



# Beyond Roe: Parental Involvement Laws



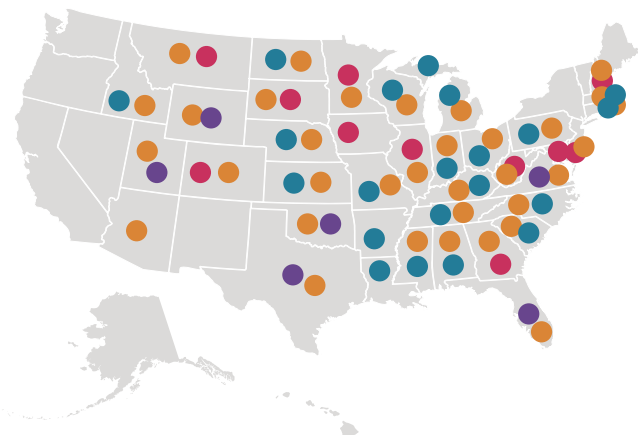
Parental involvement laws require parental consent or notification of a minor's choice to get an abortion. While the U.S. Supreme Court ruled in the case of *Planned Parenthood of Central Missouri v. Danforth* that parents cannot have an "absolute, and possibly arbitrary, veto" over their child's decision to have an abortion, these laws still create barriers for minors wanting to access abortion care.<sup>1</sup> Parental involvement laws deny young people the ability to be heard regarding their health and medical care needs with dignity and in safety, access to privacy and confidentiality of health services and information, and the power and control over their bodies, including when they are pregnant and the number and spacing of children.<sup>2</sup>

## THE SCOPE OF THE LAWS

A majority of states in the U.S. require some type of parental involvement in a minor's choice to get an abortion. While most states only require consent or notification of one parent, some states require both parents to be involved in the private healthcare decision of their child.

- 21** States require only parental consent  
(3 of which require both parents' consent)
- 11** States require only parental notification  
(1 state requires both parents be notified)
- 6** States require both parental notification and consent
- 37** States require that parental involvement have an alternative process for minors seeking an abortion, which involves a judicial bypass procedure.<sup>3</sup>

## Map of the U.S. Parental Involvement Laws



- States requiring only parental consent
- States requiring only parental notification
- States requiring both parental consent and notification
- States making judicial bypass available

## JUDICIAL BYPASS

A judicial bypass is an order from a judge allowing a minor to get an abortion without parental notification or consent. The judicial bypass procedure is entirely confidential, and the applicant's name remains anonymous. However, obtaining judicial bypass involves a number of obstacles for young people, such as requiring them to be aware of their legal right to judicial bypass, understanding how to navigate the court system, being able to retain an attorney, and having access to transportation for traveling to court.<sup>4</sup>

## NOTIFICATION VS. CONSENT

There are two categories of parental involvement laws: parental notification and parental consent. Notification laws require that parents receive a written notification from a medical provider, usually 24 to 48 hours before the young person receives abortion services. Consent laws require that consent is obtained from one or both parents prior to the young person receiving abortion services.<sup>5</sup>

deported, or fear the use of immigration enforcement against themselves or their families.<sup>11</sup> Parental involvement laws also make accessing abortion disproportionately challenging for those in foster care. There are roughly a quarter million girls in the U.S. foster care system.<sup>12\*</sup> Research shows that despite a majority of foster teens' pregnancies being unwanted, 80 to 90 percent of those pregnancies end in a live birth with less than 5 percent ending in abortion.<sup>13,14</sup> This is in stark contrast to the national average for all teen pregnancies at the time that research was conducted, of which roughly 30 percent resulted in a live birth.<sup>15</sup>

## The Impact

Research indicates that most young people who get abortions will voluntarily involve a parent in their decision.<sup>6</sup> However, those who choose not to typically do so for good reason – they often fear coercion or conflict.<sup>7</sup> Parental involvement laws can put those young people at an increased risk for harm.<sup>8</sup> These laws are shown to increase the number of minors traveling out of their home state to seek abortion care in states with fewer restrictions, and studies show a decline in minors' abortion rate associated with parental involvement laws.<sup>9</sup> However, a decline in the abortion rate among young people is not a good indicator of a decline in the need for abortion services among young people. There is a disproportionate impact for young people of color and immigrant youth when it comes to the implementation of parental involvement laws. Young people of color are more likely to experience an unintended pregnancy, seek abortion care, and reside in states that have parental involvement laws on the books.<sup>10</sup> Immigrant youth could lack documentation, have undocumented parents, have parents who are detained/

