

SB

24

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 27, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/9/97

The FINANCE Committee considered:

CSSB 24(FIN)

CS FOR SENATE BILL NO. 24(FIN)

PARENTAL CONSENT BEFORE MINOR'S ABORTION

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

recommends it be replaced with the following committee substitute HCS CSSB 24 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept) (Date) _____

fiscal note(s) _____ 2 fiscal note(s) Admin, 3/2/97
Courts 3/14/97

zero fiscal note(s) _____ 3 zero fiscal note(s) (1) Admin, 2/3/97
(2) HSS 2/3/97
3/5/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault	X			
<i>Mark Hanley</i>	Hanley	X			
<i>Vic Kohring</i>	Kohring	X			
<i>Clay Mulder</i>	Mulder	X			
<i>Bob Kelly</i>	Kelly	✓			
<i>Perry Martin</i>	Martin	✓			
<i>Bir Gussendorf</i>	Gussendorf				X
<i>For M. Davies</i>	Davies		X		

CHAIR'S SIGNATURE *Gene Therriault* *Mark Hanley*
 Therriault Hanley

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 7

Bill Version: CSSB 24 (FIN)

(S) Publish Date: 3-21-97

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."

BRU: Office of Public Advocacy

Component: Office of Public Advocacy

Sponsor: Senator Leman

Requestor: (S) FIN

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	84.0	84.0	84.0	84.0	84.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	84.0	84.0	84.0	84.0	84.0	168.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.0	84.0	84.0	84.0	84.0	84.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	84.0	84.0	84.0	84.0	84.0	84.0

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor aged 15 or under may seek the court approval of her wish to have an abortion. The bill mandates the appointment of counsel for the minor through the Office of Public Advocacy (OPA). This fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12% of abortions per year (288) are performed on women aged 17 or younger; (3) 39% of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61% of parents are informed of abortions in those states which do not require parental notice or consent.

(continued)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 269-3500
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Administration

Thomas W. Elise
 Date: 3/18/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSE 24(FIN) 27

ANALYSIS: (continued)

This office has located no data regarding the number of abortions performed on females aged 15 or younger. We have, therefore, further assumed that this group represents approximately half of minor women. Thus, OPA could be expected to provide attorney representation to 56 young women each year in judicial proceedings in which the minor sought to obtain approval of an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$84.0 per year.

FISCAL NOTE

NO. 6

Bill Version: CS SB 24 (FIN)

(S) Publish Date: 3-14-97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: 03/10/97

Dept. Affected: Alaska Court System

Title: Parental consent before a minor's
abortion

BRU: Trial Courts

Component: _____

Sponsor: Sens. Leman, Hatford, Green, Miller, Taylor

Requirer: Senate HESS

COMPONENT SERIAL NO. 788

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel

Phone: 264-8228

Agency: Alaska Court System

Date: 03/10/97

Approved by: Stephanie J. Cole, Acting Administrative Director

Date: 03/10/97

Agency: Alaska Court System

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JUDICIAL COURT SYSTEM
FISCAL ANALYSIS
CSSB 24 (JUD)

CSSB 24 (JUD) provides that a person may not knowingly perform an abortion upon a woman who is unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have an attorney. If she cannot afford an attorney, one must be appointed by the court from the Office of Public Advocacy (OPA). Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state. OPA has estimated that 112 minor females will seek judicial approval for an abortion each year.

CSSB 24 (JUD) requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for expedited appeals in cases where a court denies permission for an abortion, nor does it reflect costs for the preparation of special forms and instructions required by the bill.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 5

Bill Version: CSB 24(JUD)

(S) Publish Date: 3-5-97

Revision Date: _____
Title: Parental Consent for Abortion

Dept. Affected: Health and Social Services

BRU: State Health Services

Component: Public Health Admin Services

Sponsor: Leman

COMPONENT SERIAL NO. 292

Requestor: Senate (JUD)

See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Peter M. Nakamura, MD, MPH
 Division: Public Health
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: (907) 465-3090
 Date: 02/25/97

Date: 2/26/97

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill version: SB 24

(S) Publish Date: 2-3-97

Revision Date: _____
Title: Relating to parental consent before
certain minors receive an abortion
Sponsor: Lemas
Requestor: _____

Dept. Affected: Health and Social Services
BRU: Medical Assistance
Component: Medicaid Non-Facility
COMPONENT SERIAL NO. 229
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: 30.0

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions under the General Relief Medical Assistance and Medicaid Programs. Very few abortions funded by these programs are performed on minors.

Prepared by: Nancy Weller
Division: Medical Assistance

Phone: 465-5825
Date: 01/10/97

Approved by Commissioner: Karen Perkins
Agency: Department of Health & Social Services

Date: 1/24/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 3

Bill Version: SB 24

(S) Publish Date: 2-3-97

Revision Date: _____
 Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."

Department Affected: Administration

Sponsor: Senator Leman
 Requestor: (S)HESS

BRU: Public Defender Agency
 Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The bill would require parental, guardian or custodian consent in writing before an abortion for an unmarried, pregnant unemancipated woman under 18 years of age. A judicial process is set up to bypass the consent requirement by the filing of a complaint in superior court. A lawyer shall be appointed to represent the complainant if she has not retained an attorney, but Section 5 of the bill provides those lawyers will be from the Office of Public Advocacy. Therefore, there will be no fiscal impact on the Public Defender Agency.

Prepared by: Barbara K. Brink, Acting Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 1/28/97

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MEMORANDUM

TO: Mike Greany, Director, Legislative Finance Division
Juneau, Alaska

FROM: Louanne Christian, Secretary *LC*
House Finance Committee

DATE: April 15, 1997

RE: Office of Public Advocacy Fiscal Note for SB 24

The original version of SB 24, as introduced, would have required that minors under the age of 18 seeking an abortion be required to obtain parental consent or petition the court for a judicial bypass. The fiscal note for this version of the bill by the Department of Administration, Office of Public Advocacy reflected an operating expense of \$168.0 thousand general fund dollars in the contractual line.

The Senate Finance Committee adopted an amendment changing the age requirement from under 18 to under 16 years of age. This should have resulted in a reduced fiscal note of \$84 thousand dollars. A revised fiscal note was not adopted by the Senate Finance Committee or the Senate.

The revised fiscal note caught up to the bill in the House Finance Committee. However, the House Finance Committee reversed the amendment adopted by the Senate Finance Committee, returning the age requirement to minors under 18 years of age. The effect of this amendment was to increase the fiscal impact from \$84 to \$168 thousand dollars. The bill was passed from committee without the revised fiscal note. This mistake was discovered and the revised fiscal note was adopted on the House floor.

In summary, if the Senate version, requiring minors under 16 to obtain parental consent, is adopted the appropriate fiscal note would reflect a contractual cost of \$84 thousand general fund dollars.

If the House version, requiring minors under 18 to obtain parental consent, is adopted the appropriate fiscal note would reflect a contractual cost of \$168 thousand general fund dollars.

MEMORANDUM

TO: Mike Greany, Director, Legislative Finance Division
Juneau, Alaska

FROM: Louanne Christian, Secretary *LC*
House Finance Committee

DATE: April 15, 1997

RE: Office of Public Advocacy Fiscal Note for SB 24

The original version of SB 24, as introduced, would have required that minors under the age of 18 seeking an abortion be required to obtain parental consent or petition the court for a judicial bypass. The fiscal note for this version of the bill by the Department of Administration, Office of Public Advocacy reflected an operating expense of \$168.0 thousand general fund dollars in the contractual line.

The Senate Finance Committee adopted an amendment changing the age requirement from under 18 to under 16 years of age. This should have resulted in a reduced fiscal note of \$84 thousand dollars. A revised fiscal note was not adopted by the Senate Finance Committee or the Senate.

The revised fiscal note caught up to the bill in the House Finance Committee. However, the House Finance Committee reversed the amendment adopted by the Senate Finance Committee, returning the age requirement to minors under 18 years of age. The effect of this amendment was to increase the fiscal impact from \$84 to \$168 thousand dollars. The bill was passed from committee without the revised fiscal note. This mistake was discovered and the revised fiscal note was adopted on the House floor.

In summary, if the Senate version, requiring minors under 16 to obtain parental consent, is adopted the appropriate fiscal note would reflect a contractual cost of \$84 thousand general fund dollars.

If the House version, requiring minors under 18 to obtain parental consent, is adopted the appropriate fiscal note would reflect a contractual cost of \$168 thousand general fund dollars.



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

Sponsor Statement -- SB 24

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

Senate Bill 24 allows enforcement of existing law requiring parental consent before an abortion can be performed on a minor. Parental consent is required under AS 18.16.010, approved by the Legislature in 1970. However, a 1976 Attorney General's opinion declared the statute unenforceable as it lacks a judicial bypass provision which would enable a minor to receive permission from a judge as an alternative to a parent. Various Supreme Court decisions have held that judicial bypass is necessary if parental consent laws are to meet constitutional muster. SB 24 adds the required bypass.

In other states, parental involvement laws have had a positive impact, reducing both the number of abortions *and* the number of teen pregnancies. During the first six years Minnesota's parental involvement law was in effect, the teen pregnancy rate fell 20.5 percent, teen abortions declined 27.4 percent, and the teen birth rate went down 12.5 percent.

SB 24 also upholds the rights of parents, which are uniquely disregarded in the area of abortion. Parental consent is required for virtually every medical procedure. An exception should not exist for abortion. In Alaska, young people under age 18 are not considered mature enough to be served alcohol, buy cigarettes, or vote in elections. Even marriage is not permitted, unless a parent consents. But a teenager can obtain an abortion, even one paid for by the state, and the parents are not even required to be notified of that fact.

A clear majority of Alaskans -- 78 percent -- expressed support for parental consent legislation considered in the 19th Legislature. Parental involvement laws are on the books in 38 states. These statutes are enforced in 27 of these states.

