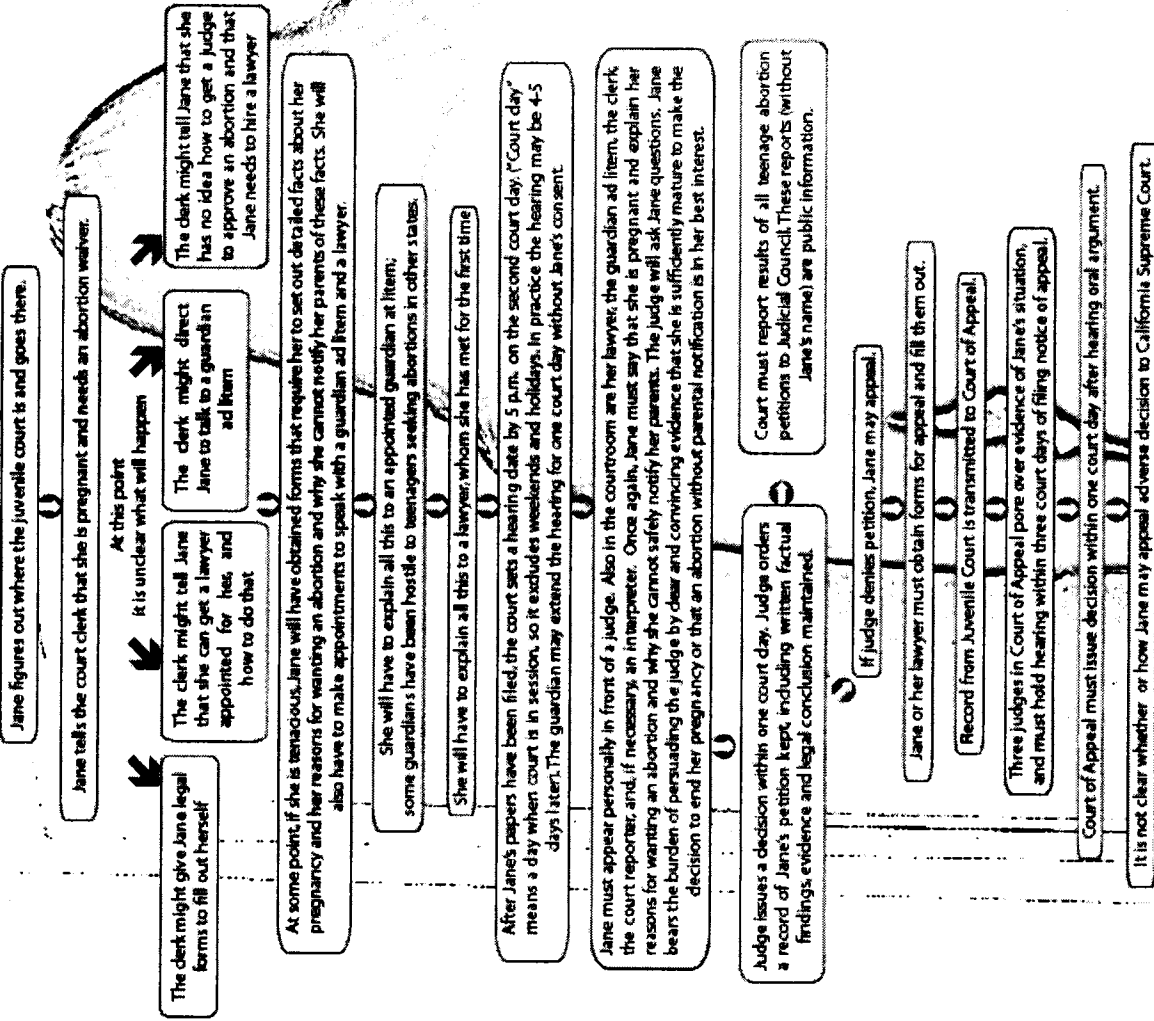
IF PROP 85 PASSES AND WE AMEND THE CONSTITUTION: Jane Wanders in the Maze



OPTION A: Jane's Parents Are Notified

Within 30 days of abortion, doctor must send form to government detailing Jane's age, date of abortion, duration of pregnancy, type of abortion procedure, facility where abortion was performed, whether abortion was performed after 48 hours actual notice, medical emergency or parental waiver, and how many pregnancies Jane has had.

OPTION B: Jane Goes to Court



Only after Option A maze (Compelled Notification) or Option B maze (Court Proceedings) are completed can Jane go back to the doctor for the counseling and care she needs.

