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CHILD INTERSTATE ABORTION NOTIFICATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

H.R. 2299

MARCH 8, 2012

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CHILD INTERSTATE ABORTION NOTIFICATION ACT

THURSDAY, MARCH 8, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:41 a.m., in room 2141, Rayburn Office Building, the Honorable Trent Franks (Chairman of the Subcommittee) presiding.

Present: Representatives Franks, King, Jordan, Nadler, Scott, and Quigley.

Staff present: (Majority) Paul Taylor, Subcommittee Chief Counsel; Jacki Pick, Counsel; Sarah Vance, Clerk; (Minority) David Lachmann, Subcommittee Staff Director; and Veronica Eligan, Professional Staff Member.

Mr. FRANKS. Good morning, and welcome to this Constitution Subcommittee hearing on H.R. 2299, the "Child Interstate Abortion Notification Act."

Without objection, the Chair is authorized to declare the recess of the Committee at any time.

The Child Interstate Abortion Notification Act, more commonly known as CIANA, is a very reasonable measure that would prevent the transportation of a minor across State lines in circumvention of a parental consent law that applies to a minor's abortion procedure. This law is consistently supported by 70 percent of the American people in national opinion polls.

More than 30 States have made it clear through legislation that parents have the right to know whether their minor daughters are trying to undergo an abortion. Parents play a critical role in the well-being of their daughters, particularly in such a context. And I would quote the bill sponsor, Ms. Ros-Lehtinen, "As a mother and a grandmother, I understand the importance of the unconditional love and support that parents can give to their children. This responsibility is nonnegotiable and nontransferable. This bill assures young women that they are not alone, if ever they find themselves contemplating undergoing an abortion."

Parental notification laws have proven to be effective at lowering the abortion rate among minors, and, therefore, they are effective at lowering the attending risks that accompany abortion.

Abortion is a serious surgical procedure with serious physical and psychological risks, some of which can be especially detrimental when experienced at a young age. These include increased

risks of breast cancer, extremely premature birth in subsequent pregnancy—that is, delivering at 28 weeks of gestation or less—and suicide.

When a woman experiences an abortion early in life, she can lose the protective effect against breast cancer that full-term pregnancy provides through inherent changes in breast tissue. Many developed countries legalized abortion in the early 1970's, and breast cancer rates have increased as much as 80 percent since then in these same countries.

Likewise, when a woman has one induced abortion, she is 50 to 70 percent more likely to experience an extremely premature birth, again, defined as a delivery at 28 weeks or earlier, when she later attempts to carry a wanted child to term. This could be due to damage to the cervix during the abortion, rendering it less competent.

When a woman has two abortions, she becomes 160 percent more likely to have an extremely premature birth. An extremely premature birth carries greatly increased risks for many serious health issues. For example, babies who are extremely premature have 38 times the risk of cerebral palsy than babies born full-term. And there are increased risks for autism and mental retardation.

Abortions performed on African-American women are approximately five times the rate of Caucasian women. And, consequently, African-American women have four times the risk of extremely premature birth.

It is also true that the danger of subsequent premature birth is significantly greater when an abortion is performed on a girl under 17 years of age.

Premature birth rates are now up more than 43 percent since *Roe v. Wade* became law. Forty-nine studies worldwide have confirmed this causal link between abortion and premature birth. Abortion and suicide are also correlated.

A study by two economists appearing in the January 18th, 2012, online version of the Journal of Economic Inquiry shows that parental involvement laws correlate with a decrease in the incidence of teen suicide. Quote, "The adoption of a law requiring a parent's notification or consent before a minor can obtain an abortion is associated with an 11 to 21 percent reduction in the number of 15- through 17-year-old females who commit suicide," unquote.

Ladies and gentlemen, we have a responsibility to ensure that parents are able to protect their minor daughters from an invasive surgical procedure that takes the life of their grandchild and sometimes brings with it additional, significant, and deadly hidden costs. This bill is a step in that direction.

And I would now recognize the Ranking Member for 5 minutes for an opening statement.

[The bill, H.R. 2299, follows:]

I

112TH CONGRESS
1ST SESSION

H. R. 2299

To amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2011

Ms. ROS-LEHTINEN (for herself, Mr. KING of Iowa, Mr. BILIRAKIS, Mrs. SCHMIDT, Mr. BARTLETT, Mr. FRANKS of Arizona, Mr. ROE of Tennessee, Mr. BRADY of Texas, Mr. PETERSON, Mr. BUCHANAN, Mr. SMITH of New Jersey, Mr. CULBERSON, Mr. MCCAUL, Mr. ADERHOLT, Mr. AKIN, Mr. FORTENBERRY, Mr. JONES, Mr. MICA, Mr. POSEY, Mr. MCCOTTER, Mr. OLSON, Mr. PITTS, Mrs. HARTZLER, Mr. HENSARLING, Mr. RIVERA, Mr. NEUGEBAUER, Mr. LIPINSKI, Mr. WEST, Mr. DANIEL E. LUNGREN of California, Mr. SOUTHERLAND, Mrs. BACHMANN, Mr. DAVIS of Kentucky, Mr. CANSECO, Mr. JORDAN, Mr. SHUSTER, Mr. DIAZ-BALART, Mr. CARTER, Mr. FLEMING, Mrs. BLACKBURN, Mr. SMITH of Texas, Mr. TERRY, Mr. WOLF, Mr. CRENSHAW, Mr. PENCE, Mr. ROGERS of Michigan, Mr. LAMBORN, Mr. LATOURETTE, Mr. GARRETT, Mr. KINZINGER of Illinois, Mr. CRAWFORD, Mr. SULLIVAN, Mr. TIBERI, Mr. ROSKAM, Mr. DONNELLY of Indiana, Mr. SCALISE, Ms. FOXX, Mrs. MILLER of Michigan, Mr. SENSENBRENNER, Mr. SHIMKUS, Mr. COFFMAN of Colorado, Mr. BACHUS, Mr. CHABOT, Ms. BUERKLE, Mr. HUIZENGA of Michigan, Mr. JOHNSON of Ohio, Mrs. BLACK, Mr. BURTON of Indiana, Mr. GOWDY, Mr. WILSON of South Carolina, Mr. YOUNG of Florida, Mr. LATTA, Mrs. ADAMS, Mr. DESJARLAIS, Mr. BENISHEK, Mr. FINCHER, Mr. CONAWAY, Mrs. MCMORRIS RODGERS, Mr. ROGERS of Kentucky, Mrs. ELLMERS, Mr. AUSTRIA, Mr. FARENTHOLD, Mr. HERGER, Mr. BARLETTA, Mr. MANZULLO, Mr. KING of New York, Mr. MILLER of Florida, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, to prohibit taking

minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Interstate Abortion Notification Act".

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

"Sec.
"2431. Transportation of minors in circumvention of certain laws relating to abortion.
"2432. Transportation of minors in circumvention of certain laws relating to abortion.

"§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

"(a) OFFENSE.—

"(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in

the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

"(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed or induced on the minor, in a State or a foreign nation other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

"(b) EXCEPTIONS.—

"(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

"(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 of this title based on a violation of this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant—

"(1) reasonably believed, based on information the defendant obtained directly from a parent of the minor, that before the minor obtained the abortion, the parental consent or notification took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides; or

"(2) was presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence waived any parental notification required by the laws of that State, or otherwise authorized that the minor be allowed to procure an abortion.

"(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed an act of incest with the minor subject to subsection (a).

"(e) DEFINITIONS.—For the purposes of this section—

"(1) the term 'abortion' means the use or prescription of any instrument, medicine, drug, or any

other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

"(2) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court; and

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State

1 court, under the law requiring parental involvement
2 in a minor's abortion decision;
3 "(4) the term 'parent' means—
4 "(A) a parent or guardian;
5 "(B) a legal custodian; or
6 "(C) a person standing in loco parentis
7 who has care and control of the minor, and
8 with whom the minor regularly resides, who is
9 designated by the law requiring parental in-
10 volvement in the minor's abortion decision as a
11 person to whom notification, or from whom con-
12 sent, is required; and
13 "(5) the term 'State' includes the District of
14 Columbia and any commonwealth, possession, or
15 other territory of the United States, and any Indian
16 tribe or reservation.

17 **"§ 2432. Transportation of minors in circumvention of**
18 **certain laws relating to abortion**

19 "Notwithstanding section 2431(b)(2), whoever has
20 committed an act of incest with a minor and knowingly
21 transports the minor across a State line with the intent
22 that such minor obtain an abortion, shall be fined under
23 this title or imprisoned not more than one year, or both.
24 For the purposes of this section, the terms 'State', 'minor',

and 'abortion' have, respectively, the definitions given those terms in section 2435.".

SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.

Title 18, United States Code, is amended by inserting after chapter 117A the following:

"CHAPTER 117B—CHILD INTERSTATE ABORTION NOTIFICATION

"Sec.
"2435. Child interstate abortion notification.

"§ 2435. Child interstate abortion notification

"(a) OFFENSE.—

"(1) GENERALLY.—A physician who knowingly performs or induces an abortion on a minor in violation of the requirements of this section shall be fined under this title or imprisoned not more than one year, or both.

"(2) PARENTAL NOTIFICATION.—A physician who performs or induces an abortion on a minor who is a resident of a State other than the State in which the abortion is performed must provide, or cause his or her agent to provide, at least 24 hours actual notice to a parent of the minor before performing the abortion. If actual notice to such parent is not possible after a reasonable effort has been made, at least 24 hours constructive notice must be given to a parent before the abortion is performed.

"(b) EXCEPTIONS.—The notification requirement of subsection (a)(2) does not apply if—

"(1) the abortion is performed or induced in a State that has, in force, a law requiring parental involvement in a minor's abortion decision and the physician complies with the requirements of that law;

"(2) the physician is presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence has waived any parental notification required by the laws of that State, or has otherwise authorized that the minor be allowed to procure an abortion;

"(3) the minor declares in a signed written statement that she is the victim of sexual abuse, neglect, or physical abuse by a parent, and, before an abortion is performed on the minor, the physician notifies the authorities specified to receive reports of child abuse or neglect by the law of the State in which the minor resides of the known or suspected abuse or neglect;

"(4) the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition

1 caused by or arising from the pregnancy itself, but
2 an exception under this paragraph does not apply
3 unless the attending physician or an agent of such
4 physician, within 24 hours after completion of the
5 abortion, notifies a parent in writing that an abor-
6 tion was performed on the minor and of the cir-
7 cumstances that warranted invocation of this para-
8 graph; or
9 "(5) the minor is physically accompanied by a
10 person who presents the physician or his agent with
11 documentation showing with a reasonable degree of
12 certainty that he or she is in fact the parent of that
13 minor.
14 "(c) CIVIL ACTION.—Any parent who suffers harm
15 from a violation of subsection (a) may obtain appropriate
16 relief in a civil action unless the parent has committed
17 an act of incest with the minor subject to subsection (a).
18 "(d) DEFINITIONS.—For the purposes of this sec-
19 tion—
20 "(1) the term 'abortion' means the use or pre-
21 scription of any instrument, medicine, drug, or any
22 other substance or device intentionally to terminate
23 the pregnancy of a female known to be pregnant,
24 with an intention other than to increase the prob-
25 ability of a live birth, to preserve the life or health

of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

"(2) the term 'actual notice' means the giving of written notice directly, in person, by the physician or any agent of the physician;

"(3) the term 'constructive notice' means notice that is given by certified mail, return receipt requested, restricted delivery to the last known address of the person being notified, with delivery deemed to have occurred 48 hours following noon on the next day subsequent to mailing on which regular mail delivery takes place, days on which mail is not delivered excluded;

"(4) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court;

"(B) that does not provide as an alternative to the requirements described in sub-

1 paragraph (A) notification to or consent of any
2 person or entity who is not described in that
3 subparagraph;
4 "(5) the term 'minor' means an individual who
5 is not older than 18 years and who is not emanci-
6 pated under the law of the State in which the minor
7 resides;
8 "(6) the term 'parent' means—
9 "(A) a parent or guardian;
10 "(B) a legal custodian; or
11 "(C) a person standing in loco parentis
12 who has care and control of the minor, and
13 with whom the minor regularly resides;
14 as determined by State law;
15 "(7) the term 'physician' means a doctor of
16 medicine legally authorized to practice medicine by
17 the State in which such doctor practices medicine, or
18 any other person legally empowered under State law
19 to perform an abortion; and
20 "(8) the term 'State' includes the District of
21 Columbia and any commonwealth, possession, or
22 other territory of the United States, and any Indian
23 tribe or reservation.".

1 **SEC. 4. CLERICAL AMENDMENT.**

2 The table of chapters at the beginning of part I of
3 title 18, United States Code, is amended by inserting after
4 the item relating to chapter 117 the following new items:

"117A. Transportation of minors in circumvention of certain laws relating to abortion 2431
"117B. Child interstate abortion notification ..... 2435".

5 **SEC. 5. SEVERABILITY AND EFFECTIVE DATE.**

6 (a) The provisions of this Act shall be severable. If
7 any provision of this Act, or any application thereof, is
8 found unconstitutional, that finding shall not affect any
9 provision or application of the Act not so adjudicated.

10 (b) This Act and the amendments made by this Act
11 shall take effect 45 days after the date of enactment of
12 this Act.

○

Mr. NADLER. Thank you, Mr. Chairman.

Today we consider legislation that is at once another flagrant violation of the Constitution and an assault on the health and well-being of young women and the health care providers.

Before we start discussing this bill, versions of which we have considered in the 105th, 106th, 107th, 108th, and 109th Congresses, and I presume will have no more success in this Congress, I think it is important to note that this is the ninth time this Committee has met in this Congress to assault the reproductive rights of women.

The 112th Congress has had just over 200 legislative days so far. If the Republican leadership had put as much effort into helping distressed homeowners or creating jobs or reforming our immigration laws as they have into the war on women, most of our problems might have been solved by now.

Instead, we get this warmed over and facially unconstitutional legislation yet again. Some States have chosen to enact parental notification or consent laws. Some, like mine, have considered this issue and decided it is not good for the welfare of young women and have declined to do so.

This bill would substitute the judgment of Congress for the judgment of people who live in States like mine. In fact, even where the young women's State of residence and the State in which the doctor is located have both decided not to enact such laws, this bill would impose a new Federal parental notification law that is more draconian and more unconstitutional than the laws of most States.

Perhaps we should just disband our State legislatures and let Washington decide these important family issues for us. If it would spare the rest of us endless speeches about federalism and State's rights, I might be tempted to go along with it.

I would just note, in this regard, that many Members of this Committee recently voted to allow the laws of some States to preempt the concealed carry firearm laws in other States, including mine. Congress would, in effect, allow any State to nullify our laws and require us to allow anyone lunatic to walk our streets with a concealed weapon if so much as one other State says they can.

As a matter of policy, this bill would place many young women in an impossible situation. In some cases, the young woman may not be able to go to her parents and can turn only to a grandparent, a sibling, or a member of the clergy. Indeed, sometimes the parents may pose a threat to the life and health of the young woman, if they learn that she is pregnant.

