

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9170 HOUSE JUDICIARY

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 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 18, 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 without the consent of a parent or guardian.

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- The existing definition of abortion under AS 18.16 (Regulation of Abortions) is repealed (replaced with new definition @ Sec. 18.16.090).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

Alaska State Legislature

REPRESENTATIVE
PETER KELLY
Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



While in Juneau
State Capitol
Juneau, Alaska
99901-1182
(907) 465-2327

House District 31

House Of Representatives

Sponsor Statement

CSHB 37

Parental Consent for Minor's Abortion

House Bill 37 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. HB 37 adds the necessary 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.

HB 37 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 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 required to be notified of the fact.

A clear majority of Alaskans (78%) 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.

Alaska State Legislature

REPRESENTATIVE

PETER KELLY

Mailing Address:

119 N. Cushman, Suite 203

Fairbanks, Alaska 99701

(907) 456-8161

Write in Juneau

State Capitol

Juneau, Alaska

99801-1182

(907) 465-2327

House District 31

House Of Representatives

Modified Sectional Analysis

House Bill 37

Parental Consent for Minor's Abortion

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 judgement.
- 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. The bill establishes a rebuttable presumption that an unmarried woman under 18 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 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 18, 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 without the consent of a parent or guardian.

New subsection (n) was added to Sec. 18.16.030 [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 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.

League of Women Voters of Anchorage

P. O. Box 101345, Anchorage, AK 99510-1345 (274-8477)

February 27, 1997

RECEIVED
MAR 04 1997

The Honorable Joe Green, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Green:

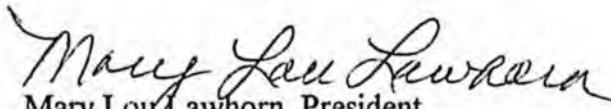
The League of Women Voters of Anchorage opposes CSHB37. This bill is poor public policy and we urge you to oppose it.

The judicial bypass procedure would not readily be available to minors. To have to apply to a court for the petition, places them in an unfamiliar setting with little assistance. Some minors may seek illegal abortions rather than face the process required by this legislation. Illegal abortions can result in damage to the reproductive system and have resulted in death. In addition, judicial bypass could be hazardous to the health of pregnant minors by delaying treatment until the second trimester.

There are many reasons a young woman might avoid disclosure of a pregnancy to a parent: Physical and mental abuse, cultural ostracism, incest, rape, and poverty are only a few. We should not erect barriers that prevent young people from seeking important health care.

The League of Women Voters believes in freedom of reproduction choice and the right to privacy. Again, we urge you to oppose CSHB37.

Sincerely yours,


Mary Lou Lawhorn, President
League of Women Voters of Anchorage



February 16, 1997

Reference: H.B. 37

Dear Representative Kelly:

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,


Irene Lohkamp, M.D.

Dr. Ilona J. Hodson Farr, M.D.
3945 Geneva Place
~~Anchorage AK 99508-5055~~

February 18, 1997

Representative Pete Kelly
Alaska State Capitol Building
Juneau AK 99801

Dear Representative Kelly:

~~I am a female family physician, practicing in Anchorage. I~~
I have been licensed to practice medicine since 1986. I am writing to offer my professional medical opinion in support of SB 24 and HB 37, which require parental consent for abortions in women under 18 years of age. I think it is very important for parents to be involved in this life changing process.

I think this would deter some teen pregnancies, as abortion could no longer be used as a secret form of birth control behind parent's backs. -- often teens are rushed into this procedure because of shock, fear, and time constraints and aren't aware of the true ramifications of this procedure.

Many teens seek abortions because of fear of parental reaction. Yes, parents are often initially shocked, angry, and embarrassed when their teens get pregnant; but most of them end up helping during and after pregnancy, and look forward to their grandchildren. Many teens want to keep their babies, but only choose abortion because of pressure from boyfriends or fear of parental reaction. Often it isn't what they truly want. Many end up pregnant again soon after an abortion because of depression, and guilt feelings about destroying their previous unborn children. This depression often recurs throughout their life.

Some women end up with fertility problems later in life because of problems related to abortions, including scarring from the procedure itself, infections related to the procedure, or cervical incompetence (which causes problems in carrying future pregnancies). Also, the severe emotional trauma associated with the termination of a pregnancy.

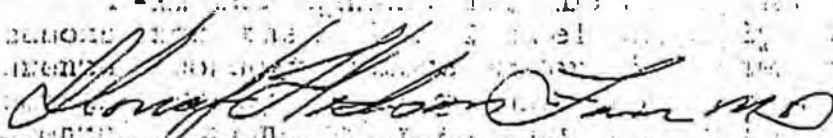
I find it hard to believe that parents are not involved in the decision involving a surgical procedure on the children they are legally responsible for. The risk of death from a termination (i.e., an abortion) is 1 to 2 per 100,000 abortions, which can increase to about 115 per 100,000 abortions with termination later in pregnancy, once the baby is more fully developed. The risk of perforations of the uterus, which can result in hemorrhage, injury to the bowel, infections, and may result in hysterectomy or death is 1 per 1,000. Also, patients can have adverse reactions to anesthetics, ranging from syncope

to convulsions to anaphylaxis with death. Women can bleed severely, often requiring IV fluids blood transfusions which ~~increase the risk of acquiring HIV, hepatitis, CMV, and other blood borne diseases.~~ Abortion is not a benign procedure and parental consent should be required, like it is for all other surgeries.

I am not against all abortions, as there are many medical reasons for them, but I feel strongly that women should have parental consent before undergoing them and counseling from a neutral agency showing what abortion does to a baby, what parental responsibilities they will face caring for a child, and their options regarding adoption. For rural areas, a video could be used to convey this information followed by counseling from maternal child health nurses, public health nurses, or even village health aides. Enforcement of child support laws against teenage males would also force them to take responsibility, and likewise help decrease teenage pregnancy rates.

02/18/97 In summary, I am in favor of parental consent as I feel it would help deter teenage pregnancies; help teens make the wisest choices for themselves and their families; help prevent decisions to have an abortion based upon the shock, fear, and initial panic reactions to pregnancy that teens commonly have; and prevent teenagers from making an uninformed and ill advised decision to undergo a serious medical procedure which can potentially be fatal, or result in life-long medical and/or mental problems. If you have any questions, I can be reached at my work phone number which is (907)562-2070.

Sincerely,



Ilona J. Rodson Farr, M.D.

cc: file

likewise help decrease teenage pregnancy rates.

In summary, I am in favor of parental consent as I feel it would help deter teenage pregnancies; help teens make the wisest choices for themselves and their families; help prevent decisions to have an abortion based upon the shock, fear, and initial panic reactions to pregnancy that teens commonly have; and prevent teenagers from making an uninformed and ill advised decision to undergo a serious medical procedure which can potentially be fatal, or result in life-long medical and/or mental problems. If you have any questions, I can be reached at my work phone number which is (907)562-2070.

Sincerely,



Ilona J. Rodson Farr, M.D.

LOUIS E. MAYER, M.D., A.P.C.
3300 PROVIDENCE DRIVE, SUITE 301
ANCHORAGE, ALASKA 99508
TELEPHONE (907) 563-3732
FAX (907) 561-4730

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 waived 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.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name -
committee on HB37 Parental Consent dated March 5 1997
bill/subject

Please vote in favor of Parental
Consent before a minor receives
an abortion. We must be
responsible parents, adults &
help our minor population to
understand what an abortion
is & who will die because of it
& what can happen to these ~~minors~~
in future yes if they subject their
bodies to this violent act & kill
their preborn babies.

Signed: Georgia L. Rogers
Testifier
Mr + Mrs Frank a Rogers Sr.
Representing (Optional)
P.O. BX 1022 Sitka Ak 99835
Address
907 747 8303
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name -

committee on HB 37, dated Mar 3-97
bill/subject

Parental Consent before a Minor Receives an Abortion:

Alaskans do need parental consent for a minor before she is able to have an abortion.

We need to strenghten family ties. Parents need to be responsible for the actions of their underage children. This will not happen if ~~the~~ the state takes away one of their ^(parents) rights

In voting for this bill you will make the minor stronger as well as make the parent(s) stronger.

Signed: Margie Hughes
Testifier

Representing (Optional)

Bx 912 Sitka Ak 99835

Address

(907) 747-3962

Phone No.

03/04/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1401
12:02:12 N CONFERENCE DISPLAY PAGE 01 - ORDER SUMMARY L357
TCN 70376 T/C DATE: 03/05/97 TIME: 13:00 to 16:00 STATUS: 3 ANNOUNCED

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: GREEN
PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE
1ST ITEM: HB 65 PARTIAL-BIRTH ABORTIONS 2 ITEMS ON AGENDA
CONTACT: LISA KIRSCH TEL: (907)465-4990 MODERATOR: ZZZ
LOCATION STAFF

CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP120 PRINTER: L900
PARTICIPATING LIOs: 10 VOLUNTEER SITES: 1 OFFNETS: 5

SPONSOR REMARKS(PUBLIC): TESTIMONY ALLOWED: Y 2 MINUTE LIMIT:
TESTIMONY WILL BE TAKEN WITH A 2 MINUTE LIMIT.
SEE COMMITTEE SCHEDULE IN BASIS
BACKUP MATERIAL: N

UPDATE NO: 8 ENTERED BY: LHSCJUD LAST UPDATED BY: LIOCLBK
REQUESTED ON: 02/27/97 ON: 02/27/97 ON: 03/04/97

MSG:
ENTER Pg# 02 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF6 Print PF12 Quit

03/04/97 LEGISLATIVE TELECONFERENCE NETWORK LTN1403
12:03:38 N CONFERENCE DISPLAY PAGE 03 - PARTICIPATING LIOs L357
TCN 70376 T/C DATE: 03/05/97 TIME: 13:00 to 16:00 STATUS: 3 ANNOUNCED

* LIO	NAME	ROOM	ADDRESS	ROOM#	MODERATOR
	ANC ANCHORAGE	716 W 4TH, #200	ZZZ	ZZZ	LOCATION STAFF
	DJT DELTA JCT.	JARVIS CTR. #210	ZZZ	ZZZ	LOCATION STAFF
	FBX FAIREBANKS	119 N CUSHMAN ST	ZZZ	ZZZ	LOCATION STAFF
	GLN GLENNALLEN	COMMUNITY LIB.	ZZZ	ZZZ	LOCATION STAFF
*	JNU JUNEAU	CAPITOL	CAP120	ZZZ	LOCATION STAFF
	KEN KENAI LIO	145 MAIN ST LOOP	ZZZ	ZZZ	LOCATION STAFF
	MAT MATSU	600 E RAILROAD	ZZZ	ZZZ	LOCATION STAFF
	PSG PETERSBURG	101 GJOA STREET	ZZZ	ZZZ	LOCATION STAFF
	SIT SITKA	210 LAKE STREET	ZZZ	ZZZ	LOCATION STAFF
	TOK TOK	MP 1314 AK. HWY	ZZZ	ZZZ	LOCATION STAFF

MSG: 1410 NO FURTHER INFORMATION
ENTER Pg# 04 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd

03/04/97

LEGISLATIVE TELECONFERENCE NETWORK

LTN1404

12:04:15 N

CONFERENCE DISPLAY PAGE 04 - VOLUNTEER & OFF-NET SITES

L357

TCN 70376

T/C DATE: 03/05/97

TIME: 13:00 to 16:00

STATUS: 3 ANNOUNCED

* LIO VTS	NAME	ADDRESS	CONTACT	TELEPHONE
DLG NAK	NAKNEK	NAKNEK	ZZZ ELIZABET ANGALAK	907 246 4465
ZZZ OF1	OFFNET 1	CHICAGO, IL	JUDITH KOHLER	312 786 9494
ZZZ OF2	OFFNET 2	NEW YORK	JANET CREPPS	212 514 5534
ZZZ OF3	OFFNET 3	ANCHORAGE	CYNTHIA BROOKE	907 563 8588
ZZZ OF4	OFFNET 4	ANCHORAGE	JAN WHITEFIELD	907 563 7228
ZZZ OF5	OFFNET 5	ANCHORAGE	SHERRY RICHEY	907 272 6772

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 05 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd

Member, Preferred Hotels Worldwide



FOR YOUR DINING AND ENTERTAINMENT PLEASURE

THE CROW'S NEST

Light French Cuisine
Sunday Brunch
Ext. 3187

FLETCHER'S

Pizza, pasta, deli sandwiches
Wide Selection of Micro Brews & Cognacs
Ext. 3280

THE PANTRY

Breakfast, Lunch, & Dinner
Open-Air Cafe
Ext. 3255

THE WHALE'S TAIL

Live Entertainment
Pizza, Steak, & Appetizers
Ext. 3212

IN ROOM DINING

Ext. 5

4th Avenue at K Street • Anchorage, Alaska 99501 • (907) 276-6000

Handwritten notes:
 PPV Danforth 428 0552
 PPV Legacy 505 05 833
 200 v Madco 910 05 113

0-LS0227E
Lauterbach
1/21/97

CS FOR HOUSE BILL NO. 37()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, KOHRING, VEZEY, AND MULDER, Ogan, Dyson, Martin

A BILL
FOR AN ACT ENTITLED

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

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

- 9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of
11 (1) protecting minors against their own immaturity;
12 (2) fostering the family structure and preserving it as a viable social unit;

1 (3) protecting the rights of parents to rear children who are members of their
2 household; and

3 (4) protecting the health of minor women.

4 (b) The legislature finds that

5 (1) immature minors often lack the ability to make fully informed choices that
6 take account of both immediate and long-range consequences;

7 (2) the physical, emotional, and psychological consequences of abortion are
8 serious and can be lasting particularly when the patient is immature;

9 (3) the capacity to become pregnant and the capacity for mature judgment
10 concerning the wisdom of an abortion are not necessarily related;

11 (4) parents ordinarily possess information essential to a physician's or surgeon's
12 best medical judgment concerning the child;

13 (5) parents who are aware that their minor daughter has had an abortion may
14 better ensure that the daughter receives adequate medical attention after the abortion;

15 (6) parental consultation is usually desirable and in the best interest of the
16 minor; and

17 (7) parental involvement legislation enacted in other states has shown to have
18 a significant effect in reducing abortion, birth, and pregnancy rates among minors.

19 * Sec. 2. AS 18.16.010(a) is amended to read:

20 (a) An abortion may not be performed in this state unless

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

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

26 (3) before an abortion is knowingly performed on an unmarried,
27 unemancipated woman under 18 years of age, consent has been given as required
28 under AS 18.16.020 or a court has authorized the minor to consent to the abortion
29 under AS 18.16.030 and the minor consents; for purposes of enforcing this
30 paragraph, there is a rebuttable presumption that a woman who is unmarried and
31 under 18 years of age is unemancipated [CONSENT HAS BEEN RECEIVED

1 FROM THE PARENT OR GUARDIAN OF AN UNMARRIED WOMAN LESS
2 THAN 18 YEARS OF AGE]; and

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

5 * Sec. 3. AS 18.16.010 is amended by adding new subsections to read:

6 (e) A person who performs or induces an abortion in violation of (a)(3) of this
7 section is civilly liable to the pregnant woman and the woman's parents, guardian, or
8 custodian for compensatory and punitive damages.

9 (f) It is an affirmative defense to a prosecution or claim for a violation of
10 (a)(3) of this section that the pregnant woman provided the person who performed or
11 induced the abortion with false, misleading, or incorrect information about the
12 woman's age, marital status, or emancipation, and the person who performed or
13 induced the abortion did not otherwise have reasonable cause to believe that the
14 pregnant woman was under 18 years of age, unmarried, or unemancipated.

15 (g) It is an affirmative defense to a prosecution or claim for violation of (a)(3)
16 of this section that compliance with the requirements of (a)(3) of this section was not
17 possible because an immediate threat of serious risk to the life or physical health of
18 the pregnant woman from the continuation of the pregnancy created a medical
19 emergency necessitating the immediate performance or inducement of an abortion. In
20 this subsection, "medical emergency" means a condition that, on the basis of the
21 physician's or surgeon's good faith clinical judgment, so complicates the medical
22 condition of a pregnant woman that

23 (1) an immediate abortion of the woman's pregnancy is necessary to
24 avert the woman's death; or

25 (2) a delay in providing an abortion will create serious risk of
26 substantial and irreversible impairment of a major bodily function of the pregnant
27 woman.