Sectional Analysis -- CS for SB 24 (FIN)

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

Prepared by: Mike Pauley, Staff to Sponsor SENATOR LOREN LEMAN

Last updated: Tuesday, March 18, 1997

Section 1: Purpose and Legislative findings

- Intent of legislation is to protect the health and welfare of minors, foster and preserve the family structure as a viable social unit, and protect the rights of parents to rear their children.
- The legislature finds that parents often possess information on the medical history of the minor that is essential to a physician's or surgeon's medical judgment.
- The legislature also finds that minors stand to benefit from parental counsel; the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related.

Section 2: Amends Title 18 of Alaska Statutes (Health & Safety)

- Repeals existing language on parental consent [AS 18.16.010(a)(3)] and replaces it with language requiring *either* parental consent or court authorization before an abortion can be performed on an unemancipated minor under age 16. The bill establishes a rebuttable presumption that an unmarried woman under 16 is unemancipated.

Section 3: Establishes new subsections under AS 18.16.010 (Regulation of Abortions)

- Person who performs an abortion without obtaining the required consent is civilly liable to the minor's parent(s) or guardian for compensatory and punitive damages.
- It is an affirmative defense to prosecution if the person performing the abortion was provided by the pregnant minor with false, misleading, or incorrect information about age, marital status, or emancipation.

- It is an affirmative defense to prosecution if the person performing the abortion could not comply with the consent requirement because the continuation of the pregnancy posed an immediate threat of serious risk to the life or physical health of the pregnant woman, necessitating an immediate abortion.

**Section 4: Establishes new sections under
AS 18.16 (Regulation of Abortions)**

- **Sec. 18.16.020** provides that an abortion may not be performed on an unemancipated minor under age 16 unless...
 - 1) one of the minor's parents or the minor's guardian has consented to the procedure in writing; or
 - 2) a court has issued an order permitting the minor to consent to the abortion without obtaining consent of a parent or guardian; or
 - 3) a court by its inaction has constructively authorized a minor to consent to the abortion (*see Sec. 18.16.030*).
- **Sec. 18.16.030** outlines the procedure for seeking a court order (judicial bypass) allowing a minor to consent to an abortion without first securing parental consent. Complaints must be filed in superior court. Complaint must be under oath and include a statement that the complainant is pregnant, unmarried, under age 16, unemancipated, and wishes to have an abortion without obtaining parental consent. In addition, the complainant must allege that she is sufficiently mature and well-informed to make an abortion decision without parental consent *and/or* that one or both of her parents or her guardian is abusing the complainant physically, sexually, or emotionally; or that securing consent is otherwise not in the woman's best interest. Sec. 18.16.030 also sets time limits for hearing complaints; establishes an appeals process; requires appointment of an attorney for complainants who have not retained counsel; provides for the anonymity of the complainant. If a court does not act on a complaint within the time limits established in the legislation, it shall be considered a "constructive order" allowing the minor to consent to the abortion with the consent of a parent or guardian.

New subsection (n) was added to Sec. 18.16.030 in Judiciary Committee substitute [page 7, lines 22-31 & page 8, lines 1-3]. This subsection provides that the forms and information enabling a minor to seek judicial bypass must be available at every superior court, district court, and magistrate location. It further prescribes that the information provided to the minor must include notification that no filing fee is required for the judicial bypass application, no court costs will be assessed against the minor, an attorney will be appointed to

represent the minor, and that the minor may request a telephonic hearing on her complaint so that she need not be personally present in court.

- Sec. 18.16.090 defines the terms "abortion" and "unemancipated".

Section 5: Amends Title 44 of Alaska Statutes (State Government)

- Sec. 44.21.410(a) is amended to require the Office of Public Advocacy to provide legal representation for minors seeking a court order for an abortion without parental consent.

Section 6: Repeals Alaska Statute 18.16.010(d)

- The existing definition of abortion under AS 18.16 (Regulation of Abortions) is repealed (*replaced with new definition @ Sec. 18.16.090*).

Section 7: Amending Rule 40, Alaska Rules of Civil Procedure

- Sec. 18.16.030(c) of the bill has the effect of amending Rule 40 by setting time limits for hearing judicial bypass cases.

Section 8: Amending Rules 204, 210, 212, and 213, Alaska Rules of Appellate Procedure

- Sec. 18.16.030(j) of the bill has the effect of amending Rules 204, 210, 212, and 213, by setting time limits for judicial bypass appeals, and also by liberally modifying or dispensing with formal requirements for the form and content of appellants' briefs.

Section 9: Amending Rule 512.5, Alaska Rules of Appellate Procedure

- Sec. 18.16.030(k) of the bill has the effect of amending Rule 512.5 by making certain appellate records and papers confidential.

Section 10: Amending Rule 9, Alaska Administrative Rules; Rule 79, Alaska Rules of Civil Procedure; and Rule 508, Alaska Rules of Appellate Procedure.

- Sec. 18.16.030(m) of the bill has the effect of amending Rule 9, Rule 79, and Rule 508 by prohibiting filing fees and court cost assessments in judicial bypass cases.

Adopted

0-LS0210V.2
Lauterbach
4/7/97

AMENDMENT #1

OFFERED IN THE HOUSE
TO: CSSB 24(FIN)

BY REPRESENTATIVE KELLY

- 1 Page 2, line 26:
- 2 Delete "16"
- 3 Insert "18"

- 4 Page 2, line 30:
- 5 Delete "16"
- 6 Insert "18"

- 7 Page 3, line 13:
- 8 Delete "16"
- 9 Insert "18"

- 10 Page 3, line 30:
- 11 Delete "16"
- 12 Insert "18"

- 13 Page 4, line 10:
- 14 Delete "16"
- 15 Insert "18"

- 16 Page 4, line 18:
- 17 Delete "15"
- 18 Insert "18"

- 19 Page 8, line 14:

- 1 Delete "16"
- 2 Insert "18"

#2

AMENDMENT

failed

By: Rep. Ben Grussendorf

In the House Finance Committee
TO: CSSB 24 (FIN)

Page 3, following line 3:

Add a new section and renumber accordingly

*Sec. 18.16.040. Exemption. AS 18.16.010(a)(3), 18.16.020, and 18.16.030 do not apply to an abortion performed or induced on a minor unless the minor resides in a community that has at least one of the following persons available in the community on at least a half-time basis each month: a magistrate, a district court judge, or a superior court judge.

ALASKA COURT LOCATIONS

- ★ Superior & District Court Locations
- Superior Court Locations
- District Court Locations
- ▼ Magistrate Locations



copy on file

Major Victory for Minors

*CLS Executive Director Sam Casey
has had a long struggle.
But after eight years,
the California Supreme Court
has ruled that doctors
may not perform an abortion
on unmarried teenagers
without the consent of a parent
or a court order.*



Only God knows the names of all the teenagers who have suffered the tragic consequences of abortion. Dawn, 13, died. Rachel, 17, is now a paraplegic. Myoshi, 15, required a hysterectomy. Holly and Teresa, both 16, now live every day of their lives with the remorse of their decisions to abort.

These tragedies could have been mitigated, if not avoided altogether, if only the girls' parents had been involved. That's why 38 states now have laws that require minors to either notify their parents or obtain consent from their parents or a juvenile court judge before they abort a child.

And that is why, in 1987, CLS Executive Director Sam Casey embarked on a crusade to pass a law that would require parental authorization in the state of California. More than 30,000 unmarried teenagers obtain abortions in California each year, many without the knowledge of their parents and at taxpayers' expense.

Casey has had a long struggle. After helping write the enabling legislation, and writing and arguing for its passage, Casey was asked by his law firm to stop his pro-life work because it was "too controversial." And when a judge prohibited the new law from going into effect,

Casey had to choose between quitting his pro-life efforts and resigning from his firm to continue to fight for this law. He decided to resign from his partnership and join the Western Center for Law and Religious Freedom, now an affiliated ministry of CLS, where he continued the case.

It took eight years and hearings in six different courts. But on April 4, 1996, the California Supreme Court finally said that the 1987 law properly prohibits doctors from performing abortions on unmarried teenagers without the consent of a parent or a court order.

The 4-3 majority held that the law does not violate state constitutional protections of privacy because minors have far less expectation of such privacy than do adults.

"Credit for the victory goes to so many," Casey reflects. "I am particularly grateful to the many CLS members who contributed their time to this case over the years, but principally to the Sovereign of all life."

This is what CLS and its affiliated trial advocate, the Western Center for Law and Religious Freedom, are all about — volunteer lawyers working together for "as long as it takes."



CHRISTIAN LEGAL SOCIETY

208 Evergreen Lane, Suite 222, Annandale, VA 22003-3624

*From
Carol
Nelson*

*X - parents that
were not read
or given as
testimony.*

ngelism: icorrect”

the UW that he met his wife, Leslie, who shares his commitment to campus ministry.

With 35,000 students, the religious climate at the UW is similar to that of most secular universities, Ricci confirms. “Tolerance and diversity are ‘preached’ here, and anything is an option — except for Christianity.”

It was in this climate that Christian students at the UW decided to distribute “care packages” to fellow dorm residents at exam time in December 1994. Each care package included candy bars and a poem about the true meaning of Christmas, with a four-step explanation of salvation on the reverse side. University officials quickly halted distribution of the care packages because of their Christian content.

At the same time, dorm officials also refused to let Campus Crusade hold meetings in dorm lounges because their topics would have religious content, which might offend some students.

Ricci telephoned CLS General Counsel Steve McFarland. Working through CLS’ regional affiliate, the Western Center for Law and Reli-



Brian Ricci has been at the UW for 14 of the 15 years he’s worked for Campus Crusade for Christ.

gious Freedom, McFarland communicated with the university’s lawyer at the State Attorney General’s office. And employing firm but diplomatic advocacy, he was successful in resolving both matters without going to court (see story on page 1).