That is what happened to Spring Adams, a 13-year-old from Idaho. She was shot to death by her father after he found out that she planned to terminate her pregnancy, one he caused by his act of incest.

I would commend the authors of the bill for not allowing him to sue in this new version of the bill. It is a step in the right direction from the prior versions of the bill, albeit a small step.

This bill also uses a narrow definition of medical emergencies that applies only where, "abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself."

That clearly falls far short of the Supreme Court's requirement that any restriction on the right to choose must have an explicit exception to protect the life or health of the woman.

There are many things far short of death that threaten a young woman. She deserves prompt and professional medical care, and the Constitution still protects her right to receive that care. Requiring that young women have their health destroyed is beyond cruel. It is anything but pro-life.

I know that I have rankled some of my colleagues in the past by comparing this bill to the fugitive slave law. I would never suggest that this bill turns young women into slaves, so don't say that I did. I won't even presume to know what Frederick Douglass might think of this bill.

But by requiring a young woman or any American to carry the law of their States on their backs as they travel around the country to other States is inimical to our Federal system. We have a few laws in New York that I think might benefit the people of other States, but I am not sure the proponents of this legislation would particularly like it.

I know of no laws since the Fugitive Slave Act that literally says that you take the law of the State from which you leave when you go to some other State, and use the power of the Federal Government to enforce the law of the first State in the jurisdiction of the second State.

So when she goes from State A to State B, and State B allows abortions, let's say without parental notification, this bill says that that is illegal and that the doctor who performs the abortion in the State where it is perfectly legal to do so without parental notification commits a crime because of the law in the other State.

So this bill uses the power of the Federal Government to export the law of one State, to enforce it another against the public policy of the State. And as I said, I know of no law since the Fugitive Slave Act that attempted to use the power of the Federal Government in exporting the law of one State to another State.

Congress, in any event, should not be tempted to play doctor. It is always bad medicine for women. This unconstitutional and ill-considered legislation will harm young women.

But perhaps the intention is to punish young women who desire to have abortions. In fact, that seems to be the intention of a lot of legislation, so maybe it is not ill-considered. Maybe it is simply ill-motivated.

I look forward to the testimony of our witnesses, and yield back the balance of my time.

Mr. FRANKS. Without objection, other Members' opening statements will be made a part of the record.

[The prepared statement of Mr. Smith follows:]

Prepared Statement of the Honorable Lamar Smith, a Representative in Congress from the State of Texas, and Chairman, Committee on the Judiciary

Across the country, officials must obtain parental consent before children can engage in certain school activities such as field trips and contact sports.

In nearby Maryland, school systems even require a parent's note before sunscreen can be applied to a student.

And my home state of Texas, along with the large majority of states, requires parental consent before anyone can tattoo a minor.

Abortion is a serious medical procedure. And most states—my home state of Texas included—have some form of parental involvement law that requires that at least one parent be given notice, or give their consent, before their minor daughter receives an abortion.

Yet today, it remains legal for complete strangers to evade those state parental involvement laws and transport minors across state lines to obtain secret abortions without the minor's parents ever knowing about it.

Because this tragic gap in the law involves interstate commerce, under the Constitution, only Congress can address it. The Child Interstate Abortion Notification Act ensures state parental involvement laws are not evaded through interstate activity.

Parental involvement in the abortion decisions of minor girls leads to improved medical care for minors who seek abortions, and provides increased protection for young girls against sexual exploitation by adult men.

Parental involvement ensures that parents have the opportunity to provide medical history and other information to abortion providers prior to the performance of an abortion.

The medical, emotional and psychological consequences of an abortion are serious and lasting. An adequate medical and psychological case history is critically important to any physician, and often only parents can provide such information for their daughters as well as any suitable family medical history.

Parental involvement also improves medical treatment of pregnant minors. It ensures that parents have adequate knowledge to recognize and respond to any post-abortion complications that may develop.

Without the knowledge that their daughters have had abortions, parents are unable to ensure that their children obtain routine postoperative care.

Finally, teenage pregnancies often occur as a result of predatory practices of men who are usually much older than their minor victim. This results in the transportation of victims across state lines by an individual who has a great incentive to avoid criminal liability for his conduct.

Parental involvement laws ensure that parents have the opportunity to protect their daughters from those who would victimize them further, and the bill under discussion today does just that.

The House passed this legislation with large bipartisan support when it was last brought up for a vote. I hope and expect it will enjoy the same broad support this year.

Mr. FRANKS. And I certainly hope people listen very carefully to statements like this and think through it.

Witnesses, thank you for being here this morning. We welcome you.

Dr. Teresa Collett is a professor of bioethics and professional responsibility at the University of St. Thomas School of Law. Professor Collett is an elected member of the American Law Institute, and she has testified before committees of the United States Senate and House of Representatives, as well as before State legislative committees.

Most recently, she represented various medical groups in the defense of the Federal ban of partial-birth abortion and the Governors of Minnesota and North Dakota in a parental consent case before the United States Supreme Court. She has served as a special attorney general for the States of Oklahoma and Kansas, and has assisted other States attorneys general in defending laws protecting human life and marriage.

And, welcome, Professor Collett.

The Very Rev. Dr. Katherine Hancock Ragsdale was appointed president and dean of Episcopal Divinity School in Cambridge, Massachusetts, in March of 2009. Dean Ragsdale has appeared on William F. Buckley's Firing Line, Faith Under Fire, Religion and Ethics, and many other broadcasts.

Dean Ragsdale served on the national boards of NARAL, Pro-choice America. She is the editor of "Boundary Wars: Intimacy and Distance in Healing Relationships," and the author of "The Role of Religious Institutions in Responding to the Domestic Violence Crisis."

Welcome, Dean Ragsdale.

Dr. Michael New is an assistant professor of political science at the University of Michigan-Dearborn, a Phi Beta Kappa graduate of Dartmouth College. He holds a master's degree in statistics and a Ph.D. in political science from Stanford University. He completed his postdoctoral research at the MIT Harvard Data Center.

Dr. New's research interests span from campaign finance reform to the positive impact of pro-life legislation and States' informed consent laws, Medicaid funding rules and parental notification laws for minors.

His work has been featured in peer-reviewed scholarly journals, such as the State Politics & Quarterly Policy and in major media outlets such as National Review Online, the Weekly Standard, and the New York Post.

I want to thank all witnesses, again, for appearing before us today. Each of the witness's written statements will be entered into the record in its entirety, and I would ask that each witness summarize his or her testimony in 5 minutes or less. And to help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you will have 1 minute to conclude your testimony. When the light turns red, it signals that witness's 5 minutes have expired.

Before I recognize the witnesses, it is the tradition of this Committee that they be sworn, so if you will please stand to be sworn.

[Witnesses sworn.]

Mr. FRANKS. Thank you, and please be seated.

I will recognize our first witness, Professor Collett, for 5 minutes.

Pull your microphone closer to you maybe. Is that on?

TESTIMONY OF TERESA STANTON COLLETT, PROFESSOR OF LAW, UNIVERSITY OF ST. THOMAS SCHOOL OF LAW

Ms. COLLETT. Mr. Chairman, other Members of the Committee and distinguished guests, I am delighted to appear to testify in favor of this important piece of legislation related to the health care of minors.

I am a professor of law at the University of St. Thomas in Minnesota. My opinions I express here today do not represent the university or any other organization or person. They are opinions, however, that I have derived by virtue of my scholarly studies of the operation of parental involvement laws, as well as my practice in litigation in representing States defending their parental involvement laws.

This particular piece of legislation has appeared before this Committee numerous times, as Congressman Nadler mentioned. In fact, it is a common-sense piece of legislation that represents the consensus across the country. Thirty-seven States currently have parental involvement laws in effect, and another six States have passed them but had them enjoined by judicial action or by an opinion of their State attorney general.

These laws are based on common-sense protection of girls in recognition of the particular health benefits that derive from them.

First and foremost, as the United States Supreme Court itself has observed, parental involvement allows the parent to provide needed medical history and details to a physician who is about to undertake treatment of their minor daughter. It also allows the parent to guide that minor in the selection of an abortion provider, knowing the difference between a competent doctor as opposed to someone who is simply practices in this area to generate money and engages in unsanitary conduct.

Second, they allow the opportunity of those parents to ensure that the girl's well-being is properly considered by that abortion provider.

And finally, and I believe most importantly, as the Supreme Court has observed, it ensures that the parents have the ability to monitor for post-abortion complications.

The Chairman mentioned particularly surgical abortions, but surgical abortions are not the only form of abortion being engaged in by abortion clinics today. There are also abortions using RU-486, which was approved for use by the FDA but had not been tested on the use of minors. There has been no follow-up study, notwithstanding the FDA's requirement that such studies be submitted to the FDA on the use of RU-486 for minors.

Therefore, it is of critical importance that parents know about the medical condition of their minor, as well as about the medical treatment that has been undertaken, so that they can monitor for adverse effects, such as hemorrhaging or infection, the primary adverse side effect from abortion.

The Ranking Member mentioned the need on occasion for an emergency abortion. In a study that I did in preparation for my testimony as an expert witness in Alaska, I actually looked for State records regarding the number of emergency bypasses done related to abortion of any kind, and there are few States that actually report that to the departments of health. Among them are Alabama, Nebraska, and Wisconsin.

What those States reported in the period from 2005 to 2010 is that were over a total of four—four—emergency abortions. In Alabama, the number of abortions ranged from 781 to 654 during that time period. In 2005, there was exactly one emergency bypass. In 2006, there was exactly one emergency bypass. And from 2007 to 2010, none.

In Wisconsin, the number was zero for a 5-year period. And in Nebraska, the number was one in a 5-year period.

This legislation is obviously constitutional and relies on the longstanding Supreme Court precedent that allows Congress to correct the problems that can be created in federalism.

The State of Missouri, for example, attempted to create a statute that precluded intentionally taking a minor out of State in order to obtain abortion and avoid that State's parental consent law. In reviewing the law, the Missouri Supreme Court upheld it only in so far as it applied in State, but it could not reach the conduct of abortion providers in Illinois who were actively advertising for girls to cross State lines to avoid parental consent.

This law is no different than the law upheld by the Supreme Court in Caminetti, which forbids the transport of women across State lines for immoral purposes, or any other numerous laws.

If FACE is constitutional, a favorite of abortion activists, then certainly this law is constitutional.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Collett follows:]

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON THE CONSTITUTION

The Honorable Lamar S. Smith, Presiding

H.R. 2299 the "Child Interstate Abortion Notification Act"

Thursday, March 8, 2012
2141 Rayburn Building

Prepared Testimony of
Professor Teresa Stanton Collett*

Good morning Congressman Smith, Members of the Committee, and other distinguished guests. My name is Teresa Stanton Collett and I am a professor of law at the University of St. Thomas School of Law in Minneapolis, Minnesota, where I teach bioethics and two advanced constitutional law courses. My testimony today is not intended to represent the views of my employer, the University of St. Thomas, or any other organization or person.

I am honored to have been invited to participate in this hearing on H.R. 2299, the "Child Interstate Abortion Notification Act" ("CIANA"). This bill is the culmination of a decade of Congressional effort to insure that young girls are not coerced or deceived into crossing state lines to obtain secret abortions. In 1998, 2001, and 2004, I testified in support of "the Child Custody Protection Act," and in 2005, I testified before the House Committee on the Judiciary regarding the merits of H.R. 748, the "Child Interstate Abortion Notification Act." In 2008 I participated in a Congressional Forum on the merits of H.R.1063, an earlier version of CIANA. All of these predecessors to H.R. 2299 were premised on what Justice O'Connor has called "the quite reasonable assumption that [pregnant] minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart."[1]

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* Professor of Law, University of St. Thomas School of Law, MSL 400, 1000 LaSalle Avenue, Minneapolis, MN 55403-2015, email tscollett@stthomas.edu.

[1] *Planned Parenthood v. Casey*, 505 U.S.833, 895 (1992) (plurality). In *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), the first of a series of United States Supreme Court cases dealing with parental consent or notification laws, Justice Stewart wrote, "There can be little doubt that the State furthers a constitutionally permissible end by encouraging an unmarried pregnant minor to seek the help and advice of her parents in making the very important decision of whether to have a child." *Id.* at 91. Three years later the Court acknowledged that parental consultation is critical for minors considering abortion because "minors often lack the experience, perspective and judgment to avoid choices that could be detrimental to them." *Bellotti v. Baird*, 443 U.S. 622, 640, (1979) (*Bellotti II*) (plurality opinion). The *Bellotti* Court also observed that

Sizable bipartisan majorities of both Congressional houses voted to enact this common sense legislation during the last legislative session, only to have those votes nullified by opponents' last-minute procedural maneuvering.[2] House leadership refused to even allow a hearing on CIANA during the 2008 legislative session. This outcome is particularly troubling in light of the public's strong support for parental involvement.[3]

My testimony today is based on my scholarly study of parental involvement laws,[4] and my practical experience in assisting state legislators across the country

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parental consultation is particularly desirable regarding the abortion decision since, for some, the situation raises profound moral and religious concerns. *Bellotti II*, 443 U.S. at 635.

[2] On April 27, 2005, the House of Representatives passed the Child Interstate Abortion Notification Act (CIANA, H.R. 748) by a vote of 270 to 157. On July 27, 2006, the Senate passed the Child Custody Protection Act (S. 403) by a vote of 65-34. Notwithstanding the two-to-one margin of victory, Senator Richard Durbin, objected to a routine request by then Majority Leader Bill Frist to move on to the next step of the process – the naming of a House-Senate conference committee. Both bills died at the end of the Congressional session.

[3] For more than three decades polls have consistently reflected over 70% of the American public support parental consent or notification laws. *See, e.g.,* Gallup Poll (released July 25, 2011) (71% support a law requiring parental consent); Pew Research Center for The People and The Press, *Abortion and the Rights of Terror Suspects Top Court Issues* (released Aug. 3, 2005) (73% favor requiring parental consent prior to a minor obtaining an abortion); Gallup/CNN/USA Today Poll (released Jan. 15, 2004) (73% favor requiring parental consent for abortion "for women under 18"); CBS News/ NY Times Poll (released Jan. 15, 1998) (78% of those polled favor requiring parental consent before a girl under 18 years of age could have an abortion); Americans United for Life, Abortion and Moral Beliefs, A Survey of American Opinion (1991); Wirthlin Group Survey, Public Opinion, May-June 1989; Life/Contemporary American Family (released December, 1981) (78% of those polled believed that "a girl who is under 18 years of age [should] have to notify her parents before she can have an abortion").

"Even among those who say abortion should be legal in most or all cases, 71% favor requiring parental consent." Pew Research Center for The People and The Press, *Support for Abortion Slips* at 9 (conducted August, 2009).