28 * Sec. 4. AS 18.16 is amended by adding new sections to read:

29 **Sec. 18.16.020. Consent required before minor's abortion.** A person may
30 not knowingly perform or induce an abortion upon a woman who is known to the
31 person to be pregnant, unmarried, under 18 years of age, and unemancipated unless,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

before the abortion, at least one of the following applies:

(1) one of the woman's parents or the woman's guardian or custodian has consented in writing to the performance or inducement of the abortion;

(2) a court issues an order under AS 18.16.030 authorizing the woman to consent to the abortion without consent of a parent, guardian, or custodian and the woman consents to the abortion; or

(3) a court, by its inaction under AS 18.16.030, constructively has authorized the woman to consent to the abortion without consent of a parent, guardian, or custodian and the woman consents to the abortion.

Sec. 18.16.030. Judicial bypass for minor seeking an abortion. (a) A woman who is pregnant, unmarried, under 18 years of age, and unemancipated who wishes to have an abortion without the consent of a parent, guardian, or custodian may file a complaint in the superior court requesting the issuance of an order authorizing the woman to consent to the performance or inducement of an abortion without the consent of a parent, guardian, or custodian.

(b) The complaint shall be made under oath and must include all of the following:

(1) a statement that the complainant is pregnant;

(2) a statement that the complainant is unmarried, under 18 years of age, and unemancipated;

(3) a statement that the complainant wishes to have an abortion without the consent of a parent, guardian, or custodian;

(4) an allegation of either or both of the following:

(A) that the complainant is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without the consent of a parent, guardian, or custodian; or

(B) that one or both of the woman's parents or the woman's guardian or custodian was engaged in a pattern of physical, sexual, or emotional abuse against the woman, or that the consent of a parent, guardian, or custodian otherwise is not in the woman's best interest;

(5) a statement as to whether the complainant has retained an attorney

1 and, if an attorney has been retained, the name, address, and telephone number of the
2 attorney.

3 (c) The court shall fix a time for a hearing on any complaint filed under (a)
4 of this section and shall keep a record of all testimony and other oral proceedings in
5 the action. The hearing shall be held at the earliest possible time, but not later than
6 the fifth business day after the day that the complaint is filed. The court shall enter
7 judgment on the complaint immediately after the hearing is concluded. If the hearing
8 required by this subsection is not held by the fifth business day after the complaint
9 is filed, the failure to hold the hearing shall be considered to be a constructive order
10 of the court authorizing the complainant to consent to the performance or inducement
11 of an abortion without the consent of a parent, guardian, or custodian, and the
12 complainant and any other person may rely on the constructive order to the same
13 extent as if the court actually had issued an order under this section authorizing the
14 complainant to consent to the performance or inducement of an abortion without such
15 consent.

16 (d) If the complainant has not retained an attorney, the court shall appoint an
17 attorney to represent the complainant.

18 (e) If the complainant makes only the allegation set out in (b)(4)(A) of this
19 section and if the court finds by clear and convincing evidence that the complainant
20 is sufficiently mature and well enough informed to decide intelligently whether to have
21 an abortion, the court shall issue an order authorizing the complainant to consent to
22 the performance or inducement of an abortion without the consent of a parent,
23 guardian, or custodian. If the court does not make the finding specified in this
24 subsection, it shall dismiss the complaint.

25 (f) If the complainant makes only the allegation set out in (b)(4)(B) of this
26 section and the court finds by clear and convincing evidence that there is evidence of
27 a pattern of physical, sexual, or emotional abuse of the complainant by one or both of
28 the woman's parents or the woman's guardian or custodian, or that the consent of the
29 parents, guardian, or custodian of the complainant otherwise is not in the best interest
30 of the complainant, the court shall issue an order authorizing the complainant to
31 consent to the performance or inducement of an abortion without the consent of a

1 parent, guardian, or custodian. If the court does not make the finding specified in this
2 subsection, it shall dismiss the complaint.

3 (g) If the complainant makes both of the allegations set out in (b)(4) of this
4 section, the court shall proceed as follows:

5 (1) the court first shall determine whether it can make the finding
6 specified in (e) of this section and, if so, shall issue an order under that subsection; if
7 the court issues an order under this paragraph, it may not proceed under (f) of this
8 section; if the court does not make the finding specified in (e) of this section, it shall
9 proceed under (2) of this subsection;

10 (2) if the court under (1) of this subsection does not make the finding
11 specified in (e) of this section, it shall proceed to determine whether it can make the
12 finding specified in (f) of this section and, if so, shall issue an order under that
13 subsection; if the court does not make the finding specified in (f) of this section, it
14 shall dismiss the complaint.

15 (h) The court may not notify the parents, guardian, or custodian of the
16 complainant that the complainant is pregnant or wants to have an abortion.

17 (i) If the court dismisses the complaint, the complainant has the right to appeal
18 the decision to the supreme court, and the superior court immediately shall notify the
19 complainant that there is a right to appeal.

20 (j) If the complainant files a notice of appeal authorized under this section, the
21 superior court shall deliver a copy of the notice of appeal and the record on appeal to
22 the supreme court within four days after the notice of appeal is filed. Upon receipt of
23 the notice and record, the clerk of the supreme court shall place the appeal on the
24 docket. The appellant shall file a brief within four days after the appeal is docketed.
25 Unless the appellant waives the right to oral argument, the supreme court shall hear
26 oral argument within five days after the appeal is docketed. The supreme court shall
27 enter judgment in the appeal immediately after the oral argument or, if oral argument
28 has been waived, within five days after the appeal is docketed. Upon motion of the
29 appellant and for good cause shown, the supreme court may shorten or extend the
30 maximum times set out in this subsection. However, in any case, if judgment is not
31 entered within five days after the appeal is docketed, the failure to enter the judgment

1 shall be considered to be a constructive order of the court authorizing the appellant to
2 consent to the performance or inducement of an abortion without the consent of a
3 parent, guardian, or custodian, and the appellant and any other person may rely on the
4 constructive order to the same extent as if the court actually had entered a judgment
5 under this subsection authorizing the appellant to consent to the performance or
6 inducement of an abortion without consent of another person. In the interest of justice,
7 the supreme court, in an appeal under this subsection, shall liberally modify or
8 dispense with the formal requirements that normally apply as to the contents and form
9 of an appellant's brief.

10 (k) Each hearing under this section, and all proceedings under (j) of this
11 section, shall be conducted in a manner that will preserve the anonymity of the
12 complainant. The complaint and all other papers and records that pertain to an action
13 commenced under this section, including papers and records that pertain to an appeal
14 under this section, shall be kept confidential and are not public records under
15 AS 09.25.110 - 09.25.120.

16 (l) The supreme court shall prescribe complaint and notice of appeal forms that
17 shall be used by a complainant filing a complaint or appeal under this section. The
18 clerk of each superior court shall furnish blank copies of the forms, without charge,
19 to any person who requests them.

20 (m) A filing fee may not be required of, and court costs may not be assessed
21 against, a complainant filing a complaint under this section or an appellant filing an
22 appeal under this section.

23 **Sec. 18.16.090. Definitions.** In this chapter,

24 (1) "abortion" means the use or prescription of an instrument, medicine,
25 drug, or other substance or device to terminate the pregnancy of a woman known to
26 be pregnant, except that "abortion" does not include the termination of a pregnancy if
27 done with the intent to

28 (A) save the life or preserve the health of the unborn child;

29 (B) deliver the unborn child prematurely to preserve the health
30 of both the pregnant woman and the woman's child; or

31 (C) remove a dead unborn child;

1 (2) "unemancipated" means that a woman who is unmarried and under
2 18 years of age has not done any of the following:

3 (A) entered the armed services of the United States;

4 (B) become employed and self-subsisting;

5 (C) been emancipated under AS 09.55.590; or

6 (D) otherwise become independent from the care and control of

7 the woman's parent, guardian, or custodian.

8 * Sec. 5. AS 44.21.410(a) is amended to read:

9 (a) The office of public advocacy shall

10 (1) perform the duties of the public guardian under AS 13.26.360 -
11 13.26.410;

12 (2) provide visitors and experts in guardianship proceedings under
13 AS 13.26.131;

14 (3) provide guardian ad litem services to children in child protection
15 actions under AS 47.17.030(e) and to wards and respondents in guardianship
16 proceedings who will suffer financial hardship or become dependent upon a
17 government agency or a private person or agency if the services are not provided at
18 state expense under AS 13.26.112;

19 (4) provide legal representation in cases involving judicial bypass
20 procedures for minors seeking abortions under AS 18.16.030, in guardianship
21 proceedings to respondents who are financially unable to employ attorneys under
22 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
23 opposing party is represented by counsel provided by a public agency, to indigent
24 parents or guardians of a minor respondent in a commitment proceeding concerning
25 the minor under AS 47.30.775;

26 (5) provide legal representation and guardian ad litem services under
27 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
28 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
29 petitions for the termination of parental rights on grounds set out in
30 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
31 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under

1 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
2 protective orders on behalf of a minor; and in cases involving indigent persons who
3 are entitled to representation under AS 18.85.100 and who cannot be represented by
4 the public defender agency because of a conflict of interests;

5 (6) develop and coordinate a program to recruit, select, train, assign,
6 and supervise volunteer guardians ad litem from local communities to aid in delivering
7 services in cases in which the office of public advocacy is appointed as guardian ad
8 litem;

9 (7) provide guardian ad litem services in proceedings under
10 AS 12.45.046;

11 (8) establish a fee schedule and collect fees for services provided by
12 the office, except as provided in AS 18.85.120 or when imposition or collection of a
13 fee is not in the public interest as defined under regulations adopted by the
14 commissioner of administration;

15 (9) provide visitors and guardians ad litem in proceedings under
16 AS 47.30.839;

17 (10) provide legal representation to indigent parents under
18 AS 14.30.195(e).

19 * Sec. 6. AS 18.16.010(d) is repealed.

20 * Sec. 7. AS 18.16.030(c), added by sec. 4 of this Act, has the effect of amending Rule
21 40, Alaska Rules of Civil Procedure, by setting a specific timetable for hearing certain cases.

22 * Sec. 8. AS 18.16.030(j), added by sec. 4 of this Act, has the effect of amending Rules
23 204, 210, 212, and 213, Alaska Rules of Appellate Procedure, by establishing specific time
24 limits applicable to certain appeals and by instructing the supreme court to modify or dispense
25 with formal requirements applicable to certain briefs.

26 * Sec. 9. AS 18.16.030(k), added by sec. 4 of this Act, has the effect of amending Rule
27 512.5, Alaska Rules of Appellate Procedure, by making certain appellate records and papers
28 confidential.

29 * Sec. 10. AS 18.16.030(m), added by sec. 4 of this Act, has the effect of amending Rule
30 9, Alaska Administrative Rules, Rule 79, Alaska Rules of Civil Procedure, and Rule 508,
31 Alaska Rules of Appellate Procedure, by prohibiting filing fees and assessment of court costs

1 in certain actions.

February 19, 1997

Kimberly Miller
3320 Nowell Ave., Apt. 4
Juneau, AK 99801
586-1569

Representative Joseph Green
State Capitol Rm. 118
Juneau, AK 99801

Dear Representative Green:

I am writing to express my strong opposition to HB 37 regarding requiring parental consent for minors seeking an abortion. I feel that HB 37 is an attempt to end safe and legal abortions by erecting insurmountable barriers for young women. The argument that HB 37 would enhance teen-parent communication is inaccurate. The following is a list of reasons why I am adamantly opposed to HB 37:

* Studies have shown that nationally the majority (61%) of minors who have abortions do so with at least the knowledge of one parent. The younger the minor the more likely she is to voluntarily discuss the abortion with a parent. The study looked at states without parental consent laws.

* Studies have shown that parental consent laws do not encourage young women to tell their parents. The minority of minors who do not tell their parents come from families where communication is difficult or dangerous due to a variety of circumstances. The belief that telling their parents would result in further abuse, family violence or increased drug/alcohol use for example is real. Thus, HB 37 would act to further victimize these young women.

* The judicial bypass process is not an adequate safety valve for these young women. The judicial process can be a fearful, anxiety and shame producing experience where a young woman who is already in a vulnerable and difficult situation is subjected to further barriers in finding a resolution to her situation. The judicial system is not an appropriate venue for this type of decision to be made.

* Minors in rural Alaska will have to maneuver additional obstacles to receive a safe and legal abortion if HB 37 is enacted. If the young woman's situation was such that she could not tell her parents she would be forced to go to a local judge who more that likely knows her to seek a judicial bypass. The process, coupled with the fact that she already has to travel to a strange place to receive an abortion, makes young women in rural communities even more penalized by HB 37.

The net effect of HB 37 will be to chip away at women's legal right for a safe abortion. After enacting a parental consent law in Minnesota the state had a 18% increase in second-trimester abortions among minors, and the birth rate in Minneapolis for 15-17 year olds increased by 38.4%. These statistics show how detrimental HB 37 will be for Alaskan's. I urge you to take Alaska in a safe, healthy and positive direction rather than cause more hardship for Alaska's children and families.

Thank you,
Kimberly Miller, MSW

February 16, 1997

**Senator Joe Green
Chair, House Judiciary
Capitol Bldg
Juneau AK 99811**

Dear Representative Green and Members of House Judiciary Committee:

I am a voter in House District 26, Senate District M. I am writing this letter to let you know that I am opposed to CSHE37 concerning parental consent for abortion for girls under the age of 18. My reasons are listed below.

1) Apparently the legislature hopes this bill will compel family communication and reduce the numbers of teen pregnancy and abortion. However, statistics from other states make it clear that this type legislation will likely serve no such purpose.

I obtained some information from Planned Parenthood and learned that in Michigan a similar law was passed and the teen pregnancy rates actually increased by over 5%.

As for teen abortion rates, when a similar law was passed in Missouri, the girls went to Kansas to get their abortions. The abortion rate in Kansas rose 62%.

In Massachusetts, after a similar law was passed, the pregnant teens went to another state. During the first month of this Massachusetts law, the number of teens who left the state increased by 300%. Eight months after this law went into effect, Massachusetts teens traveled at an average of 91 a month.

In several states including New York, Missouri and Minnesota, there was a substantial increase (close to 1/3 of the cases) in late (which of course are more dangerous) abortions for teens.

2) This bill will obviously cause a cost burden and case-load burden to the courts. There will be a need to monitor the time lines for the cases and to provide an attorney in most, if not all, cases. I understand there is a fiscal

Chairman Green

Page 2

note with this bill, but I wonder if it will be large enough to cover the costs involved. I keep hearing that the courts are already overburdened with case-load and I wonder what the overall fiscal impact really is. I also wonder if this legislation will effect other peoples rights to a speedy trial.

3) I think this legislation is unnecessary particularly in light of the information provided by the Chicago Attorney, Ms Kohler (spell?) that was presented at the February 11th SA hearing on this matter. She stated that only a very small number of girls who petitioned the court for abortion without consent were denied (I recall it was around 69 out of over 3,600 — I'm not exactly sure of the numbers, but this is close). The rest of them were successful in their petition. It seems that the court expenses involved here are not worth the trouble.

It is also my understanding that the greater majority of young girls in this state already obtain parental consent before they abort a fetus anyway.

This legislation appears to attempt to get teenagers to talk to their parents and this should be handled through good parenting skills that would include dialog about sex before marriage.

4) We have all heard stories about how some girls would literally rather die than to tell their parents they are pregnant and many of them do through suicide and self abortion or they arrange illegal life-threatening abortions performed by incompetent people.

There must be a provision included in this bill to assure protection of the girls who reluctantly come forward to their parents. There should also be some assurance that girls who are emancipated by their parents as a result of the pregnancy or the request for abortion are able to obtain some type of public assistance to assure their survival.

5) The legislation places the entire burden of the episode directly on the shoulders and minds of the girls and their families and the males apparently do not have to take any responsibility for impregnating them.

Chairman Green

Page 3

The boy involved must also be required to notify his parents, and he and his parents must take responsibility (including financial responsibility) in the matter. Keeping in mind, of course, the ultimate decision lies with the one whose body it is that is carrying the fetus.

6) Our bodies are our own and each person should be able to make decisions (especially medical decisions) on his or her own.

7) Shades of discrimination creep up in this bill. Not only toward the female population but perhaps Alaskan Natives and others who live in rural areas and are unable to obtain court petitions and assistance that we enjoy in the larger cities.

In closing, I am sure there are a number of other issues that I have not addressed such as the impact on the medical community, school officials, individual rights of privacy, etc., but I hope the information I have provided will encourage you to withdraw this legislation from the process.

I very much appreciate your consideration of my views on this important legislation.

Sincerely,



Sue Doggett

PO Box 190808

Anchorage AK 99519-0808

Tel 248-3402 * fax 248-4068



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
 committee name
 committee on HB 37, dated Feb. 11, 1997
 bill/subject

2/10/97

Parental consent laws endanger teens' lives. We would all like to live in a world where all children could freely consult with their parents about what is happening in their lives. However, it is a fact that some teens live in dangerous situations, they justifiably fear abuse, neglect, death and other horrific scenarios if they had to admit to their parents that they were pregnant and choosing a legal procedure to terminate their pregnancy.

