Abortion and Parental Involvement Laws
A Threat to Young Women’s Health and Safety

The majority of states – thirty-nine as of December 2013 – currently enforce laws that require a young woman to notify or obtain consent from one or both parents before she can receive abortion care. Yet research has shown that these laws often delay young women’s access, endangering young women’s health and safety, and leaving too many alone and afraid. Ideally, any woman, including a young woman, who is faced with an unintended pregnancy can seek the advice of those who care for her. But for those who can’t, those afraid to anger or disappoint, or who face the threat of violence in their homes—it is best for them to seek the advice of a trained medical professional than to face the situation alone and afraid.

Most States Require Parental Involvement in Minors’ Abortions
Parental involvement laws fall into two categories: those that require parental notification and those that require parental consent before a young person seeks abortion services. Parental notification laws require written notification to parents by a medical provider before a young person can receive abortion services. Parental consent laws require that a young person obtain consent by one or both parents before an abortion can be performed. The Supreme Court has ruled that states may not give parents absolute veto over their daughter’s decision to have an abortion. Most state parental involvement requirements include a judicial bypass procedure that requires a minor to receive court approval for an abortion without her parents’ knowledge or consent.

Twenty-one states require parental consent for a minor’s abortion. Three of these require both parents to consent. Eight states require that the consent document be notarized.

Thirteen states require parental notification only. Five states require both consent and notification.

Twenty-three states require parental involvement even if the minor is a victim of incest.

The only way for minors to access abortion without involving their parents in these states is via judicial bypass, where they must petition the courts for permission.

Requiring Parental Involvement Leaves Many Young Women Alone and at Risk

Most young women do consult their parents before seeking abortion care. Nonetheless, many teens live in dysfunctional family environments, and parental involvement laws cannot transform these families into stable homes nor facilitate communications. Forcing teens to involve parents in these circumstances puts them at risk.

Fifty percent of pregnant teens have experienced violence; thirty percent of teens who do not tell their parents about their abortions feared violence or being forced to leave home.

Just 16 of the 39 states with parental involvement laws provide exceptions for minors who are victims of sexual and physical assault, incest or neglect.

Parental involvement laws also disproportionately affect young women of color, who are more likely to experience unintended pregnancy as minors and are disproportionately living in states where parental involvement laws are in effect.

Many Negative Outcomes, Few Positive Ones

Parental involvement laws often delay young women’s abortion care, leading to riskier, later-term abortion procedures.

Parental notification laws do not guarantee that a minor will talk to her parents before she has an abortion. Research shows parental notification laws have almost no effect on a young woman’s decision to talk with her parent or guardian about her decision prior to an abortion. The chief factor determining whether a teen consulted her parent was, not legislation, but the quality of the teen’s relationship with her parent.

Parental involvement laws have no clear impact on birth rates or abortion rates.
JUDICIAL BYPASS IS NOT A REASONABLE ALTERNATIVE

While judicial bypass is technically available in states which mandate parental involvement, there are powerful obstacles to young people attaining it. Many minors do not know judicial bypass is available or do not know how to get it; do not have access to transportation to travel to the necessary courts; or simply are denied bypass by resistant or biased judges. For instance, in 2013 the Nebraska Supreme Court denied an abortion to a young woman of 16, ruling that she was not “mature” enough to have an abortion. The young woman already had to navigate the court system, retain an attorney, and face delay while the courts decided her fate - and she still was told she must go through with the pregnancy.

MEDICAL EXPERTS OPPOSE PARENTAL CONSENT AND NOTIFICATION LAWS

- Parental involvement laws place access to abortion care in a special category. In many states, minors may independently consent to a range of sensitive health care services, including access to contraceptives, prenatal care, and STI care. Minors can consent to most other pregnancy-related medical procedures, including prenatal care, labor and delivery procedures, and can even choose adoption without parental consent or notification.

- The federal government requires confidentiality for minors’ contraception and STI services at federally funded Title X clinics. These regulations are based on research that young people are less likely to seek reproductive and sexual health care if they fear their privacy will be violated. Confidentiality in medical treatment, especially related to sexual and reproductive health, is a protected constitutional right to privacy for young women.

- The American Medical Association, the Society for Adolescent Medicine, the American Public Health Association, the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, and other health professional organizations stand in agreement against mandatory parental involvement in abortion decision making.

CONCLUSION

Young people deserve the right to access the full range of reproductive and sexual health services they need, which includes abortion care. And right now, young people are at the forefront of the reproductive rights, health and justice movements. Activists must stand with them against the harmful parental involvement restrictions that can put their health and well being at risk. Yet few are fighting to abolish parental involvement laws; and even when pro-active abortion rights legislation is introduced, it rarely, if ever, addresses minors’ needs. Legislation which seeks to protect women’s access to abortion must include younger women and protect their access to safe, legal, and affordable abortion care.

For more information on parental consent and notification laws, please contact Jeryl Hayes, Domestic Policy Analyst, jeryl@advocatesforyouth.org.

REFERENCES