[4] My scholarly articles on parental involvement laws include *Transporting Minors for Immoral Purposes: The Case for the Child Custody Protection Act & the Child Interstate Abortion Notification Act*, 16 HEALTH MATRIX 107 (2006); *Protecting Our Daughters: The Need for the Vermont Parental Notification Law*, 26 VT. L. REV. 101 (2001); and

evaluate parental involvement laws during the legislative process.[5] It also represents my experience in assisting the attorneys general of Florida, New Hampshire, and Oklahoma in defending their parental involvement laws. Just last week I testified as an expert witness in an Alaska District Court regarding judicial bypass of parental notification laws.

In my brief time during this hearing I would like to briefly discuss four points: 1) minors benefit from parental involvement when deciding whether to continue or terminate a pregnancy; 2) CIANA addresses a real problem; 3) a federal solution to the problem is necessary; and 4) CIANA is constitutional.

Minors Benefit from Parental Involvement

There is widespread agreement that as a general rule, parents should be involved in their minor daughter's decision to terminate an unplanned pregnancy. The national consensus in favor of this position is illustrated by the fact that there are parental involvement laws on the books in forty-five of the fifty states although only thirty-seven are in force due primarily to judicial actions.[6] Only five states in the nation have not

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Seeking Solomon's Wisdom: Judicial Bypass of Parental Involvement in a Minor's Abortion Decision, 52 BAYLOR L. REV. 513 (2000).

[5] I have testified on parental involvement legislation before state legislative committees in Oklahoma, New Hampshire, New Jersey, Texas, and Vermont. From 2000 to 2003 I served on the Texas Supreme Court Subadvisory Committee charged with proposing and overseeing court rules implementing the judicial bypass of parental notification in that state.

[6] One state law is not being enforced due to an attorney general's opinion that the statute is unconstitutional. Courts have enjoined the implementation of seven state statutes based on claims of state or federal constitutional infirmity.

See *Planned Parenthood v. State*, *American Acad. of Pediatrics v. Lungren*, 940 P.2d 797 (Cal. 1997) (parental consent statute violated state constitutional right to privacy); *North Florida Women's Health and Counseling Services, Inc. v. State*, 866 So.2d 612 (Fla. 2003) (parental notification requirement violated state constitutional right to privacy) Florida citizens then passed a state constitutional amendment authorizing the legislature to enact a parental notice law which the state supreme court upheld in *ACLU of Fla. v. Hood*, SC04-1671 (Dec. 22, 2004) available at http://jweb.flcourts.org/pls/docket/ds_docket_search; *Planned Parenthood of Idaho, Inc. v. Lance*, No. CIV 00-0353-S-MHW (D. Idaho Mar. 8, 2002), aff'd in part and rev'd in part sub nom, *Planned Parenthood of Idaho, Inc. v. Wasden*, 376 F.3d 908 (9th Cir. 2004): *Zbaraz v. Ryan*, No. 84 C 771 (N.D. Ill. 1996) (Ill. Supreme Ct. refused to issue rules implementing Ill. Stat.); *Wicklund v. State*, No. ADV-97-671 (Mont. Dist. Ct. Feb. 25, 1999) (parental notification law violated state constitution) available at http://www.mtbizlaw.com/1stjd99/WICKLUND_2_11.htm; *Glick v. McKay*, 616 F. Supp. 322, 327 (D. Nev. 1985), aff'd, 937 F.2d 434 (9th Cir. 1991); *Planned Parenthood*

attempted to legislatively insure some level of parental involvement in a minor's decision to obtain an abortion.[7]

This agreement even extends to young people, ages 18 to 29.[8] To my knowledge, no organizations or individuals, whether abortion rights activists or pro-life advocates, dispute this point. On an issue as contentious and divisive as abortion, it is both remarkable and instructive that there is such firm and long-standing support for laws requiring parental involvement.

Various reasons underlie this broad and consistent support. As Justices O'Connor, Kennedy, and Souter observed in *Planned Parenthood v. Casey*,[9] parental consent and notification laws related to abortions "are based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart."[10] Writing for a unanimous

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of Central New Jersey v. Farmer, 762 A.2d 620 (N.J. 2000) (parental notification law with judicial waiver violates state constitution). See also N.M. Op. Att'y Gen. No. 90-19 (Oct. 3, 1990) (opining that a pre-Roe N.M. parental consent law was unconstitutional).

[7] These are Hawaii, New York, Oregon, Vermont, and Washington. The proper classification of Connecticut is something that is open to debate as well.

[8] A 2011 Poll by the Public Religion Research Institute found that 71% of millennial youth (18-29) supported parental consent laws. *Committed to Availability, Conflicted about Morality* at 17 available at http://publicreligion.org/site/wp-content/uploads/2011/06/Millenials-Abortion-and-Religion-Survey-Report.pdf (conduct May 2011). A 2005 poll of one thousand high school seniors also revealed that two-thirds believe that "a woman under 18 [should] be required by law to get the permission of a parent before she can have an abortion." Hamilton College National Youth Polls, *Guns, Gays and Abortion* (conducted Nov.10-20, 2005 by Zogby International) available at <http://www.hamilton.edu/news/polls/HotButtonFinalReport.pdf> (visited March 6, 2012). A Kaiser Family Foundation/MTV Survey of 603 people ages 18-24 found that 68% favored laws requiring parental consent prior to performance of an abortion on girls under 18. *Sex Laws: Youth Opinion on Sexual Health Issues in the 2000 Election* (conducted July 5-17, 2000) available at <http://www.kff.org/kaiserpolls/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=13549> (visited March 6, 2012).Other polling results are available in Westlaw, Dialog library, poll file.

[9] *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

[10] 505 U.S. at 895. In *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), the first of a series of United States Supreme Court cases dealing with parental consent or notification laws, Justice Stewart wrote, "There can be little doubt that the State furthers a constitutionally permissible end by encouraging an unmarried pregnant minor to seek the help and advice of her parents in making the very important decision of

court in 2005, Justice O'Connor noted "States unquestionably have the right to require parental involvement when a minor considers terminating her pregnancy, because of their 'strong and legitimate interest in the welfare of [their] young citizens, whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely.'"[11]

Out of respect for the time constraints of this committee, I will limit my remarks to examining two of the benefits that are achieved by parental involvement statutes: improved medical care for young girls seeking abortions and increased protection against sexual exploitation by adult men.

Improved Medical Care of Minor Girls

Medical care for minors seeking abortions is improved by parental involvement in three ways. First, parental involvement laws allow parents to assist their daughter in the selection of the abortion provider.

As with all medical procedures, one of the most important guarantees of patient safety is the professional competence of those who perform the medical procedure. In *Bellotti v. Baird*, the United States Supreme Court acknowledged the superior ability of parents to evaluate and select appropriate healthcare providers.[12]

> In this case, however, we are concerned only with minors who according to the record range in age from children of twelve years to 17-year-old teenagers. Even the latter are less likely than adults to know or be able to recognize ethical, qualified physicians, or to have the means to engage such professionals. Many minors who bypass their parents probably will resort to an abortion clinic, without being able to distinguish the competent and ethical from those that are incompetent or unethical.[13]

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whether to have a child." *Id.* at 91. Three years later the Court acknowledged that parental consultation is critical for minors considering abortion because "minors often lack the experience, perspective and judgment to avoid choices that could be detrimental to them." *Bellotti v. Baird*, 443 U.S. 622, 640, (1979) (*Bellotti II*) (plurality opinion). The *Bellotti* Court also observed that parental consultation is particularly desirable regarding the abortion decision since, for some, the situation raises profound moral and religious concerns. *Bellotti II*, 443 U.S. at 635.

[11] *Ayotte v. Planned Parenthood*, 546 U.S. 320, 326 (2006).

[12] 443 U.S. 622 at 641 (1979) (*Bellotti II*).

[13] *Bellotti v. Baird*, 443 U.S. 622 at 641 (1979) (*Bellotti II*).

Historically, the National Abortion Federation has recommended that patients seeking an abortion confirm that the abortion will be performed by a licensed physician in good standing with the state Board of Medical Examiners and that the doctor have admitting privileges at a local hospital not more than twenty minutes away from the location where the abortion is to occur in order to insure adequate care should complications arise.[14] These recommendations were deleted after they were introduced into evidence in malpractice cases against abortion providers. Notwithstanding this change in the NAF recommendations, a well-informed parent seeking to guide her child is more likely to inquire regarding these matters than a panicky teen who just wants to no longer be pregnant.

Second, parental involvement laws insure that parents have the opportunity to provide additional medical history and information to abortion providers prior to performance of the abortion.[15]

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[14] National Abortion Federation, *Having an Abortion? Your Guide to Good Care* (2000) which was available at <http://www.prochoice.org/pregnant/goodcare.htm> (visited Jan. 1, 2000).

[15] In *Edison v. Reproductive Health Services*, 863 S.W.2d 621 (Mo. App. E.D. 1993), the court confronted the question of whether an abortion provider could be held liable for the suicide of Sandra, a fourteen-year-old girl, due to depression following an abortion. Learning of the abortion only after her daughter's death, the girl's mother sued the abortion provider, alleging that her daughter's death was due to the failure to obtain a psychiatric history or monitor Sandra's mental health. *Id.* at 624. An eyewitness to Sandra's death "testified that he saw Sandra holding on to a fence on a bridge over Arsenal Street and then jumped in front of a car traveling below on Arsenal. She appeared to have been rocking back and forth while holding onto the fence, then deliberately let go and jumped far out to the driver's side of the car that struck her. A second car hit her while she was on the ground. Sandra was taken to a hospital and died the next day of multiple injuries." *Id.* at 622.

The court ultimately determined that Sandra was not insane at the time she committed suicide. Therefore her actions broke the chain of causation required for recovery. Yet evidence was presented that the daughter had a history of psychological illness, and that her behavior was noticeably different after the abortion. *Id.* at 628. If Sandra's mother had known that her daughter had obtained an abortion, it is possible that this tragedy would have been avoided.

See also Anna Glasier, *Counseling for Abortion, in* MODERN METHODS OF INDUCING ABORTION 112, 117 (David T. Baird et al. eds., 1995)("20% of women suffer from severe feelings of loss, grief and regret"); Jo Ann Rosenfeld, *Emotional Responses to Therapeutic Abortion*, 45 AM. FAM. PHYSICIAN 137, 138 (1992) ("Teenagers who do not tell their parents about their abortion have an increased incidence of emotional problems and feelings of guilt."); Mika Gissler, *Suicides After Pregnancy in Finland 1987-1994: Register to Linkage Study*, 313 BRIT. MED. J. 1431, 1433 (1996); H. David et

> The medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature. An adequate medical and psychological case history is important to the physician. Parents can provide medical and psychological data, refer the physician to other sources of medical history, such as family physicians, and authorize family physicians to give relevant data.[16]

Abortion providers, in turn, have the opportunity to disclose the medical risks of the procedure to the adult who can advise the girl in giving her informed consent to the surgical procedure. Parental notification insures that the abortion providers inform a mature adult of the risks and benefits of the proposed treatment, after having received a more complete and thus more accurate medical history of the patient.

The third way in which parental notification will improve medical treatment of pregnant minors is by insuring that parents have adequate knowledge to recognize and respond to any post-abortion complication that may develop.[17] While it is often claimed that abortion is one of the safest surgical procedures performed today, the actual rate of many complications is simply unknown because there is no coordinated national effort to collect and maintain this information.[18]

Notwithstanding this failure by public health authorities, abortion providers have identified infection as one of the most common post-abortion complications.[19] The

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al., *Postpartum and Postabortion Psychotic Reactions*, 13 FAMILY PLANNING PERSPECTIVES 889 (1981) and David C. Reardon, 95 So. Med. J. 834 (Aug. 2002) available at www.sma.org/smj/index.cfm. Additional sources are collected and discussed in Thomas R. Eller, *Informed Consent Civil Actions for Post-Abortion Psychological Trauma*, 71 NOTRE DAME L. REV. 639 (1996).

[16] *H.L. v. Matheson*, 450 U.S. 398 at 411 (1981). Accord *Ohio v. Akron Ctr. for Reproductive Health*, 497 U.S. 502, 518-19 (1990).

[17] See *Ohio v. Akron Ctr. For Reproductive Health*, 497 U.S. 502, 519 (1990).

[18] "The abortion reporting systems of some countries and states in the United States include entries about complications, but these systems are generally considered to underreport infections and other problems that appear sometime after procedure was performed." Stanley K. Henshaw, *Unintended Pregnancy and Abortion: A Public Health Perspective* in *A Clinician's Guide to Medical and Surgical Abortions* at 20 (Maureen Paul et al., eds. 1999).

[19] David A. Grimes, *Sequelae of Abortion*, *in* MODERN METHODS OF INDUCING ABORTION 95, 99-100 (David T. Baird et al. eds., 1995).

warning signs of infection typically begin within the first forty-eight to ninety-six hours after the abortion and can include fever, pain, pelvic tenderness, and elevated white blood count.[20] Caught early, most infections can be treated successfully with oral antibiotics.[21] Left untreated, it can result in death.

Similarly post-operative bleeding after an abortion is common, and even where excessive[22] can be easily controlled if medical treatment is sought promptly. However, hemorrhage is a one of the most serious post-abortion complications and should be evaluated by a medical professional immediately. [23] Untreated it can result in the death of the minor.[24]

Experts often characterize a perforated uterus is a "normal risk" associated with abortion.[25] This complication also can be easily dealt with if detected early, but lead to serious consequences if medical help is not sought promptly.

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[20]*See* E. Steve Lichtenberg et al., *Abortion Complications: Prevention and Management, in* A CLINICIAN'S GUIDE TO MEDICAL AND SURGICAL ABORTIONS 197, 206 (Maureen Paul et al. eds., 1999).

[21]*See id.* at 206-07.

[22] Excessive bleeding is defined as "saturation of more than one pad per hour for more than three hours" under *Complications, Standard* 3, n 23. National Abortion Federation, *Clinical Policy Guidelines*, 40, http://www.prochoice.org/pubs_research/publications/downloads/professional_education/cpgs_2005.pdf (2005).

[23] *Id.* at 39-40.

[24] See *Evans v. Mutual Assur., Inc.*, 727 So. 2d 66 (Ala. 1999) (discussing a dispute between a physician and the malpractice carrier regarding coverage for the death of an 18-year-old girl from hemorrhaging induced by abortion).