Fortunately, parents have thousands of opportunities to open communication with their teenagers, and to show them that they can be trusted, empathetic and supportive as parents. This is the kind of family communication that, for many, prevents the need for abortion in the first place. This is where the communication ought to happen; communication should not be legislated into the lives of families by laws like parental consent.

Sincerely,

Diana J. Kushner, Sitka Alaska

Signed: Diana Kushner
 Testifier

3
 Representing (Optional)
1830 Edgumbe Dr. Sitka 99835
 Address
907-747-7851
 Phone No.

Juneau Coalition



for Pro-Choice

February 8, 1997

Dear Members of the House State Affairs Committee:

The Juneau Coalition for Pro-Choice (JCPC) would like to go on record opposing the passage of HB 37 which would restrict a young woman's ability to act on her Constitutionally protected right to choose. JCPC strongly encourages all young women who become pregnant, and the putative fathers, to discuss options with their parents if they are able, but such communication cannot be achieved through passage of this bill. The majority of young women who do not involve their parents in making decisions about a pregnancy have problems with their family which precludes discussion about the issue. HB 37 only serves to put minors at risk.

Judicial bypass procedures are not the answer either, as this option is intimidating to a young woman and only results in delay which makes an abortion riskier if the minor gets approval from the judge for an abortion. As an appellate court in California stated "the judicial bypass procedure creates a substantial obstacle whose only effect is to hinder the minor from obtaining an abortion. Whether a minor is capable or giving informed consent to undergo an abortion is a question which can be more easily decided by a physician than a judge." The judicial bypass is particularly unworkable in Alaska where rural communities may not have access to a court, resulting in a law that unreasonably impacts rural Alaskans.

HB 37 does not protect young women who are at risk from physical or emotional abuse by their parents and unconstitutionally restricts a young woman's right to choose to terminate a pregnancy.

Sincerely,

Shannon O'Fallon
President
Juneau Coalition for Pro-Choice

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 those 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 (that is the teenager) responsibility to inform and involve the parents with regards to the diagnosis and treatment of this medical problem.



Senator Loman et 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.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Pete Kelly *Pete*

DATE: 6 March 1997

RE: House Bill 37
Minnesota Statistics

There was some confusion about the quoted statistics of parental involvement laws at yesterday's hearing. I have attached some additional information.

When Minnesota's parental notice law was in effect from 1981 to 1986, the pregnancy rate for teens 17 and under declined 20.5 percent. In addition, the pregnancy rate for teens age 18 and 19 declined by 25.4 percent during the same period. However, the pregnancy rates in *both* categories substantially *increased* between 1975 and 1980, the five years *preceding* enactment of the law.

The source of this data is the Minnesota Department of Health. This data was analyzed in a 1991 article in the American Journal of Public Health. The authors concluded:

These data suggest that parental notification facilitated pregnancy avoidance in 15-17 year-old Minnesota women. Abortion rates declined unexpectedly while birth rates continued to decline in accordance with a long-term trend.

Angela Salerno alluded to an 18 percent increase in second-trimester abortions in Minnesota. I do not know the source of her statistic but cannot find it anywhere else. I have attached a chart from the American Journal of Public Health including the abortion rate, early abortion rate and late abortion rate for the state of Minnesota.

You will find that there was an overall decrease in the rate of second-trimester abortions.

The final statistic that was tossed around was a reference by Angela Salerno and Alice Johnstone that under the Minnesota notification statute, the birth rate for 15-17 year-olds in Minneapolis rose 38.4 percent. This statistic is addressed in the Hodgson v. Minnesota case. The teenage population of Minneapolis makes up only 6 percent of the teenagers in Minnesota and it was shown that the increase in birth rate was unique to Minneapolis and did not occur in Minnesota in general. Further, it was found that the increase in birth for these teens was confined to the minority population, specifically the Asian-Pacific. I have attached these findings.

I would like to remind committee members, however, that we are not debating statistics. The issue at hand is still parental rights and these statistics just serve to reinforce the need for this legislation.

Impact of the Minnesota Parental Notification Law on Abortion and Birth

James L. Rogers, PhD, Robert F. Boruch, PhD, George B. Stoms, BA, and Dorothy DeMoya, DNSc

The pre-enactment to post-enactment increase in the proportion of late (>12 weeks) to early (\leq 12 weeks) abortions was greater for 15-17 than for 20-44 year-old women. At least two hypotheses may explain this finding. First, the law may have been more successful in preventing pregnancy among minors who would have had early abortions than among minors who would have had late abortions. A second possibility is that the law caused delays for a greater percentage of a declining number of minors seeking abortions. Regardless, the claim that the law caused more minors to obtain late abortions is unsubstantiated. In fact, the reverse is true. For ages 15-17 the number of late abortions per 1,000 women decreased following the enactment of the law. Therefore, an increased medical hazard due to a rising number of late abortions was not realized.

TABLE 1—Outcome Measures and Population Estimates for Minnesota Women, 1978 to 1987*

Outcome Measure	Age (years)	1978	1978	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
Abortion Rate [†]	15-17	12.36	16.50	18.60	16.25	19.24	19.57	16.06	14.25	12.90	13.00	14.54	14.42	15.46
	18-19	20.47	28.92	31.27	35.71	38.72	40.26	38.37	36.45	33.08	36.05	34.07	31.99	30.83
	20-44	7.32	9.55	11.48	12.36	13.41	14.13	14.00	13.98	13.11	14.21	14.48	14.29	14.17
Birth Rate [†]	15-17	20.94	19.64	19.62	17.90	17.71	17.48	17.36	18.54	14.58	16.00	15.01	15.52	15.03
	18-19	56.11	52.98	55.10	55.80	57.00	59.48	59.33	58.57	48.78	48.85	47.18	42.65	43.68
	20-44	74.02	72.48	75.79	78.14	78.06	79.80	79.43	78.13	75.18	75.57	75.92	74.00	72.67
Abortions/ Births	15-17	0.59	0.84	0.96	1.03	1.09	1.12	0.93	0.96	0.88	0.81	0.97	0.93	1.03
	18-19	0.36	0.55	0.57	0.64	0.68	0.68	0.65	0.64	0.69	0.72	0.72	0.76	0.71
	20-44	0.10	0.13	0.15	0.16	0.17	0.18	0.18	0.18	0.17	0.19	0.19	0.19	0.19
Early Abortion Rate [†]	15-17	10.22	12.81	14.73	14.97	15.73	15.34	12.98	11.37	9.66	9.68	11.24	11.38	12.63
	18-19	17.81	24.01	25.89	30.46	33.31	33.58	32.58	30.92	27.63	28.42	28.13	28.04	26.23
	20-44	6.82	8.45	10.23	11.24	12.19	12.71	12.74	12.65	11.57	12.69	13.04	12.85	12.84
Late Abortion Rate [†]	15-17	2.16	3.69	3.68	3.26	3.51	4.23	3.13	2.89	2.94	3.36	3.30	3.04	2.80
	18-19	2.65	4.91	5.39	5.25	5.41	6.69	5.78	5.63	5.44	6.63	5.94	5.85	4.68
	20-44	0.70	1.10	1.25	1.11	1.23	1.42	1.27	1.31	1.24	1.53	1.44	1.44	1.31
Late/Early Abortions	15-17	0.21	0.29	0.26	0.22	0.22	0.28	0.24	0.25	0.30	0.36	0.29	0.27	0.22
	18-19	0.16	0.20	0.21	0.17	0.16	0.20	0.18	0.15	0.20	0.23	0.21	0.22	0.17
	20-44	0.11	0.13	0.12	0.10	0.10	0.11	0.10	0.10	0.10	0.12	0.11	0.11	0.10
Population	15-17	115884	117102	116317	115722	115282	113600	108143	103981	104371	100131	100912	101172	101648
	18-19	85899	86828	86110	85525	85047	83964	79863	76766	77004	73784	74296	74376	74766
	20-44	682309	683069	700327	722162	747058	781209	779081	797136	799912	811683	819042	821954	828167

*Raw data provided by the Minnesota Center for Health Statistics.

[†]Abortion, birth, early abortion and late abortion rates are expressed as the number of abortions or births per 1000 women.

NOTE: Early abortions: ≤12 weeks; Late abortions: >12 weeks.

IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

JANE HODGSON, M.D., *et al.*,
Petitioners, Cross-Respondents,

v.

STATE OF MINNESOTA, *et al.*,
Respondents, Cross-Petitioners.

On Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit

BRIEF OF THE ASSOCIATION OF
AMERICAN PHYSICIANS AND SURGEONS (AAPS)
AS *AMICUS CURIAE* IN SUPPORT OF
STATE OF MINNESOTA

Of Counsel:

KENT MASTERSON BROWN
1114 First National Bldg.
167 West Main Street
Lexington, KY 40507
(606) 233-7879

CLARKE D. FORSYTHE *
LEANNE MCCOY
AMERICANS UNITED FOR LIFE
LEGAL DEFENSE FUND (AUL)
343 S. Dearborn Street #1804
Chicago, IL 60604
(312) 786-9494
Counsel for Amicus Curiae

October 10, 1989

* Counsel of Record

III. THE CONTENTION THAT THE NOTICE LAW INCREASED BIRTHS TO TEENS IS BASED ON STATISTICS FOR ONLY THE LIMITED AREA OF THE MINNEAPOLIS CITY LIMITS AND THESE MUST BE VIEWED WITHIN THE CONTEXT OF OTHER DEMOGRAPHIC PHENOMENA IN MINNEAPOLIS AND THROUGHOUT THE STATE.

The plaintiff clinics claim that the notice law caused a 38.4% increase in the birth rate to teens age 16-17 by relying on a 38.4% increase in the birth rate for teens age 15-17 in Minneapolis between 1980-84. Pet.Br. at 12. Plaintiffs, purporting to quote Edward Ehlinger of the Minneapolis Dept. of Health, argue that the notice law "was the only factor that uniquely affected the fifteen to seventeen year old age group which could explain the difference." Pet.Br. at 12. Ehlinger, in fact, did not say that it was the "only" factor; he said merely that it "would be an important factor." T. 2030-31.

As this Court stated recently in *Webster v. Reproductive Health Services, Inc.*, 100 S.Ct. 3040, 3050 (1989), the states may "make a value judgment favoring child-birth over abortion." Thus, the fact that the notice law may have increased births to teens affected by the law is not a constitutional indictment against the law. Such a fact would merely imply that parental influence, as required by the law, had encouraged teens to give birth rather than abort. Such parental guidance is hardly a result which violates the Constitution. But, in fact, the data undermine the claim that the notice law caused in-

creased births to teens either in Minnesota generally or in Minneapolis specifically.

The clinics' assertion rests entirely on data gathered from the Minneapolis Department of Health concerning residents of the City of Minneapolis only. See P. Exh. 116; T. 2072 (Dr. Paul Gunderson). The data do show an increase of 38.4% between 1980-84 in births to teens between the age of 15-17 who are residents of Minneapolis. See Table 5. For 1980-87, the birth rate of Minneapolis teens aged 15-17 is 39.1, 41.2, 42.7, 47.3, 54.1, 58.2, 62.2, 64.5, respectively. When seen within the context of demographic statistics throughout Minnesota and within demographic changes in Minnesota in the 1980's, however, the allegation that the increase is due to the notice law is doubtful.

Initially, it is important to realize that teens who are residents of Minneapolis make up roughly only 6% of the teen population of Minnesota. In 1981, the 15-17 year old female population for Minnesota was 107,784, while the female population in Minneapolis for ages 15-17 was only 6,548. Thus, the 38.4% increase in the birth rate in Minneapolis was limited to 6% of the state's population of 15-17 year olds.

Statistics throughout Minnesota show that the 38.4% increase in the birth rate to Minneapolis residents age 15-17 between 1980 and 1984 was unique to Minneapolis and did not occur in metropolitan Minneapolis or in Minnesota in general, as Table 5 and Figure 5a show. See also T. 2073-74 (Dr. Paul Gunderson). The birth rates for ages 15-17 in years 1980-1986 in metropolitan Minneapolis are 17.4, 17.2, 17.2, 15.1, 17.4, 16.5, 17.8. And the birth rate for ages 15-17 between 1980-86 in Minnesota as a whole is 17.5, 17.5, 16.6, 14.6, 16.1, 15.1, 15.6. In addition, Minneapolis differs in birth rate from other geographic regions in Minnesota for other age groups besides 15-17, particularly for ages 10-14, 18-19, and 25-34, as Table 5 and Figures 5b-5e show. Finally, the Minneapolis birth rate for 15-17 year olds continues

to climb throughout 1986 and 1987, even after the notice law was enjoined in March, 1986.

The number of births to teens as a percentage of all births in Minneapolis must also be considered. In Table 7 and Figure 7a, it is apparent that the percentage of births to minors in Minneapolis is lower than that found in the nation generally, but exhibits a remarkably parallel trend to the national trend over time. The selective increase in birth rate in Minneapolis is reflected in the Minneapolis line in Figure 7a, insofar as the percentage of total births to teen births in Minneapolis rises contrary to the national and statewide trend between 1986-1987. But this increase occurs later than we would expect were it a result of a law enacted in 1981. The real increase in the percent of births to minors does not happen until several years later: 1985, 1986, and 1987, when the law was no longer in effect. The increase in the 15-17 year old Minneapolis birth rate during 1981-83 is *not* accompanied by an increase in births to minors as a percentage of total births. This clearly parallels both the Minnesota and national trends in its decline during 1981-83. The opposing trends in Minneapolis in birth rate to minors 15-17 (Figure 5a) and percent of births to minors (Figure 7a) indicate that birth rates must have been increasing in general in Minneapolis from 1981-83, regardless of age. This indicates that the increase in birth rates in Minneapolis to minors during the enactment period of the notice law was merely part of a larger trend effecting all minors and adult women, including those not subject to the law.

Moreover, the increase in births for Minneapolis teens age 15-17 leads to a different conclusion when the Minneapolis population is examined in more detail. When the Minneapolis births are broken down by race, and compared with data from the National Center for Health Statistics, the increase in births to girls under 18 is seen to be largely confined to the minority population, spe-

effectively the population of Asian-Pacific. Figure 7b is a breakdown by race of the Minneapolis and national trend lines in Figure 7a. The Asian-Pacific Island percentage of births to minors deviates from the national trend and increases dramatically. All other races roughly parallel national trends in their decline, at least until 1986, when the notice law was enjoined. This would suggest that Asian-Pacifics are disproportionately impacting the birth rate for teens ago 16-17 in Minneapolis. It is implausible that the notice law would selectively impact Asian-Pacifics more than other races in Minneapolis. Therefore, other explanations for the Minneapolis increase in birth rate should be explored.

Figure 8 suggests one possible explanation--a substantial increase in the population of Asian-Pacific teens. Figure 8 shows the percent of minority enrollment in the Minneapolis Public School District from 1971 to 1987. This Figure shows that the percentage of Asian enrollment sharply increases between 1980-1981 and continues to increase from 1981-1987. It is precisely during this time that the percent of all births to minors for the Asian-Pacific population experienced the greatest increase. These statistics show an unusual increase in both the Asian-Pacific population in Minneapolis and in the percentage of births to minors for this population.

This increase in births to Asian-Pacific minors must be compared with the abortion behavior of this population. The abortion rate is important to consider because the clinics' challenge to the notice law is predicated on the assumption that it keeps minors from getting abortions. The notice law can directly influence only the abortion rate and the birth rate is influenced by a reduction in the number of abortions. This implies that as the influence of the notice law on the abortion rate decreases, its potential influence on the birth rate should also decline. Yet, Dr. Paul Gunderson testified to the virtual non-existence of abortion to the Asian-Pacific population. See

T. 2076 (Dr. Paul Gunderson commenting on the low abortion rate of Asians in Minnesota). It is improbable, therefore, that a group with an extremely low abortion rate before the law went into effect would be the most effected by the law in terms of birth rate. Some other factor(s), and not the notice law, must explain this increase.

In summary, the Minneapolis data do not support the contention that birth rates for teens in Minneapolis increased because of the notice law. When viewed in conjunction with the data from other regions of Minnesota, it appears that the notice law did not increase births to teens in Minneapolis. Together with the marked decrease in pregnancy rates and abortion rates in Minnesota, these data demonstrate that the notice law, as applied, is reasonably related to preserving parental authority and protecting the health of minors.

¹¹B.-M.-Lindfors-Harris et al, Response Bias... abortions...two Swedish Studies, (1991) Am. J. Epidemiol. Vol 134, No 9, Pg 1003.