Dorm students at the UW may now distribute evangelistic literature to fellow residents and hold religious meetings in dorm lounges. “The university is now treating us just like they would any other student group on campus,” Ricci confirms. But he warns, “Christians are anything but ‘politically correct’ on a university campus. We must be prepared for the opposition we will face.”

That’s why Ricci is grateful CLS and the Western Center are only a phone call away.

We’re Defending Your Right to Life and Religious Liberty

We see all around us the loss of religious rights: university officials attempt to restrict students from sharing Christ with a neighbor; a governmental agency tells a widow she doesn’t have a right to exercise her religious beliefs on her own property; federal courts allow the terminally ill to kill themselves. The battle to regain our First Freedom is never-ending.

Christian Legal Society, through its Center for Law and Religious Freedom and its regional affiliate the Western Center for Law and Religious Freedom, is defending *your* right to life and religious liberty. Your prayers and financial support make it possible for these efforts to continue. Please consider what you can give to further this crucial life-and-death work.

Age of Consent: 18 vs. 16

The effect of lowering the age at which a teenager can have an abortion without obtaining parental consent from 18 to 16 is quite dramatic. Current Alaska law (which is not enforced) sets the consent age at 18. Among teenagers who are legal minors (i.e., age 17 and under), most pregnancies (and therefore most abortions) occur at ages 17 and 16. Thus, most of the minors who would be affected by a parental consent bill which requires consent for those under 18, are not affected by the bill when consent is required only for those under 16.

This reality is clearly evident after taking into account statistics on live births to Alaskan teenagers. While there are no statistics kept by the state on the number of teen abortions, it is possible to make estimates by comparing national data to Alaska's live birth statistics.

According to the National Research Council, teen pregnancies nationwide have the following results:

- 49% end in live births
- 30% end in abortion
- 12% end in miscarriage

Applying these national proportions to Alaska, we arrive at the following estimates:

	<u>Live Births *</u>	<u>Abortions</u>	<u>Miscarriages</u>
Age 17	229	182 (est.)	56 (est.)
Age 16	141	112 (est.)	34 (est.)
Age 15	56	44 (est.)	14 (est.)
Age 14	17	14 (est.)	4 (est.)
Age 13	2	2 (est.)	1 (est.)
TOTAL:	445	354 (est.)	109 (est.)

Conclusion: these estimates indicate that most abortions (83 percent) among minors occur at ages 16 and 17, compared to a scant 17 percent at age 15 and under. Thus, lowering consent age to 16 has the effect of severely limiting the scope of SB 24 / HB 37.

* These numbers are reported in the DHSS Bureau of Vital Statistics report for 1994, the latest annual report available.

How Many Abortions are Performed on Minors in Alaska?

Alaska law does not require data on abortions to be reported to the state. Consequently, there are no reliable statistics on how many abortions are performed in general, much less in specific age groups.

Most estimates of abortions performed in state are derived from applying national trend data to Alaska's demographics. According to the National Research Council, teen pregnancies nationwide have the following outcomes:

- 49% end in live births
- 39% end in abortion
- 12% end in miscarriage

If these national data are applied to Alaska, we arrive at the following estimates:

● 445 births to minors *	[49% of total pregnancies]
● 354 abortions for minors	[39% of total pregnancies]
● 109 miscarriages	[12% of total pregnancies]
<hr/>	
TOTAL: 908 pregnancies	[100%]

* This statistic is reported in the DHSS Bureau of Vital Statistics report for 1994, the latest annual report available.

04/09/1997 11:16 307-366-1037 ROGERS HIDEY PAGE 01
Theda Pittman
Alaska Pro-Choice Alliance
April 9, 1997 - House Finance - SB 24.
Page 1 of 2.

The attached 8 1/2 x 11 sheet of paper which is marked with sections A - D, represents all the pregnant teenagers in the United States in a given year.

Section A - represents the teens who have babies - SB 24 does not apply.

Section B - represents the teens who discuss their pregnancies with at least one parent and who have an abortion - SB 24's claim to promote communication does not apply to these families which are already talking.

Section C - in states with judicial by-pass, represents the teens who apply to the court and whose request is granted -- virtually 100% of the time. Judges approve the request either because the teen is mature enough to make her own decision, has good cause to avoid discussing the situation with a parent, or because the judge feels it is inappropriate to second guess the teen. SB 24 does not help these teens because the court process is terrifying and causes delay in their decision to have an abortion.

Section D - represents teens who can't talk to their parents and can't find their way through the court system. They may resort to illegal or self-induced abortions such as the kind which killed Becky Bell in Indiana. If possible, they may hid their pregnancy until delivery - receiving no pre-natal care or even abandon the child. Although this is a small percentage of pregnant teens, SB 24 has the power to destroy them. And for the vast majority - represented by sections A, B, and C -- SB 24 will do them no good - please vote against it.

A

B	C
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D

IMPACT OF PARENTAL INVOLVEMENT LAWS - VARIOUS STATES

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Massachusetts 2 parent consent <u>Date Implemented</u> April 1981	31% drop from 2463 in '90 to 1710 in '95. 1) see below		19.05% drop '80-'82.	2) 16.6% drop, 4/81 thru 12/82.	Aver 2583 per year - high of 2641 in '91 & low of 2496 in '93.	(Birth rate unchanged '80-'82.)	3) approx. 856 girls per year use bypass (8980 girls from 4/81 thru 12/91.)	Since this law has been in effect since 1981, there is no measurable impact on welfare case loads.

* rate = per 1000 teen girls

Notes

- 1) There was a 27.79% drop both in-state and out-of-state abortions from '80 - '82.
- 2) The first 20 months the law was in effect, the teen pregnancy rate per 1000 teen girls declined 16.6%. American Journal of Public Health, April, 1986.
- 3) In a March, 1995 memo to the WA State Legislature, opponents of parental involvement laws claimed that in Massachusetts "900 petitions for bypass are filed each year (15,000 petitions since 1991.)" But 1991 through 1995 is 5 years and 5 years X 900 = 4500 petitions. Where is the documentation for the 15,000 figure?

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Michigan 1 parent consent <u>Date Implemented</u> Mar '91 - Aug '92. Reinstated in May 1994	1) 17.0% drop - '90 to '91. 25.7% drop - '90 to '94.		2) see below		24% drop from 2383 in '80 to 1812 in '94.		Probate Court 3) In '95, 938 minors used bypass - a 6.7% increase from '94. Provides \$150 per girl for court appointed attorney.	4) Welfare reform in place

* rate = per 1000 teen girls

Notes

- 1) In 1992, the Detroit Free Press reported, "the number of abortions for Michigan teenagers under 18 fell 17.6 % last year [1991] a drop attributed mostly to the state law requiring minors to get parental consent before they can have an abortion."
- 2) Teen pregnancies are declining. Abstinence education is becoming more accepted in mainstream education. Still, the decrease in abortions is outpacing the decrease in the pregnancy rate. Michigan's parental consent law must be considered one of the factors leading fewer teens to choose abortion.
- 3) 1995 state figures show 938 minors asked probate judges for waivers in 1995, up 6.7% from 879 in 1994. The report does not indicate how many waivers were granted or turned down or which judges handled waivers. Detroit News, 1/3/97.
Some girls bring their own attorney, but Court provides \$150 per girl for those needing an attorney. No analysis has been done on bypass process. Hearing times varies with circumstances.
- 4) New welfare rules for minor teen parents went into effect 10/1/96. Teen mothers must remain in school and live at home or with an appropriate adult or will be cut off from state assistance. (Currently about 800 minor teen parents live on their own and receive welfare.) Detroit Free Press, 11/7/96.
No evaluation has been done on impact of parental consent law because welfare reform has already occurred. There is no data to demonstrate whether the law has had an effect one way or the other on welfare case loads. Michigan Dept. of Public Assistance.

FROM: HUMAN LIFE FAX NO.: 800-1198 PHONE NO.: 308 666 4957

IMPACT OF PARENTAL INVOLVEMENT LAWS - VARIOUS STATES

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Minnesota 2 parent notice <u>Date Implemented</u> Aug '81 - Mar '86. Reinstated in August 1990.	1) 17% drop - '90 thru '95. 34% drop '80 - '86. 2) see below	33.8% drop 7.1 in '90 to 4.7 in '05. 27.4% drop '81- '86		12.2% drop 17.4 in '80 to 15.27 in '95 20.5% drop '81 - '86.		Unwed teens fairly steady-9.3 in '90 to 8.9 in '95. 12.5% drop '81 - '86.	Juvenile Court 3) Cost is approx \$50 per girl. \$50 x 171 girls for a 9 mo. period = \$8550.	No change one way or other since law in effect. Approx. 800 to 1000 teen girls on public assistance the past few years. <i>MN Dept. Human Services</i>

* rate = per 1000 teen girls

Notes

- 1) Number of abortions dropped 17% from 16,280 to 12,715 during this time period.
- 2) In a 1995 memo to House Law and Justice Comm., the Nat'l Council of Jewish Women claimed, "In Minnesota, second trimester abortions for minors increased by 18% and the birth rate for 15 to 17 year-olds rose 38.4% from '80 to '84. Both childbirth & late abortion are significantly more dangerous to teens than an early abortion." But statistics from the MN Dept. of Health show that late abortions dropped 27.5% from '81-'86. Moreover, in a briefing on the MN law, the MN Attorney General's office noted that even those who challenged the constitutionality of the law "conceded that there was no evidence of any increase in medical complications which could be attributed to the law." *11/27/89 letter, Office of the Attny. General, State of MN.*
- 3) Minnesota - A clerk from MN Juvenile Court said it costs approximately \$50 per girl for filing fees and court costs for hearing. The judge hears bypass cases all at one time three days per week. If the court appoints an attorney or guardian ad litem, the payment is \$50 per hour. The attorney or guardian interviews the teen, fills out paperwork and makes the presentation to the Court. (Sometimes volunteers do the interviews, thus saving time and money) The entire process takes one hour. Hennepin County, the largest county in MN, which encompasses metropolitan Minneapolis with a population of 366,000, gets majority of bypass requests. In 1996, 281 girls filed petitions. This computes to approximately \$100 per girl - \$28,100 for 1996 for Hennepin County. (Between 1980 and 1988, 43% of teens who aborted used the bypass procedure. This means 57% went to their parents thus providing family involvement and protection.)