[25] *Reynier v Delta Women's Clinic*, 359 So.2d 733 (La. Ct. App. 1978). "All the medical testimony was to the effect that a perforated uterus was a normal risk, but the statistics given by the experts indicated that it was an infrequent occurrence and it was rare for a major blood vessel to be damaged." *Id.* at 738. Frequent injuries from incomplete abortions in Texas are discussed in *Swate v. Schiffers*, 975 S.W.2d 70, 26 Media L. Rep. 2258 (Tex.App.-San Antonio, 1998) (abortionist unsuccessful claim of libel against journalist for reports based in part upon one disciplinary order that doctor had failed to complete abortions performed on several patients, and that he had failed to repair lacerations which occurred during abortion procedures) *Compare Sherman v. District of Columbia Bd. of Medicine*, 557 A.2d 943 (D.C. 1989) "Dr. Sherman placed his patients' lives at risk by using unsterile instruments in surgical procedures and by intentionally doing incomplete abortions (using septic instruments) to increase his fees by making later surgical procedures necessary. His practices made very serious infections (and perhaps

Many minors may ignore or deny the seriousness of post-abortion symptoms or may lack the financial resources to respond to those symptoms.[26] This is because some of the most serious complications are delayed and only detected during the follow-up visit; yet, only about one-third of all abortion patients actually keep their appointments for post-operative checkups.[27] Absent parental notification, hemorrhaging may be mistaken for a heavy period and severe depression as typical teenage angst.

Effectiveness of Judicial Bypass

In those few cases where it is not in the girl's best interest to disclose her pregnancy to her parents, state laws generally provide the pregnant minor the option of seeking a court determination that either involvement of the girl's parent is not in her best interest, or that she is sufficiently mature to make decisions regarding the continuation of her pregnancy. This is a requirement for parental consent laws under existing United States Supreme Court cases, and courts have been quick to overturn laws omitting adequate bypass.[28]

In the past, opponents to the predecessor of this Act, the Child Custody Protection Act, have argued that passage of federal legislation in this area would endanger teens since parents may be abusive and many teens would seek illegal abortions.[29] This is a phantom fear. Parental involvement laws are on the books in over two-thirds of the states, some for over thirty years, and there is no case where it has been established that these laws led to parental abuse or to self-inflicted injury.[30] Similarly, there is no

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death) virtually certain to occur. Dr. Sherman does not challenge our findings that his misconduct was willful nor that he risked serious infections in his patients for money." *Id.* at 944.

[26] *Parental Notification of Abortion: Hearings on H. 218 Before the House Comm. on Health and Welfare*, 2001-2002 Legis. Sess. (Vt. 2001) 33 (testimony of ASue@ an anonymous Vermont mother, on March 20, 2001).

[27] *See id.*

[28] See n. 7 *supra*.

[29] See Donna Leusner, *Parental Notification of Abortion Approved*, The Star-Ledger (June 25, 1999) available online at www.nj.com/page1/ledger/c21e74.html. "They would go to New York. They would go to a back alley. They would do what they have to do to avoid telling their parents. . . . Don't force them to do that," said Sen. Richard C. Codey (D-Essex) who voted no [to passage of the Parental Notification of Abortion Act]. *Id.*

[30] A 1989 memo prepared by the Minnesota Attorney General regarding Minnesota's experience with its parental involvement law states that "after some five years of the statute's operation, the evidence does not disclose a single instance of abuse or forceful obstruction of abortion for any Minnesota minor." Testimony before the Texas House of Representatives on the Massachusetts' experience with its parental consent law revealed

evidence that these laws have led to an increase in illegal abortions or attempted self-induced abortions.[31]

It often asserted that parental involvement laws do not increase the number of parents notified of their daughters' intentions to obtain abortions, since minors will commonly seek judicial bypass of the parental involvement requirement.[32] Assessing the accuracy of this claim is difficult since parental notification or consent laws rarely impose reporting requirements regarding the use of judicial bypass. Alabama, Idaho, South Dakota and Wisconsin are four of the few states that report the number of minors who obtain judicial bypass orders related to abortion. Data regarding the number of bypasses granted in those states from 2005 to 2010 reveals that the judicial bypass is relatively rare and its use varies significantly among states.[33]

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a similar absence of unintended, but harmful, consequences. Ms. Jamie Sabino, chair of the Massachusetts Judicial Consent for Minors Lawyer Referral Panel, could identify no case of a Massachusetts' minor being abused or abandoned as a result of the law. *See Hearing on Tex. H.B. 1073 Before the House State Affairs Comm.*, 76th Leg., R.S. 21 (Apr. 19, 1999) (statement by Jamie Sabino, JD).

[31] A review of medical literature and internet sources regarding self-induced abortions concluded "none of these reports involve children and adolescents." M.S. Coles & L.P. Koenigs, *Self-induced Medical Abortion in an Adolescent*, 20 J. Ped. Adol. Gyn. 93 at 95 (2007). On the issue of illegal abortions, *see Hearing on Tex. H.B. 1073 Before the House State Affairs Comm.*, 76th Leg., R.S. 21 (Apr. 19, 1999) (statement by Jamie Sabino, J.D. testifying that there had been no increase in the number of illegal abortions in Massachusetts since the enactment of the statute in 1981).

[32] *Statement of Bear Atwood, Public Information director in Opposition to A-CR2*, Public Hearing before N.J. Assembly Judiciary Committee, Oct. 16, 2000, at p. 113x. "Studies show that about the same number of teens involve their parents in their abortion in states that have parental involvement laws and those that don't." *Id.* See also Testimony of Jamie Sabino before the Vermont House of Representatives' Committee on Health & Welfare, February 20, 2001 (reporting no change in the percentage of teens notifying their parents in Massachusetts after enforcement of parental consent law).

[33] Data for the chart was taken from Alabama Center for Health Statistics annual "Induced Terminations of Pregnancy Occurring in Alabama" reports, at www.adph.org/healthstats/assetts; the Idaho Bureau of Vital Records and Health Statistics, Vital Statistics Annual Reports at http://www.healthandwelfare.idaho.gov/Health/VitalRecordsandHealthStatistics/HealthStatistics/VitalStatistics/tabid/914/Default.aspx; Idaho bypass data taken from Idaho State Judiciary, Annual Reports Trial Court Statewide Caseload Summaries at http://www.isc.idaho.gov/annual_cov.htm;the South Dakota Vital Statistics: State and County Comparison of Leading Health Indicators at http://doh.sd.gov/Statistics/default.aspx; and Wisconsin requires parental consent prior to abortion on a minor. Wisc. Stat. Ann. § 48.375. Data taken from Wisconsin Department

Ratio of Bypasses to Total Abortions on Minors						
State	Alabama	Idaho	South Dakota	South Dakota	Wisconsin	Wisconsin
Bypass type	Judicial bypass	Judicial bypass	Judicial bypass	Emancipated minor	Judicial bypass	Emancipated minor
2005	4/781	0/79	4/56	0/56	62/630	13/630
2006	7/839	0/121	0/44	0/44	42/596	24/596
2007	10/793	0/104	3/46	0/46	40/551	21/551
2008	6/778	12/83	0/57	1/57	31/500	17/500
2009	0/729	7/91	0/43	3/43	38/495	28/495
2010	1/654	5/81	Not available	Not available	Not available	Not available

CIANA addresses a real problem.

It is beyond dispute that young girls are being taken to out-of-state clinics in order to procure secret abortions. In 2005, the House Subcommittee on the Constitution heard the testimony of Marsha Carroll, the mother of a fourteen year-old-girl, who was secretly taken out-of-state by her boyfriend's parents to obtain an abortion. Upon arriving at the abortion clinic, Mrs. Carroll's daughter began to cry and tried to refuse the abortion. The boy's parents told her they would leave her in New Jersey if she resisted. She gave in to their pressure, had the abortion, and now suffers from depression and guilt.[34]

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of Health Services annual "Reported Induced Terminations of Pregnancy in Wisconsin" reports at http//www.dhs.wisconsin.gov/stats/ITOP.htm. In 2009, the South Dakota Department of Health revised the abortion reporting forms due to federal court ruling. The data includes information obtained on all forms used in 2009. The denominators are all abortions performed on minors.

Indiana has few bypass proceedings according to an early informal study published as part of a law review article. "In Indiana's most populous county, for instance, from mid-1985 to mid-1991, only four minors asked the juvenile court for bypasses. In the state's second most populous county, over the same six year period, only one minor requested a bypass." Steven F. Stuhlbarg, Note, *When is a Pregnant Minor Mature? When is an Abortion in her Best Interests? The Ohio Supreme Court Applies Ohio's Abortion Parental Notification Law: In re Jane Doe 1, 566 N.E.2d 1181 (Ohio 1991),* 60 U. Cin. L. Rev. 907, 929-30 (1992).

[34] *Child Interstate Abortion Notification Act: Hearing on HR 748 before the Subcomm. on the Constitution, H. Comm. on the Judiciary*, 109th Cong. (2005) (testimony of Marsha Carroll in support of HR 748).

In 1998, Joyce Farley testified before the House Subcommittee on the Constitution about the complications her daughter, Crystal, suffered as a result of a secret

A recent study of the literature documenting the impact of parental involvement laws concluded, "Some minors travel to other states with no, or at least less restrictive, parental involvement laws in order to obtain an abortion. To travel out of state, a minor must have access to transportation and must be within a reasonable distance of a state with less restrictive laws. The degree to which minors exercise this option varies by age, socioeconomic status and access to public transportation." [35] "In general, the impact of these laws on minors' travel appears to vary widely, depending on the specifics of the requirements, the abortion regulations of surrounding states and the state's geography."[36]

Statutory Rape

Some teens who obtain abortions are pregnant as the result of statutory rape. National studies reveal "[a]lmost two thirds of adolescent mothers have partners older than 20 years of age."[37] "Younger teenagers are especially vulnerable to coercive and

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abortion. Crystal became pregnant at the age of twelve when Michael Kilmer, an eighteen year-old neighbor, got her drunk and then raped her. Mr. Kilmer's mother, Rosa Hartford, took the young girl to a New York abortion clinic to avoid Pennsylvania's parental consent law. Crystal's mother, a registered nurse, learned of her daughter's abortion when Crystal began experiencing severe pain and hemorrhaging at home following the abortion. The abortion was incomplete, and additional surgery was required. Ms. Hartford was convicted for interfering with the custody of the child's parent. *Commonwealth v. Hartford*, No. 95-98 (Ct. Com. Pl. Sullivan County, Pa. Dec. 5, 1996). Ms. Hartford's conviction was reversed for failure to provide proper jury instructions on the elements of interference with custody. Commonwealth v. Hartford, No. 00088PHL97 (Pa. Super. Ct. Oct. 28, 1997).

[35] Dennis A *et al.*, *The Impact of Laws Requiring Parental Involvement for Abortion: A Literature Review* at 4, New York: Guttmacher Institute, 2009.

[36] *Id.* at 27.

[37] American Academy of Pediatrics Committee on Adolescence, *Adolescent Pregnancy – Current Trends and Issues: 1998*, 103 PEDIATRICS 516, 519 (1999), also available on the worldwide web at <http:// www.aap.org/policy/re9828.html>. See also Nat'l Ctr. for Health Statistics, *Report to Congress on Out-of-Wedlock Childbearing*, DHHS Pub. No. (PHS) 95-1257 (1995) available at http://www.cdc.gov/nchs/data/misc/wedlock.pdf.

> In fact, data indicate that, among girls 14 or younger when they first had sex, a majority of these first intercourse experiences were nonvoluntary. Evidence also indicates that among unmarried teenage mothers, two-thirds of the fathers are age 20 or older, suggesting that differences in power and status exist between many sexual partners.

Id. at 12.

nonconsensual sex. Involuntary sexual activity has been reported by 74% of sexually active girls younger than 14 years and 60% of those younger than 15 years."[38] In a study of over 46,000 pregnancies by school-age girls in California, researchers found that "71%, or over 33,000, were fathered by adult post-high-school men whose mean age was 22.6 years, an average of 5 years older than the mothers. . . . Even among junior high school mothers aged 15 or younger, most births are fathered by adult men 6-7 years their senior. *Men aged 25 or older father more births among California school-age girls than do boys under age 18*."[39] Other studies have found that most teenage pregnancies are the result of predatory practices by men who are substantially older.[40]

Failure to Report by Abortion Providers

Abortion providers are reluctant to report information indicating a minor is the victim of statutory rape.[41] The clearest example of this reluctance is the arguments presented in the lawsuit filed by a Kansas abortion provider to prohibit enforcement of that state's reporting requirement related to sexual abuse of minors. Claiming that

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[38] American Academy of Pediatrics Committee on Adolescence, *Adolescent Pregnancy – Current Trends and Issues*, 116 PEDIATRICS 281, 281 (2005), also available on the worldwide web at < http://pediatrics.aappublications.org/content/116/1/281.full> (last viewed March 6, 2012).

[39] Mike A. Males, *Adult Involvement in Teenage Childbearing and STD*, LANCET 64 (July 8, 1995) (emphasis added).

[40] *Id.* citing HP Boyer and D. Fine, *Sexual Abuse as a Factor in Adolescent Pregnancy and Child Maltreatment*, FAM. PLAN. PERSPECTIVES at 4 (1992) (1992 study of 535 teen mothers in Washington state revealed that two-thirds were victims of molestation, rape, or attempted rape prior to their first pregnancy"); and HP Gershenson, et al. *The Prevalence of Coercive Experience Among Teenage Mothers*, J. INTERPERS. VIOL. 204 (1989). *See also* D.J. Taylor et al., *Demographic Characteristics in Adult Paternity for First Births to Adolescents under 15 Years of Age*, J. Adol. Health (Apr. 1999), at 251 (finding that adult fathers, responsible for 26.7% of births to very young adolescents, were a mean of 8.8 years older than the mother); Bradford D. Gessner and Katherine A. Preham-Hester, Experience of Violence Among Teenage Mothers in Alaska, 22 J. Adol. Health 383, 387 (1998) (66% of births to teens under the age of 16 were result of statutory rape (male was 3+ years older than girl)).

[41] *See* Chinué Turner Richardson and Cynthia Dailard, *Politicizing Statutory Rape Reporting Requirements: A Mounting Campaign?*, THE GUTTMACHER REPORT ON PUBLIC POLICY 1 (Aug. 2005), also available at http://www.guttmacher.org/pubs/tgr/08/3/gr080301.html, and Patricia Donovan, *Caught Between Teens and the Law: Family Planning Programs and Statutory Rape Reporting*, 3 FAM. PLAN. PERSPECTIVES 5 (1998).

children under the age of sixteen were sufficiently mature to engage in non-abusive sexual intercourse, Aid for Women, a Kansas City abortion provider, sued to enjoin the state's mandatory reporting law on the basis that it violated minors' constitutional right to informational privacy. The district court, adopting the arguments of the abortion provider, ruled that minors between the ages of twelve and fifteen had a constitutional right to engage in non-coercive sexual activity, including but not limited to "penile-vaginal intercourse, oral sex, anal sex, and touching of another's genitalia by either sex."[42] On appeal from a preliminary injunction in the case, the Court of Appeals for the Tenth Circuit rejected such a constitutional right,[43] but the district continued to assert the unconstitutionality of the reporting law at the conclusion of trial.[44] Unfortunately the appeal to the Tenth Circuit was rendered moot by unrelated legislative changes in the law.[45]

Failure to report the sexual abuse of minor may result in the minor returning to an abusive relationship. In Ohio, a thirteen-year-old girl was impregnated by her twenty-one-year old soccer coach, John Haller. In order to conceal the illegal relationship, Mr. Haller arranged for the girl to obtain an abortion by first impersonating her father during a telephone call with the clinic, and then pretending to be her brother while accompanying the girl to the clinic to obtain an abortion.[46] The sexual abuse was only discovered after another teacher overheard the girl arguing with Haller about their relationship, and reported the conversation to law enforcement.[47] Subsequently the girl and her parents sued the abortion provider, Planned Parenthood of Southwest Ohio Region, for failure to comply with the Ohio sexual abuse reporting statute. "Planned Parenthood did not deny that it had not filed an abuse report."[48]

In 2001 an Arizona Planned Parenthood affiliate was found civilly liable for failing to report the fact that the clinic had performed an abortion on a twelve-year-old girl who had been impregnated by her foster brother. The abortion provider did not

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[42] *Aid For Women v. Foulston*, 327 F.Supp.2d 1273 (D.Kan. 2004).