## Listening to the Experts

Parental involvement laws place an unjust burden on young people who deserve the right to make their own decisions regarding their bodies and their healthcare. Young people need to be able to independently exercise their rights in obtaining *all* sexual and reproductive health services such as contraception, prenatal care, STI testing, abortion care, and gender-affirming care.<sup>16</sup> The American Public Health Association, the American Medical Association, and the American Academy of Pediatrics all oppose parental involvement laws; these professional organizations instead highlight the importance of confidentiality and the risks associated with delaying abortion care.<sup>17,18,19</sup>

While some states have made positive moves to repeal these policy measures, other states have doubled down on their anti-abortion stance by making these laws even stricter. Policymakers must repeal parental involvement laws to center the rights and healthcare needs of young people in the nationwide fight for universal reproductive rights.

**Parental involvement laws alone are harmful; but when working in tandem with other restrictive policies, the barriers to accessing abortion can become insurmountable and deepen existing inequalities — even under *Roe*.**

\* Population Institute (PI) is intentionally using women in statements where the data do not include the nonbinary people or trans men in the research. Otherwise, PI uses gender-inclusive language to include all individuals who may seek abortion services.

## Endnotes

- 1 *Planned Parenthood of Central Missouri v. Danforth* (Supreme Court of the United States July 1, 1976).
- 2 Advocates for Youth. (2021). *New Messaging Pathways for Abortion and Young People Under 18*. <https://www.advocatesforyouth.org/wp-content/uploads/2021/09/Abortion-Polling-Messaging-Report-one-pager.pdf>
- 3 Guttmacher Institute. (2021, September 1). *Parental Involvement in Minors' Abortions*. <https://www.guttmacher.org/state-policy/explore/parental-involvement-minors-abortions#>
- 4 Advocates for Youth. (2019, September 4). *Abortion and Parental Involvement Laws*. <https://www.advocatesforyouth.org/resources/fact-sheets/abortion-and-parental-involvement-laws/>
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- 6 Naide, S. (2020, February 19). "Parental Involvement" Mandates for Abortion Harm Young People, But Policymakers Can Fight Back. Guttmacher Institute. <https://www.guttmacher.org/article/2020/02/parental-involvement-mandates-abortion-harm-young-people-policy-makers-can-fight-back>
- 7 Committee on Adolescence. (2017). The Adolescent's Right to Confidential Care When Considering Abortion. *Pediatrics*, 139(2). <https://doi.org/10.1542/peds.2016-3861>
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- 11 Naide, S. (2020, February 19). "Parental Involvement" Mandates for Abortion Harm Young People, But Policymakers Can Fight Back. Guttmacher Institute. <https://www.guttmacher.org/article/2020/02/parental-involvement-mandates-abortion-harm-young-people-policy-makers-can-fight-back>
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- 13 Peters, A. J. (2016). Judicial Bypass in Nebraska: How the Nebraska Supreme Court's Decision in *In re Anonymous* 5, 286 Neb. 640, 838 N.W.2d 226 (2013) Illustrates the Complexity of Parental Consent Laws for State Wards Seeking Abortion. *Nebraska Law Review*, 94. <https://digitalcommons.unl.edu/nlr/vol94/iss4/6>
- 14 Dworksky, A., & DeCoursey, J. (2009). *Pregnant and Parenting Foster Youth: Their Needs, Their Experiences*. Chapin Hall at the University of Chicago. <https://www.chapinhall.org/research/pregnant-and-parenting-youth-in-foster-care-their-needs-their-experiences/>
- 15 Cost, K., & Henshaw, S. (2010, May). *U.S. Teenage Pregnancies, Births and Abortions, 2010: National and State Trends by Age, Race and Ethnicity*. Guttmacher Institute.
- 16 Guttmacher Institute. (2021, September 1). *An Overview of Consent to Reproductive Health Services by Young People*. <https://www.guttmacher.org/state-policy/explore/overview-minors-consent-law>
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