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Headquarters:

55 West 39th Street
10th Floor
New York, NY 10018
Tel: 646-366-1890
Fax: 646-366-1897

West Coast Office:

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Testimony of

Norma Jo Waxman, MD

Member,

Physicians for Reproductive Choice and Health®

Presented to the

JOINT INFORMATIONAL HEARING ON PROPOSITION 85:
Assembly Committee on Health
Senate Health Committee

September 12, 2006

Thank you to members of the Assembly Committee on Health and the Senate Health Committee for allowing me to appear before you today.

My name is Dr. Norma Jo Waxman. I have been a family physician for 18 years. I am a Professor of Family and Community Medicine at the University of California San Francisco (UCSF), and teach medical students and residents. I am part of the core faculty at the UCSF Family Medicine Residency program, where I care for underserved, culturally diverse, inner city patients of all ages at San Francisco General Hospital. I lecture professionally about contraception and how to decrease unintended pregnancy, and on other adolescent and women's health issues, such as intimate partner violence. Previously, I taught and practiced adolescent medicine at Children's Hospital Oakland and was a child and adolescent sexual abuse examiner.

Testimony of Norma Jo Waxman, MD
Member, *Physicians for Reproductive Choice and Health®*
Before the Assembly Committee on Health and
the Senate Health Committee
September 12, 2006
Page 1 of 9

I am the loving and proud mother of two young daughters, Zoe, age 4½, and Isabella, age 6.

I am submitting testimony today as a concerned resident of the State of California, an experienced healthcare provider, and as a member of *Physicians for Reproductive Choice and Health*[®], or PRCH.

PRCH is a national nonprofit organization with staff and projects in California. PRCH exists to ensure that all people have the knowledge, access to quality services, and freedom to make their own reproductive health decisions.

I submit this testimony to you today on behalf of the PRCH Board of Directors, as well as our physician members nationally and here in California, to express our opposition to the proposed amendment to the Constitution of the State of California, entitled “Waiting Period and Parental Notification Before Termination of Minor’s Pregnancy,” also known as Proposition 85, that is on the ballot for the election on November 7th. I speak in strong opposition to this initiative because it is a threat to public health— and particularly threatens the health of California’s young people. As you know, the proposition would ban abortions for women younger than 18 years old until 48 hours after a parent or guardian was informed about the intended abortion, except in the case of a medical emergency or judicial bypass. As a physician and reproductive health expert, I will explain why Proposition 85 would create profound obstacles to healthcare access and thus impose health risks on adolescents.

Mandatory parental notification and consent laws will cause frightened young women who are dealing with unintended pregnancies to delay seeking healthcare. Doctors know the most important

thing a pregnant young woman can do is seek prompt medical counseling to help her choose whether to continue or terminate the pregnancy and then obtain that care, be it abortion or early prenatal care. This initiative would delay, discourage and restrict initiation of healthcare.

Timing is critical when a young woman is pregnant. Parental notification laws have been demonstrated to delay and obstruct the access of pregnant adolescents to timely professional advice and medical care.^{i,ii,iii} Mandated parental involvement may lead to delays in decision-making or convince minors to travel to out-of-state facilities.^{iv} A 1997 study of a parental consent requirement in Mississippi showed that the number of teens having abortions did decrease in Mississippi, but this decrease was offset by an increase in the number of teens having abortion in surrounding states, along with an increase in later, more medically complicated second trimester abortions in young women.^v

Adolescents are already more likely than older women to delay obtaining abortions for a variety of reasons, including the fact that many have irregular periods and so some do not realize that they are pregnant. Adolescents living in rural California and in counties with poor access to reproductive health services face additional challenges to gaining access to care, which have been documented to result in adverse effects on mental health.^{vi} This notification law would compound delays and the potentially ensuing anguish, anxiety and depression.

As a physician, my first priority is my patient's health. I fear this initiative would interfere with this, and would put the relationship between me and my patient into a complex legal web, jeopardizing

trust and confidentiality, which are key to the physician-patient relationship. Adolescents are often confused about their right to confidential care, and even the perception of the lack of confidentiality regarding sexual issues may deter them from seeking advice and services.^{vii} Studies show that laws requiring parental involvement for contraception have the potential to decrease adolescents' use of contraception, without decreasing sexual activity, and deter them from seeking the advice of health professionals.^{viii}

Physicians have the same priorities as parents— we want young women to have access to safe medical care. Parents ideally should be— and usually are— involved in healthcare decisions regarding their children. Parents, like physicians, first and foremost want to ensure that their daughters are safe and healthy. However, Proposition 85 does nothing to promote such communication or keep young women safe and healthy. Instead, it places burdens on the most vulnerable young women and infringes on their rights and privacy and thus puts their health at risk.