[43] *Aid to Women v. Foulston,* 441 F.3d 1101 (10th Cir. 2006).

[44] *Aid to Women v. Foulston,* 427 F. Supp. 2d 1093 (D. Kan. 2006).

[45] *Aid to Women v. Foulston,* No. 06-3187,2007 WL 6787808 (10th Cir. Sept. 18, 2007).

[46] *Roe v. Planned Parenthood Southeast Region of Ohio*, 912 N.E.2d 61, 64-65 (Ohio 2009).

[47] *Id.*

[48] *Roe v. Planned Parenthood Southwest Ohio Region*, 173 Ohio App. 3d 414 (1st Dist. Ct. App. 2007) available at http://www.sconet.state.oh.us/rod/docs/pdf/1/2007/2007-ohio-4318.pdf.

report the crime as required by law and the girl returned to the foster home where she was raped and impregnated a second time.[49] In 2003 two Connecticut doctors were prosecuted for failing to report to public officials that an eleven-year old girl had been impregnated by a seventy-five year old man.[50]

By failing to report, abortion providers reduce the chances that rapes will be discovered, and by failing to preserve fetal tissue, they may make it impossible to effective prosecute those rapes that are discovered.

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[49] See *Glendale Teen Files Lawsuit Against Planned Parenthood*, THE ARIZONA REPUBLIC, Sept. 2, 2001 and *Judge Rules Against Planned Parenthood* at www.12news.com/headline/PlannedParenthood122602.html

[50] *See* Charlotte Allen, *Planned Parenthood's Unseemly Empire*, 13 Weekly Standard (2007) (describing the ongoing criminal prosecution by Connecticut officials of Adam Gault, a forty-one year old man who imprisoned and impregnated a fifteen-year-old girl).Connecticut has a history of failure to protect its youth from statutory rape. In 1998, the office of the United States Department of Health & Human Services Inspector General reported:

> This review examined whether cases of suspected statutory rape in Connecticut were being identified, reported and targeted for intervening services. It also assessed the related implications, including social costs. While the State has taken steps toward addressing the problem of statutory rape, the effectiveness of these steps could be improved. Many of the teenaged girls and boys in OIG's sample were pursued by adults over the age of 21, and over half these adults had histories of reported domestic violence and/or abuse of their children. The OIG recommended that the State identify ways to pursue criminal action against alleged perpetrators and ensure that appropriate services are provided to victims and others, as needed. However, the State should consult with ACF to prevent any possible negative consequence in the area of voluntary paternity acknowledgment. The State indicated it would continue to work to resolve the problems and develop an acceptable protocol. (CIN:A-01-97-02504)

June Gibbs Brown, *United States Department of Health & Human Services Office of the Inspector General Semi-Annual Report, April 1, 1998 – September 30, 1998* at 48 (1998) available at http://oig.hhs.gov/publications/docs/semiannual/1998/98-fsemi.pdf (last viewed March 6, 2012).

For additional examples, see AUL, *The Case for Investigating Planned Parenthood* Available at http://www.aul.org/aul-special-report-the-case-for-investigating-planned-parenthood/.

A federal solution to the problem is necessary

Both Joyce Farley and Marsha Carroll wanted to care for their daughters as the girls experienced their unplanned pregnancies. Both mothers lived in Pennsylvania, a state requiring parental consent prior to the performance of abortions on minors. Yet both mothers were deprived of the opportunity to counsel and protect their daughters by others adults who took the girls to states having no parental involvement requirements related to abortion.

Both girls were subjected to pressure by those who had an interest in hiding or ending the girls' pregnancies. In both cases, abortion providers failed to intervene to insure that the girls freely gave their informed consent to the abortions. Both girls suffered lasting harm from their abortions.

These cases reveal the limitations of states' authority to protect parents' rights to direct the medical care of their minor children[51] outside the individual states' geographic boundaries. While Pennsylvania, like many states, statutorily protects a parent's right to be involved in their daughter's decision to obtain an abortion, these statutory protections were easily evaded by taking the minor to a state that does not require parental consent or notification prior to performance of abortions on minors.

At least one state has attempted to address this problem statutorily. Legislators in Missouri realized that abortion providers in the neighboring state of Illinois deliberately marketed their services to Missouri minors on the basis that no parental involvement is required prior to performance of an abortion on a minor in Illinois. To discourage this practice, the legislature passed a law creating civil remedies for parents and their daughters against individuals who would "intentionally cause, aid, or assist a minor" in obtaining an abortion without parental consent or a judicial bypass of Missouri's consent requirement.[52] Abortion providers immediately attacked the law as unconstitutional. The state attorney general vigorously defended the law as a reasonable means to insure that Missouri minors had the benefit of parental involvement when deciding whether to obtain abortions.

The Missouri Supreme Court upheld the constitutionality of the law limiting the activities subject to civil liability, and by excluding out-of-state conduct. "Of course, it is beyond Missouri's authority to regulate conduct that occurs wholly outside of Missouri, and section 188.250 cannot constitutionally be read to apply to such wholly out-of-state conduct. Missouri simply does not have the authority to make lawful out-of-state conduct actionable here, for its laws do not have extraterritorial effect."[53]

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[51] *Parham v. J.R.*, 442 U.S. 584 (1979).

[52] Mo.Rev.Stat. § 188.028 (2005).

[53] *Planned Parenthood of Kansas v. Nixon*, 220 S.W.3d 732, 742 (Mo. 2007).

The Missouri court was constrained by the United States Supreme Court decision, *Bigelow v. Virginia,* 421 U.S. 809 (1975). In *Bigelow* the Court overturned a Virginia law restricting advertising of abortion by out-of-state providers:

> Moreover, the placement services advertised in appellant's newspaper were legally provided in New York at that time. The Virginia Legislature could not have regulated the advertiser's activity in New York, and obviously could not have proscribed the activity in that State. Neither could Virginia prevent its residents from traveling to New York to obtain those services or, as the State conceded Virginia possessed no authority to regulate the services provided in New York-the skills and credentials of the New York physicians and of the New York professionals who assisted them, the standards of the New York hospitals and clinics to which patients were referred, or the practices and charges of the New York referral services.[54]

While there is scholarly debate on the point,[55] the judicial consensus appears to be that states do not have the power to regulate conduct in neighboring states. Yet out-of-state conduct can completely defeat state laws requiring parental involvement in their daughters' decisions regarding abortion. Congressional action is required to protect states' recognition of parents' right to be involved in their daughters' decisions to obtain abortions.

CIANA is constitutional

Opponents of CIANA have persistently claimed that passage of the law would violate the constitutional right to travel and would exceed Congressional authority under the interstate commerce clause. Both claims are baseless.

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[54] 421 U.S. at 822 (1975).

[55] *See e.g.* C. Steven Bradford, *What Happens If Roe Is Overruled? Extraterritorial Regulation of Abortion by the States*, 35 Ariz. L. Rev. 87, 170 (1993); Lea Brilmayer, *Interstate Preemption: The Right to Travel, the Right to Life, and the Right to Die*, 91 Mich. L. Rev. 873, 876 (1993); Richard H. Fallon, Jr., *If Roe Were Overruled: Abortion and the Constitution in a Post-Roe World*, 51 St. Louis U. L.J. 611, 627-41 (2007):Donald H. Regan, *Siamese Essays: (I) CTS Corp. v. Dynamics Corp. of America and Dormant Commerce Clause Doctrine; (II) Extraterritorial State Legislation,* 85 Mich. L. Rev. 1865, 1906-08, 1912-13 (1987); *Mark D. Rosen, Extraterritoriality and Political Heterogeneity in American Federalism,* 150 U. Pa. L. Rev. 855, 955-64 (2002); and William Van Alstyne, *Closing the Circle of Constitutional Review from Griswold v. Connecticut to Roe v. Wade: An Outline of a Decision Merely Overruling Roe*, 1989 Duke L.J. 1677, 1684.

The "right to travel" is composed of "at least three different components."[56] It protects: (1) "the right of a citizen of one State to enter and to leave another State," (2) "the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State," and (3) "for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State."[57]

CIANA imposes no obstacle on a minor entering or leaving any state. CIANA does not prohibit anyone from accompanying minors to obtain an abortion; it simply requires those aiding or assisting minors to obtain an abortion to comply with the parental involvement laws of the minor's state of residence. Nor does the act cause minors to be treated as "an unfriendly alien when temporarily present in the second State." CIANA also does not deal with individuals who elect to travel in order to become permanent residents of another state. In short, the act "does not directly impair the exercise of the right to free interstate movement."[58]

CIANA is a legitimate exercise of Congressional authority under its authority to regulate interstate commerce. "To keep the channels of commerce free from immoral and injurious uses has been frequently sustained, and is no longer open to question."[59] The Supreme Court has repeatedly said crossing state lines is interstate commerce regardless of whether any commercial activity is involved.[60] "[T]he transportation of persons across state lines ... has long been recognized as a form of "commerce.'"[61]

As recently as 2005 in *Gonzales v. Raich*, the United States Supreme Court upheld Congressional authority to regulate conduct related to medical care.[62] There is

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[56] *Saenz v. Roe*, 526 U.S. 489, 500 (1999).

[57] *Id.*

[58] *See Saenz v. Roe*, 526 U.S. at 501 (California statute limiting welfare benefits to residents with less than one year of residency did not violate the right of a citizen of one State to enter and leave another State, because statute did not directly impair the right to free interstate movement); *Doe v. Miller*, 405 F.3d 700, 712 (8th Cir.2005) (Iowa residency restriction for sex offenders did not implicate the right to travel because it did not prevent the sex offender from entering or leaving the state).

[59] *Caminetti v. United States*, 242 U.S. 470 (1917).

[60] *See Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 255-56 (1964); and *Edwards v. California*, 314 U.S. 160, 172 & n. 1 (1941).

[61] *Camps Newfound/Owatonna, Inc. v. Town of Harrison, Me.*, 520 U.S. 564 (1997).

[62] *Gonzales v. Raich*, 545 U.S. 1 (2005) (upholding provisions of Controlled Substances Act that prohibited the use and distribution of marijuana in states that recognized medical uses for the drug).

little reason to believe that the Court would sustain a challenge to the constitutionality of CIANA.[63]

Conclusion

In balancing the minor's right to privacy and her need for parental involvement, the majority of states have determined that parents should know before abortions are performed on minors. This is a reasonable conclusion and well within the states' police powers. However, the political authority of each state stops at its geographic boundaries. States need the assistance of the federal government to insure that the protection they wish to afford their children is not easily circumvented by strangers taking minors across state lines.

By passage of the Act before this Committee, Congress will protect the ability of the parents to be involved in the decisions of their minor daughters facing an unplanned pregnancy.

Experience in states having parental involvement laws has shown that, when notified, parents and their daughters unite in a desire to resolve issues surrounding an unplanned pregnancy. If the minor chooses to terminate the pregnancy, parents can assist their daughters in selecting competent abortion providers, and abortion providers may receive more comprehensive medical histories of their patients. In these cases, the minors will more likely be encouraged to obtain post-operative check-ups, and parents will be prepared to respond to any complications that arise.[64]

If the minor chooses to continue her pregnancy, involvement of her parents serves many of the same goals. Parents can provide or help obtain the necessary resources for early and comprehensive prenatal care. They can assist their daughters in evaluating he options of single parenthood, adoption, or early marriage. Perhaps most importantly, they can provide the love and support that is found in the many healthy families of the United States.[65]

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[63] *Gonzales v. Carhart*, 550 U.S. 124 (2007) involved substantive due process claims by the plaintiffs. They did not raise any claim under the interstate commerce clause. *Id.* at 1640 (Thomas, J. concurring) ("I also note that whether the Act constitutes a permissible exercise of Congress' power under the Commerce Clause is not before the Court. The parties did not raise or brief that issue; it is outside the question presented; and the lower courts did not address it.")

[64] Compare the experience recounted in *Testimony of Marie P. Carter*, Public Hearing before N.J. Assembly Judiciary Committee, Oct. 16, 2000, at p. 90x (secret abortion by teen resulting in emotional harm).

[65] See *Statement of Marie Sica, Constitutional Amendment ACR-2/SCR86*, Public Hearing before N.J. Assembly Judiciary Committee, Oct. 16, 2000, at p. 16x.

Regardless of whether the girl chooses to continue or terminate her pregnancy, parental involvement laws have proven desirable because they afford greater protection for the many girls who are pregnant due to sexual assault. By insuring that parents know of the pregnancy, it becomes much more likely that they will intervene to insure the protection of their daughters from future assaults.

In balancing the minor's right to privacy and her need for parental involvement, the majority of states have determined that parents should know before abortions are performed on minors. This is a reasonable conclusion and well within the states' police powers. However, the political authority of each state stops at its geographic boundaries. States need the assistance of the federal government to insure that the protection they wish to afford their children is not easily circumvented by strangers taking minors across state lines.

The Child Interstate Parental Notification Act has the unique virtue of building upon two of the few points of agreement in the national debate over abortion: the desirability of parental involvement in a minor's decisions about an unplanned pregnancy, and the need to protect the physical health and safety of the pregnant girl. I urge members of this committee to vote for its passage.

Thank you, Mister Chairman, for allowing me the time to appear before the committee and to extend my remarks in the form of this written testimony.

Mr. FRANKS. Thank you, Professor Collett.

And Rev. Ragsdale, please, for 5 minutes.

TESTIMONY OF THE VERY REV'D. KATHERINE HANCOCK RAGSDALE, PRESIDENT AND DEAN, EPISCOPAL DIVINITY SCHOOL

Rev. RAGSDALE. Chairman Franks, Ranking Member——

Mr. FRANKS. Rev. Ragsdale, would you pull that in and push the button? That will work.

Rev. RAGSDALE. Thank you very much.

Mr. FRANKS. Yes, ma'am.

Rev. RAGSDALE. And thank you for the opportunity to testify once again on this bill.

I come before you as an Episcopal priest with over 15 years in parish ministry, now serving as president of one of the Episcopal Church's 10 seminaries. My interest in and perspective on this issue are shaped by my life as a parish priest, by my current work educating future priests, and by my responsibilities as an Episcopalian, because this bill flies in the face of, is completely contrary to, the official position of the Episcopal Church.