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Mississippi 2 parent consent <u>Date Implemented</u> June 1993	1) 31.4% drop from '91 thru '95.		2.8% drop from '91 thru '95.		4.1% increase from '91 thru '95.		2) No records for entire state. Each chancery court needs to be contacted. <i>Miss. Public Health Dept. of Statistics</i>	Case loads not broken down by age. <i>Human Services Dept of Vital Statistics.</i>

* rate = per 1000 teen girls

Notes

- 1) The number of minors under age 18 obtaining abortions from 1990 through 1994 was:
 1990 - 921; 1991 - 875; 1992 - 850; 1993 - 619; 1994 - 349.

There is no evidence that girls are traveling to other states in large numbers. Mississippi and its neighboring states, with the exception of Alabama, do not keep track of this data. Alabama began to gather this information since 1993, the year the Mississippi law became effective. Therefore, it is impossible to establish "before and after" patterns with respect to the Mississippi law.

IMPACT OF PARENTAL INVOLVEMENT LAWS - VARIOUS STATES

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Nebraska 1 parent notice <u>Date Implemented</u> Sept. 1991	40% drop- 709 in '90 to 427 in '96		Abortions, births & fetal death Data not computed		1) 11% increase from '90 thru '95.		Juvenile Court 2) see below	3) Since 1990 an average of 202 girls per year on AFDC with a high of 257 in '92 and a low of 142 in '96.

* rate = per 1000 teen girls

Notes

- 1) Births to teens increased from 768 in 1990 to 849 in 1995 - 11%. However statistics do not indicate what part of these mothers were married or single. *Nebraska Health & Human Services Report 1990-1995 statistics.*
- 2) Clerk of the District Court in Lancaster County says it takes 3 minutes for paper work and 10 minutes for the appearance before the judge. Number of girls using the bypass: 1992, 4 girls; 1993, 3 girls; 1994, 9 girls; 1995, 10 girls and 1996 = 14 girls used bypass.

The Douglas County Court Clerk said the cost is small and there are no filing fees. The hearing and paperwork takes no more than half an hour total. If a guardian ad litem is appointed - 80% of girls have one appointed - the Court allows \$250 to \$330 per case which is the high end. Other counties each set their own amount and it varies between \$100 to \$200. Douglas County which includes Omaha, the largest area of half a million people, had less than 35 girls use the bypass in 1996.
- 3) Girls on AFDC since 1990: 1990 = 106; 1991 = 228; 1992 = 257; 1993 = 251; 1994 = 181; 95 = 159 96 = 142.

State	Teen Abortions		Teen Pregnancies		Live Births to Teens		Bypass Process	Fiscal Impact
	Number	Rate*	Number	Rate*	Number	Rate*		
Pennsylvania 1 parent consent <u>Date Implemented</u> May 1994	1) 13.1% drop from '93 to '94. 12.3% drop from '94 - '95.	2)	7% drop from '94 to '95.		4.4% drop from '94 to '95		Common Pleas Ct with appeal to Superior Ct 3) see below	Welfare has been dropping steadily the last few years and there was no temporary blip in case loads after law went into effect. <i>MJ Dept. of Public Welfare</i>

* rate = per 1000 teen girls

Notes

- 1) The actual number of minors' abortions decreased each year as follows: 1230 in 1992; 997 in 1994 and down to 900 in 1995.
- 2) In Allegheny County alone, one of the two largest counties in Pennsylvania, the abortion rate per 1000 teen girls fell from 35.53 per 1000 in 1985 to 16.65 in 1995. The teen pregnancy rate fell from 60.38 per 1000 girls in 1985 to 42.67 in 1995. Although there was a drop in the teen girl population from 65,000 to 54,000 between 1985 and 1989, the teen girl population remained consistently at 54,000 to 55,000 from 1989 to the present. *Pittsburgh Tribune Review, 2/13/97.*
- 3) Administrator of the Juvenile Court said they don't compute costs. Only operational costs of filling out forms & scheduling is involved. The operational costs would be there whether girls came for a hearing or not. Paperwork, etc. is done through court intake department and takes 10 or 15 minutes maximum. They are not overwhelmed with bypass requests. The Court Intake supervisor in Allegheny County (1.6 million people) estimates 2 girls per week (100 girls per year) use the bypass process. A court hearing takes 10 minutes and is held within 2 days of paperwork processing. No more than 1/2 hour total time is expended.

FROM: HUMAN LIFE FAX NO.: 831-1198 PHONE NO.: 831-1198

To: All Members of House Finance Committee

From: Peggy Seeley
P.O. Box 61661
Fairbanks, AK 99706
(907)479-5902

Date 4/7/97

Re: SB 24, Parental Consent Bill

Dear House Members:

Please support SB24. As a mother of a minor daughter, I insist on exercising my rights as a mother to help my daughter make any decisions which affect her health and emotional and spiritual well-being. Abortion can be and often is a dangerous procedure for the mother. Young women can die or suffer mutilation during elective abortions. Some end up with a perforated uterus or worse.

Parents are the natural allies and advocates of their children. Parental consent helps maintain the strong bond between parent and child. That is why over 38 states have passed such laws.

Restore the bill to cover all minor girls under the age of 18, not under 16 as amended. Put the teeth back into the bill!

Thank you,

Peggy Seeley

*please fax to 1
907-522-78*

Carol Nelson



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance
COMMITTEE NAME

COMMITTEE ON SB 24 DATED 4/09/97
BILL/SUBJECT

I'm going to read part of an article found in a '96 issue of "Defenders" Newsletter put out by the Christian Legal Society of Virginia.

It's about a Californian law that prevents doctors there from performing an abortion on unmarried teenagers without the consent of a parent or a court order.

Even though it's a Californian law we could use this for justification for having the same or a similar law here in Alaska.

It's entitled (see copy; I didn't read across out parts)

I hope that you pass a similar law soon in Alaska.

SIGNED Carol M. Nelson
TESTIFIER

REPRESENTING (OPTIONAL) (member of Interior Right To Life)

ADDRESS/PHONE NUMBER 309 Shannon Drive Fairbanks, Alaska 99701
(907) 452-7835



**NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER**

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

Testimony Regarding

SB 24 - PARENTAL CONSENT FOR ABORTION

**Before the
FINANCE COMMITTEE
ALASKA SENATE
April 9, 1997**

**Presented by
Angela M. Salerno, ACSW
Executive Director,
National Association of Social Workers Alaska Chapter**



NATIONAL ASSOCIATION OF SOCIAL WORKERS ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

The National Association of Social Workers (NASW) is the world's largest organization of professional social workers. NASW's 155,000 members nationwide and 460 in Alaska work in a wide range of settings at all levels in the public and private sectors. Professional social workers focus on vulnerable populations and promote state and federal policies which enhance the lives of the people we serve.

Thank you for the opportunity to address the Committee on SB 24 - Parental Consent for Abortion.

NASW opposes SB 24 and does not recommend its passage.

A pregnant woman's constitutional right to choose between childbirth and abortion was established in 1973 by the Supreme Court's landmark ruling in *Roe V. Wade*. All women, including those under 18, are entitled to a safe, legal abortion.

Of the more than one million teenage pregnancies that occur in the United States each year, over 80 percent are unintended. Nearly all pregnant teens are unwed, and some 40% of them choose abortion. The bill before you will require that young women seeking to terminate an unwanted pregnancy receive the permission of parents, guardians or the court before receiving a safe, legal abortion.

This proposal will not act to promote desirable parental consultation. Ideally, a teenager should be able to tell her parents about her pregnancy, obtain their love and support and arrive at critical decisions about her future through family discussions. In fact, the majority of pregnant teenagers do tell at least one parent about their pregnancies. Based on a national survey of more than 1,600 unmarried minors having abortions in states without parental consent laws, 61% discussed the decision to have an abortion with at least one of their parents. The younger the minor, the more likely she was to have voluntarily discussed the abortion with her parents.

Parental involvement laws do not strengthen family relationships. The need to reinforce family relationships is the reason most often cited to justify state laws requiring parental consent before abortion. But such laws are unnecessary for stable and supportive families, and they are ineffective and cruel for unstable, troubled families. Some teenagers cannot tell their parents. Some are victims of incest or other forms of family violence - one study showed that 14% of minors having abortions believed that, if forced to tell their parents about their pregnancies, they would face physical abuse, and 11% feared violence between their parents. Mandatory parental consent cannot transform abusive families into supportive ones.

Mandating parental involvement poses health risks to teenagers. Young women already are more likely than older women to have later abortions, and parental involvement laws only cause further delays either because of fears of telling their parents or because of the inevitable delays in going to court for a judicial bypass hearing. While abortion at all stages of pregnancy is safer than childbirth, the risk of major complications increases 15 - 30% per week. Statistics compiled by the Federal Centers for Disease Control indicate that the risk of death from childbirth is, on average, 24 times higher than the risk of death from abortion up to 12 weeks of pregnancy. Following enactment of Minnesota's parental notification laws, second-trimester abortions among minors increased by 18%. Minors who cannot obtain an abortion in their small towns or villages must travel to other sites to have the procedure, are forced to carry their pregnancies to term, or resort to illegal abortion. Under Minnesota notification statute, the birth rate in Minneapolis for 15 - 17 year olds rose 38%. The American Medical Association has long recognized that parental notification and consent requirements deter minors from seeking necessary health care. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since the Supreme Court recognized the constitutional right to abortion in 1973. Further, the AMA believes some minors may be physically or emotionally harmed if required to involve a parent in the abortion decision.