¹²TIME, Jan. 14, 1991

¹³JAMA, July 21, 1993

¹⁴N. Eng. J. Med., Jan. 1994

¹⁵Remicmir, L. (1989) Int. J. Epidemiol. 18:498-510.

*The Deadly After-Effect
Of Abortion* ■

BREAST CANCER



Additional copies: One free with self-addressed stamped envelope; 50/\$11.00 (plus post.); 100/\$20.00 (plus post.); 500/\$80.00 (plus post.); 1000/\$150.00 (plus post.).

Hayes Publishing Co. Inc., 6304 Hamilton Avenue
Cincinnati, Ohio 45224
Ph: (513) 681-7559 Ft./Fax: (513) 681-9298
© 1996 Hayes Pub. Co., Inc.

A first pregnancy permanently changes the structure of a woman's breasts. Before she is pregnant, her breasts cannot produce milk, as the gland cells are immature and underdeveloped. When she becomes pregnant, estrogen and other hormones flood her system. This results in rapid growth in size, while the internal structure undergoes dramatic change.

Cells, previously dormant, rapidly grow into a system of branching ducts and gland cells capable of producing milk. Once this growth, change and maturing is complete, there is no further significant change the rest of her life. Once mature, the chance of the breast developing cancer is much less.

When these cells are changing and transitional, they are less stable and have much greater potential of becoming cancerous. If she completes her first pregnancy, this unstable period passes and her gland cells mature and stabilize.

But — if she interrupts her pregnancy, in its early phase - 90% of abortions are done in the first trimester - she in effect stops the development of the cells at this unstable, transitional phase. It seems apparent that cancerous changes can and do occur more frequently among these transitional cells of a woman who has terminated her pregnancy. If she aborts more than once before completing a pregnancy, her chance for cancer increases even more. A subsequent full term pregnancy helps, but sadly never removes the sharply increased threat of cancer.

There are over 1,500,000 abortions in the U.S. each year, 56% are first abortions, 44% second or more.

One woman in nine will develop breast cancer, and 25% of them will die.

Women who carry their first baby to term sharply cut their chance for breast cancer.

Women who abort their first pregnancy sharply increase their chance. With 2 or more abortions there is a 3-4 fold increase.

A 15 year old girl has about one in nine to an 11% lifetime risk of breast cancer. If she gets pregnant in her teens and has the baby, she reduces her risk to about 7.5%. However, if she has an abortion her risk rises to over 15% (assuming she has at least one child in her 20s). If the abortion sterilizes her, and/or for other reasons she never has another pregnancy, her risk rises to 50%.

In the United States, approximately 800,000 women abort their first pregnancy each year. Of these, 11% or 88,000 would have developed breast cancer, but, because of their abortions, the number of cancer cases will increase to approximately 130,000. Of these, 44,000 cases, 25%, or 11,000 additional women will die of breast cancer every year.

Abortion mortality
The abortion industry claims 1 per 100,000 women die from abortion per year in the U.S. If we add these 11,000 deaths to the 11,000 deaths annually from 234 deaths per 100,000 women due to mortality from childbirth, which is 110,000.

Is Breast Cancer Increasing?

Yes, in 1962 there were 63,000 cases
 in 1972 there were 90,000 cases
 in 1982 there were 120,000 cases
 in 1992 there were 180,000 cases

What increases a woman's risk?

Breast Cancer in close relatives; never having a baby; early onset and late cessation of menstruation; possessing certain genes; and induced abortion of first pregnancy are major risk factors.

Smoking, toxic chemicals, high fat diet, contraceptives and other drugs, alcohol, and electromagnetic fields are among other suspected risk factors.

What protects her?

Completing her first pregnancy by her early 20s. We must also counsel her to not abort her first pregnancy. A spontaneous miscarriage does not increase her risk.¹

When was this first suspected?

Dr. M. Pike² at University of Southern California in 1981 did the first major study. He showed that aborting her first pregnancy increased her chance of developing Breast Cancer by a factor of 2.4 times.

There were other studies?

Yes. Dr. H. Howe³, using New York State official Health Department records, found that aborting her first pregnancy had a 1.7 times increased risk of Breast Cancer under age 40. If she also aborted her 2nd or/and 3rd pregnancy, her risk was 4.0.

Dr. Janet Daling's⁴ study in 1994 received worldwide publicity. She found:

- An induced abortion increased the risk of Breast Cancer before age 45 by 50%.
- If done before 18 years, it increased by 150%.
- If done after 30 years, it increased by 110%.
- If she had a family member with Breast Cancer and aborted after 30 years, her risk increased by 270%.
- All 12 women in the study, with such a family member who aborted before age 18, got Breast Cancer before age 45.

In Greece:⁵ An overall increased risk of 51% was reported in 1995.

New scientific evidence shows that the increase in abortions worldwide has caused a sharp increase in breast cancer. ■

Over twenty studies indicate that women who abort their first pregnancy have a much higher risk of developing cancer.



In Paris:⁴ Having at least two abortions is associated with an increased Breast Cancer risk of 2.1 times.

In USA:⁷ An increased risk of 23% was shown. For those over 60 years the risk was 80%.

How about recurrences?

In 1983 H. Ownby⁸ found among Breast Cancer patients whose disease had been in remission, a: 10% recurrence in women whose first pregnancy went to term.

20% recurrence in women whose first pregnancy was aborted.

30% recurrence in women who also aborted their second and/or third pregnancy.

And aggressiveness of the cancer?

Dr. H. Olsson⁹ found, if she had aborted her first pregnancy, that the cancer was more aggressive, metastasized earlier and was lethal more quickly as compared to women who had completed their first pregnancy.

What about studies showing no risk?

With few exceptions these were flawed by: inappropriately crude age matching or adjusting of controls (the main problem); interpreting as statistically insignificant some retrospective case controls with low statistical power; minimizing the actual results obtained in their conclusions; and attributing results to patient's "recall bias" even though a close exam refutes such a claim.¹⁰

The Swedish Lindford Harris Study¹¹ is an example of an invalid study. It claimed "no overall risk after abortion in the first three months" — but it:

- combined those who aborted their first pregnancy with those who completed their first pregnancy.
- had no control group. It compared with the total population which includes those who aborted.
- claimed "recall bias" with no proof.

In its conclusion it did not mention that in its findings it showed that:

- Women, aborted after a term delivery, equaled 58% of average risk.
- Women, aborted before a term delivery equaled 109% of average risk.

What about Contraceptive Pills?

If a causative factor, the risk is greater if taken before age 20 and/or for 10 years or more.

Why is this not reported?

TIME¹² Magazine and both the AMA¹³ and New England Journals¹⁴, in reviewing pre-disposing factors, did not include abortion. Dr. Remennick¹⁵ concluded "an initial attitude of researchers toward abortion usually determines the way they interpret results."

How many studies are there in the Medical Literature?

There are now over 50, and the vast majority of well done professional studies continue to point to a positive correlation between abortion and breast cancer.

J.C. WILLKE, M.D.

FOOTNOTES

¹MacMahon, B, et al (1970) Bull. Wld. Hlth. Org. 43:209-21.

²Pike MC, (1981) Brit. J. Cancer. 43:72-6.

³Howe HL, (1989) Int. J. Epidemiol. 18:300-4

⁴Daling, J. et al, Risk of Br. Ca. Among Young Women, J. Nat. Ca. Inst., Vol.86, No.21, Nov 2, '94, Pg. 1584.

⁵Lipworth, L, (April 1995) Int. J. Cancer.

⁶Andrica, N. Role of Genetic and Repro. Factors (1994)

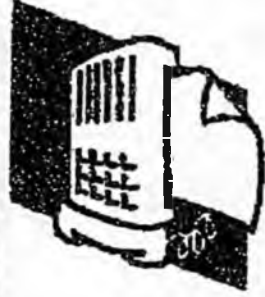
⁷Newcomb, P. et al, (1996) Preg. Termin. & Risk of Br. Ca. JAMA, Vol. 275, No. 4, Pg. 293.

⁸Ownby, H., Interrupted Preg...Poor Prognosis...in Br. Ca. (1983) Br. Ca. Res. Treat 3:339-344.

⁹Olsson, H. et al, (1991) Cancer 67:1285-90.

¹⁰Brind, Joel, Baruch College, numerous articles Natl. Right to Life News

AUL



FAXLINE

TALKING POINTS re: the Danish abortion study by Melbye et al., published in the 1/9/97 New England Journal of Medicine (NEJM)

1. Study's enormity is exaggerated: Database is highly skewed
 - Of the 1.9 million women studied, 1.2 million neither have had exposure to induced abortion nor have developed breast cancer.
 - Of the 281,000 women who had induced abortions, most are too young to have developed breast cancer (Some are still teenagers).
 - Of the 10,000 women who developed breast cancer, most are too old to have their abortion histories on record, since the abortion registry only goes back to 1973 (when the oldest women were 38).
 - Of the 1338 women who had abortions and did develop breast cancer, over 81% had abortions recorded only at age 30 or over; 54% at age 35 or over.
2. Important data are omitted or de-emphasized
 - Among the women who had abortions as teenagers the study actually found essentially the same increased risk (29%) as had been reported in Fried et al.'s Comprehensive Review and Meta-analysis of 23 worldwide studies (a statistically significant 30% overall elevated risk), published last October. However, Melbye et al.'s finding is not statistically significant, because their statistical power is too low.
 - The Melbye study actually found a statistically significant trend of a 3% risk increase for each week of gestation before abortion, even within the first trimester: Women who had an abortion of an 11-12 week fetus showed a 12% higher breast cancer risk, with the risk increase rising to 89% for abortions after 18 weeks (but it waxes' in the study's "Conclusions").
 - Much data was missing from the paper: No information was given on the independent effect of other variables that influence breast cancer risk, and we are shown only relative risk data after adjustment for these variables. Somehow, an unadjusted overall relative risk of 1.44 is adjusted down to 1.00.
3. Previous studies are attacked or misrepresented
 - Melbye et al. attacked the validity of the meta-analysis and all case-control (interview-based data) on the basis of alleged response-bias, citing a 1991 Swedish study. However, the only significant evidence of response bias depends on the assumption that 7 Swedish breast cancer patients reported abortions that never took place (alleged "overreporting"). Response bias is the "Loch Ness Monster" of abortion-tarant cancer research: No credible evidence of it has yet been produced.
 - 4 previous cohort studies are cited as reporting similar findings of no increased risk with induced abortion. But 2 of the studies are exclusively on spontaneous abortion (miscarriage), and one is mostly on spontaneous abortion and does not report any specific data on induced abortion.



343 S. Dearborn, Suite 1901
Chicago, IL 60605-8916
312. 786-9494
312. 786-2197, fax

A scientific perspective on the Danish abortion study
published in the 1/9/97 New England Journal of Medicine (NEJM)

MYTHS AND FACTS. Prepared by Joel Brind, Ph.D., Professor of endocrinology, Department of Natural Sciences, Baruch College, City University of NY, 1/13/97

Myth 1

The Danish study's lead author, Dr. Mads Melbye, told the Wall Street Journal (1/9/97):

"I think this settles it. Definitely—there is no overall increased risk of breast cancer for the average woman who has had an abortion."

Dr. Patricia Hartge of the National Cancer Institute, in a NEJM Editorial accompanying the Danish study, echoed "the clear central finding that there is no overall risk", and concluded: "In short, a woman need not worry about the risk of breast cancer when facing the difficult decision of whether to terminate a pregnancy."

Fact

Said Dr. Karin Michels of Harvard Medical School, as quoted in the 1/9/97 Wall Street Journal: "You should never end a debate with one study and say this is the definitive study"

In fact, this one study from Denmark is the 30th separate study published since 1957 to report specific data on induced abortion and breast cancer. It is only the sixth one not to show an overall increased risk, compared to 24 that do show an increased risk, 18 of which are statistically significant on their own.

Contrary the implication of most current media reports, the Brind study, the comprehensive review and meta-analysis, published in the October, 1996 Journal of Epidemiology and Community Health the epidemiology journal of the British Medical Association, is not one of the 30 studies: it is a compilation of the entire worldwide literature, which pooled the results of the 23 separate studies available at the time of its preparation. This study of studies found a statistically significant, 30% overall risk increase.

Myth 2

The Danish study is different. One reason it is definitive is its enormous size, including over 1.5 million women (most Danish women), over 280,000 of whom had one or more induced abortions. Moreover, the study includes over 10,000 women with breast cancer.

Fact

The enormous size of the Danish study is enormously misleading, because this is a cohort study, in which an entire population (or cohort) of women is followed for many years, to track exposures to the alleged risk factor (induced abortion) and the incidence of the disease in question (breast cancer). Consequently, most of the women in the cohort (over 1.2 million of the 1.5 million) have neither the exposure nor the disease in question, but their presence in the cohort inflates the size of the study.

Myth 3

Even so, the number of women with abortion and breast cancer is very large, which gives this study unusually large statistical power. According to Dr. Hartge, in her NEJM editorial:

"In this cohort of 1.5 million women, 1338 cases of breast cancer were diagnosed in women who had

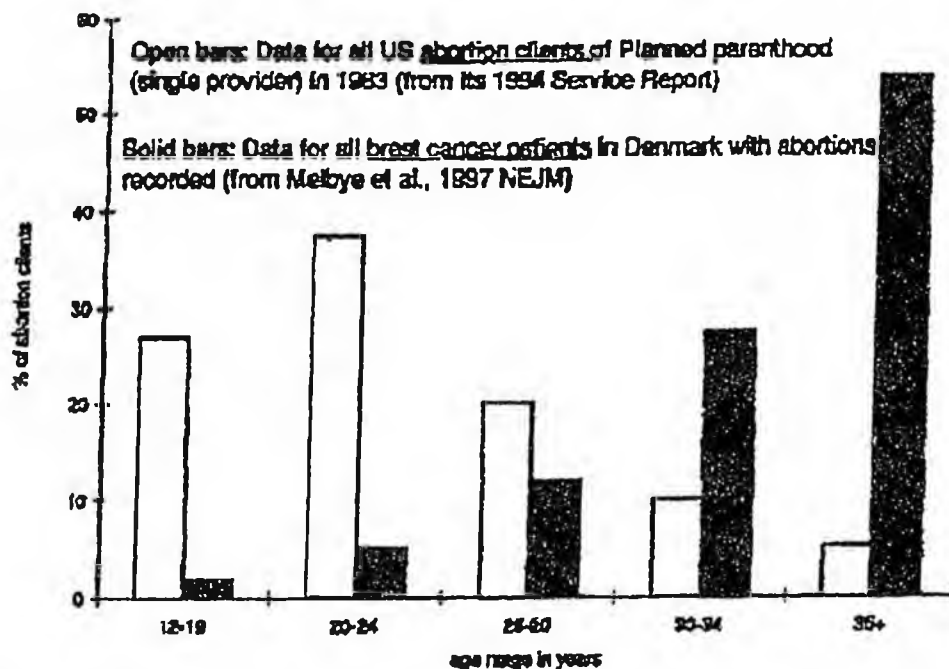
terminated pregnancies. By comparison, large case-control studies in the United States each have included 200 to 300 cases of breast cancer in women who had abortions."

Fact

The selection of such a large part of the Danish population (i.e., women born back to 1935), yields a data base which is very distorted because only abortions occurring since 1973 are on record. Consequently, the majority of breast cancer patients in the Danish study who are on record as not having had any abortions (8,908 women) were in their 30's when abortion data were first collected. Consequently, their abortion history is largely unknown. Keep in mind that we are speaking of a very small proportion of the entire cohort—but the majority of breast cancer victims—since breast cancer is found overwhelmingly among the oldest members of the cohort.

Among the 1338 breast cancer patients whose abortions are on record, the majority of them are on record as having had abortions only at age 35 or over. In fact, over 81% of them have abortions recorded only at age 30 or over!

The egregious distortion of the age distribution of abortion clients is best illustrated by a graphic comparison with US data for the average year (1983) for which the abortions are recorded:



From the above graph, it is easily seen that the Danish (Melbye) study is therefore considerably weaker than its authors and proponents indicate: The statistical power of the study relies largely on a database which is questionable for three reasons:

- 1) It consists mostly of women too young for cancer to develop (those who had abortions and did get breast cancer having had their abortions when they were atypically old);
- 2) The abortion histories of the oldest women in the cohort (which includes most of the women who did get breast cancer) before their fourth decade of life are largely unknown.