I recall vividly one day when I left my home to pick up a 15-year-old girl and drive her to Boston for an 8 a.m. appointment for an abortion. I didn't know the girl. I knew her school nurse. The nurse had called me a few days earlier to see if I knew where she might find money to give the girl for bus fare to and cab fare home from the hospital. I was stunned.

A 15-year-old was going to have to get up at dawn and take multiple buses to the hospital alone. The nurse shared my concern but explained that the girl had no one to turn to. She feared for her safety if her father found out, and there were no other relatives close enough to help.

There was no one to be with her, so I went, and during our hour-long drive, we talked. She told me about her dreams for the future, all the things she thought she might like to do and be. I talked to her about the kind of hard work and personal responsibility it would take to get there. She talked to me about her guilt at being pregnant. I talked to her about God.

Later, I drove her back to her school and walked her to the nurse's office and turned her over to someone who would look out for her for the rest of the day, and I drove home wondering how many bright, funny, thoughtful, girls, girls brimming with promise, had no one to help them.

I did not take her across State lines, nor did I, to my knowledge, break any laws. But if either of those things had been necessary to help that girl, I would have done them.

And if helping young women like her should be made illegal, I will nonetheless continue to do it. I have no choice.

Some years ago, I stood before an altar and a bishop of the people of God, and vowed to love and serve the people among whom I work. Even if you tell me that it is a crime to exercise my ministry, I will have no choice. And I assure you, I am not alone.

I would like to acknowledge that we probably all have much in common here: although we may differ as to when, if ever, abortion is a morally appropriate choice, I wish we could all acknowledge

the fact that it is a legally protected choice. And, certainly, we can all agree that we would like for all women to have fewer reasons to consider abortion, and we all deeply desire that every teen facing any significant decision be able to turn to her parents for guidance and support.

That is the world we wish for. The Episcopal Church, certainly, hopes and works for such a world even as we passed a resolution opposing parental notification laws, because we know that, unfortunately, for far too many young women, this is not the world they actually live in and must find a way to navigate.

We know that young women do get pregnant, sometimes due to poor choices or carelessness, too often due to violence or coercion. And while you surely know the statistics that an overwhelming majority of minor women considering an abortion do, indeed, talk to their parents, some won't and others can't.

That is why many years ago now the Episcopal Church passed a resolution opposing any parental consent or notification mandates that did not include provision for nonjudicial bypass. We thought it was far too onerous to require a teenager already undergoing the trauma of an unintended pregnancy to also have to face and navigate an intimidating judicial system.

It was our view that any morally responsible notification or consent requirement had to allow young women to turn for help to a responsible adult other than a parent or a judge, to go instead to a grandparent or an aunt, a teacher, a neighbor, a counselor, minister, rabbi, a doctor.

Our position encourages the very thing this bill would outlaw. Certainly, we want young people to be able to talk to their parents, but when they can't or won't, we want to make it easier not harder for them to turn to other responsible adults.

And most certainly, we don't want to make it harder for their doctors to be their allies and advocates. We adopted this resolution by a large majority not because we don't care about parental notification and involvement, but because we know that no one can simply legislate healthy communication with families, and we know that of those girls who do not involve their parents, many feared violence or being thrown out of their home.

There is no excuse good enough to justify legislation that further imperils young people who are already living in danger in their own homes. Teens deserve to be able to talk, to turn to their parents for love and support and guidance. But when they can't, we want them to turn to some responsible adult.

Please don't outlaw the very help we want our children to have. Oppose this bill. Oppose it out of compassion for those young people who cannot for reasons of safety comply with its provisions.

I am sure that each of your families is a loving and supportive one, and your daughter knows she can always turn to you for anything. But what about her best friend? What about your neighbor's daughter?

Please don't leave any scared teenager alone and without help.

Thank you for the opportunity to provide this testimony.

[The prepared statement of Rev. Ragsdale follows:]

Testimony Submitted by

The Very Rev'd Dr. Katherine Hancock Ragsdale
President and Dean
Episcopal Divinity School

To the Committee on the Judiciary, Subcommittee on the Constitution,
U.S. House of Representatives

March 8, 2012

H.R.2299, the Child Interstate Abortion Notification Act

Chairman Franks, Ranking Member Nadler, members of the subcommittee: thank you for this opportunity to testify once again on H.R.2299, the Child Interstate Abortion Notification Act. As I have appeared before this and other committees before, I am pleased to be invited back, but saddened that Congress is once again taking up this topic.

I come before you today as an Episcopal priest with over 15 years in parish ministry now serving as President of one of the Episcopal Church's 10 seminaries. Episcopal Divinity School is a graduate school in Cambridge, Massachusetts preparing women and men for ordained and lay ministries in the Church and the world. My interest in, and perspective on, this issue are shaped by my life as a parish priest whose privilege it was to be intimately involved in the lives of a variety of people who struggled every day with what it means to be ethical, morally responsible people of God in an always complex, frequently confusing, sometimes difficult, and occasionally tragic modern world; by my current work as an educator, working to prepare women and men to care for the people entrusted to them; and by my responsibilities as a representative of the Episcopal Church – for this bill is contrary to the official position of the Episcopal Church.

I recall vividly a day when I left my home near Cambridge Massachusetts, and drove to one of the economically challenged cities to the north of me to pick up a 15-year-old girl and drive her to Boston for an 8 a.m. appointment for an abortion. I didn't know the girl – I knew her school nurse. The nurse had called me a few days earlier to see if I knew where she might find money to give the girl for bus fare to and cab fare home from the hospital. I was stunned – a 15-year-old girl was going to have to get up at the crack of dawn and take multiple buses to the hospital alone? The nurse shared my concern but explained that the girl had no one to turn to. She feared for her safety if her father found out and there was no other relative close enough to help. There was no one to be with her. So I went. And during our hour-long drive to Boston, we talked.

She told me about her dreams for the future – all the things she thought she might like to do and be. I talked to her about the kind of hard work and personal responsibility it would take to get there.

She told me about the guilt she felt for being pregnant – even though the pregnancy was the result of a date rape. She didn't call it that. She just told me about the really cute guy from school who seemed so nice and about how pleased she was when he asked her out. And then, she told me, he asked her to have sex with him and she refused. And he asked her again…and again. And then he pushed her down and forced himself on her. But he didn't pull a gun, or break any bones, or cause any serious injury – other than a pregnancy and a wounded spirit – so she didn't know to call it rape. She figured the fault was hers for not somehow having known that he wasn't really the "nice boy" he had seemed. And I talked to her about the limits of personal responsibility; and not

everything that happens to us is our own fault, or God's will; and about how much God loves her.

Then I took her inside and turned her over to some very kind nurses. I went downstairs to get a couple of prescriptions filled for her. I paid for the prescriptions after I was informed that they'd either need the girl's father's signature in order to charge them to his insurance, or the completion of a pile of forms that looked far too complex for any 15-year-old to have to deal with. I drove her back to her school and walked her to the nurse's office and turned her over to someone who would look out for her the rest of the day. And then I drove home wondering how many bright, funny, thoughtful girls, girls brimming with promise, were not lucky enough to know someone who knew someone who could help. I despaired that in a society as rich and purportedly reasonable and compassionate as ours, any young woman should ever find herself in such a position. It never occurred to me that anyone would ever try to criminalize those who were able and willing to help.

Although New Hampshire was closer to that girl's home than Boston, as it happened, I did not take her across state lines. Nor did I, to my knowledge, break any laws. But if either of those things had been necessary in order to help her, I would have done them. And if helping young women like her should be made illegal I will, nonetheless, continue to do it. I have no choice because some years ago I stood before an altar and a Bishop and the people of God and vowed "to proclaim by word and deed the Gospel of Jesus Christ and to fashion (my) life in accordance with its precepts…to love and serve the people among whom (I) work, caring alike for the young and old, strong and weak, rich and poor." I have no choice. Even if you tell me that it is a crime to exercise my ministry, I will have no choice. And, I assure you, I am not alone.

I'd like to acknowledge that we all probably have much in common here. Though we may differ as to when, if ever, abortion is a morally appropriate choice, certainly we can all acknowledge the facts – it is a legally protected choice. Even more inarguably, certainly we all wish fewer young women (or women of any age) had any need or reason to consider abortion and we all deeply desire that every teen facing any significant decision be able to turn to her parents for guidance and support.

That's the world we wish for. The Episcopal Church certainly hopes and works for such a world – even as we passed a resolution opposing parental-notification laws. Because we know that unfortunately, for far too many young women, that is not the world they live in and must find a way to navigate. We know that young women do get pregnant, sometimes due to poor choices or carelessness (traits that tend to be characteristic of many teens), too often due to violence and coercion. And while you surely know the statistics that an overwhelming majority of minor women considering abortion do, indeed, talk to their parents, some won't and others can't.

This is why, many years ago now, the Episcopal Church passed a resolution opposing any parental-consent or -notification mandates that did not include provision *for non-judicial* bypass. We insisted on a non-judicial bypass even before we had evidence of how ineffective, unavailable, and often abusive judicial-bypass procedures have proved to be. We simply thought it was far too much to require a teenager already undergoing the trauma of an unintended pregnancy to also have to face and navigate an intimidating judicial system and tell her story in court. Stories of what young women have endured in that system validate our original view that any morally responsible notification or consent requirement had to allow young women to turn for help to a responsible adult other than a parent or a judge – to go instead to a grandparent or an aunt, a teacher or neighbor, a counselor, minister or rabbi – or doctor. Our position encourages the very things this bill would outlaw. Certainly, we want young people to be able to turn to their parents. But when they can't or won't, we want to make it easier, not harder, for them to turn to other responsible adults and, most certainly, we don't want to make it harder for their doctors to be their allies and advocates.

We adopted this resolution (by a large majority) not because we don't care about parental involvement. The Episcopal Church wants young women to be able to turn to their parents for help when faced with serious decisions. I want that. I'm sure members of Congress want that. And, in fact, most teens – more than 60 percent – do turn to their parents, and 90 percent of young women who do not involve a parent are accompanied to the doctor by another person who can provide support. We'd like it to be 100 percent. But we know that no one can simply legislate healthy communication within families. And we know that, of those girls who do not involve their parents, many feared violence or being thrown out of their home. Statistical and anecdotal evidence demonstrates that, in far too many American homes, such fears are not unfounded. In some tragic cases, we have learned of young women who simply could not go for consent to the fathers who had impregnated them, the mothers who turned them out of the house rather than believe a story that implicated a husband or son, the family members who were simply too unstable to begin with to ever manage this situation. These stories of young women beaten, harassed, and abandoned, stories of young women who assure us that they would have committed suicide had they not been able to obtain an abortion are, sadly, not unusual. Many of the minority of young women who do not turn to their parents report these as the reasons. There is no excuse good enough to justify legislation or regulation that further imperils young people who are already living in danger in their own homes.

Even if we were to find ourselves drained of the last vestiges of our compassion there would still be a self-interested reason to fear and oppose this legislation. It imperils all young women, even those in our own families. One hopes that none of the young women we know and love has anything to fear from their parents. We may even be quite confident that this is true. But let's not kid ourselves. Even in the happiest and healthiest of families teens sometimes cannot bring themselves to confide in their

parents. Even in families like Rebecca Bell's. Perhaps you remember her story. Becky's parents report that they had a very good and loving relationship with their daughter. They believed that there was nothing that she couldn't or wouldn't tell them. But when Becky became pregnant she apparently couldn't stand the thought of disappointing and hurting the parents she loved. And she lived in a state that required parental notification. So she had an illegal abortion – and she died.

Should Becky Bell have talked to her parents? I think so. Did she exercise poor judgment? Absolutely. But, sisters and brothers, I can tell you, teenagers will, from time to time, exercise poor judgment. It's a fact of nature and there is no law Congress can pass that will change that. The penalty should not be death.

I find it troubling, even horrifying, that we should find ourselves at odds over this issue – and devoting yet more legislative time to it at a time when so many national crises require your attention. Presumably we all want the same things here. We want fewer unintended pregnancies and we want young people who face problems, particularly problems that have to do with their health and their futures, to receive loving support and counsel from responsible adults. This bill, however, doesn't help to achieve those goals. It doesn't resolve the problems with which we are faced. It doesn't even address those problems. This is not a bill about solutions; it's a bill about punishments. And, while it is the rare saint who is not sometimes subject to punitive impulses, such impulses are, nonetheless, venal and beneath the dignity of Americans or of any member of the human family.

We should be talking, instead, about evidence-based, age-appropriate sex education for all young people, and about safe, affordable, and available contraception. We should be figuring out how we impress upon boys that "no" really does mean "no," and about how to teach girls to defend themselves. We should be talking about education and economics; about child care and welfare; about violence at home and on the streets; not about new ways to punish victims and those who care for them.

Yet, no matter how intense and successful our efforts, there will still be minors who face unintended pregnancies. And some of them will still decide that abortion is the best – sometimes the most responsible – option for them. And then, as now, we will want them to be able to turn to their parents for love and support and guidance. But when they can't, we want them to turn to *some* responsible adult. Please don't outlaw the very help we want our children to have.

Oppose this bill. Oppose it because no matter how good the intentions of its authors and supporters, it is, in essence, punitive and mean-spirited. Oppose it out of compassion for those young people who cannot, for reasons of their safety, comply with its provisions. I am sure each of your families is of course supportive and your daughter would come to you if she were faced with an unintended pregnancy. But what about

her best friend? What if she can't turn to *her* family for support? What about your neighbor's daughter? We as a society need to stand up for those teens who don't have the support systems in place that our daughters are blessed enough to have from us.

Thank you for the opportunity to provide this testimony.

Mr. FRANKS. Dr. New, I will recognize you now 5 minutes, sir. Just pull that microphone close. We are going to have to just start turning those on at the beginning of the hearing, I think, because they fool everybody always.

Is it on now?

TESTIMONY OF MICHAEL J. NEW, Ph.D., DEPARTMENT OF SOCIAL SCIENCES, UNIVERSITY OF MICHIGAN—DEARBORN

Mr. NEW. Chairman Franks, distinguished guests, thank you. I appreciate this opportunity to offer testimony on behalf of the Child Interstate Abortion Notification Act. I am currently assistant professor of political science at the University of Michigan-Dearborn. I am also an adjunct scholar at the Charlotte Lozier Institute, the research and education arm of the Susan B. Anthony List here in Washington, D.C. I have a Ph.D. in political science and a master's degree in statistics, both from Stanford University.

I have authored nine articles which have appeared in various peer-reviewed journals, three of which have been on the topic of State-level pro-life legislation. In March 2011, an article of mine on this topic was published in State Politics & Policy Quarterly, which is the top State politics journal in the country.

I have evaluated the research on parental involvement laws that has appeared in peer-reviewed journals in public health, economics, and political science. I have come across 18 peer-reviewed studies in total.

The peer-reviewed research on the impact of State-level parental involvement laws arrives at a great deal consensus about their effects.

