Editorial

Forced Parental Involvement in Youth Abortion Creates Obstacles to Access, Even With Judicial Bypass

Currently, 37 states have a law requiring parental involvement when a minor—a young person under the age of 18 years—seeks an abortion. Some states require parental consent and others require providers to notify parents of a young person's abortion appointment. Following a Supreme Court decision upholding a parental involvement law as long as there was an alternative option to notification [1], most of these states have created a “judicial bypass” process where a minor can go before a judge to ask that parental involvement be waived if certain criteria are met. Research published in this issue by Ralph et al. [2] regarding judicial bypass in Illinois suggests it offers a critical avenue for young people to access abortion. Yet, their findings also affirm that the bypass process itself presents numerous obstacles for young people [3–5].

Consequences of Forcing Parental Involvement

Proponents of parental involvement laws argue that they improve family communication and health outcomes. However, years of research—including several key, recent studies—demonstrate these laws could be putting minors at risk without benefits, leading to opposition from professional medical organizations [6]. A 2009 comprehensive literature review found few clear impacts of mandated parental involvement on sexual activity and behavior, abortion rates, contraceptive use, birth-rates, and pregnancy rates [7]. Since then, studies have found decreases in abortion among young people following enactment of a parental involvement law. In New Hampshire, researchers also saw a rise in teen births [8]. In Illinois, researchers found an increase in parental awareness of the pregnancy, but no increase in parental support for the young person’s decision [9].

Many studies show that most young people already involve a parent or trusted adult in their abortion decision [10–14]. In general, young people want to involve those who will support them, regardless of their decision to seek abortion [10]. The study by Ralph et al. found that 97% of young people spoke with someone other than clinic staff about their abortion decision, most commonly their partners, friends, siblings, but also other adults in their lives.

Young women who do not want to involve a parent give very specific reasons for why they believe it will be unhelpful or harmful. These reasons include a parent’s absence in their life, damaged family relationships, fear of harmful reactions, and a desire to make their own decision about continuing the pregnancy. The study by Ralph et al. highlighted some of these more serious consequences of forcing parental involvement: one half of minors seeking bypass were fearful a parent would force them to continue the pregnancy; more than two fifths feared being kicked out of the house or cut off financially; and one in six feared abuse. These findings highlight the critical importance of maintaining minors’ access to judicial bypass in states with parental involvement laws.

Judicial Bypass Creates Obstacles to Abortion

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It is also important to acknowledge that judicial bypass processes create obstacles to abortion. In 2013, Illinois implemented a law requiring a parent be notified when a minor seeks abortion unless the young person obtains a judicial bypass. Before the law, interviews with young people seeking abortion in Illinois revealed participants’ concerns about the proposed bypass process, citing fears around navigating the court process, loss of confidentiality, and stigmatization [15]. The research by Ralph et al. confirms the youth concerns that judicial bypass can present its own barriers to abortion access. The study calculates an average 24.4 mile one-way distance that young people must travel to the courthouse for their bypass hearing. Young people also had to wait about a week on average to attend a court hearing. In addition, they waited an average of 6.3 days from their court hearing to the scheduled appointment for abortion care. In relation to the pregnancy, this explains the almost two week difference from when adolescents contacted the judicial bypass network and their scheduled abortion appointment (7.6 weeks vs. 9.5 weeks). This delay in care, similar to a delay found in Massachusetts, pushed some young women into the second trimester and removed medical abortion as an option for others [5].

The obstacles documented by Ralph et al. exist in Illinois, a state with a robust legal network supporting young people.

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Evidence suggests burdens may be even greater in other states with stricter judicial bypass requirements and fewer resources [3]. Currently, obstacles may also be compounded across the country as a result of the COVID-19 pandemic. Although some in Illinois had previously suggested technology could remove logistical barriers for judicial bypass [16], young people currently participating in virtual bypass hearings are struggling to bridge technology barriers, make private video calls, or leave their home for confidential medical care. The evidence continues to demonstrate that parental involvement laws, even with a judicial bypass option, place substantial obstacles in the path of a young person seeking abortion.

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References