3) Concerning the fate of women who have abortions at younger ages—particularly in their teens—the study has almost no statistical power. That is why, even though it shows a 29% risk increase for women who had any abortions as teenagers (the same magnitude of the overall risk increase calculated for women in the Brind meta-analysis), the figure is not statistically significant:

The database only contains a total of 23 cases of breast cancer among women with teenage abortions, and a grand total of only 252 cases of breast cancer for all women who had abortions before the age of 30. That puts the study's real statistical power in the same range as the American studies Dr. Hartge refers to in her editorial.

Unfortunately, the effect of including all the older women (who have most of the breast cancer, but a relatively small portion of the recorded abortions) and all the younger women (who have most of the abortions, but almost none of the breast cancer), is to dilute the statistics, making the calculated relative risk appear lower and at the same time, more precise than it really is. (The summary finding of the Melbye study is an overall relative risk of 1.00 [i.e., no risk increase with induced abortion], and a 95% confidence interval of 0.94-1.06.)

Myth 4

Even though the sample size for women with abortion at younger ages is limited, the Danish data should show some sort of trend, if there were a real risk increase due to abortion. But there is no trend, Dr. Melbye arguing "the oldest women have exactly the same (relative) risk as the younger women."

Fact

As noted above, women who got abortions in their teens showed a 29% higher risk of breast cancer. This was, in fact, noted in the text of the results section (but interestingly, not in the discussion or the abstract):

"Age at the time of the induced abortion did not significantly influence the overall risk, but there was a tendency toward a higher risk of breast cancer among women in the lowest age category—between 12 and 19 years of age (relative risk, 1.29; 95% confidence interval, 0.89 to 2.08)." The lack of significance and lack of effect on observed overall risk is a direct consequence of the lack of statistical power of this supposedly definitive study.

Myth 5

The credibility of the overall finding of no increased risk in the Melbye study is supported by previous research. According to the first paragraph of the authors' Discussion section: "This result is very much in line with the results of previous retrospective cohort studies 9,10,15,16".

Fact

This statement is a flat-out misrepresentation of the medical literature: Three of the four studies cited (as footnotes) to back it up are entirely irrelevant. Two concern spontaneous abortion (miscarriage) exclusively 9,16 and one concerns spontaneous abortion mostly, and does not present any data relating specifically to induced abortion.10

Myth 6 (The "Loch Ness Monster")

It isn't just the statistical power of the study that's important, but the fact that the data are collected

prospectively (i.e., at time of abortion) means they do not depend on the accuracy of study subjects' own reporting of past, personally sensitive events. According to Dr. Hartge, in her NEJM editorial:

"By relying on uniformly collected data on abortion in Danish registries, Melbye et al. avoided the major problem that has plagued case-control interview studies: differential reporting of abortions (response bias)".

Melbye et al. used this argument to attack the Brind meta-analysis directly: "However, since almost all 23 studies included in the analysis were case-control studies, it is not unreasonable to assume that many of them were inherently biased, making the pooled conclusions biased as well."

Fact

Many scientists insist that this potential source of error is responsible for the result whenever a study shows that abortion is associated with increased breast cancer risk. In fact, this is the third time in a little over two years that the National Cancer Institute has used the response bias argument, via medical journal editorials, to attack such research. Like the famous mythological Loch Ness Monster, they insist that it is there. But every time a study actually looks for evidence of its presence, the only credible evidence they can ever find is against it.

When comparing the abortion histories of breast cancer patients with those of healthy women, a finding of more abortions among the patients will show up statistically as an increased risk. The argument is essentially this: If the cancer patients report more of their abortions than the healthy women do, then their breast cancer risk will appear artificially increased, due to this response bias (bias meaning difference between the two groups).

Melbye et al. are less than forthright in their Danish study in their attack on the Brind meta-analysis: One could hardly tell from their discussion that the meta-analysis spent over 1,000 words of text meticulously analyzing the alleged evidence of such bias. Yet still, they hark back to a 1991 Swedish study which compared computer prospective cohort data with case control interview-based data on the same population of Swedish women. That study claimed statistically significant evidence of underreporting of previous induced abortions among controls relative to overreporting among cases. In other words, the significance of the finding was largely dependent upon the belief that the seven breast cancer patients who reported having had abortions of which the computer registry had no record, had overreported them, i.e., had made them up!

Until the Danish study's appearance in the 1/9/97 NEJM, the most recent citing of the monster was in the 12/4/96 Journal of the National Cancer Institute (JNCI). That issue of the JNCI contained a Dutch case-control study which attributed the 90% increased risk it found among women with abortions to response bias. However, a careful reading of the study reveals the authors found significant evidence of response bias between healthy women from different regions of Holland, but no bias between breast cancer patients and healthy women at all. That didn't stop NCI editorialists from hyping these results and unleashing the monster: . . . a Swedish study . . . show(ed) that healthy women consistently and widely underreport their history of induced abortion.

Meanwhile, strong evidence against the response bias argument has surfaced repeatedly: 1) A 1989 New York State computerized registry study found a 90% increased breast cancer risk among women with induced abortions; 2) A 1994 Seattle, Washington study found a 50% increased risk and used cervical cancer data to test specifically for response bias among these women—and found none; 3) A 1995 study among Greek women found a 51% increased risk, and cited other studies among Greek women in drawing their conclusion that healthy women in Greece report reliably their history of induced abortion.

Myth 7

According to a 1/10/97 New York Times editorial: The only uncertainty in the Melbye study) was a suggestion that women who had abortions in the second or third trimester did have an increased risk of breast cancer, but the number of women in this category was too small to warrant firm conclusions.

The falsehood of the first phrase is obvious to anyone familiar with any epidemiological study: All findings are subject to varying degrees of uncertainty. The rest of the statement is a masterpiece of under statement. Consider the actual relevant part of the Results section of the paper: With each one-week increase in the gestational age of the fetus, however, there was a three percent increase in the risk of breast cancer. In fact, the relative risk rose from a 19% (non-significant) risk decrease for women whose abortions occurred at less than seven weeks gestational age, to a significant 89% risk increase for women with post 18-week abortions. Moreover, a risk elevated above the norm started showing up for women with late first trimester abortions (11-12 weeks).

In fairness to the New York Times, however, the authors themselves de-emphasized the finding, failing even to mention it among the "Conclusions" in the paper's abstract. Thankfully, this error of omission did not go unnoticed, drawing sharp criticism from Dr. George Bonney, Chairman of Biostatistics at the Fox Chase Cancer Center in Philadelphia, who told the Washington Post: "This is a powerful group (Melbye et al.), that should know better".

Yet the most important aspect of this finding of significantly increased risk with increasing gestational age at abortion is that Melbye et al. acknowledged it as supporting the biological basis of abortion as a breast cancer risk factor. That is, growth promotion of primitive (and potentially cancer forming) breast cells by surging estrogens during pregnancy may increase breast cancer risk if the pregnancy is aborted. Theoretically, the longer the exposure to this hormonal stimulus, the greater the risk increase. Although other studies have not found a consistent difference in early v. late first trimester abortions, this one did, and the authors call this finding to be "in line with the hypothesis".

Concluding Remarks

Ample evidence has been presented above to show that the authors' "Conclusions: Induced abortions have no overall effect on the risk of breast cancer." is, to say the least, a gross oversimplification. But there are additional concerns: First, a great deal of information about the effects of other variables is missing from the paper, as well as the unadjusted relative risk calculations. In fact, the unadjusted overall relative risk can be calculated at 1.44—a 44% risk increase. Of course, this figure doesn't mean much without adjustment, but how it manages to decrease to 0% increased risk is a disturbing mystery. Dr. Melbye (personal communication) says that they had to shorten the paper considerably for publication, but then one wonders why there is then so much redundancy in it: most of the data in the paper's only table is repeated in the text.

Second, it must be noted that one of the variables adjusted for in this (and most other) studies, is age at first full term pregnancy. That's because delaying the first full term pregnancy is universally recognized to increase breast cancer risk. Induced abortion surely increases risk when performed on young childless women, since it delays the full term delivery that would otherwise naturally have occurred. This increase, being specifically subtracted out, does not show up in any study (including the Brind meta-analysis) that is looking for the specific effect of induced abortion on breast cancer risk.

Finally, it must be acknowledged that computerized cohort data are generally of better quality than interview-based data, all other things being equal. The difficulty with computerized data on the risk of a disease like breast cancer is that it takes years—perhaps 5 to 50 years— for cancer to show up in exposed women. And abortion registries are not generally that old. Computerized registry ~~data~~ are most useful when the outcome in question does not require such a long follow up period. A perfect example is a 1996 study using the Finnish abortion registry. In this British Medical Journal paper, Dr. Mika Gissler et al. found a very reliable, almost sixfold (4888) increase in the rate of suicide by women who had had an induced abortion in the previous year, compared to women who had a baby.

CHAPTER 21

MATERNAL DEATHS AND LONG TERM COMPLICATIONS

— ABORTION — CHILDBIRTH —

It is claimed by abortion proponents that abortion is safer than childbirth. They claim 1 death per 100,000 abortions compared to 10 deaths per 100,000 deliveries . . .

Not True

What is the maternal mortality from childbirth?

Reported average maternal mortality 1979 through 1986 was 9.1 per 100,000 deliveries, having declined from 11 to 7.4.

Morbidity & Mortality Report, July 1991,
Cent. Dis. Cont., Vol. 40, No. 35-1

If all causes of maternal death, other than those associated with live birth i.e., abortion, tubal pregnancy, molar pregnancy, etc., were excluded. . . . "the maternal mortality for 1985 would be 4.7 deaths per 100,000 live births."

"Induced Termination of Preg. . . ." Council on Scientific Affairs, AMA; JAMA, Dec. 9, '92, Vol. 268, No. 22, p. 3231

And the rate has dropped further since the above, but the U.S. Center for Disease Control (see Chapter 17) does not break down their figures. It continues to report a figure for "maternal mortality" that includes abortion and other deaths.

But some mothers do die?

In developed nations, almost never. The National Maternity Hospital in Dublin, Ireland, receives many complicated cases from around that nation and delivers 10% of all births in Ireland. In 10 years (1970-79) it delivered 74,317 births at more than 28 weeks gestation with only one woman dying from a cause related to her pregnancy.

J. Murphy et al., Therapeutic Ab., The Medical Argument, Irish Med. J., Aug. '82, Vol. 75, No. 8

Ed. note: And this report was from two decades ago. Since then medical care has improved substantially.

Abortion Deaths

These have been grossly under-reported. The 'expose' on this is detailed in *Life 5* published by Life Dynamics. The author and his staff have verified 23 deaths from induced abortion in 1992-93. All were reported to state agencies. There is documentation from state health departments that 18 were reported to the Federal Center for Disease Control. However, the official report of the CDC listed only 2 deaths.

"At Life Dynamics we knew abortion complications were grotesquely under-reported, but attributed it to garden-variety bureaucratic incompetence. But after continuing research, they documented "that the flawed abortion data from the CDC was not from ineptitude but of dishonesty and manipulation" after finding that "a large percentage of CDC employees

direct ties to the abortion industry," they retitled the CDC to stand for "Center for Damage Control" — "The CDC doesn't oversee abortion, it justifies it."

M. Crutcher, *Life 5-Exploited by Choice*, Genesis Pub., Chapter 3, "Cooking the Books," p. 135.

The claim that relevant statistics can be collected from the place where the abortion was performed "is little short of science fiction."

"Complications following abortions performed in free-standing clinics is one of the most frequent gynecologic emergencies . . . encountered. Even life-endangering complications rarely come to the attention of the physician who performed the abortion unless the incident entails litigation. The statistics presented by Cates represent substantial under-reporting and disregard women's reluctance to return to a clinic, where, in their mind, they received inadequate treatment."

L. Iffy, "Second Trimester Abortions," JAMA, vol. 249, no. 5, Feb. 4, 1983, p. 588.

What can cause her death?

The main causes are infection, hemorrhage and uterine perforation.

How often do women get infection as a consequence of induced abortion?

A study from one of the most prestigious medical centers in the world, John Hopkins University, reported: "Occurrence of genital tract infection following elective abortion is a well-known complication." This institution reports rates up to 5.2% for first trimester abortions and up to 18.5% in midtrimester.

Burkman et al., "Culture and Treatment Results in Endometritis Following Elective Abortion," *Am J Obstet Gynecol*, vol. 128, no. 5, 1977, pp. 556-559.

For the local freestanding abortion facility in your

community, with far inferior quality of care, the number of such infections will be at least double that of such a medical center.

"One sequel to abortion can be a killer. This is pelvic abscess, almost always from a perforation of the uterus and sometimes also of the bowel," said two professors from UCLA, in reporting on four such cases.

C. Gassner & C. Ballard, *Amer. Jour. OB/GYN*, vol. 48, p. 716 as reported in *Emerg. Med. After Abortion-Abscess*, vol. 19, no. 4, Apr. 1977

In an underdeveloped country, complications are more frequent and treatment is usually less available and effective.

Can infection cause damage?

Infection in the womb and tubes often does permanent damage. The Fallopian tube is a fragile organ, a very tiny bore tube. If infection injures it, it often seals shut. The typical infection involving these organs is pelvic inflammatory disease (PID).

Patients with Chlamydia Trachomatous infection of the cervix (13% in this series) who get induced abortion "run a 23% risk of developing PID."

E. Quigstad et al., *British Jour. of Venereal Disease*, June 1982, p. 177

"Pelvic Inflammatory Disease (PID) is difficult to manage and often leads to infertility, even with prompt treatment . . . Approximately 10% of women will develop tubal adhesions leading to infertility after one episode of PID, 30% after two episodes, and more than 60% after three episodes."

M. Spence, "PID: Detection & Treatment," *Sexually Transmitted Disease Bulletin*, John Hopkins Univ., vol. 3, no. 1, Feb.

"Acute inflammatory conditions occur in 5% of the cases, whereas permanent complications such

chronic inflammatory conditions of the female organs, sterility, and ectopic [tubal] pregnancies are registered in 20-30% of all women . . . these are definitely higher in primigravidas [aborted for first pregnancy]."

A. Kodacek, "Artificial Termination of Pregnancy in Czechoslovakia," *Internat'l Jour. GYN/OB*, vol. 9, no. 3, 1971

Venereal disease, usually Gonorrhea or Chlamydia, causes PID. This, if present, vastly complicates an induced abortion.

"Chlamydia trachomatous was cultured from the cervix in 70 of 557 women admitted for therapeutic abortion. Among the 70, 22 developed acute PID postoperatively (4% of the total)."

E. Quigstad et al., "PID Associated with C. Trachomatous Infection, A Prospective Study," *British Jour. of Venereal Disease*, vol. 59, no. 3, 1982, pp. 189-192

Another study revealed a 17% incidence of post-abortion Chlamydia infection.

Barbacid et al., "Post Abortal Endometritis and Chlamydia," *OB & GYN*, 68:686, 1986.

In a classic English study at a university hospital which reported on four years' experience, "there was a 27% complication rate from infection."

J.A. Stallworthy et al., "Legal Abortion: A Critical Assessment of its Risks," *The Lancet*, Dec. 4, 1971

What of bleeding?

Bleeding is common. Most get by, but some need blood transfusions. The Stallworthy study (above) reported that 9.5% needed transfusions. Most recent studies are reporting smaller percentages.

Are blood transfusions a cause of death in abortions?

Yes, and these deaths are never associated directly nor reported as statistics related to abortions. Here is

how this works:

First, we must know how many women need blood transfusions after getting induced abortions. These figures are hard to come by. The only controlled studies are from university medical centers, which do only a small fraction of all abortions. Over 90% of abortions in the U.S. and varying percentages in other nations are done in free-standing abortion chambers where the medical care is only a faint shadow of the competence of those medical centers. Women who hemorrhage from these abortions are sent to "real" hospitals for transfusions and surgery. The percentage who need transfusions then must remain an estimate as these commercial establishments do not report this.

How many then? Let's be conservative and say that one in every hundred needs a blood transfusion. If there are 1,600,000 abortions annually in the United States, this means that 1% or 16,000 women were transfused.

Viral hepatitis is transmitted in up to 10% of patients transfused. Ten percent of 16,000 is 1,600 women.

Amer. Assn. Blood Banks and Amer. Red Cross
Circular Information, 1984, p. 6

An analysis of 300,000 cases of Hepatitis virus infection showed that deaths occurred from three causes: 322 from acute disease, 5100 from cirrhosis, and 120 from liver cancer. This mortality rate is over 2%.

R. Voelker, Hepatitis B: Planned Parenthood
Med. News, Oct. 13, '89, p. 17

Two percent of 1600 women means that ultimately 32 deaths result annually from abortions for this reason.

AIDS is another threat. Two percent of AIDS have been acquired by blood transfusions. With recent careful screening techniques, this is now much less. But so, 200-400 people in developed countries, people who are still being exposed via blood transfusions.

