

Current Mandatory Parental Consent Does More Harm than Good

Everyone agrees that loving parents should be involved when a young woman faces an unintended pregnancy. And every parent hopes that any young person confronting a crisis like that will seek the advice and counsel of those who care for her most and know her best. In fact, most young women do turn to their parents when considering an abortion, even in the absence of laws mandating their consent.¹ Current Massachusetts law requires a pregnant woman under 18 to get parental consent or a court order for an abortion. In practice, this is complicated, burdensome mandate fails to protect young women and can, in fact, pose added risks to their health and well-being.

Healthy family communication is vital, but government can't mandate it

Sadly, some young women cannot discuss their pregnancies with their parents. They may live in situations where there is physical violence or emotional abuse. Their pregnancies may be the result of incest. They may fear being kicked out of the house. Or they may not realize how supportive their parents might be.

Mandatory parental consent laws can harm young women

The nation's leading medical organizations oppose parental consent laws because they impose barriers to care that can actually harm the young women they purport to protect. Such government mandates can increase the threat of violence in the home and expose a young woman to the health risks associated with delayed medical care and unwanted childbirth. They may also compel her to leave her home state for the health services she needs or take more drastic measures, such as attempting suicide or trying to self-abort.

- **American Medical Association:** "Because the need for privacy may be compelling, minors . . . may run away from home, obtain a "back alley" abortion, or resort to self-induced abortion. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since . . . 1973."²
- **American Academy of Pediatrics:** "Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care. . . Minors should not be compelled or required to involve their parents in their decisions to obtain abortions, although they should be encouraged to discuss their pregnancies with their parents and other responsible adults."³

Judicial bypass provisions fail to protect young women

For a young woman, going through the court process to obtain a judicial order can be intimidating, overwhelming, and, at times, impossible. A teen faces hearings scheduled during school hours; the challenge of finding transportation while maintaining confidentiality; and the intimidation and stress of having to present her case in Superior Court – not to a Family or Juvenile Court judge, who might be better equipped to evaluate and guide her.

Since 1986, there have been no court denials in Massachusetts – meaning that judges ultimately found each young woman who went through the judicial bypass process was mature enough to consent or that terminating her pregnancy was in her best interests. Still, the court proceeding can cause delays of a week or more, increasing her health risks and the cost of medical care, while adding another costly and time-consuming responsibility to an already over-burdened court system.

Mandatory parental consent laws are inconsistent with other state laws

Many Massachusetts laws recognize the importance of timely access to medical care and social services for young people. That's why people under the age of 18 can consent to prenatal care, childbirth, and maternity services; treatment for STDs and substance abuse; mental health services; medical care for their child; and adopting their spouse's child.

Mandatory parental involvement laws reduce safety, not abortion rates

Recent studies have found that parental involvement laws compromise young women's health and reduce the safety of abortions. In Massachusetts, a 2009 analysis found that the rate of minors seeking out-of-state care rose by a striking 300% after the parental consent law was adopted, while the in-state teen abortion rate decreased by a much smaller proportion.⁴ In addition, a study conducted in Texas showed that implementation of their parental involvement mandate led older teens to delay obtaining their abortions – long past the first trimester – until they had turned 18 and could consent to the procedure themselves.⁵

The Solution: Preventing teen pregnancy and supporting adult involvement

The best response to teen pregnancy is to prevent it in the first place by offering young people age-appropriate, medically accurate sex education and improving access to reproductive health services. For those young women who still face an unintended pregnancy, legislators should also consider revamping parental or court consent mandates in ways that can better support young women for whom abortion may be the most appropriate option.

An Act Relative to Consent and Counseling for Certain Minors (H.629), sponsored by Representative Ellen Story, would allow other responsible family members – such as a grandparent or much-older adult sibling – to provide legal consent. This change in the law would better reflect the realities of family life today and enable a young woman who can't turn to her parents to get advice and support from other trusted adults. In addition, the bill provides an option to seek counseling from a trained medical professional in lieu of a court order as a way to increase the opportunities for a young woman to get the kind of guidance she needs when facing an unintended pregnancy. And it would adjust the age of consent for terminating a pregnancy to bring the abortion consent law in line with other state statutes that give young people aged 16 and older the right to consent to sensitive medical decisions and make other important life choices.

Prepared by: NARAL Pro-Choice Massachusetts, updated March 2011

Notes

¹ Henshaw SK and Kost K, "Parental involvement in minors' abortion decisions," *Family Planning Perspectives*, 1992, 24(5):196–207 & 213.

² American Medical Association, Council on Ethical and Judicial Affairs, "Mandatory Parental Consent to Abortion," *Journal of the American Medical Association*, vol. 269, no. 1 (Jan. 6, 1993): 83.

³ American Academy of Pediatrics, Committee on Adolescence, "The Adolescent's Right to Confidential Care When Considering Abortion," *Pediatrics*, vol. 97, no. 5 (May 1996): 746.

⁴ Guttmacher Institute, "The Impact of Laws Requiring Parental Involvement for Abortion: A Literature Review," March 2009, 20 available at <http://www.guttmacher.org/media/nr/2009/03/11/index.html>.

⁵ Colman S and Joyce T, "Minors' Behavioral Responses to Parental Involvement Laws: Delaying Abortion Until Age 18," *Perspectives on Sexual and Reproductive Health*, 2009, 41(2).