Despite its best intentions, the government cannot mandate healthy family communication. In fact, one published study shows that the proportion of minors who inform parents about their intent to have abortions are about the same in states with and without notification laws.^{ix} I want to clearly state that there are no studies that demonstrate that parental involvement laws increase communication between a young woman and her parents. I want to emphasize that physicians regularly encourage our young patients to involve their parents in major health decisions, and most young women do talk with their parents. According to a large national survey, the majority of parents (61%) are aware of their daughters' decision to have an abortion, and 75% of those are told

by their daughters themselves. The likelihood that parents know about their child's abortion rises with decreasing age, from 74% of parents of 16-year-olds to 90% of parents of those 14 years old or younger.^x Most of those who do not involve a parent have good reasons for not doing so. Close to one-third of minors who do not inform parents of their pregnancies fear physical violence or being forced to leave home.^{xi} Studies show that when parents are informed of a pregnancy against the adolescent's judgment, there is an increased risk of conflict, a coerced decision, or rejection of the daughter by the family.^{xii, xiii} And, unfortunately, as we know, some young women become pregnant as a result of rape or incest. One of the most heart-wrenching patients I have cared for was a 12-year-old girl, pregnant by the boyfriend of her crack-using mother. Her aunt, who was not the legal guardian, brought her to my clinic for a referral for an abortion. How would notifying this patient's mother have helped?!

We also know from other studies that more than 80% of young women do rely on other trusted adults, including aunts, grandparents, teachers, siblings and clergy when they cannot talk with their parents about their pregnancies.^{xiv, xv} Under this proposed law, who does the physician notify if the parent is in jail, on drugs, or doesn't live in this country? Some of our most at-risk teens are not being raised by a parent or legal guardian, but by loving grandparents, aunts and uncles. This initiative would undermine those caring relationships. That's just not right.

This proposed law will adversely affect those young women who are already in the appalling position of not being able to consult with their parents because their families are unsupportive, unavailable, dysfunctional or abusive. The proposition undermines the goals it claims to promote— healthy

family communication and the well-being of young women— by forcing some young women to risk abuse or abandonment if they tell their parents. In some cases, young women in risky situations will keep their pregnancies a secret, which in turn may mean they forego prenatal care, or delay and have a more risky and distressing later-term abortion or, worst of all, seek to terminate the pregnancy outside of the medical establishment. We all recall the tragic story of a young, pregnant woman in Michigan who had her boyfriend beat her abdomen with a baseball bat.

The proposed initiative does provide an exception to parental notification through a procedure called judicial bypass. Some may view judicial bypass as a reasonable compromise. I believe the bypass process, rather than alleviating the burdens imposed by this law, is detrimental to the medical and emotional well-being of teens. Judicial bypass has been shown to delay access to medical care from four days up to six weeks, increasing the risk of complications from second trimester abortions,^{xvi} as well as absenteeism from school. And keep in mind that the delay caused by the judicial bypass process compounds the young woman's initial delay in accessing healthcare related to the pregnancy.

I also worry about the psychological harm and lack of confidentiality created by judicial bypass. Often in rural settings the teen is known by someone at the court. As the American Academy of Pediatrics argued, the “pregnant teen is required to divulge intimate details of her private life to dozens of strangers (clerks, bailiffs, court reporters, witnesses and others) to obtain a brief (ten minute) hearing before a judge who has no firsthand knowledge of her case and typically no training in counseling adolescents on developmental issues.” Adolescents see the court proceedings as

extremely burdensome, humiliating and stressful, and therefore detrimental to their emotional well-being.^{xvii, xviii}

This is on top of the fact that negotiating the judicial process is daunting and embarrassing enough for adults. Can you imagine an unsupported, pregnant young woman navigating our current judicial system by herself in a timely fashion? Can you imagine an anxious young women providing detailed information about her pregnancy and her reasons why she needs a judicial bypass all in front of room full of adults?

Doctors are scientists, healers and caretakers. We are not police officers. We are trusted by our patients to provide medical care and to put their interests first. This initiative would cause physicians to betray our patients' trust and would make us participate in enforcing a law that we know is harmful to our patients. As a doctor, I have been trained to act in the best interest of my patients. I should not be required to do the opposite—to act in a way that data show is detrimental to the health of my patients.