Noyes, "Transfusions Risk Despite Screening,"
Family Practice News, May 15, 1987.

In underdeveloped nations the AIDS threat ranges from seldom to common.

Are blood clots ever a problem?

Blood clots are one of the causes of death to mothers who deliver babies normally. They are also a cause of death in healthy young women who have abortions performed.

Embolism (floating objects in the blood that go to the lungs) is another problem. Childbirth is a normal process, and the body is well prepared for the birth of the child and the separation and expulsion of the placenta. Surgical abortion is an abnormal process, and slices the unripe placenta from the wall of the uterus into which its roots have grown. This sometimes causes the fluid around the baby, or other pieces of tissue or blood clots, to be forced into the mother's circulation. These then travel to her lungs, causing damage and occasional death. This is also a major cause of maternal deaths from the salt poisoning method of abortion.

For instance, pulmonary thromboembolism (blood clots to the lungs) was the cause of eight mothers dying from abortions, as reported to the U.S. Center for Disease Control.

W. Carrs et al., *Amer. Jour. OB/GYN*, vol. 132, p. 169

And this can occur in those as young as 14 years old.

Pediatrics, vol. 68, no. 4, Oct. 1971

Also, amniotic fluid embolism has "emerged as an important cause of death from legally induced abortion." Of 15 cases, the risk seems to be greater after three months. Treatment is ineffective.

R. Gaidotti et al., *Amer. Jour. OB/GYN*,
vol. 41, 1981, p. 257

And has an 80% mortality rate.

S. Clark, Amniotic Fluid Embolism, the Female Patient, vol. 14, Aug. '89, p. 50

What is Disseminated Intravascular Coagulation?

This is a sudden drop in blood clotting ability which causes extensive internal bleeding and sometimes death. The classic paper was on hypertonic saline (salt poisoning) abortions (see reference below).

H. Glueck et al., "Hypertonic Saline Abortion: Correlation with D.I.C.," *JAMA*, vol. 223, no. 1, July 2, 1973, pp. 28-29

"Saline-induced abortion is now the first or second most common cause of obstetric hypofibrinogenemia." [Same as D.I.C. above].

L. Talbert, Univ. of NC, "DIC More Common Threat with Use of Saline Abortion," *Family Practice News*, vol. 5, no. 19, Oct. 1975

In recent years this method has been seldom used. However, D.I.C. has also been caused by D&E and Prostaglandin abortions.

White et al., "D.I.C. Following Three MID-Trimester Abortions," *Anesthesiology*, vol. 58, 1983, pp. 99-100

Apart from deliberate mis-reporting to mask abortion death, are there others innocently missed?

Yes. For instance:

- Consider the mother who hemorrhaged, was transfused, got hepatitis, and died months later. Official cause of death, Hepatitis. Actual cause, abortion.
- A perforated uterus leads to pelvic abscess, sepsis (blood poisoning), and death. The official report of the cause of death may list pelvic abscess and septicemia. Abortion will not be listed.
- Abortion causes tubal pathology. She has an ectopic pregnancy years later and dies. The cause listed will be ectopic pregnancy. The actual cause, abortion.

- Deep depression and guilt following an abortion leads to suicide. The cause listed, suicide! Actual cause, abortion.

But many are mis-reported on the original death certificate and are not quite innocent.

- The kindhearted surgeon, unable to save the life of an abortion victim, feels that she and her family have been punished enough. He doesn't want to ruin her and her family's reputation in the community — so he forgets to mention abortion on the death certificate.
- If the abortionist does the follow-up care and the patient dies from the abortion, the abortionist doesn't want the reputation of being a butcher, so another cause is listed.
- Usually, however, a different doctor sees a patient who dies from the damage done from an abortion, but she and her family hotly deny the abortion. The abortion connection cannot be absolutely proven, and the new doctor fears a suit for malpractice or for defamation of character, and so he lists another cause.

You mean all maternal deaths from abortion are not reported?

That's exactly correct. The official reporting agency for the U.S. government is the Center for Disease Control in Atlanta, Georgia. Listen to this:

During the two-year stretch of 1991 and '92, the CDC officially reported only one mother each year dying from induced abortion. In fact, there are 20 documented deaths. Of these, 14 were reported directly to the CDC from state health agencies. The CDC only listed two of them. Mr. Crutcher's book, *Line 5*, which accuses this agency of gross dishonesty and malfeasance in its reporting, is extremely convincing.

M. Crutcher, *Life Dynamics*, personal communication, July '93

Even so, the situation today is better than the "5,000 to 10,000 women who died annually in the U.S. from back-alley abortions," isn't it?

These figures, often cited by pro-abortionists, are simply false. During the debate on the floor of the U.S. Senate on the Hatch-Engleton Pro-Life Amendment in 1983, the U.S. Bureau of Vital Statistics provided the data on such deaths.

Its reports showed that you must go back to the pre-Penicillin era to find more than 1,000 maternal deaths per year from illegal and legal abortions combined. The precipitous drop in maternal deaths in the 1950s and '60s occurred while abortions were still illegal. Before the first state legalized abortions in 1966, the total deaths were down to 120 per year. By 1972, before the Supreme Court legalized abortion in all 50 states, it was down to 39 per year in the entire U.S. Since legalization, the slow decline has continued, so that now the only difference is that more mothers are dying from legal, rather than illegal abortions.

U.S. BUREAU OF VITAL STATISTICS
CENTER FOR DISEASE CONTROL

YEAR	Reported Maternal Deaths from Illegal Abortion in U.S.
1940	1,679
1950	316
1960	289
1966	120 First State Legalized in 1967
1970	128
1972	39 Supreme Court Decision in 1973
1977	21
1981	8

Taken from U.S. Senate

What of pregnancy and abortion in teenagers?

Early on, it was thought that pregnancy in young teenagers was more risky than in older women. But recent studies have shown that teenage mothers have no more risks during pregnancy and labor, and their babies fare just as well as their more mature sisters' babies, if they have had good prenatal care.

"We have found that teenage mothers, given proper care, have the least complications in childbirth. The younger the mother, the better the birth. If there are more problems, society makes it so, not biology."

B. Sutton-Smith, *Jour. of Youth and Adolescence*
As reported in the *New York Times*, April 24, 1979

"No relationship between mother's physical growth and maturation and adverse pregnancy course or outcome was demonstrated.

Sukanich et al., "Physical Maturity and Pregnancy Outcome Under 16 Years," *Pediatrics*, vol. 78, no. 1, July 1986, p. 31

Dr. Jerome Johnson of John Hopkins University, and Dr. Felix Heald, Professor of Pediatrics, University of Maryland, agree that the fact that teenage mothers often have low birth weight babies is not due to "a pregnant teen-ager's biologic destiny." They pointed to the fact that the cause for this almost invariably is due to the lack of adequate prenatal care. "With optimal care, the outcome of an adolescent pregnancy can be as successful as the outcome of a non-adolescent pregnancy."

Family Practice News, Dec. 15, 1975

"The overall incidence of pregnancy complications among adolescents 16 years and younger is similar to that reported for older women."

E. Hopkins, "Pregnancy Complications Not Higher in Teens," *OB-GYN News*, vol. 15, no. 10, May 1980

"Obstetric and neonatal risks for teenagers over 15

are no greater than for women in their twenties, provided they receive adequate care."

There is evidence that in 15- to 17-year old women, pregnancy may even be healthier than in older ages.

E. McAnarney, "Pregnancy May Be Safer," *OB-GYN News*, Jan. 1978.

Pediatrics, vol. 6, no. 2, Feb. 1978, pp. 199-203.

F. Avey, Canada Col. Family Physician, "Pregnant Teens . . ." *Family Practice News*, Jan. 15, 1987, p. 14.

But the abortion picture is different, particularly in regard to cervical damage.

After years of legalized abortion experience, a pro-abortion professor of OB/GYN at the University of Newcastle-on-Tyne reported on his follow-up, ranging from two to twelve years, of 50 teenage mothers who had been aborted by him. He noted that "the cervix of the young teenager, pregnant for the first time, is invariably small and tightly closed and especially liable to damage on dilatation." He reported on the "rather dismal" results of their 53 subsequent pregnancies:

Six had another induced abortion.

Nineteen had spontaneous miscarriages.

One delivered a stillborn baby at 6 months.

Six babies died between birth and 2 years.

Twenty-one babies survived.

J. Russell, "Sexual Activity and Its Consequences in the Teenage Clinics in OB, GYN, vol. 1, no. 3, Dec. 1974, pp. 683-687.

"Physical and emotional damage from abortion is greater in a young girl. Adolescent abortion candidates differ from their sexually mature counterparts in these differences contribute to high morbidity." They have immature cervixes and "run the risk of a difficult potentially traumatic dilatation." The use of laminaria "in no way mitigates our present concern over problems of abortion."

C. Cowell, *Problems of Adolescent Abortion*, Ortho Panel 14, Toronto General Hospital

"The younger the patient, the greater the gestation (age of the unborn), the higher the complication rate. . . . Some of the most catastrophic complications occur in teenagers."

"Eighty-seven percent (87%) of 486 obstetricians and gynecologists had to hospitalize at least one patient this year due to complications of legal abortions."

M. Bulfin, M.D., *OB-GYN Observer*, Oct.-Nov. 1975

Abortions May Be Legal But They Are Not Always Safe

No. 88-1125, 88-1309

IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

JANE HODGSON, M.D., *et al.*,
Petitioners, Cross-Respondents,

v.

STATE OF MINNESOTA, *et al.*,
Respondents, Cross-Petitioners.

On Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit

BRIEF OF THE ASSOCIATION OF
AMERICAN PHYSICIANS AND SURGEONS (AAPS)
AS *AMICUS CURIAE* IN SUPPORT OF
STATE OF MINNESOTA

Of Counsel:
KENT MASTERSON BROWN
1114 First National Bldg.
167 West Main Street
Lexington, KY 40507
(606) 233-7879

CLARKE D. FORSYTHE *
LEANNE MCCOY
AMERICANS UNITED FOR LIFE
LEGAL DEFENSE FUND (AUL)
343 S. Dearborn Street #1804
Chicago, IL 60604
(312) 786-9494
Counsel for Amicus Curiae

October 10, 1989

* Counsel of Record

IS—Continued

	Page
<i>Abortion Statistics</i>	
.....	5
<i>Asserting Scientific Precedent and Adoles- cent Abortion: A Journalist's View</i> (June 1986).....	8
<i>American Women and the Family: A National Plan. Persp.</i> 90	5
.....	5
<i>Abortion: Epidemiological and Adolescent Abortion: A Review of the Literature</i> (1986).....	5
<i>Abortion: The Incidence of Spontaneous Abortion in the United States, 74 Am. J. Public Health</i> (1982-1987).....	7 16
<i>Abortion: A State by State Review of Abortion Laws and Family Planning Programs</i> , 99th Ann. Am. Soc. Public Health	6, 7
.....	
<i>Abortion: Politics and Policy</i> , 284 (1980).....	5

IN THE
Supreme Court of the United States

OCTOBER TERM, 1989

Nos. 88-1125, 88-1309

JANE HODGSON, M.D., *et al.*,
Petitioners, Cross-Respondents,

v.

STATE OF MINNESOTA, *et al.*,
Respondents, Cross-Petitioners.

On Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit

BRIEF OF THE ASSOCIATION OF
AMERICAN PHYSICIANS AND SURGEONS (AAPS)
AS *AMICUS CURIAE* IN SUPPORT OF
STATE OF MINNESOTA

INTEREST OF THE *AMICUS CURIAE**

The Association of American Physicians and Surgeons, Inc. (AAPS), a not-for-profit corporation, is the largest association of private practicing physicians in the United States. AAPS is comprised of active, practicing physicians and osteopaths of all specialties, from every state and territory in the United States and the District of

* This brief is filed with the written consent of the parties, copies of which have been filed with the Clerk of this Court.

Columbia. One purpose of the AAPS is to protect and preserve the private practice of medicine in all of its aspects. AAPS supports the right of patients, both adults and minors, to be provided full and accurate medical information with which to render informed decisions pertaining to their medical treatment. The AAPS recognizes the importance of involving parents in the medical treatment of minors, particularly in the provision of surgical procedures. Many of the members of the AAPS are pediatricians and obstetricians/gynecologists who routinely provide medical services to minors. In addition, many AAPS members are family practitioners whose practices involve working with the family, as a unit, in the provision of medical treatment. For these reasons, the issues involved in this case are of acute interest to the Association.

SUMMARY OF ARGUMENT

In this challenge to the Minnesota parental notice of abortion law, as applied, Minnesota abortion clinics and physicians have launched a selective attack to overturn this Court's decisions in *H.L. v. Matheson*, 450 U.S. 398 (1981), *Bellotti v. Baird*, 448 U.S. 622 (1979), and *Planned Parenthood v. Ashcroft*, 462 U.S. 476 (1983), as well as the constitutional principle that parents have fundamental rights to rear and raise their minor daughters in the area of abortion decision-making. The clinics' record in this case focuses exclusively on a minute subsection of Minnesota teens—those who sought elective abortions through judicial bypass—constituting only 25% of all pregnant teens and never more than .34% of the entire population of Minnesota teens aged 10-17. The clinics attempt to establish the unremarkable proposition that parents and teenagers do not always see eye to eye on teens' activities, that some parents may be abusive, that parents may react with grief, fear, or anger when they suddenly discover that their minor, unwed daughter is unexpectedly pregnant, and that this discovery may

not improve but may harm the parent-teen relationship. The record contains several stories of sad and unfortunate relations between parents and their children. But these conflicts are part and parcel of the parent-child relationship throughout history, and, as part of that relationship, have defined parental authority throughout Anglo-American law. In this sense, adolescent pregnancy is no different than many other serious, adverse events in the lives of teenagers and their families—for example, drug abuse, juvenile delinquency, or failure in school. It is in these very circumstances that parental authority is defined by the law's reaffirmation and support.

If the clinics could show that the notice law resulted in tangible threats to the health of minors generally in Minnesota—above and beyond that normally posed by pregnancy and elective abortion themselves—that minors suffered increased abuse from parents, that physicians were prevented from providing prenatal care, or that minors were denied prenatal care, it would then be plausible for the clinics to claim that the notice law was not reasonably related to preserving parental authority or adolescent health. But this is not the case that the clinics have made.

Part of the impact of the notice law that the clinics have either selectively ignored, misconstrued, or incompletely presented is revealed through the official demographic data of the Minnesota Department of Health on adolescent pregnancy, abortion, and childbirth. These data show that teenage pregnancy, abortion, and birth rates declined markedly between 1980-1986; teens who decided to abort were not unusually delayed from having abortions until later times of pregnancy that might increase the risk of abortion; and complications from abortions performed on teens did not increase relative to other age groups. In addition, a comparison of the pregnancy, abortion, and birth rates provides strong support for the conclusion that the notice law effectively caused a

decrease in the pregnancy rate. Between 1980-1986, the birth rate throughout Minnesota fell 12.5% for 10-17 year olds and 28.4% for 18-19 year olds, the abortion rate fell 27.4% for 10-17 year olds and 20.7% for 18-19 year olds, and the pregnancy rate fell 20.5% for 10-17 year olds and 25.4% for 18-19 year olds. Since it seems undisputed that the notice law directly decreased abortion rates, while birth rates simultaneously decreased, this strongly suggests that the law decreased abortion rates by affecting pregnancy rates. This supports the conclusion that the notice law in fact changed adolescent behavior. These data indicate that the notice law is reasonably related to Minnesota's compelling interest in preserving parental authority and adolescent health.

ARGUMENT

I. THE PEOPLE OF MINNESOTA HAVE A COMPELLING INTEREST IN HELPING PARENTS AND FAMILIES TO REDUCE TEENAGE PREGNANCY AND TEENAGE ABORTION.

This Court's decisions in *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Danforth*, 428 U.S. 52 (1976), established a constitutional right to elective abortion for adolescent girls of any age that minors had not exercised at any time in the preceding history of this country. See Brief Amicus Curiae of the American Academy of Medical Ethics in Support of Cross-Petitioners in *Hodgson v. Minnesota*, No. 88-1126, 88-1309 at 2-23; Brief of Certain American State Legislators in Support of Appellants in *Webster v. Reproductive Health Services, Inc.*, No. 88-605. In the aftermath of those decisions, parents and public officials in every state have sought to adjust public policy on health care to take account of this new constitutional right while preserving other compelling, traditional social values. This Court has recently held that government has a "legitimate secular purpose" in reducing "the social and economic problems caused by

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



House Of Representatives

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

MEMORANDUM

Date: February 11, 1997
To: House State Affairs Committee
From: Representative Pete Kelly
RE: Constitutionality of CSHB 37

During the testimony on CSHB 37 this morning the issue of constitutionality arose. It was said that although CSHB 37 conforms to the US Constitution, it violates Alaska's Constitution. I have attached two separate legal opinions addressing this issue. The opinions refer to SB 105, Sen. Leman's bill during the Nineteenth Alaska Legislature. The text of the bill is the same as CSHB 37 and the legal opinions still apply.