Teenagers faced with the choice between childbirth and abortion can make a responsible decision without parents or courts. The American Psychological Association has found that minors are usually able to make intelligent, informed decisions about pregnancy. Even young women from severely troubled families often show great maturity and sensitivity when seeking confidential birth services.

A judicial bypass option is inadequate and discriminatory in Alaska. Young women using this procedure often experience fear, anxiety and shame as they are forced to reveal detail of their private lives to strangers in the courtroom. Mandatory representation by the currently overburdened Office of Public Advocacy will surely result in delays or inadequate representation. In rural Alaska, confidentiality will be severely compromised as a young woman will most likely be recognized by the judge or other court personnel.

In Alaska, the courts are moving toward assigning teenagers greater responsibility for their actions, not imposing further restrictions. During the last legislative session lawmakers were successful in passing laws to treat certain juvenile offenders as adults. In the 20th Legislature, bills have been introduced to remove the protections of immaturity from teenagers who commit minor offenses. It is unfair to treat pregnant teens differently with proposals to strip personal responsibility in decisions about reproductive matters.

Parental consent laws are an unconstitutional attack on a women's right to abortion, and in Alaska, on an individual's right to privacy. *Roe v. Wade* entitled all women to legal, safe abortion. Parental consent as well as other provisions of SB 24 such as the creation of civil liability for performing abortion, are barriers manufactured to interfere with this constitutional guarantee. Should this bill become law in Alaska, there will most certainly be court challenges, as the Constitution of the State of Alaska specifically guarantees each citizen the right to privacy.

While NASW supports strong families and believes that parents have profound interests in their children's well-being, in the case of pregnancy, a teenager's privacy rights must be paramount. Courts have found that teenagers who want to keep their pregnancies a secret almost always have sound reasons. When there is a reason to expect an extremely abusive parental reaction to a young woman's unplanned pregnancy, her right to privacy must come first since she is in the best position to know whether or not she is in danger. A legislature that is unfamiliar with a young woman's particular situation is not in a position to force her to involve her parents. Where abortion is concerned, privacy can be a life or death matter for teenagers.

In acknowledging and affirming the social work profession's commitment to respecting diverse value systems in a pluralistic society, we recognize that the issue of abortion is controversial because it reflects the different value systems of different groups. Consequently, NASW does not take a position concerning the morality or immorality of abortion.

NASW's position concerning abortion services is based on the principle of self-determination. Every individual must be free to participate or not participate in abortion services. In the event that a woman choose abortion the following services should be available to her:

- *counseling and referral provided by professionally trained staff who are knowledgeable of the social and psychological dynamics of unwanted pregnancy and abortion*
- *safe surgical care, including pre- and post-operative services*
- *counseling regarding the use of contraception and the prevention of unwanted pregnancies*
- *provision of appropriate contraceptive devices. These devices should be available to all women.*



Alaska State Legislature

Please enter into the record my testimony to the House Finance Com.
committee name

committee on SB 24 . dated Apr. 9, 1997
bill/subject

Please support SB 24.

I believe parental consent should be mandatory. Too often, young girls are taken advantage of or are pushed into an abortion that later they come to regret. when eventually they learn more of the facts and consequences of having the abortion.

Signed: Alan L. Berry
Testifier

self
Representing (Optional)

P.O. Box 1008, Kasiloq, Ak. 99610
Address

260-3887
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Finance
 committee name
 committee on SB 24, dated 4-9-97
 bill/subject

Please support SB 24 I was once the victim of an unwanted abortion, coerced by the baby's father to accomodate his fears of fatherhood. He was my husband of two months. The public health nurse in Kenai, Alaska also encouraged the abortion after delivering the positive results of the pregnancy test. I was never informed about alternatives or the physical and emotional risks, neither was the surgery explained at all. Of course, my immediate family, my parents included, never knew. Even though I was newly married, given the support of loving parents to help me make my decision, as well as their wisdom about getting accurate medical information, instead of the pressure to hurry and abort from the only two individuals who knew, I probably would not have chosen the abortion. It has taken many years to recover from this devastating experience. The loss of a child, the regret, the guilt are now a permanent part of my life.

A teen should never approach a decision about abortion abruptly and without adult supervision, especially from those who care most about her, i.e., her parents. Many teens have died in this country. Many more are suffering from infertility, breast cancer, self-abuse and thoughts of suicide. Parental consent is not aimed at obstructing privacy or rights, as if abortions were beneficial in some way, but is necessary to protect minors' vulnerability to coercion, unscrupulous doctors and the trauma of a medical procedure that takes a life and threatens the well-being of the patient.

Signed: Rubica L Perry
 Testifier
Kenai/ Soldotna Right to Life
 Representing (Optional)
PO Box 3623, Soldotna 99669
 Address
(907) 260-3887
 Phone No.



House Finance Committee

SUBJECT OF MEETING:
SB 24

DATE: April 9, 1997

PLACE: CAPITAL 519

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ Amy Skilbred	AKCLU	4477 Abbey Way Juneau	99801	780-4649		(Y) N	SB 24
✓ Carla Timpona	AK WOMEN'S LOBBY	211 4th St #108 Juneau	99801	463-6744	463-6744	(Y) N	SB 24
✓ SID HEIDERSDORF	SELF	Box 459, JUNEAU.	99802	789-9558		(Y) N	SB 24
✓ John F Monagle	AK FOR LIFE A FOR L	PO BOX 210527 ANCHORAGE	99821	789-5910	same	(Y) N	SB 24
✓ Peto Nakamura	DHSS	Juneau			3090	(Y) N	SB 24
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



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THE FULL STORY

Court reinstates Montana abortion law

By LAURIE ASSEO
The Associated Press
03/31/97 1:02 PM Eastern

WASHINGTON (AP) - The Supreme Court today reinstated a Montana law that requires unmarried girls to notify a parent or get a judge's approval before undergoing an abortion.

The court ruled that the law is valid despite arguments by abortion rights advocates that it does not let judges decide an abortion would be in a girl's best interest.

Montana's law says judges can approve an abortion without notifying either parent if a girl shows that such notice is against her best interest.

Today's unsigned decision noted that past rulings on parental-notification laws assumed that a judicial finding that parental notice is not in a girl's best interest is the same as finding that abortion without notification is in her best interest.

The court's main opinion said the Montana law makes no distinction between the two.

In a concurring opinion, Justice John Paul Stevens said, "It is surely appropriate to assume that the Montana provision also requires the court to authorize the minor's consent whenever the abortion is in her best interests."

Justices Ruth Bader Ginsburg and Stephen G. Breyer joined Stevens' opinion.

Simon Heller of the Center for Reproductive Law and Policy, representing the doctors who sued, said he was disappointed in the ruling but that the doctors will continue to challenge the law on other grounds.

Montana agreed in 1993 not to enforce its law requiring unmarried girls under 18 to tell a parent before undergoing an abortion, because it did not provide the option of going to court.

Two years later, lawmakers enacted a new law that let girls avoid telling a parent by getting a judge's permission instead.

A judge could give permission if a girl was mature enough to decide whether to have an abortion, if there was evidence that a parent abused her, or if notifying a parent would not be in her best interest.

Eleven other states have parental-notification laws with similar judicial bypass procedures. They are Arkansas, Delaware, Georgia, Illinois, Iowa, Kansas, Minnesota, Nebraska, Nevada, Ohio and West Virginia.

Some other states require parental consent, most with a judicial bypass based on a showing that an abortion would be in the girl's best interest.

showing that an abortion would be in the girl's best interest.

A group of doctors challenged Montana's law in federal court. They argued that it often would be easier to prove an abortion would be in a girl's best interest than to show that telling a parent would be against her interest.

A federal judge ruled the law unconstitutional, and the 9th U.S. Circuit Court of Appeals agreed.

The Supreme Court in 1989 upheld an Ohio parental-notification law that required girls seeking a court order to prove parental notification would not be in their interest. The decision treated that language as though it were the same as a requirement to prove that the abortion itself was in the minor's best interest.

In the appeal acted on today, Montana lawyers said the 9th Circuit court should have followed court rulings that upheld similar laws in other states.

The case is Lambert vs. Wicklund, 96-858.

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MARTIN D. LAMBERT, GALLATIN COUNTY ATTORNEY

v.

SUSAN WICKLUND ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 96-858.

Decided March 31, 1997

PER CURIAM.

Before a minor has an abortion in Montana, one of her parents must be notified. A waiver, or "judicial bypass," of the notification requirement is allowed if the minor can convince a court that notification would not be in her best interests. The Court of Appeals for the Ninth Circuit struck down Montana's parental notification law as unconstitutional, holding that the judicial bypass did not sufficiently protect the right of minors to have an abortion. Because the Ninth Circuit's holding is in direct conflict with our precedents, we grant the petition for a writ of certiorari and reverse.

In 1995, Montana enacted the Parental Notice of Abortion Act. The Act prohibits a physician from performing an abortion on a minor unless the physician has notified one of the minor's parents or the minor's legal guardian 48 hours in advance. Mont. Code Ann. § 50-20-204 (1995). [FN1] However, an "unemancipated" minor [FN2] may petition the state youth court to waive the notification requirement, pursuant to the statute's "judicial bypass" provision. § 50-20-212 (quoted in full in an Appendix to this opinion). The provision gives the minor a right to court-appointed counsel, and guarantees expeditious handling of the minor's petition (since the petition is automatically granted if the youth court fails to rule on the petition within 48 hours from the time it is filed). §§ 50-20-212(2)(a), (3). The minor's identity remains anonymous, and the proceedings and related documents are kept confidential. § 50-20-212(3).