Leading medical organizations concur on this issue. The American Academy of Family Physicians, the American Academy of Pediatrics, the American Medical Association, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Public Health Association, the National Medical Association and the Society for Adolescent Medicine all oppose mandatory parental-involvement laws because they endanger the health of adolescents and pose undue burdens on physicians. In California, the American Academy of Pediatrics, California;

the American College of Obstetricians and Gynecologists, District IX; the California Academy of Family Physicians; the California Primary Care Association; and the California Medical Association all oppose Proposition 85.

As a physician, I must use my professional expertise to act in the best interests of my patient. Medical judgment is based on scientific facts, as well as our professional decisions on what works, not on what doesn't work. It is not appropriate for those without medical training to interfere with the practice of medicine. As doctors, we should put our patients and their health first, and not have to fear legal reprisal for doing so.

Both the doctor-patient and parent-child relationship should be based on trust and the assumption that we all want our children to grow up healthy, happy and able to fulfill their dreams. This initiative invades that trust, allowing politicians to dictate medical practices that will be dangerous to the health of young women.

As a mother, I hope that my daughters would turn to me if they had an unintended pregnancy. However, my highest priority would be their health and wellbeing. If my daughters didn't feel comfortable coming to me, I would want to know they got excellent, expedient, safe and supportive care from the medical system. As a physician, I believe that Proposition 85 represents bad medicine. Clinical experience and scientific evidence concur: this legislation would hurt the health of young women. It is for this reason that I appear here today in opposition to Proposition 85.

Thank you for allowing me to appear before you today.

ⁱ Joyce T, Kaestner R, Colman S. Changes in abortion and births and the Texas parental notification law. *N Engl J Med.* 2006; 9;354(10):1031-8.

ⁱⁱ Ellertson C. Mandatory Parental Involvement in Minors' Abortions: Effects of the Laws in Minnesota, Missouri, and Indiana. *Am J Public Health.* 1997;87:1367-1374.

ⁱⁱⁱ Henshaw S. The impact of requirements for parental consent on minors' abortions in Mississippi. *Fam Plann Perspect.* 1995;27:120-122.

^{iv} Ellertson C. Mandatory Parental Involvement in Minors' Abortions: Effects of the Laws in Minnesota, Missouri, and Indiana. *Am J Public Health.* 1997;87:1367-1374.

^v Henshaw S. The impact of requirements for parental consent on minor's abortions in Mississippi. *Fam Plann Perspect.* 1997;27:120-122.

^{vi} American Medical Association National Coalition on Adolescent Health, Gans JE, ed. *Policy Compendium on Confidential Health Services for Adolescents.* Chicago, IL: American Medical Association; 1993.

^{vii} Jones R, Bonstra H. Confidential Reproductive Health Services for Minors: The Potential Impact of Mandated Parental Involvement for Contraception. *Perspectives on Sexual and Reproductive Health.* 2004;36(5).

^{viii} Ibid.

^{ix} Blum RW et al. The impact of parental notification law on adolescent abortion decision making. *Am J Pub Health.* 1987;77:619-620.

^x Henshaw SK, Kost K. Parental involvement in minors' abortion decisions. *Fam Plann Perspect.* 1992;24(5):196-207.

^{xi} Ibid.

^{xii} David HP, Dytrych Z, Matejek Z, Schuller V, eds. *Born Unzonnated: Developmental Effects of Denied Abortion.* New York, NY: Springer Publishing Co; 1988.

^{xiii} American Academy of Pediatrics, Committee on Adolescence. Counseling the adolescent about pregnancy options. *Pediatrics.* 1989;83:135-137.

^{xiv} Henshaw SK, Kost K. Parental involvement in minors' abortion decisions. *Fam Plann Perspect.* 1992;24:196-207,213.

^{xv} Zabin LA, Hirsch MB, Emerson MR, Raymond E. To whom do inner-city minor talk about their pregnancies? Adolescents' communication with parents and parent surrogates. *Fam Plann Perspect.* 1992;24: 148-154, 173.

^{xvi} Donovan I. Judging teenagers: how minors fare when they seek court authorized abortions. *Fam Plann Perspect.* 1983;15:259-267, Crosby 1991.

^{xvii} AAP, Committee on Adolescence. *Pediatrics;* 1996:746-751.

^{xviii} Crosby MC, Englert A. Mandatory parental involvement/judicial bypass laws: do they promote adolescents' health? *J Adolesce Health.* 1991; 12: 143-147.

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