

Adolescents & Parental Notification for Abortion

What can California Learn from the Experience of Other States?

About this Brief

Legislatures and voters in states across the country have passed legislation mandating that parents are notified of and/or 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.

Rates of pregnancies, births, and abortions among adolescents in the U.S. have declined significantly in recent years.

The U.S. pregnancy rate for 15 to 17 year olds declined over 40% between 1990 and 2004, from 77 to 42 per 1,000 women. The birth rate declined as well: from 38 to 22 per 1,000 women aged 15 to 17 between 1990 and 2004.¹

These declines resulted from a combination of delayed sexual activity and increased contraceptive use among adolescents.

- Between 1988 and 2002, the percent of adolescent women ages 15 to 17 who have ever had sexual intercourse declined from 37% to 30%.²
- 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%.³

The abortion rate for adolescents also declined significantly. Between 1990 and 2004, the abortion rate fell over 57%: from 27 to 12 per 1000 women ages 15 to 17.⁴

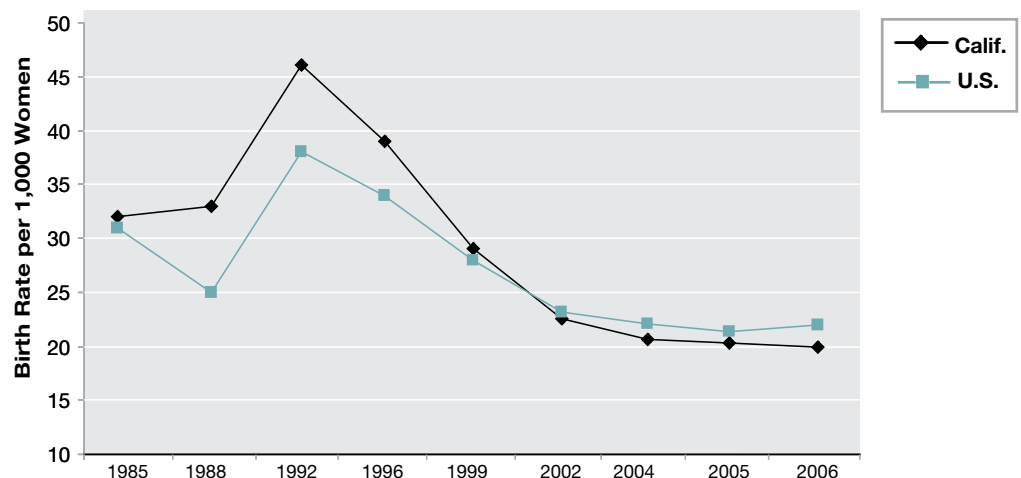
California's adolescent pregnancy, birth, and abortion rates have declined even more steeply than those in the rest of the country.

California's adolescent pregnancy rate fell by 46% between 1992 and 2000: from 102 to 55 per 1,000 women ages 15 to 17, representing the second largest decline in the country (Hawaii's rate fell by 47%). During this same time period, the estimated abortion rate for young women ages 15 to 17 fell by 50%.⁵

Furthermore, the teen birth rate fell by 54%, from 46 to 21 births per 1000 women ages 15 to 17 between 1992 and 2005.⁶ California's teen 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.⁷ Contraceptive use by adolescents in California averts an estimated 236,000 pregnancies to teens annually.⁸

Trends in Adolescent Birth Rates (Ages 15 to 17), California vs. United States⁹



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Despite this tremendous progress, 1 in 5 sexually active adolescents aged 15 to 17 in the US experiences an unintended pregnancy annually.¹⁰ 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.
- Hispanic and African American adolescents have abortions at rates that are 2 to 3.5 times higher, respectively, than non-Hispanic white adolescents, largely due to the fact that they experience higher pregnancy rates as well.
- Older youth (ages 18 to 19) have abortions at 3.5 times the rate of younger adolescents (aged 15 to 17).¹²

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

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.¹³
- In California, the vast majority (79%) of young women ages 14 to 17 reports that their parents are aware of their sexual activities.¹⁴

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

- In a study of states without parental involvement laws, a majority (61%) of young women under age 18 reported that at least one parent was aware of their decision to seek abortion care. Parental involvement was even higher among younger adolescents; over 90% of 14 year olds and 74% of 15 year olds reported having at least one parent involved in their decision.¹⁵

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

- In states without parental involvement laws, over 30% of young women who chose not to involve their parents cited fear of physical harm, being kicked out of the house, or other abuse as part of their reason not to tell their parents.¹⁶ 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.¹⁷

The Experience of Other States...

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

There is tremendous variation in laws by state. The back page 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 will discontinue using most reproductive health services if confidentiality is not guaranteed; however, they would not refrain from having sex.¹⁸ Additional research has demonstrated that when teens fear that confidentiality is not guaranteed, they are less likely to disclose all pertinent medical history to their medical provider and are less likely to return for necessary follow-up visits.¹⁹

Recognizing the importance of maintaining adolescents' confidentiality in the healthcare setting while encouraging voluntary family communication, the American Academy of Pediatrics, along with other leading public health and medical professional organizations, has issued the following policy statement:

"Adolescents should be encouraged to involve their parents and other trusted adults in reproductive health care decisions, but this should not be mandated through parental consent or notification laws. The potential risks to adolescents if they are unable to obtain reproductive health services are so compelling that legal barriers and deference to parental involvement should not stand in the way of needed health care for patients who request confidentiality."²⁰

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.²¹ 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.²² 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.²³

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).²⁴ There is no evidence that a government mandate will positively increase the frequency or quality of communication for adolescents and their families.