JEFFERY D. TROUTT
2007
4485 COLUMBIA BLVD.
2167
JUNEAU, ALASKA 99801

VOICE: (907)790-

FAX: (907)790-

TESTIMONY OF JEFFERY D. TROUTT CONCERNING SB 105

My name is Jeffery D. Troutt. I am a Juneau attorney in solo practice. I am here to speak to the constitutionality of SB 105 under the privacy clause of the Constitution of Alaska. SB 105 would prohibit physicians from performing abortions prior to obtaining the consent of parents, guardians, or the courts. I believe that this bill, if it becomes law, would pass muster under Alaska constitutional law, and the right to privacy enumerated in art. 1, § 22 of the Alaska Constitution, as currently interpreted by the Supreme Court of Alaska.

The right to privacy may best be described as "the right to be left alone". Both the federal and state constitutions give a measure of protection to the privacy of individuals. However, federal and state courts have been careful not to apply the right to privacy in a manner that restricts government from performing its essential functions or enforcing important public policies that may impinge on an individual's privacy.

FEDERAL PRIVACY LAW

The Constitution of the United States does not enumerate a right to privacy. The word "privacy" does not appear in the Constitution. However, the Supreme Court of the United States has found that a right to privacy exists in the Constitution, and derives from a broad reading of the due process clause of the 14th Amendment. *Carey v. Population*

substantial relation' between the means chosen and a legitimate governmental purpose. *Isakson v. Richey*, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the state's interest in invading privacy must be compelling.

Matter of A.B., 791 P.2d 615, 621 (Alaska 1990).

The court has set limits to governmental invasion of privacy. "No governmental intrusion on the privacy of citizens should be broader or more intrusive than necessary to accomplish the government purpose that justifies it." *Municipality of Anchorage v. Ray*, 854 P.2d 740, 750 (Alaska 1993). Thus, the court will allow government to invade personal privacy, but it must do so only to the extent required to accomplish the legitimate governmental purpose..

The Supreme Court of Alaska reviewed the right to privacy as applied to a minor child in *Matter of A.B.*, 791 P.2d 615 (Alaska 1990). There, the court upheld the right of a parent to information held by HESS. The court recognized the preeminent importance of preserving the family structure, despite the father's admitted neglect and addiction to drugs, and the agency's expressed interest in preserving the privacy of certain information. The court stated that, to facilitate an expeditious and comprehensively monitored reunion of A.B. [a minor female] and her father, and to preserve the potential for a normal relationship between them, are legitimate State interests substantially effectuated by the release order [requiring the State to release information regarding the child to parties interested in the outcome of the case]." *Id.*, at 791 P.2d 622.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

JEFFERY D. TROUTT
2007
4485 COLUMBIA BLVD.
2167
JUNEAU, ALASKA 99801

VOICE: (907)790-

FAX: (907)790-

TESTIMONY OF JEFFERY D. TROUTT CONCERNING SB 105

My name is Jeffery D. Troutt. I am a Juneau attorney in solo practice. I am here to speak to the constitutionality of SB 105 under the privacy clause of the Constitution of Alaska. SB 105 would prohibit physicians from performing abortions prior to obtaining the consent of parents, guardians, or the courts. I believe that this bill, if it becomes law, would pass muster under Alaska constitutional law, and the right to privacy enumerated in art. 1, § 22 of the Alaska Constitution, as currently interpreted by the Supreme Court of Alaska.

The right to privacy may best be described as "the right to be left alone". Both the federal and state constitutions give a measure of protection to the privacy of individuals. However, federal and state courts have been careful not to apply the right to privacy in a manner that restricts government from performing its essential functions or enforcing important public policies that may impinge on an individual's privacy.

FEDERAL PRIVACY LAW

The Constitution of the United States does not enumerate a right to privacy. The word "privacy" does not appear in the Constitution. However, the Supreme Court of the United States has found that a right to privacy exists in the Constitution, and derives from a broad reading of the due process clause of the 14th Amendment. *Carey v. Population*

Services International, 431 U.S. 478, 684, 97 S.Ct. 2010, 2015, 52 L.Ed.2d 675 (1977). The right has also been held to exist as a result of "emanations" from other constitutional provisions, e.g. *Griswold v. Connecticut*, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). Governmental intrusions of privacy are allowed where there is a compelling state interest and that regulation does not sweep too broadly. *Id.*, at 381 U.S. 485, 85 S.Ct. 1682; *Roe v. Wade*, 410 U.S. 113, 115, 93 S.Ct. 705, 727, 35 L.Ed.2d 147 (1973); *Carey*, at 431 U.S. 685, 97 S.Ct. 2016.

ALASKA PRIVACY LAW

Unlike the federal constitution, the Alaska Constitution explicitly grants the right to privacy in Art. I, § 22. Alaska is one of a few states that have such a provision. The Supreme Court of Alaska has held that the state's right to privacy is broader than the right to privacy that the Supreme Court of the United States recognized in the cases cited above. *State v. Glass*, 583 P.2d 872, rehearing 596 P.2d 10 (Alaska 1978).

The court's analysis of privacy rights hinges upon an examination of the importance of the right claimed, and the government's interest in the action infringing upon privacy. The court has said:

Under the Alaska Constitution, the required level of justification turns on the precise nature of the privacy interest involved. In the absence of suspect classification or impairment of fundamental rights, we have required that there be a 'fair and

substantial relation' between the means chosen and a legitimate governmental purpose. *Isakson v. Richey*, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the state's interest in invading privacy must be compelling.

Matter of A.B., 791 P.2d 615, 621 (Alaska 1990).

The court has set limits to governmental invasion of privacy. "No governmental intrusion on the privacy of citizens should be broader or more intrusive than necessary to accomplish the government purpose that justifies it." *Municipality of Anchorage v. Ray*, 854 P.2d 740, 750 (Alaska 1993). Thus, the court will allow government to invade personal privacy, but it must do so only to the extent required to accomplish the legitimate governmental purpose.

The Supreme Court of Alaska reviewed the right to privacy as applied to a minor child in *Matter of A.B.*, 791 P.2d 615 (Alaska 1990). There, the court upheld the right of a parent to information held by HESS. The court recognized the preeminent importance of preserving the family structure, despite the father's admitted neglect and addiction to drugs, and the agency's expressed interest in preserving the privacy of certain information. The court stated that, to facilitate an expeditious and comprehensively monitored reunion of A.B. [a minor female] and her father, and to preserve the potential for a normal relationship between them, are legitimate State interests substantially effectuated by the release order [requiring the State to release information regarding the child to parties interested in the outcome of the case]." *Id.*, at 791 P.2d 622.

I have found one case where the court discusses the privacy interest of minors in preventing the disclosure of information about their obtaining an abortion. In *Falcon v. Alaska Public Offices Commission*, 570 P.2d 469 (Alaska 1977), the court prevented application state election law requiring a physician to disclose the names of patients from whom he had received over \$100 in payment. The court stated that a physician specializing in contraceptive or abortion services, or a general practitioner providing abortion or contraceptive services to a minor, should not be required to disclose the names of patients. This because the patients' privacy interests outweighed the public interest in promoting fair and honest government by requiring disclosure of a candidate's sources of income. *Falcon*, at 791 P.2d 622-623.

The *Falcon* case turned upon the potential public disclosure of information concerning intimate details of patients' lives. SB 105, on the other hand, deals only with private disclosure of information to parents concerning the health of minor children. As noted above, the court has recognized the importance of the parent/child relationship, and has been willing to sacrifice privacy interests in favor of supporting and maintaining that relationship. (Indeed, the court, while not deciding the constitutionality of similar provisions in the law, the court has displayed deference towards legislative policy in this area. See, e.g., *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981) and *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska 1990).)

Based upon the principles enumerated in the case law, I believe that the Supreme

Court of Alaska would hold that SB 105 does not violate the constitutional rights of minor children. Although the court may find that a fundamental right to abortion is implicated by the bill, see *Roe*, above, it would probably also find that there is a competing fundamental right of parents to be involved in decisions concerning minor children. See, *Matter of A.B.*, above.

In addition, as a matter of policy, the court would surely agree with the legislature that parents are more able than government to help minor children make a choice regarding abortion, and that it is in the best interests of minor children to have their parents involved in this decision.

Those rare instances where parental involvement would not be in a child's best interests are covered by the judicial by-pass allowing minors to obtain abortions against their parents' consent under certain circumstances. This will not only help the bill pass constitutional muster under federal law, it will likely persuade the Alaska court that the bill protects the privacy interests of minor children in the least obtrusive manner possible.

CONCLUSION

Abortion is a highly personal decision with profound moral, emotional, and spiritual ramification. I believe that the court would recognize that it is a decision that most minors should not make without involving the people best equipped to help them make that

decision, and most concerned for their welfare — the minor's parents. For this reason, and the reasons expressed above, I believe that it is likely that the Supreme Court of Alaska would hold that SB 105 is constitutional under the Constitution of Alaska.

MEMORANDUM

TO: Senator Loren Lehman
FROM: Kevin G. Clarkson *KG*
DATE: February 13, 1995
RE: Constitutional Limitations of Parental Consultation Requirements as a Precondition to Minor Abortions

INTRODUCTION

Pursuant to your request, I have reviewed the draft bill which you transmitted to me regarding parental notification, with an optional/alternative judicial bypass as a precondition to minor abortions in Alaska. I have also conducted legal research to determine, according to existing case law, what the constitutional limitations are for parental consultation requirements as a precondition for minor abortions. My legal research has included analysis of both the United States Constitution and the Alaska Constitution.

QUESTIONS PRESENTED

1. What are the permissible limits of a parental consultation requirement as a precondition to a minor's abortion under the United States Constitution?
2. What affect, if any, does Alaska's constitutional protection of the right to privacy have upon the enforceability of a parental consultation requirement as a precondition to a minor's abortion?

SHORT ANSWER

A one-parent consent requirement as a precondition to a minor's abortion is constitutionally permissible provided the statute contains an alternative judicial bypass procedure. To be constitutionally adequate, a judicial bypass procedure must allow the minor to obtain court

approval of her abortion decision without parental involvement if she can (1) show that she possess the maturity and information necessary to make her abortion decision, or (2) even if she cannot make the abortion decision by herself, that the desired abortion would be in her best interests. In addition, the judicial bypass procedure must ensure the minor's anonymity and must be conducted with expediency to allow the minor an effective opportunity to obtain the abortion. The Alaska Constitution's provision guarantying a right to privacy should not require a different conclusion.

DISCUSSION

I. Permissible Parental Consultation Provisions Under the United States Constitution

Pursuant to current law, an abortion regulation is unconstitutional only if it places an undue burden on the exercise of the woman's right to choose to have an abortion. Planned Parenthood v. Casey, ___ U.S. ___, 112 S. Ct. 2791, 2821 (1992). As the Court stated in Casey:

Regulations which do no more than create a structural mechanism by which the State, or the parent or guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose.... Unless it has that effect on the right of choice, a state measure designed to persuade her to choose childbirth over abortion will be upheld if reasonably related to that goal. Regulations designed to foster the health of a woman seeking an abortion are valid if they do not constitute an undue burden.

___ U.S. at ___, 112 S. Ct. at 2821. Therefore, a regulation that places a burden on the exercise of a woman's right to an abortion is constitutional unless the burden is "undue." The State may permissibly enact laws that are "calculated to inform the woman's free choice, not hinder it." Id. As stated plainly in Casey, regulations which do no more than create a structural mechanism by which the state, or the parent or the guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose. U.S. at ___, 112 S. Ct. at 2821. "As long as Casey remains authoritative, the constitutionality of an abortion regulation thus turns on an examination of the importance of the State's interest in the regulation and the severity of the burden that regulation imposes on the woman's right to seek an abortion." Barns v. State of Mississippi, 992 F.2d 1335, 1339 (5th Cir. 1993).

In the area of abortion rights, even prior to the Supreme Court's recent retreat in Casey, ___ U.S. at ___, 112 S. Ct. at 2821, from the landmark decision of Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705 (1973), the Court ruled that it is constitutionally permissible for a state to require minor abortions to be conducted only after parental notification or parental consent has occurred, provided there exists acceptable judicial bypass alternatives. In Planned Parenthood of Central Missouri v. Danforth, the Court held that it is constitutionally impermissible for the state to place an absolute veto on a minor's abortion decision. See 428 U.S. 52, 74, 96 S. Ct.

2831, 2843 (1976) ("[T]he State may not impose a blanket provision . . . requiring the consent of a parent or person in local⁵ parentis as a condition for abortion of an unmarried minor during the first 12 weeks of her pregnancy [T]he State does not have the constitutional authority to give a third party an absolute, and possibly arbitrary, veto over the decision of the physician and his patient to terminate the pregnancy, regardless of the reason for withholding the consent."); Accord, City of Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. 416, 439, 103 S. Ct. 2481, 2497 (1983) (Akron I). However, even prior to Casey, the Court upheld parental consultation statutes (both parental consent and parental notification statutes) which contain judicial bypass procedures satisfying the standards of Bellotti v. Baird. See Bellotti v. Beard, 443 U.S. 622, 640-42, 99 S. Ct. 3035, 3046-47 (1979) (the majority of the Court indicating that a two-parent consent requirement would be constitutionally permissible if coupled with an appropriate judicial bypass procedure); see also Akron I, 462 U.S. at 439, 103 S. Ct. at 2497 ("the State's interest in protecting immature minors will sustain a requirement of a consent substitute, either parental or judicial"); Planned Parenthood Association v. Ashcroft, 462 U.S. 476, 491, 103 S. Ct. 2517, 2525 (1983) (same). Most recently in Casey, after substantially retreating from Roe v. Wade, the Court specifically ruled that a one-parent consent requirement with an alternative judicial bypass procedure is constitutional:

Our cases establish, and we reaffirm today, that a State may require a minor seeking an abortion to obtain the consent of a parent or guardian, provided that there is an adequate judicial bypass procedure. See, e.g., Akron II, 497 U.S. at ___, 110 S. Ct. at ___; Hodgson, 497 U.S. at ___, 110 S. Ct. at ___, Akron I, supra, 462 U.S. at 440, 103 S. Ct. at 2497; Bellotti, supra, 443 U.S. at 643-644, 99 S. Ct. at 3048 (plurality opinion). Under these precedents, in our view, the one-parent consent requirement and judicial bypass procedure are constitutional.

___ U.S. at ___, 112 S. Ct. at 2832.

The judicial reasoning for upholding parental consent and parental notification requirements (with adequate judicial bypass procedures) finds its genesis in the Supreme Court's analysis of a child's limited rights and protections under the Constitution vis-a-vis an adult's rights and protections. For example, the Court has long recognized that "[a] child merely on account of his minority is not beyond the protection of the constitution." Bellotti v. Baird, 443 U.S. 622, 633, 99 S. Ct. 3035, 3043 (1979). As the Court ruled in In Re: Gault, 387 U.S. 1, 13, 87 S. Ct. 1428, 1436 (1967), "whatever may be their precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone." Quoted in Bellotti, 443 U.S. at 633, 99 S. Ct. at 3043. Similarly, in Danforth, 428 U.S. at 74, 96 S. Ct. at 2843, the Court stated:

Constitutional rights do not mature and come into being magically only when one attains the state defined age of majority. Minors, as well as adults, are protected by the constitution and possess constitutional rights.