If the court finds by clear and convincing evidence that any of the following three conditions are met, it must grant the petition and waive the notice requirement: (i) the minor is "sufficiently mature to decide whether to have an abortion"; (ii) "there is evidence of a pattern of physical, sexual, or emotional abuse" of the minor by one of her parents, a guardian, or a custodian; or (iii) "the notification of a parent or guardian is not in the best interests of the [minor]." §§ 50-20-212(4)-(5) (emphasis added). It is this third condition which is at issue here.

Before the Act's effective date, respondents-several physicians who perform abortions, and other medical personnel-filed a complaint seeking a declaration that the Act was unconstitutional and an order enjoining its enforcement. The District Court for the District of Montana, addressing only one of respondents' arguments, held that the Act was unconstitutional because the third condition set out above was too narrow.

According to the District Court, our precedents require that judicial bypass mechanisms authorize waiver of the notice requirement whenever "the abortion would be in [the minor's] best interests," not just when "notification would not be in the minor's best interests." App. to Pet. for Cert. 17a (emphasis in original) (citing *Bellotti v. Baird*, 443 U.S. 622, 640-642 (1979) (plurality opinion)). Three days before the Act was to go into effect, the District Court enjoined its enforcement.

The Court of Appeals affirmed, stating that it was bound by its prior decision in *Glick v. McKay*, 937 F. 2d 434 (1991) [App. to Cert. Pet. 37a]. See *Wicklund v. Salvagni*, 93 F. 3d 567, 571-572 (1996). *Glick* struck down Nevada's parental notification statute which, like Montana's statute here, allowed a minor to

bypass the notification requirement if a court determined that the notification would not be in the minor's best interests. The court's conclusion was based on its analysis of our decisions in *Bellotti v. Baird*, 443 U.S. 622 (1979), and *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990) (*Akron II*).

In *Bellotti*, we struck down a statute requiring a minor to obtain the consent of both parents before having an abortion, subject to a judicial bypass provision, because the judicial bypass provision was too restrictive, unconstitutionally burdening a minor's right to an abortion. 443 U. S., at 647 (plurality opinion); *id.*, at 655-656 (STEVENS, J., concurring in judgment). The Court's principal opinion explained that a constitutional parental consent statute must contain a bypass provision that meets four criteria: (i) allow the minor to bypass the consent requirement if she establishes that she is mature enough and well enough informed to make the abortion decision independently; (ii) allow the minor to bypass the consent requirement if she establishes that the abortion would be in her best interests; (iii) ensure the minor's anonymity; and (iv) provide for expeditious bypass procedures. *Id.*, at 643-644 (plurality opinion). See also *Akron II*, 497 U. S., at 511-513 (restating the four requirements).

In *Akron II*, we upheld a statute requiring a minor to notify one parent before having an abortion, subject to a judicial bypass provision. We declined to decide whether a parental notification statute must include some sort of bypass provision to be constitutional. *Id.*, at 510. Instead, we held that this bypass provision satisfied the four *Bellotti* criteria required for bypass provisions in parental consent statutes, and that a fortiori it satisfied any criteria that might be required for bypass provisions in parental notification statutes.

→ Critically for the case now before us, the judicial bypass provision we examined in *Akron II* was substantively indistinguishable from both the Montana judicial bypass provision at issue here and the Nevada provision at issue in *Glick*. See 497 U. S., at 508 (summarizing Ohio Rev. Code Ann. § 2151.85 (1995)). The judicial bypass provision in *Akron II* allowed a court to waive the notification requirement if it determined by clear and convincing evidence "that notice is not in [the minor's] best interests" (not that an abortion is in her best interests). *Ibid.* (emphasis added) (citing Ohio Rev. Code § 2151.85(A)(4)). And we explicitly held that this provision satisfied the second *Bellotti* requirement, that "the procedure must allow the minor to show that, even if she cannot make the abortion decision by herself, 'the desired abortion would be in her best interests.'" *Id.*, at 511 (quoting *Bellotti*, *supra*, at 644).

Despite the fact that *Akron II* involved a parental notification statute, and *Bellotti* involved a parental consent statute; [FN3] despite the fact that *Akron II* involved a statute virtually identical to the Nevada statute at issue in *Glick*; and despite the fact that *Akron II* explicitly held that the statute met all of the *Bellotti* requirements, the Ninth Circuit in *Glick* struck down Nevada's parental notification statute as inconsistent with *Bellotti*:

"Rather than requiring the reviewing court to consider the minor's 'best interests' generally, the Nevada statute requires the consideration of "best interests" only with respect to the possible consequences of parental notification. The best interests of a minor female in obtaining an abortion may encompass far more than her interests in not notifying a parent of the abortion decision. Furthermore, in *Bellotti*, the court expressly stated, '[i]f, all things considered, the court determines that an abortion is in the minor's best interests, she is entitled to court authorization without any parental involvement.' *Bellotti*, 443 U.S. at 648 (emphasis added). Therefore, the Nevada statute impermissibly narrows the *Bellotti* 'best interests' criterion, and is unconstitutional." 937 F. 2d, at 439.

Based entirely on *Glick*, the Ninth Circuit in this case affirmed the District Court's ruling that the Montana statute is unconstitutional, since the statute allows waiver of the notification requirement only if the youth court determines that notification-not the abortion itself-is not in the minor's best interests. 93 F. 3d, at 572.

As should be evident from the foregoing, this decision simply cannot be squared with our decision in *Akron II*. The Ohio parental notification statute at issue there was indistinguishable in any relevant way

from the Montana statute at issue here. Both allow for judicial bypass if the minor shows that parental notification is not in her best interests. We asked in Akron II whether this met the Bellotti requirement that the minor be allowed to show that "the desired abortion would be in her best interests." We explicitly held that it did. 497 U. S., at 511. Thus, the Montana statute meets this requirement, too. In concluding otherwise, the Ninth Circuit was mistaken.

Respondents (as did the Ninth Circuit in Glick) place great emphasis on our statement in Akron II, that "[t]he statute requires the juvenile court to authorize the minor's consent where the court determines that the abortion is in the minor's best interest." 497 U. S., at 511 (emphasis added) (citing Ohio Rev. Code Ann. § 2151.85(C)(2)). But since we had clearly stated that the statute actually required such authorization only when the court determined that notification would not be in the minor's best interests, it is wrong to take our statement to imply that the statute said otherwise. Rather, underlying our statement was an assumption that a judicial bypass procedure requiring a minor to show that parental notification is not in her best interests is equivalent to a judicial bypass procedure requiring a minor to show that abortion without notification is in her best interests, as the context of the opinion, the statutory language, and the concurring opinion all make clear. [FN4]

Respondents, echoing the Ninth Circuit in Glick, claim that there is a constitutionally significant distinction between requiring a minor to show that parental notification is not in her best interests, and requiring a minor to show that an abortion (without such notification) is in her best interests. See Brief in Opposition 12-13; 937 F. 2d, at 438-439. But the Montana statute draws no such distinction, and respondents cite no Montana state court decision suggesting that the statute permits a court to separate the question whether parental notification is not in a minor's best interest from an inquiry into whether abortion (without notification) is in the minor's best interest. As with the Ohio statute in Akron II, the challenge to the Montana statute here is a facial one. Under these circumstances, the Ninth Circuit was incorrect to assume that Montana's statute "narrow[ed]" the Bellotti test, 937 F. 2d, at 439, as interpreted in Akron II.

Because the reasons given by the District Court and the Ninth Circuit for striking down the Act are inconsistent with our precedents, we grant the petition for a writ of certiorari and reverse the judgment of the Ninth Circuit.

It is so ordered.

APPENDIX

Mont. Code Ann. § 50-20-212 (1995):

"(1) The requirements and procedures under this section are available to minors and incompetent persons whether or not they are residents of this state.

"(2) (a) The minor or incompetent person may petition the youth court for a waiver of the notice requirement and may participate in the proceedings on the person's own behalf. The petition must include a statement that the petitioner is pregnant and is not emancipated. The court may appoint a guardian ad litem for the petitioner. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the petitioner of the right to court-appointed counsel and shall provide the petitioner with counsel upon request.

"(b) If the petition filed under subsection (2)(a) alleges abuse as a basis for waiver of notice, the youth court shall treat the petition as a report under 41-3-202. The provisions of Title 41, chapter 3, part 2, apply to an investigation conducted pursuant to this subsection.

"(3) Proceedings under this section are confidential and must ensure the anonymity of the petitioner. All proceedings under this section must be sealed. The petitioner may file the petition using a pseudonym or using the petitioner's initials. All documents related to the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the petitioner. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the notice requirement is waived.

"(4) If the court finds by clear and convincing evidence that the petitioner is sufficiently mature to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the notification of a parent or guardian.

"(5) The court shall issue an order authorizing the petitioner to consent to an abortion without the notification of a parent or guardian if the court finds, by clear and convincing evidence, that:

"(a) there is evidence of a pattern of physical, sexual, or emotional abuse of the petitioner by one or both parents, a guardian, or a custodian; or

"(b) the notification of a parent or guardian is not in the best interests of the petitioner.

"(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

"(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

"(8) The supreme court may adopt rules providing an expedited confidential appeal by a petitioner if the youth court denies a petition. An order authorizing an abortion without notice is not subject to appeal.

"(9) Filing fees may not be required of a pregnant minor who petitions a court for a waiver of parental notification or appeals a denial of a petition."

JUSTICE STEVENS, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

We assumed in *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990) (*Akron II*), that a young woman's demonstration that an abortion would be in her best interest was sufficient to meet the requirements of the Ohio statute's judicial bypass provision. In my view, that case requires us to make the same assumption here. Whether that is a necessary showing is a question we need not reach.