In my testimony this morning, I want to highlight the four most important findings.

First, every peer-reviewed study I have seen, 16 in total, finds that State parental involvement laws reduce the in-State abortion rate for minors. This is true of studies that analyze time series cross-sectional data, allow for simultaneous analysis of multiple laws. It is also true of States that focus on the individual—on the impact of an individual State-level law.

There have been separate studies analyzing the laws of six States, including Indiana, Massachusetts, Minnesota, Mississippi, Missouri, and Texas. The findings are all very similar. After the passage of a parental involvement law, the research shows a statistically significant reduction in the in-State minor abortion rate from anywhere from 13 percent to 42 percent. Most of these find the decline somewhere between 15 and 20 percent in the in-State minor abortion rate.

My own research shows that those States which require both parents be involved, Minnesota, Mississippi, have seen even larger declines.

Secondly, parental involvement laws are always worth enacting because the in-State decline in the abortion rate consistently exceeds any out-of-State increase. The two best studies in State-level parental involvement laws both show this.

The first study looked at the Massachusetts law that took effect in 1981. That study appeared in the American Journal of Public Health.

The second study analyzed the Texas law, which took effect in 2000. That study appeared in the New England Journal of Medicine in 2006.

Both studies are unique because they analyze monthly data on in-State minor abortions, out-of-State minor abortions, and births to minors. Both studies found that after the enactment of both the Massachusetts law and the Texas law, the in-State minor abortion decline clearly exceeded the out-of-State increase.

Furthermore, both studies did find evidence of short-term increases in the minor birthrate. The Texas study found that girls who are over 17-and-a-half-years-old are more likely to give birth. Another Texas study analyzing similar data showed the birthrate for 17-year-olds increased by 2 percent after the parental involvement law took place.

The Massachusetts study suggested that in the year after the parental law took effect, 100 minors gave birth instead of having abortions as a result of law.

Third, every State that tracks out-of-State abortions after a parental involvement law takes effect finds an increase in the number of girls who obtain abortions in adjacent States without parental involvement laws. Now, the number depends on the State. In large States like Texas, relatively few minor girls cross the State line to have an abortion. But in smaller States, like Massachusetts and Missouri, a much larger percent do. In fact, a fairly substantial decline—or, a fairly substantial percentage of the minor abortion rate decline in States like Massachusetts and Missouri is due to minor girls crossing State lines and having abortions in States where the laws are more permissive.

The fourth and final point I would like to make is that the knowledge that parents will be involved with an abortion decision provides teen girls with a strong disincentive to engage in unprotected sexual activity. There is a very broad research, very body of research, I should say, on the positive public health of parental involvement laws.

A 2003 study in the Journal of Health Economics found that parental involvement laws are reducing teen pregnancy rate anywhere from 4 to 9 percent. A 2008 study in the Journal of Law, Economics and Organization, found that parental involvement laws reduced the gonorrhea rate for minors from anywhere from 12 to 20 percent.

Finally, this past February, the Journal of Economic Inquiry published a study which shows that the enactment of parental involvement law lowers the teen suicide rate for minor girls.

As such, I would encourage Members of the Committee to support the Child Interstate Abortion Notification Act. It will give parents more involvement over how their minor daughters resolve pregnancies.

I think it is safe to say that parents are more invested in the well-being of their minor daughter than a boyfriend, a friend, or a relative. They also have better knowledge of their daughter's medical history. There is evidence where minor girls obtained abortions without their parent's knowledge and died because they did not realize they were allergic to the anesthesia.

Based on the testimony I have given, I am confident that the Child Interstate Abortion Notification Act will lead to fewer abortions and better public health outcomes for teen girls. Thank you.

[The prepared statement of Mr. New follows:]

Testimony on the Child Interstate Abortion Notification Act (CIANA)

By Michael J. New Ph.D.

I appreciate this opportunity to offer testimony on behalf the Child Interstate Abortion Notification Act. I am currently an Assistant Professor of Political Science at The University of Michigan – Dearborn. I am also an Adjunct Scholar at the Charlotte Lozier Institute, the Research and Education arm of the Susan B. Anthony List here in Washington, DC. I have a Ph.D. in Political Science and a Masters Degree in Statistics both from Stanford University. I have authored 9 articles which have appeared in various peer reviewed journals, 3 of which have been on the topic of the impact of state level pro-life legislation. In March of 2011, an article of mine on this topic was published in *State Politics and Policy Quarterly* which is the top state politics journal in the country.

I have evaluated the research on parental involvement laws that has appeared in peer reviewed public health journals, economics journals, and political science journals. I have come across 18 peer reviewed studies on this subject. The peer reviewed research on the impact of state level parental involvement laws arrives at a great deal of consensus about their effects. I want to highlight the 4 most important findings in my testimony this morning.

1) First, every peer reviewed study I have seen, 16 in total, finds that state level parental involvement laws reduce the in-state abortion rate for minors. This is true of studies that analyze time series-cross sectional data which allow for the simultaneous analysis of multiple state level parental involvement laws (Haas Wilson 1993, 1996; Levine 2003; Medoff 2007; New 2007, 2009, 2011; Ohsfeldt and Gohman 1994; Tomal 1999). It is also true of studies that focus on the impact of individual state level parental involvement laws. There have been separate studies analyzing the laws in 6 states including Indiana (Ellertson 1997), Massachusetts (Cartoof and Klerman 1996), Minnesota (Ellertson 1997; Rogers et al. 1991), Mississippi (Henshaw 1995), Missouri (Ellertson 1997; Pierson 1995), and Texas (Colman, Joyce, and Kaestner 2008; Joyce Kaestner and Colman 2006).

   The findings are very similar. After the passage of a parental involvement law, the research shows that there is a statistically significant reduction in the in-state minor abortion rate from anywhere from 13 percent (Henshaw 1995) to 42 percent (Cartoof and Klerman 1986). Most studies found a decline in the in-state minor abortion rate ranging from 15 to 20 percent

(Colman, Joyce, and Kaestner 2008; Ellertson 1997; Haas-Wilson 1996; Joyce, Kaestner, and Colman 2006; Levine 2003; New 2011; Ohsfeldt and Gohman 1994; Tomal 1999) Additionally, In my own research, I have found some evidence that laws that requiring the involvement of both parents, such as the laws in Minnesota and Mississippi, result in even larger declines in the in-state abortion rate (New 2008).

2) Second, state level parental involvement laws are worth enacting because the-in state abortion decline consistently exceeds any out-of-state increase. The two best studies of state level parental involvement laws both show this. The first is "Parental Consent for Abortion: Impact of the Massachusetts Law." This study appeared in the *American Journal for Public Health* in 1986 and analyzed the Massachusetts parental involvement law which took effect in 1981 (Cartoof and Klerman 1986). The second is "Changes in Abortions and Births and the Texas Parental Involvement Law." This study appeared in *The New England Journal of Medicine* in 2006 and analyzed the Texas parental involvement law which took effect in 2000 (Joyce, Kaestner, and Colman 2006). Both studies were unique because they were able to analyze monthly data on in-state minor abortions, out-of-state minor abortions, and births to minors.

Both studies found that after the enactment of both the Massachusetts law and the Texas law, the in-state abortion decline clearly exceeded the out-of -state of increase. Furthermore, both studies found evidence of short term increases in the minor birth rate. The Texas study found statistically significant increases in the birth rate of minors who were over 17 and half years old when they conceived (Joyce, Kaestner, and Colman 2006). Another Texas study which analyzed similar data found that the birth rate for 17 year olds increased by 2 percent after the parental involvement law took effect (Colman, Joyce, and Kaestner 2008) The Massachusetts study suggests that in the year after the parental involvement law took effect, anywhere from 50 to 100 minors gave birth -- instead of having abortions -- as a result of the law (Cartoof and Klerman 1986).

3) Third, every study that tracks out-of-state abortions finds that after a parental involvement law goes into effect, the number of girls obtaining abortions in adjacent states without parental involvement laws, will increase by a statistically significant margin (Cartoof and Klerman 1986; Ellertson 1997) Now in geographically large states like Texas relatively few minor girls obtained abortions in neighboring states (Joyce, Kaestner, and Colman 1996). However, in a geographically small state like Massachusetts a substantial percentage of the decline in the minor abortion rate is due to minor girls obtaining abortions in adjacent states where the laws are more permissive (Cartoof and Klerman 1986). A study of the parental involvement law that took effect in Missouri in 1985 had similar findings. Much of the decline in the minor abortion rate was due to increases in the number of minor girls obtaining abortions in adjacent states without parental involvement laws (Ellertson 1997).

4) Fourth and finally, the knowledge that their parents will be involved with an abortion decision provides teen girls with a strong disincentive to engage in unprotected sexual activity. Indeed, there is a body of research on the positive public health effects associated with the presence of parental involvement laws. A 2003 study in the *Journal of Health Economics* (Levine 2003) found that parental involvement laws reduce the pregnancy rate of 15 to 17 year olds by 4 to 9 percent. A 2008 study in the *Journal of Law Economics and Organization* shows that parental involvement laws reduce gonorrhea rate anywhere from 12 to 20 percent for females under 20 (Klick and Stratmann 2008). Finally, this past February the Journal *Economic Inquiry* published a study which shows that the enactment of parental involvement law is associated with an 11 to 21 percent reduction in number of 15 to 17 year old females who commit suicide (Sabia and Rees 2012).

As such, I would encourage members of the committee to support the Child Interstate Abortion Notification Act. This piece of legislation would give parents more involvement over how their minor daughters resolve their pregnancies. It is safe to say that parents have more invested in the well-being of their minor daughters than a boyfriend, a friend, or a relative. They also would also likely have the best knowledge of their daughter's medical history. There have been reported instances where minor girls obtained abortions without their parents knowledge and died because they did not realize they were allergic to the anesthesia. Based on the testimony I have given, I am confident the Child Interstate Abortion Notification Act would lead to both fewer abortions and better public health outcomes for teen girls. Thank you.

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Mr. FRANKS. Thank you, Dr. New.

And thank all of you.

Professor Collett, you know you heard some of the previous comments related to the constitutionality of the law. And I guess it is always a good thing to sometimes restate the obvious. Essentially, this bill says that one cannot circumvent parental consent laws in

a State by, without the parent's knowledge, taking a minor girl across State lines for an abortion.

Obviously, I have a little girl. She is only 3. But I hope that she doesn't run into somebody who would have the philosophy of Rev. Ragsdale.

With that said, can you tell me—if you could kind of expand on your reasoning for why this is a constitutional law?

Ms. COLLETT. Certainly. In fact, this bill is far narrower than the Free Access to Clinic Entrance Act, because it operates only on residents of the State when they leave their State. It applies the home State law, and simply facilitates the State's ability to protect minors consistent with that.

There are numerous Supreme Court decisions that allow when there is interstate movement of persons related to commercial activity, that that interstate movement of persons can be constitutionally regulated by this Congress. For example, in the Caminetti case, the taking of women across State lines for immoral purposes, was upheld. Certainly the Raich case dealing with medical marijuana, the court upheld the congressional authority to involve itself in medical determinations.

It is very clearly constitutional. This Congress has on numerous occasions relied upon the interstate commerce clause for its power. That is the enumerated power that, under this instance, it would be appropriate to uphold the statute under.

Mr. FRANKS. Well, I always find it a little unnerving when people tell me that to say, you know, that someone taking a minor child of someone else's across the State lines to perform or have a surgery performed upon them, that somehow that it is unconstitutional to recognize parent's rights in that regard, it just astonishes me beyond comprehension.

Dr. New, you testified that the academic research on parental involvement laws say that it has an impact on their in-State minor abortion rates, and I would like for you to expand on that.

But you also say that there is a frequent crossing of State lines among minor girls where there is a proximity of a State that does not have these laws and where there are people that will actually take someone else's child across State lines to have a surgery performed on them that will take another child's life and endanger the first child's life.

So would you say that your study in this area points to the conclusion that parental involvement laws are successful in reducing abortions but that there would be an even greater success in reducing abortions if Congress enacted a law prohibiting the transportation of minors across State lines to have abortion laws without the parent's knowledge or involvement?

Mr. NEW. Yes. I think those are both fair statements. I mean, literally, every peer-reviewed study on this topic shows that when a State passes a parental involvement law, the in-State minor abortion rate goes down. There is a very broad consensus about that. Sixteen peer-reviewed studies in total that I have looked at, and they all arrive at the same conclusion.

They also found, the studies can really track accurately both the in-State decline and compare it to the out-of-State increase. There are some States that have reciprocal reporting arrangements,

where they know kind of what is happening to these minor girls, pretty much every study also finds—both studies that look at that do find the in-State decline exceeds the out-of-State decrease.

So I think it is fair to say that these laws are effective. We also, again, do see a short-term increase in minor birthrates, meaning that once these laws are passed, some minors who otherwise had abortions decided to give birth.

But I do think these laws would be made more effective if the Child Interstate Abortion Notification Act did take effect, because in many States, especially States with close proximity to other States with more permissive laws, you do see a substantial part of the in-State minor abortion decline due to the fact that minors cross State lines.

That was certainly true in Massachusetts. When Massachusetts passed their law in 1981, it was surrounded by—basically every other State did not have a parental involvement law, including New York, including New Hampshire, including Rhode Island up until 1982, including Connecticut.

And, again, a number of Massachusetts minors circumvented that law by getting abortions in other States.

There was a study of the Missouri law that was enacted in 1985, and it was again similar. Illinois does not have a parental involvement law, and there was evidence that many minors did go across the border and obtain abortions in Illinois.

So I really do think that the Child Interstate Abortion Notification Act would really strengthen these parental involvement laws that are already doing a lot of good in the respective States.

Mr. FRANKS. You know, I can't help but wonder how parents feel when they find that some stranger has taken their minor daughter across State lines for an abortion, so that they can keep it from their parents. I know how I would react. But I am wondering why that isn't something that is more obvious to everyone here.

So I will now recognize Mr. Nadler for 5 minutes for questions.

Mr. NADLER. Thank you, Mr. Chairman.

Rev. Ragsdale, a moment ago the Chairman said he hoped his daughter never ran into someone like you or with your philosophy. Could you describe the kind of situations where another adult, either relative or perhaps a clergy person, might need to assist a young woman who is pregnant, where it would be in her welfare for that person to do so? And is a parent always the best person to have involvement in a situation, or is it even possible?

Rev. RAGSDALE. Well, Mr. Nadler, you actually referenced just such a situation in your opening remarks, where the father shot the daughter, who had hoped to get an abortion.

A lot of young women seeking abortions were impregnated by their fathers, or they are in homes where the parents are sufficiently emotionally unstable that they may disrupt the entire family. Children are thrown out of their homes. They are beaten.

One of the past times that I testified on this, I was still a parish priest. And a man in my parish with a teenage daughter said to me, "I would be furious if you did that with my daughter." I said, "Well, I wouldn't have to do that with your daughter. If she came to me because she was afraid to talk to you, I know that you are

safe. I would take her, go with you her to talk to you and deal with this."