What would California teens do if a parental notification law passed?

A recent study in California surveyed young women ages 12 to 17 attending family planning clinics, asking what their response would be to a parental involvement law. Among those that would consider abortion if they became pregnant in next 6 months, a significant proportion reported that they would plan to leave the state (37%) or country (12%) to obtain abortion care as one potential response to parental notification requirements. Additionally, 28% said that they would seek judicial bypass, and 34% said that they would "find a way around the law."²⁵

Rather than encourage family communication, parental notification and consent laws could 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 involvement 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.²⁶

The court system may be unprepared 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.²⁷ Additionally, 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.²⁸

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.²⁹
- 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.³⁰
- 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%.³¹

The impact of parental notification laws on teen pregnancy, birth, and abortion rates.

Several studies have attempted to measure the impact of parental involvement laws on teen pregnancy, birth, and abortion rates. Advocates of parental involvement requirements suggest that teen pregnancy rates will decrease in response to such laws, due to increased contraceptive use and/or decreased sexual activity among teens. However, using refined estimates of exposure to the law*, a recent analysis in Texas documented that the pregnancy rate among 17 year olds did not change in response to the state's parental notification requirement. Moreover, the birth rate among this age group increased, indicating an increase in unintended births among young women affected by the law. It is critical that the results of previous studies which argue for a profound impact of parental notification laws be interpreted with caution.³²

Parental involvement 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. 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 birth 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%).³³

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*Unlike previous studies, researchers were able to more accurately classify a young woman's exposure to the law by using her age at conception as opposed to the age at which she gave birth or had an abortion. Further, by looking at a limited period of time (1999 to 2000) and at a state with fairly complete data (Texas), they were able to attribute changes solely to the effects of the parental involvement requirement and not other extraneous factors.

Current State Laws

| | Parental Involvement Requirements | | Alternatives to Parental Involvement | | Exceptions to Parental Involvement | |
|----------------|-----------------------------------|------------------|--------------------------------------|--|------------------------------------|---|
| | Consent | Notification | Judicial Bypass | Involve Other Adult Relatives | In Medical Emergency | In Cases of Abuse, Assault, Incest, & Neglect |
| Alabama | X | | X | | X | |
| Alaska | Enjoined | | | | | |
| Arizona | X | | X | | X | X |
| Arkansas | X | | X | | X | X |
| California | Enjoined | | | | | |
| Colorado | | X | X | | X | X |
| Delaware | | X (<age 16) | X | Grandparent/Other** | X | |
| Florida | | X | X | | X | |
| Georgia | | X | X | | X | |
| Idaho | X | | X | | | X |
| Illinois | | Enjoined | | | | |
| Indiana | X | | X | | X | |
| Iowa | | X | X | Grandparent | X | X |
| Kansas | | X | X | | X | X |
| Kentucky | X | | X | | X | |
| Louisiana | X | | X | | X | |
| Maryland | | X | X | Other*** | | |
| Massachusetts | X | | X | | X | |
| Michigan | X | | X | | X | |
| Minnesota | | X (both parents) | X | | X | X |
| Mississippi | X (both parents) | | X | | X | |
| Missouri | X | | X | | | |
| Montana | | Enjoined | | | | |
| Nebraska | | X | X | | X | X |
| Nevada | | Enjoined | | | X | |
| New Jersey | | Enjoined | | | X | |
| New Mexico | Enjoined | | | | | |
| North Carolina | X | | X | Grandparent (if minor lived w/them > 6 mos.) | X | |
| North Dakota | X (both parents) | | X | | X | |
| Ohio | X | | X | | X | |
| Oklahoma | X | X | X | | X | X |
| Pennsylvania | X | | X | | X | |
| Rhode Island | X | | X | | | |
| South Carolina | X (<age 17) | | X | Grandparent | 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 | Grandparent | X | X |
| West Virginia | | X | X | | X | |
| Wisconsin | X | | X | Adult family members | X | X |
| Wyoming | X | | X | | X | |
| Total | 24 | 13 | 35 | 6 | 33 | 14 |

** Licensed health professionals.

*** Physician can determine that minor is mature and capable of giving her own informed consent.

Source: Guttmacher Institute. Parental involvement in minors' abortions – State Policies in Brief. August 2008. Available at: http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf. Accessed August 19, 2008.

Thirty-five states currently enforce parental involvement requirements: twenty-two require the consent of one (20) or both (2) parents; eleven require notification of one (10) or both (1) parents; and two require both the notification and consent of at least one parent. All 35 states allow for judicial bypass; exceptions in cases of medical emergency are permitted in 33 states, while 14 states allow for bypass in cases of abuse, assault, incest, or neglect. As mandated reporters, health care providers regularly screen and report cases.

Recognizing the complexity of adolescent family environments, seven states allow other important adults, including grandparents (6), adult family members (1), and health care professionals (2) to be involved in lieu of parents. None of these states require teens to prepare a written accusation against their parents or physicians to immediately submit a report to law enforcement when teens choose to involve another adult rather than a parent. Further, these laws do not allow for civil penalties, such as a lawsuit, against these adults who are involved. In seven states, courts have permanently or temporarily blocked enforcement of parental involvement laws due to concerns about whether they offer sufficient alternatives and/or exceptions for young women who can not involve their parents.

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. As evidenced by research from other states, requiring parental notification will likely not prevent abortion or the need for abortion, nor will it improve minors' communication with parents about abortion decisions. 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.