In *Akron II*, we upheld a statute authorizing a judicial bypass of a parental notice requirement on the understanding that Ohio Rev. Code Ann. § 2151.85(C)(2) (1995) required the juvenile court to authorize the procedure whenever it determined that "the abortion is in the minor's best interest," *id.*, at 511. Given the fact that the relevant text of the Montana statute at issue in this case, Mont. Code Ann. § 50-20-212(5)(b) (1995), is essentially identical to the Ohio provision, coupled with the fact that the Montana Attorney General has advised us that "the best interests standard in § 50-20-212(5)(b) [is] either identical to or substantively indistinguishable from the best interests" provision construed in *Akron II*, *Pet. for Cert.*

7, it is surely appropriate to assume that the Montana provision also requires the court to authorize the minor's consent whenever the abortion is in her best interests. So understood, the Montana statute is plainly constitutional under our ruling in *Akron II*. Because the Court of Appeals erroneously construed the statute in a manner that caused that court to hold the statute unconstitutional, I agree with the majority that the judgment below should be reversed. [FN*]

While a showing that an abortion is in a young woman's best interest is therefore sufficient to satisfy the Montana judicial bypass provision as we understood an analogous statute in *Akron II*, I do not think the Court need address whether the Montana statute can be properly understood to make such a demonstration a necessary requirement. My colleagues suggest that the statute requires a minor "to show that abortion without notification is in her best interests," ante, at 6 (emphasis omitted). To the extent this language indicates that a young woman must demonstrate both that abortion is in her best interest and that notification is not, I think that question is best left for another day. I note, however, that the plain language of the statute makes passably clear that a showing that notification is not in the minor's best interest is alone sufficient. See Mont. Code Ann. § 50-20-212(5)(b) (1995) ("[t]he court shall issue an order authorizing the petitioner to consent to an abortion without the notification of a parent ... if the court finds, by clear and convincing evidence, that ... the notification of a parent ... is not in the best interests of the petitioner").

Although I therefore do not agree with all of the Court's reasoning, I concur in the majority's view that the judgment of the Court of Appeals must be reversed.

FN1. Section 50-20-204 provides in relevant part: "A physician may not perform an abortion upon a minor or an incompetent person unless the physician has given at least 48 hours' actual notice to one parent or to the legal guardian of the pregnant minor or incompetent person of the physician's intention to perform the abortion.... If actual notice is not possible after a reasonable effort, the physician or the physician's agent shall give alternate notice as provided in 50-20-205." Section 50-20-205 provides for notice by certified mail. The notice requirement does not apply if "a medical emergency exists and there is insufficient time to provide notice." Mont. Code Ann. § 50-20-208(1) (1995).

FN2. " 'Emancipated minor' means a person under 18 years of age who is or has been married or who has been granted an order of limited emancipation by a court...." § 50-20-203(3).

FN3. See *Bellotti*, 443 U. S., at 654, n. 1 (STEVENS, J., concurring in judgment) ("[T]his case [does not] determin[e] the constitutionality of a statute which does no more than require notice to the parents, without affording them or any other third party an absolute veto").

FN4. See 497 U. S., at 517 ("if she can demonstrate that her maturity or best interests favor abortion without notifying one of her parents"); *id.*, at 522 (STEVENS, J., concurring in part and concurring in judgment) ("Although it need not take the form of a judicial bypass, the State must provide an adequate mechanism for cases in which the minor is mature or notice would not be in her best interests") (emphasis added); Ohio Rev. Code Ann. § 2151.85(C)(2) (1995) ("[I]f the court finds, by clear and convincing evidence, ... that the notification of the parents, guardian, or custodian of the [minor] otherwise is not in the best interest of [the minor], the court shall issue an order authorizing the [minor] to consent to the performance or inducement of an abortion without the notification of her parents, guardian, or custodian"). See also *Hodgson v. Minnesota*, 497 U.S. 417, 497 (1990) (KENNEDY, J., concurring in judgment in part and dissenting in part) (interpreting Minnesota judicial bypass procedure which requires minor to show that "an abortion ... without notification of her parents, guardian, or conservator would be in her best interests," Minn. Stat. § 144.343(6) (1988) (emphasis added), as authorizing exemption from strictures of parental notification scheme in "those cases in which notification of the minor's parents is not in the minor's best interests") (emphasis added).

FN*. Our reading of the statute in Akron II appropriately recognized that the two inquiries at issue here-whether an abortion is in a young woman's best interest, and whether notifying a minor's parents of her desire to obtain an abortion is in her best interest-are sometimes linked. For example, if a judge finds after careful assessment of all the circumstances that the abortion a young woman seeks would be in her best interest, and determines that notifying her parents is both opposed by the young woman and would likely cause her to be deterred from pursuing the treatment decision that would serve her best, then parental notification is assuredly not in her best interest. Under such circumstances, the proper course for the trial judge would be to permit the abortion without notification.

END OF DOCUMENT

RENE S. LOHKAMP, M.D.
BOARD CERTIFIED IN FAMILY PRACTICE



1200 AIRPORT HEIGHTS DRIVE, SUITE 27B
ANCHORAGE, ALASKA 99508
TELEPHONE: (907) 272-3366
FAX: (907) 272-0269

February 16, 1997

Reference: S.B. 24

Dear Senator Leman:

I am a physician in private practice specializing in family medicine. I naturally treat many children and adolescents on a daily basis. I need parental consent in order to even evaluate a minor, much less perform a procedure.

It is totally incongruous to me that our State should allow an abortion to be performed upon an adolescent or younger child without parental consent. I have found that children even as old as 18 frequently cannot tell me their drug allergies or other details of their medical history.

Teens and preteens tend to be short sighted in highly stressful situations for many reasons, such as fear of immediate consequences, with less appreciation of long term consequences. I have counseled teens with a crisis pregnancy. Abortion at those times is a quick fix; risks seem unimportant and something that "won't happen to me."

An unemancipated teen requires parental consent to allow me to pierce their ears or take off a mole-very minor procedures which are relatively very low risk. Abortion has serious potential risks that can affect a young girl well into her adulthood. As you know, in addition to the immediate risk of infection, bleeding and perforation, there are long term effects such as the increased risk of ectopic pregnancy and infertility, and possibly even an increased risk of breast cancer-not to mention the possibility of a post traumatic stress type syndrome which frequently occurs as late as 7-12 years after abortion.

Parents must be required to consent to operative procedures performed upon their children-abortion certainly should not be an exception. There is of course judicial bypass for children who are truly endangered by parental disclosure.

There is another effect upon public health which parental consent for abortion has repeatedly caused, that should not be minimized. States which require parental consent have lower teen pregnancy rates. Isn't it time to do something that will lower the teen pregnancy rate for a change.

Sincerely yours,

A handwritten signature in cursive script that reads "Irene Lohkamp, MD".

Irene Lohkamp, M.D.

LOUIS E. MAYER, M.D., A.P.C.
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LOUIS E. MAYER, M.D., A.P.C.
Diplomate, American Board of Family Practice

CHARLES E. MANWILLER, M.D.
Diplomate, American Board of Family Practice

Senator Loren Leman
Alaska State Capitol Building
Room 115
Juneau, Alaska 99801

February 18, 1997

Dear Senator Leman:

My name is Charles Manwiller, M.D. I have practiced medicine in Anchorage since 1965; I delivered babies until ten years ago. I am a family doctor.

I am writing to state my position on Senate Bill 24. It is my understanding that this bill will facilitate the involvement of parents in the decision of a teenage girl (under age 18) to have an abortion. I am in favor of this legislation for the following reasons:

1. An abortion is not without potential complications. A girl's parents have a responsibility to know about and approve a procedure which has medical and emotional impact on a minor daughter.

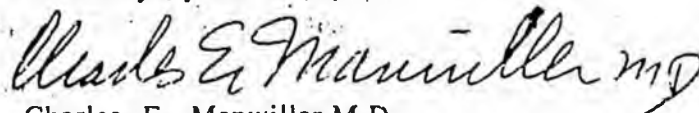
2. Confidentiality between child and parent, though applicable in the arena of sexually transmitted disease, should be waved in abortion. The parents need to know. Abortion involves the destruction of human life. The unborn baby might have infinite value as a future member of the family.

3. I propose that avoidance of parental involvement at this critical time in a teenager's life, while at the moment seemingly less threatening to the pregnant teen, ultimately is more divisive than constructive in the parent-daughter relationship.

4. Medical personnel are quite concerned about obtaining parental consent before treating a minor in almost every situation. Should an event containing the profound significance of an abortion be any less deserving of parental approval?

Thank you for your concern regarding this important family related issue.

Sincerely yours,


Charles E. Manwiller, M.D.

Robert G. Thompson, M.D., F.A.C.O.G.

*Reproductive Surgeon - Society of Reproductive Surgeons
Diplomate - American Board of Obstetrics and Gynecology*

FAX: (907) 465-3973

Catherine A. Thompson, R.N., M.S.N.

Advanced Nurse Practitioner

February 18, 1997

The Honorable Loren Leman
Senator - State of Alaska
Juneau, Alaska 99811

ATTENTION: Mike Pauley

Re: Written Testimony
SB 24 and HB 37

Dear Senator Leman and Judiciary Committee Members:

My name is Robert Thompson. I am a physician and surgeon specializing in obstetrics, gynecology, infertility, and reproductive surgery. I've read numerous other testimonies of other physicians, colleges, societies, and organizations regarding the issue of parental consent for minors before proceeding with an elective surgical procedure, in this case, as an "abortion." There seems to be three major objections physicians and various organizations have in regards to accepting this bill.

First, the legal obligations and consequences of violating this obligation. Being a practicing physician does not exempt physicians of the numerous and extensive responsibilities to the law and the numerous consequences for violations to such responsibility within the practice of medicine. Any argument with regards to criminalization versus aspects of practicing medicine need only to be considered in this light. It is difficult for me to understand why a surgical procedure such as abortion could have ever come to be considered an exempt procedure for parental consent when its consequences can include significant life-threatening and permanent complications which could include death, sterility, infection, and psychological difficulties. While these complications are usually considered to be fairly rare, they exist. The treatment of complications after an abortion is completed would also require parental consent, therefore, I feel it is in the best interest of a physician practicing medicine to involve a responsible guardian or parent in the consent for this surgical procedure.