Simply observing that minors are protected by the Constitution, of course, is but the beginning of the analysis in determining what parental consent and/or parental notification

requirements the State can impose as a precondition to a minor's abortion decision. The Supreme Court has long recognized that the status of minors under the law is unique in many respects. As Justice Frankfurter aptly put it: "[C]hildren have a very special place in life which law should reflect. Legal theories and their phrasing in other cases readily lead to fallacious reasoning if uncritically transferred to determination of a state's duty towards children." May v. Anderson, 345 U.S. 528, 536, 73 S. Ct. 840, 844 (1953) (concurring opinion). Also, as Justice Powell put it in Bellotti, "[t]he unique role in our society of the family, the institution by which we inculcate and pass down many of our most cherished values, moral and cultural, . . . requires that constitutional principles be applied with sensitivity and flexibility to the special needs of parents and children." 443 U.S. at 634, 99 S. Ct. at 3035, quoting, Moore v. East Cleveland, 431 U.S. 494, 503-504, 97 S. Ct. 1932, 1938, 1977 (plurality opinion). Specifically, the Court has recognized three reasons which justify the conclusion that the constitutional rights of children cannot be equated with those of adults: The peculiar vulnerability of children; their inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child rearing. Bellotti, 443 U.S. at 644, 99 S. Ct. at 3043. "[P]arent notice and consent are qualifications that typically may be imposed by the State on a minor's right to make important decisions. As immature minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences, a State reasonably may determine that parental consultation often is desirable and in the best interest of a minor." Bellotti, 443 U.S. at 640, 99 S. Ct. at 3046.¹ Each of these reasons have amplified significance in the case of a minor woman considering the dramatic decision of whether to abort her unborn child. See Id.; Casey, ___ U.S. at ___, 112 S. Ct. at 2832. Accordingly, the State may determine, as a general proposition, that such consultation is particularly desirable with respect to the abortion decision, as it is one that for some people raises profound moral and religious concerns. Moreover, it is widely demonstrated that parental involvement in a minor's abortion decision, if compassionate and supported, is highly desirable. See Bellotti, 443 U.S. 642, n. 20, 99 S. Ct. at 3047, n. 20.²

¹ In Danforth, 428 U.S. at 75, 96 S. Ct. 2844, the Court emphasized that its holding "[d]id not suggest that every minor, regardless of age or maturity, may give effective consent for termination of her pregnancy."

² The State's interest in a one-parent consent statute, such as Alaska's, is clear: it is to protect children from their own immaturity as well as from the possibly deficient advice of those whose business it is to provide abortions at profit. Such statutes are plainly constitutional provided they contain adequate judicial bypass provisions. Casey, ___ U.S. at ___, 112 S. Ct. at 2832; Ashcroft, 462 U.S. 476, 103 S. Ct. 2517. Ohio v. Akron Center for Reproductive Health (Akron II), 497 U.S. 502, 520, 110 S. Ct. 2972, 2984 (1990), Justice Kennedy eloquently expressed the interest of the State and the Family in requiring parental consent as a precondition to a minor's abortion:

It is both rational and fair for the State to conclude that, in most instances, the family will strive to give a lonely or even terrified minor advice that

In the abortion context, parental involvement statutes may be divided into four groups, in ascending order of the burden which they impose on the minor's exercise of her limited right to an abortion: One-parent notification statutes, two-parent notification statutes, one-parent consent statutes, and two-parent consent statutes. The Supreme Court upheld a one-parent notification statute in H.L. v. Matheson, 450 U.S. 398, 101 S. Ct. 1164 (1981). The Court upheld a two-parent notification statute that includes a judicial bypass provision in Hodgson v. Minnesota, 497 U.S. 417, 110 S. Ct. 2926 (1990) (Kennedy, J. plurality opinion).³ Finally, as stated above, the Court upheld a one-parent consent statute with a judicial bypass in both Casey, ___ U.S. at ___, 112 S. Ct. at 2832; and Ashcroft, 462 U.S. 476, 103 S. Ct. 2517. The only unanswered question, which at least arguably was answered in Bellotti v. Baird, is whether a two-parent consent statute with a judicial bypass impermissibly crosses the line so as to impose an undue burden on a minor woman's right to an abortion. See Casey, ___ U.S., 112 S. Ct. 2791.

In analyzing parental consultation statutes, the Court scrutinizes consent statutes more closely than it does notification statutes, and two-parent laws more closely than one-parent laws (simply because parental consent is viewed as being a greater burden on the right to choose an abortion from parental notification). Thus, a two-parent consent statute arguably raises more serious questions than the other parental involvement statutes. In Bellotti v. Baird, 443 U.S. at 636, 99 S. Ct. at 3045, a fractured court struck down a state law that required minors to obtain the consent of both parents before an abortion could be performed. The plurality opinion struck the law down on the grounds that the statute's judicial bypass provision was constitutionally inadequate. Bellotti, 443 U.S. at 645, 99 S. Ct. at 3049. However, the opinion clearly stated: "We are not persuaded that, as a general rule, the requirement of obtaining both parents' consent unconstitutionally burdens a minor's right to seek an abortion." Id. at 649, S. Ct. at 3051. In outlining the constitutional requirements for such a statute, the Court said: We therefore conclude that if the State decides to require a pregnant minor to obtain one or both parents' consent to an abortion, it also must provide an alternative procedure whereby authorization for the abortion can be obtained." Id. at 643, 99 U.S. at 3048 (emphasis added). Thus, if the two-parent consent statute at issue in Bellotti had contained an adequate judicial bypass, the four members of the plurality opinion stood ready to uphold it. A fifth, Justice White, was prepared

is both compassionate and mature. The statute in issue here is a rational way to further those ends. It would deny all dignity to the family to say that the State cannot take this reasonable step in regulating its health professions to insure that, in most cases, a young woman will receive guidance and understanding from a parent.

³ In Akron II, decided in tandem with Hodgson, the Supreme Court left open the precise question of whether parental notification statutes even require alternative judicial bypass provisions. 497 U.S. 502, 110 S. Ct. 2972.

to uphold the two-parent consent statute in Bellotti, even without a judicial bypass. Id. at 657, 99 S. Ct. at 3055 (White J., dissenting).

Although the Court in Bellotti did not uphold the two-parent consent statute at issue, it did indicate that it would do so under different circumstances. The indication given in Bellotti, that even a two-parent consent statute with an appropriate judicial bypass would be constitutionally permissible, is particularly persuasive in light of Justice Kennedy's plurality opinion in Hodgson, 497 U.S. at 498, 110 S. Ct. at 2970. There, Justice Kennedy relied on Bellotti to uphold a two-parent notice requirement. Justice Kennedy argued that since Bellotti approved a two-parent consent statute with a judicial bypass, it follows that the less onerous two-parent notice statute must be constitutional. Id. at 498, 110 S. Ct. at 2970. (Bellotti "requires us to sustain this statute before us here"). Justice O'Connor, also citing Bellotti, joined the plurality in Hodgson on the broad grounds that a bypass provision tailors "a parental-consent provision so as to avoid unduly burdening the minor's limited right to obtain an abortion." Id. at 461, 110 S. Ct. at 2950. (O'Connor, J., concurring). Thus, in Hodgson five justices (Rehnquist, White, O'Connor, Scalia, and Kennedy) viewed Bellotti, as settling the question in favor of the constitutionality of the two-parent consent/judicial bypass statute. See e.g., Barns, 992 F.2d at 1338-39.

For purposes of analyzing the constitutionality of the legislation which you propose to introduce to the Alaska Legislature, however, even if Bellotti is not directly controlling to approve a two-parent consent/judicial bypass statute, a one-parent consent statute (such as Alaska's current statute, AS 18.16.010 et. seq.) with a judicial bypass is unquestionably constitutional. See Casey, ___ U.S. at ___, 112 S. Ct. at 2832. The reason that a one-parent consent provision, with an adequate judicial bypass provision, is constitutional is because (1) the state is viewed as having an important interest at stake in encouraging or requiring parental involvement in a minor's abortion decision, and (2) the consent requirement, with an alternative judicial bypass, does not place an undue burden on the woman's right to choose an abortion. See Casey, ___ U.S. at ___, 112 S. Ct. at 2832.

The United States Supreme Court, and lower federal appellate courts, have both routinely recognized that the State does have an important interest at stake in parental involvement statutes. The State's interest, in part, is insuring that someone other than the immature minor and the abortion provider has a hand in making an important decision that fundamentally affects the minor's health and welfare. The Supreme Court has recognized that "the guiding role of parents in the upbringing of their children justifies limitations on the freedom of minors. Bellotti, 443 U.S. at 637, 99 S. Ct. at 3045. The Supreme Court has described the "belief that the parental role implies a substantial measure of authority over ones children" as being "deeply rooted in our nation's history and tradition." Id. at 638, 99 S. Ct. at 3045. "Legal restrictions on minors especially those supported by the parental role, may be important to the child's chances for the full growth and maturity that make eventual participation in our free society meaningful and rewarding. Id. at 638-39, 99 S. Ct. at 3046. Parental consultation is particularly important on the abortion decision. "one that for some people raises profound moral and religious concerns." Id. at 640, 99 S. Ct. at 3047. The child herself may be too immature

to make the decision. And the abortion provider cannot be counted on to provide "adequate counsel and support . . . at an abortion clinic, where abortions for pregnant minors frequently take place." Id. at 641, 99 S. Ct. at 3047.

The remaining consideration involves a determination of what constitutes an adequate judicial bypass procedure. Bellotti establishes four criteria which must be satisfied in any judicial bypass procedure:

1. The procedure must allow the minor to show that she possesses the maturity and information to make her abortion decision, and in consultation with her physician, without regard to her parents' wishes;
2. 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 interest;
3. The procedure must insure the minor's anonymity; and
4. The Courts must conduct a bypass procedure with expediency to allow the minor an effective opportunity to obtain an abortion.

443 U.S. at 643-44, 99 S. Ct. at 3048; accord Akron II, ___ U.S. ___, 110 S. Ct. at 2979-80.⁴

With respect to the first Bellotti requirement, the Supreme Court has ruled that every minor must have the opportunity, if she so desires, to go directly to a Court to request judicial approval of her abortion decision without first consulting or notifying her parents. If the minor satisfies the Court that she is mature and well enough informed to intelligently make the abortion decision on her own, the Court must authorize her to act without parent consultation or consent. If the minor fails to satisfy the Court that she is mature or competent enough to make the

⁴ Justice Powell stated specifically in Bellotti that: "A pregnant minor is entitled in such a proceeding to show either: (1) that she is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independently of her parents' wishes; or (2) that even if she is not able to make this decision independently, the desired abortion would be in her best interest. The proceeding in which this showing is made must assure that a resolution of the issue, and any appeals that may follow, will be completed with anonymity and sufficient expedition to provide an effective opportunity for an abortion to be obtained. In sum, the procedure must insure that the provision requiring parental consent does not in fact amount to the absolute, and possibly arbitrary, veto that was found impermissible in Danforth." 443 U.S. at 644, 99 S. Ct. at 3048.

abortion decision independently, she must be permitted to show that an abortion, nevertheless, would be in her best interest. This leads, in essence, to the second Bellotti requirement.

With respect to the second Bellotti requirement, the Supreme Court has recognized that there is an important State interest in encouraging a family rather than a judicial resolution of a minor's abortion decision. Furthermore, the Court has observed that parents naturally take an interest in the welfare of their children, an interest that is particularly strong where a normal family relationship exists and where the child is living with one or both of the parents. With respect to the second Bellotti criteria, the Court's independent determination of whether an abortion is in the best interest of the minor child regardless of her immaturity or lack of information, the Supreme Court has specifically ruled that it is proper for a Court to take into account the importance of family involvement in such an important decision for the minor. Under the second Bellotti criteria if, all things considered, the Court determines that an abortion is in the minor's best interest, she is entitled to Court authorization without any parental involvement." However, the Supreme Court has indicated that a Court may deny the abortion request of an immature minor in the absence of parental consultation if it concludes that her best interests would be served through parental consultation. It is also permissible, in such a case, for the Court to defer its decision until there is parental consultation in which the Court may participate. According to the Supreme Court in Bellotti, "this is the full extent in which parental involvement may be required." 443 U.S. at 648, 99 S. Ct. at 3051.

II. Alaska's Constitutional Right to Privacy.

In Breese v. Smith, 501 P.2d 159 (Alaska 1972), the Alaska Supreme Court stated the tests which are to be applied when a claim is made that state action encroaches upon an individual's constitution rights. In Breese, the Court had before it a "ha' length" regulation which encroached on what the Court determined to be the individual's fundamental right to determine his own personal appearance. In that case, the Court stated:

Once a fundament right under the Constitution of Alaska has been shown to be involved and it has been further shown that this constitutionally protected right has been impaired by governmental action, then the government must come forward and meet its substantial burden of establishing that the abridgement in question was justified by a compelling government interest.

501 P.2d at 171.⁵ This standard, established in Breese, is similar to the federal protection for the U.S. Constitutional Implied Right of Privacy existing prior to Casey, ___ U.S. ___ 112 S. Ct. at 2821.

⁵ See also State v. ... 16 P.2d 142 (Alaska 1973); State v. Van Dort, 502 P.2d 453 (Alaska 1972); State v. ... State, 525 P.2d 524, 527 (Alaska 1974); Gilbert v. State, 526 P.2d 1131, 1133 (Alaska 1974); State v. Adams, 522 P.2d 1125 (Alaska 1974).

In 1972, the Alaska Constitution was amended to add Article I, § 22, which states an express right of privacy to Alaska citizens. Article I, § 22 reads:

The right of the people to privacy is recognized and shall not be infringed.
The legislature shall implement this section.

In Ravin v. State, 537 P.2d 494 (Alaska 1975), the Alaska Supreme Court ruled that "[t]he effect of this amendment is to place privacy among the specifically enumerated rights in Alaska's Constitution." Accordingly, in Ravin, the Alaska Supreme Court determined that the right of privacy guaranteed by Article I, § 22 of the Alaska Constitution is a fundamental right which can only be infringed by the state upon a showing of a compelling government interest. Although in Ravin the Alaska Court determined that private marijuana use outside the home did not fall within the scope of the privacy interests protected by Article I, § 22, there is little doubt that the Alaska Supreme Court, consistent with the United States Supreme Court's decision in Roe v. Wade, would determine that the right of a woman to choose to have an abortion is a privacy right protected by Article I, § 22. As a result, there is little doubt that the Alaska Supreme Court would recognize a woman's right to choose to have an abortion as a fundamental right protected by the Alaska Constitution, principally Article I, § 22.

Since 1975, the Alaska Supreme Court has consistently ruled that the government must demonstrate a convincing and compelling interest, which the government must seek to implement through the least restrictive means available, in order to justify infringement upon the fundamental right to privacy guaranteed by Article I, § 22, of the Alaska Constitution. For example, In Matter of A.B., 791 P.2d 615 (Alaska 1990), the Alaska Court ruled as follows:

Although neither federal nor state rights of privacy are absolute, it is part of the judicial function to insure the governmental infringements of privacy are supported by sufficient justification. Under federal precedent, it must be found that the privacy invasion is necessary to a compelling state interest, and that the government regulation does not sweep too broadly.

See, e.g., Griswold, 381 U.S. at 485, 85 S. Ct. at 1682; Roe v. Wade, 410 U.S. 113, 155, 93 S. Ct. 705, 727, 35 L. Ed. 2d 147 (1973); Carey, 431 U.S. at 687, 97 S. Ct. at 2016. Under the Alaska Constitution, the required level of justification turns on the precise nature of the privacy interest involved. In absence of a suspect classification or impairment of a fundamental right, we have required that there be a fair and substantial relation between the means chosen for a legitimate governmental purpose. Issakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the State's interest invading privacy must be compelling. Id. Thus, to determine the validity of the release work, we must consider both the nature and the extent of the privacy invasion, and the strength of the State interest or requiring disclosure. See

generally Falcon v. Alaska Public Offices Commission, 570 P.2d 469,
475 (Alaska 1977).

Id. at 621. Accord Luedtke v. Nabors Alaska Drilling, Inc., 768 P.2d 1123, 1129 (Alaska 1989).

Consistent with the United States Supreme Court precedent addressed above, it should be recognized by the Alaska Supreme Court that the State has a compelling interest to insure the protection of minor children in the context of their making important decisions, such as the decision to abort an unborn child. The key to guaranteeing the enforceability of a parental consent statute under Alaska's Constitutional Privacy Provision, therefore, would seem to be in drafting the parental consent provisions so as to implement the state's compelling interest in the least restrictive means possible to the minor woman's right to choose. Including within your proposed legislation, a judicial bypass procedure which is consistent with U.S. Supreme Court precedent as detailed above, would implement the State's compelling interest in the least restrictive means possible.

CONCLUSION

A one-parent consent requirement as a precondition to a minor's abortion is constitutionally permissible provided the statute contains an alternate judicial bypass procedure. To be constitutionally adequate, a judicial bypass procedure must allow the minor to obtain court approval of her abortion decision, independent of her parent's involvement, upon a showing that either (1) she is independently mature and informed enough to make her own abortion decision, or (2) that the abortion is otherwise in her best interests. The procedure must be conducted expediently and so as to preserve the minor's anonymity. Examples of statutes from other states are enclosed as is a redrafted proposed bill.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

STATE AFFAIRS COMMITTEE
Representative Jeannette James, Chair



Room 102, Capitol Building, Juneau

Phone 465-3743, FAX 465-2381

Monday, February 10, 1997

A handwritten signature in black ink, consisting of several loops and a long tail.

**Please add the attached letters
to your State Affairs notebook
on House Bill 37,**

**Parental Consent Before Minor's
Abortion.**