The second objection involves physician concerns about breach of confidentiality. Again, this is an exceedingly weak argument and continues to be so in all levels of the practice of medicine. It remains the patient's (what is the teenager) responsibility to inform and involve the parents with regards to the diagnosis and treatment of this medical problem.

A Professional Corporation, 4001 Dale Street, Suite 117, Anchorage, Alaska 99508
(907) 562-5328, FAX (907) 562-4363, Fertility (907) 562-3567



Senator Loman ob al:
February 18, 1997
Page Two

As a loving father, I cannot imagine not being able to be there to support and help with my daughter's decisions in this regard. While I recognize that this is not the attitude that all parents take, I have to believe it is the ideal and standard with which society should expect from parents, not an attitude of judgement.

In summary, in no place in this bill does the confidentiality of the physician/patient relationship necessarily have to be abridged by the physician. It remains the minor(s) responsibility to be involved with the parent(s) or legal guardian and the court when such a decision regarding this surgical procedure is deemed necessary.

Finally, the question which has not been completely considered is that of "informed consent." The courts have consistently upheld the right of the parents to be responsible for medical care and decisions regarding their minor child(ren) with regards to surgical procedures. In a large manner, this may be considered to be contributed to by the ability of adults to help assure adequate, informed decisionmaking. Part of becoming an adult is learning to accept the consequences of our decisions. Part of being a parent is to allow our child(ren) to begin to make decisions and to learn to accept the consequences and responsibility for those decisions. Hopefully, this bill will stand on its own merit, continuing to re-inject a balance of responsibility on physicians and parents with regards to the impact of sexuality and teenage pregnancy on our society and to begin to respond accordingly.

I hope this information is helpful and encouraging to the adoption of this bill on the simple premise that parental guidance is desirable in our society.

Very truly yours,



Robert G. Thompson, M.D., FACOG
Reproductive Surgeon

P.S. I've left out all the statistics.

Revisor's notes. — Formerly AS 18.15.190. Renumbered in 1986.

Chapter 16. Regulation of Abortions.

Section

10. Abortions

Sec. 18.16.010. Abortions. (a) An abortion may not be performed in this state unless

(1) the abortion is performed by a physician or surgeon licensed by the State Medical Board under AS 08.64.200;

(2) the abortion is performed in a hospital or other facility approved for the purpose by the Department of Health and Social Services or a hospital operated by the federal government or an agency of the federal government;

(3) consent has been received from the parent or guardian of an unmarried woman less than 18 years of age; and

(4) the woman is domiciled or physically present in the state for 30 days before the abortion.

(b) Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

(c) A person who knowingly violates a provision of this section, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than five years, or by both.

(d) In this section, "abortion" means an operation or procedure to terminate the pregnancy of a nonviable fetus. (§ 65-4-6 ACLA 1940; am § 1 ch 103 SLA 1970; am § 22 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.15.060. Renumbered in 1978.

In 1986, the section was reorganized to conform to the style of the Alaska Statutes. Subsection (b) was formerly the last sentence of (a); subsection (c) was formerly (b); and subsection (d) was formerly the second sentence of (a).

Cross references. — For power of the State Medical Board to regulate abortion procedures, see AS 08.64.105.

Editor's notes. — For the constitutionality of statutes similar to this one, see *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973), *Doe v. Bolton*, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973), *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 96 S. Ct. 2831, 49 L. Ed. 2d 788 (1976), *Sendak v. Arnold*, 429 U.S. 968, 97 S. Ct. 476, 50 L. Ed. 2d 579 (1976), *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 103

S. Ct. 2481, 76 L. Ed. 2d 687 (1983), *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 106 S. Ct. 2169, 90 L. Ed. 2d 779 (1986), *Webster v. Reproductive Health Services*, 492 U.S. 490, 109 S. Ct. 5040, 106 L. Ed. 2d 410 (1989), *Hodgson v. Minnesota*, 497 U.S. 417, 110 S. Ct. 2926, 111 L. Ed. 2d 344 (1990), *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 110 S. Ct. 2972, 111 L. Ed. 2d 406 (1990), *Planned Parenthood of Southeastern Pennsylvania v. Casey*, U.S. , 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992). See also 1 Am. Jur. 2d, *Abortion and Birth Control*, § 3 and 1 C.J.S., *Abortion*, § 2.

Legislative history reports. — For report on ch. 103, SLA 1970 (CSSB 527 (HWE)), see 1970 Senate Journal Supplement No. 10; 1970 Journal Supplements Nos. 12 and 13. Also refer to the following relevant reports on abortion bills: 1970

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Girls, abortion and judicial bypass

Abortion is an issue with very little middle ground. Those who call themselves "pro-choice" favor it; those known as "pro-life" fight it at every turn. Rarely, if ever, do the two sides agree. And whenever an abortion-related bill comes up, the battle lines are drawn before the ink is dry.

Such, unfortunately, will probably be the case with Senate Bill 24, introduced recently by Sen. Loren Leman, an Anchorage Republican. His bill requires minors to obtain consent from a parent or guardian before getting an abortion. The provision also allows a minor to petition the courts for permission for the procedure without the consent of a parent or guardian.

The state currently has a parental consent law on the books. However, a 1976 opinion by the attorney general declared it unenforceable because the statute lacked a judicial bypass provision. Various Supreme Court decisions have held that such an option is necessary to meet constitutional muster. Sen. Leman's bill would fix the problem.

Regardless of one's emotional views on the subject, this bill simply follows a fairly logical extension of existing Alaska law. A minor cannot vote, buy cigarettes or be served alcohol. Should we, however, allow minors to get an abortion?

A minor under the age of 16 can't use a firearm unless obtaining consent from a parent; they can't get married without consent; and they can't get any major - or often times - minor medical procedure without parental consent. If one argues abortion is 'just a medical procedure,' then parental consent should be required here as well.

What one calls that which grows inside a woman - fetus, egg, child, it, tissue, or whatever - one point remains absolute. An abortion ends the life of a future human being. Such a decision should not be made by one scared young girl alone.

If an under-aged teen-ager needs permission for almost any medical procedure, how is an abortion different? And this law provides an outlet for those, for whatever reason allowable, who cannot obtain permission from their parents or guardians. The law allows for the courts to step in. However, courts must be extremely conservative in allowing this review. This is a matter left to the family except in extreme cases. It should not be an option available just because a girl doesn't want to face her parents.

JUNEAU EMPIRE[☆]

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Parental guidance vital in an abortion decision

There are many things a child in Alaska can't legally do without his or her parents' or guardians' permission. Some schools require permission to join on-campus extracurricular clubs or to participate in field trips. Young people need their parents' permission to have their ears pierced and doctors and hospitals in Alaska need permission from parents before performing almost every medical procedure on underage patients. Even so, the state has yet to have a viable law requiring parental permission before a child can obtain an abortion.

That is not right.

House Bill 37 and Senate Bill 24 would establish some sanity and reestablish parental responsibility when a teen considers abortion. The legislation requires a minor to obtain consent from a parent or guardian before she can obtain an abortion.

Pregnancy has serious ramifications, no matter what the age of the mother, and we would not presume to tell an adult woman how to deal with an unwanted pregnancy. However, the parents of a pregnant child should be involved in such a profound decision.

For a young teen-ager, an unwanted pregnancy can be devastating, the consequences overwhelming. Certainly there is no other more compelling situation where a young person needs the help and guidance of parents.

The effects of an abortion can also be harmful both physically and psychologically and making the choice can be confusing and difficult, even for mature adults.

Parents have the responsibility and the right to know what surgical procedures their teens are having and to give them guidance; the laws of our state should reflect that. This legislation does.

There are dysfunctional families where the teen might fear seeking help from misguided or abusive parents. This legislation provides for "judicial bypass," that allows a minor to petition the court for permission to have an abortion without the consent of the parent or guardian. But these cases are few and far between. The court, no matter how sympathetic, is a poor substitute for loving parents who only want what is right for their daughter's well-being. This provision, however, guarantees that some responsible adults will be involved in the decision when parents are not so loving or just won't get involved.

Legislators should pass this bill for the sake of Alaska's families and the welfare of young women, some not even old enough to legally drive, who need support and advice when making one of the most important decisions of their lives.

April 8, 1997

Dear Member of the House
Finance Committee,

Please support SB 24 the
bill requiring parental
consent before a minor
can obtain an abortion.

Please support the bill
for all minors under
the age of 18.

I am not in favor of
lowering the age to 16.

Sincerely,

Randy + Deborah
Speckels

HC 60, Box 226

Copper Center, AK.

99573

Legislative Affairs Agency
Fairbanks Legislative Information Office
119 N. Cushman Street ~ Suite 101
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(907)452-4448

To: House Finance Office Fax: 907-225-7182 Phone: _____

From: HR 110

Written Comments from

4/2/97 4:15 PM

Date Sent: 4/2/97 Time: 1:15 PM

Thank You,

Christianne

Christianne L. Zaverl
Information Assistant

Carol Nilson



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance
COMMITTEE NAME

COMMITTEE ON SB 24 DATED 4/09/97
BILL/SUBJECT

I'm going to read part of an article found in a '96 issue of "Defenders" Newsletter put out by the Christian Legal Society of Virginia.

It's about a Californian law that prevents doctors there from performing an abortion on unmarried teenagers without the consent of a parent or a court order.

Even though it's a California law we could use this for justification for having the same or a similar law here in Alaska.

It's entitled (see copy; I didn't read across out parts)

I hope that you pass a similar law soon in Alaska.

SIGNED Carol M. Nilson
TESTIFIER

REPRESENTING (OPTIONAL) (member of Interior Right)
to help

ADDRESS/PHONE NUMBER 309 Ashmun Drive Fairbanks, Alaska 99701
(907) 452-7835