But there are young women who are in danger. They are in danger of being beaten. They are in danger of being killed. They are in danger of being thrown out of their homes.

They have to find another way to get these procedures. And I don't want them doing it without any adult support, nor does the Episcopal Church.

So that is why we support nonjudicial bypass provisions that would allow a grandparent, a teacher, a clergy person to accompany these young women and to keep them safe.

Mr. NADLER. There has been a lot of talk recently that a requirement in law that insurance policies cover contraceptives is an assault on the religious liberty of those employers who don't want to pay insurance even if they don't have to pay extra, because it is against their religion to have people use contraceptives.

Would this bill be an assault on your religious liberty or the religious liberty of the Episcopal Church in saying that what your ministry compels you to do would become a criminal act?

Rev. RAGSDALE. Yes.

Mr. NADLER. In exactly the same way as it is alleged that the contraceptive requirement is an assault on the religious liberty of some other church?

Rev. RAGSDALE. Well, I am not sure in exactly the same way, because I don't concur that the contraceptive coverage is an assault on the religious liberty——

Mr. NADLER. Well, I don't agree on that either, and I don't think this is an assault on religious liberty, but if that is, this is.

Rev. RAGSDALE. But I am not taking Federal money, and, therefore, to interfere with my ability to do my ministry is an assault.

Mr. NADLER. Would be even worse.

Rev. RAGSDALE. And to fulfill the provisions that the Episcopal Church has passed in general convention many years ago.

Mr. NADLER. Thank you.

Let me ask you this. We heard, from 2005 through 2010, 559 judicial bypasses were sought in the State of Idaho. During that time, a total of 24 were granted. In three of those years, none were granted at all.

That is half a percent of young women who managed to find their way through the court system, who tried to do so. The records for the other States are no better. Many judges simply refuse to grant the bypass ever.

Would you say the judicial bypass system is a sham in practice?

Rev. RAGSDALE. I would like to believe that there are some responsible, ethical judges who behave appropriately, and it is sort of in my business to believe things in contradiction to the evidence from time to time, but it certainly seems the evidence suggests that, yes, it is a sham.

When the Episcopal Church suggested—insisted on nonjudicial bypass provisions, this was before we had this experience. We simply wanted it because we thought navigating the court system was just too much to ask, too intimidating to ask of a young woman already in a tricky situation.

Having seen since the evidence of what actually happens in these judicial bypass procedures, it seems clear that they are ineffective at best and often abusive. And we really would not want to subject any person to those procedures as they are exercised in most States.

Mr. NADLER. Thank you.

Professor Collett, this bill only has an exception if an abortion is, "necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself."

Does is exception comply with the constitutional mandate that you have to permit an abortion when necessary for the life or health of the mother? And to the extent that a woman might need a medical treatment that is inconsistent with pregnancy, she needs medical treatment that is inconsistent with pregnancy, but is not caused or arising from the pregnancy itself, wouldn't the Constitution require that an abortion be permitted in that case as well, contrary to this law, to this bill, rather?

Ms. COLLETT. Congressman Nadler, in fact, I believe the constitutional case that you are relying on is Doe v. Bolton, which was a statutory construction case. It was not an interpretation of the Constitution. It was an interpretation of the——

Mr. NADLER. Excuse me, there is not a constitutional requirement under applicable Supreme Court law that abortions be allowed for the life or health of the mother?

Ms. COLLETT. I am sorry, Congressman Nadler. If I could complete my answer.

In Doe v. Bolton, where they gave the life or health of the mother language, it was statutory construction. In Planned Parenthood v. Casey, which was an opinion that occurred 20 years later, in fact, they upheld an emergency exception remarkably similar to this on a constitutional basis where the language did not have the health of the mother.

In Ayotte v. Planned Parenthood of Northern New England, the most recent United States Supreme Court case dealing with parental involvement laws, the Court, in fact, even upheld the statute at issue in that case without an emergency exception.

I believe this is completely constitutionally consistent with Planned Parenthood v. Casey and Ayotte.

Mr. NADLER. So it is your belief that an abortion can be refused even if, constitutionally, even if refusing that abortion would wreck the health of the mother but wouldn't kill her?

Ms. COLLETT. I believe the Court has upheld similar exceptions.

Mr. NADLER. The answer is yes, you believe that that is the state of the law.

Ms. COLLETT. I believe that is the state of the law.

Mr. NADLER. Thank you. You are in a very small minority, I must tell you.

Thank you. I yield back.

Mr. FRANKS. All right, I would now yield to Mr. Jordan for 5 minutes.

Mr. JORDAN. I thank the Chairman for the time and for this legislation, this hearing.

Dr. New, the premise from Ms. Ragsdale is that if we have this law or, frankly, any parental notification, parental consent law, that there is the potential that minors can be harmed if they have to communicate with their parents.

You cited a number of studies.

Mr. NEW. Yes.

Mr. JORDAN. Do any of the studies show that that actually—you see an increase in harm to minors where you have States with parental notification, parental consent laws?

Mr. NEW. I am not aware of any body of peer-reviewed research which shows an increase in child abuse rates that follow from the enactment of State-level parental involvement laws, so, no, I have yet to see a study that would show that.

Mr. JORDAN. So your answer is that not one single study shows that involving the people who care most about children, their parents, not one single study shows that there is an increase in child abuse? Is that accurate?

Mr. NEW. I have researched the academic literature, and I think I have been fairly thorough. There may something out there I haven't seen, but I have been very thorough in my reading, and I have yet to come across one peer-reviewed study that——

Mr. JORDAN. Not one single study?

Mr. NEW. No.

Mr. JORDAN. Okay.

And, Professor Collett, do you know of any studies that show what the reverend asserts?

Ms. COLLETT. In fact, there is a study to the contrary by Henshaw and Kost. Of course, Stanley Henshaw is a demographer of the Guttmacher Institute, a research affiliate of Planned Parenthood. The study is "Parental Involvement in Minors' Abortion Decisions." It was published in 1992. Table 5 of that particular study, Congressman, in fact, indicates that although minors had initially, a small minority of minors, had expressed concerns that there would be violence or be thrown out of their home, and that is why they were reluctant to inform the parents, when researchers inquired after the fact, there was not a single study in which violence had occurred.

Mr. JORDAN. So, in fact, we don't have one study that shows that there is an increase in harm to young people, but we have research that shows it actually could be positive.

Ms. COLLETT. There is no research that shows harm.

Mr. JORDAN. Okay.

Reverend, let me ask you a slightly different question. There was an article recently published in the Journal of Medical Ethics, two bioethicists/philosophers argued for what they term after-birth abortion. And they assert, and I quote, "We claim that killing a newborn could be ethically permissible in all circumstances where abortion would be."

And I want to know, first, if you are familiar with the article; and, second, if you agree with the assertion of these two bioethicists/philosophers.

Rev. RAGSDALE. I am not familiar with that particular article. I am certainly familiar with philosophers who have made similar ar-

guments. It is sort of the job of academic philosophers to think way outside the box.

We, obviously, utterly disagree and don't consider it a responsible position.

Mr. JORDAN. Okay. And what would you call the term after-birth abortion? Is there a better definition, better language for that?

Rev. RAGSDALE. I am sorry, I don't think there is any such thing as after-birth abortion. Abortion is the termination of——

Mr. JORDAN. Yes, it seems to me this is infanticide. It is murder. It is the taking of innocent human life.

Mr. NADLER. Would the gentleman yield for a moment?

Mr. JORDAN. These ethicists seem to——

Mr. NADLER. I think I can help clear this up. Will the gentleman yield for a moment?

Mr. JORDAN. I would be happy to yield.

Mr. NADLER. I think just about everyone on this side of the aisle and on that side of the aisle voted for the—what was that called?—the Born Alive Infants Protection Act, which was on this issue. I stated at the time that this was absurd, that this was infanticide and murder, and we all voted for it, and stated at the time that it was unnecessary because it was already the law in every State that it was murder.

Mr. JORDAN. And I appreciate that, but we have a journal printing this kind of ridiculous——

Mr. NADLER. There is always some nut out there.

Mr. JORDAN. Yeah. My question was to the reverend, and she answered the question.

Rev. RAGSDALE. One of the repercussions of the tenure system. You are encouraged and entitled to think any bizarre thing you want and to publish it, and it pushes the envelope.

Mr. JORDAN. Well, that is good to hear.

Mr. Chairman, with that, I would yield back.

Mr. FRANKS. Well, thank you, Mr. Jordan.

It is kind of ironic that, you know, that we have talked about—at least we have some agreement here that after-birth abortion is murder, and yet somehow there is some argument that 10 minutes earlier before you travel 5 inches down a birth canal, that all of a sudden everything is changed.

And it is also interesting that our President voted twice against the legislation that would have protected children born alive in his legislative career.

With that, I would yield to Mr. Quigley for 5 minutes for questions.

Mr. QUIGLEY. Thank you, Mr. Chairman.

Mr. Chairman, I think anyone watching these hearings or the hearing, since I have been here for 3 years now, understands how just extraordinarily emotional and how powerful they are, how strong people's feelings are, how difficult the decisions that have to be made are.

And for me, what that seems to bring out is the fact that, sitting here in Washington, I have absolutely no right to tell people how they handle that decision. It is impossible for us to know all of the scenarios that exist under those circumstances, all of the risk, all of the dangers, all of the emotional turmoil that takes place. And

for us to put ourselves in that place is inappropriate, especially for those who claim that government's role is least, that government shouldn't intrude on people's lives.

So I appreciate that nothing we say here ever, if I am here 3 years more or 30 years more, will ever change anyone else's mind. But I will say this, however any of us feel, it is worse and it is wrong for us to place ourselves above anybody's decision-making process, especially when it comes to something as serious as this.

But I will ask the reverend one question.

Are you aware what major medical groups have said or talked about in terms of confidentiality in medical care for minors?

Rev. RAGSDALE. I believe virtually every medical group that one can name is on the record as opposing this sort of regulation, because of their interest in protecting the doctor-patient relationship and not wanting to pit doctors against the young women who come to them for help.

Mr. QUIGLEY. And, well, the scenarios that you have seen, and for what you know, how would you imagine that this measure would actually, in reality, be enforced? Border patrols or questions or putting doctors in a very unique position?

Rev. RAGSDALE. I think the goal is to have a chilling effect on doctors and make them unwilling to perform abortions.

It is interesting that the success of these parental notification requirements is being measured by Dr. New as reducing abortions, which suggests to me that their point here is not actually protecting young women's health but reducing abortions, which is a constitutionally protected right.

So I think the goal is to have a chilling effect on doctors, to deny young women the adult support that they might need to move forward safely with this procedure. And I think the result will be, and I think the result has been, and perhaps the reason that the statistics don't show abuse is that the young women are not foregoing abortions, the ones who are in danger, so much so they are getting them illegally or without any adult support.

Mr. QUIGLEY. Right, and I think it teaches us that there is a difference between correlation and causation.

Rev. RAGSDALE. Well, exactly.

Mr. QUIGLEY. And there is also a difference that wasn't taken into consideration of where the abortions are actually taking place. It is not taking place in the same State for the reasons we were talking about before.

Thank you, and I yield back, Mr. Chairman.

Mr. FRANKS. I thank the gentleman. I have to thank him for his tone, but placing himself above someone else's decision, he mentioned that, and that is one of the challenges with this legislation, we are trying to make sure that perfect strangers don't place themselves above a parent's right to decide things over their own children. The judges, obviously, you testified that they have some reticence to do so, but a perfect stranger who finds the arrogance to do that is just astonishing to me.

And you are right, too, Mr. Quigley. There are intense feelings about this. There were intense feelings when we were debating the issue of slavery, when the Supreme Court said slaves weren't persons. But people's minds did change, finally. They did change.

Mr. King, I would recognize you for 5 minutes, sir.

Mr. KING. Thank you, Mr. Chairman.

And again, I thank the witnesses for your testimony, and this raises a number of questions in my mind as I listened to their response.

I would turn first Professor Collett.

Would you assert that there existed a conscience protection for medical practitioners prior to the passage of Obama care?

Ms. COLLETT. Well, certainly, there is the Weldon act and the Hill-Burton Act that protected both medical institutions as well as individual practitioners in certain instances.

Mr. KING. And is it also your understanding that the passage of the Patient Protection and Affordable Health Care Act has struck that language of conscience protection and allowed for an executive branch to, essentially, impose obligations on health care practitioners that go beyond that conscience protection that you cited?

Ms. COLLETT. Actually, Congressman, I believe that is an issue that is being litigated as we speak on behalf of a number of both individuals and religiously affiliated institutions. I do believe that they will be successful in their litigation, because I do not believe that the Secretary of Health's regulation will withstand constitutional scrutiny.

Mr. KING. Thank you.

And I turn to Rev. Katherine Hancock Ragsdale and ask if you agree with, at least philosophically, with conscience protection for medical practitioners?

Rev. RAGSDALE. No.

Mr. KING. You think they should be compelled, then, to provide sterilization, abortifacients, and contraceptives even if they object to it on religious terms?

Rev. RAGSDALE. You know, I am a church person. I believe in conscience. We are big supporters of conscience. We believe that everyone's conscience should be respected as long as they pay the price for it.

Civil disobedience, if you are willing to pay the price for it. Conscientious objection, if you are willing to pay the price for it.

But if you are not willing to shoot people, don't join the Army. If you are not willing to carry a gun at all, don't become a police officer. If you are not willing to experiment on animals, medical research probably is not the place for you. If you are not willing to provide full medical care, don't go into——

Mr. KING. I am sorry, the clock is ticking, so I do get your point.

And let me then ask the question, if this conscience protection then apparently, if you are willing to pay the price, so in your testimony you talk about assisting a young lady and you state that you don't believe that you violated any laws. But you also assert, if I note this testimony, that you have you have no choice because of your oath and your commitment. You say, I have no choice even if you tell me it is a crime to exercise my ministry, I will have no choice. And I assure you I am not alone.

So are you saying to this Congress, then, that if this legislation passes and you are met with the same or a similar question for an individual that you described in this testimony, that you would cross the State line, you would violate Federal law, you would be

willing to go to jail for a year or pay a $100,000 fine, if you believe it violated your conscience to fail to serve?

Rev. RAGSDALE. I hope to God that I would have the courage of my convictions and my faith to do that.

Mr. KING. Do you believe that a judge should have a conscience protection?

Rev. RAGSDALE. I beg your pardon?

Mr. KING. Do you believe that a judge should have——

Rev. RAGSDALE. That a judge should not have to uphold the law if he disagrees with it?

Mr. KING. I mean, just to suspend this for a second, I would like to turn to Professor Collett, and then I will come back to you on this.

Professor Collett, I will tell the narrative here, and that is that the parental notification law that was passed in Iowa, I was part of, that the gentleman, Mr. Nadler, discussed. And I met with judges around the State, and I can think one in particular who expressed to me how troubled he was that the law required him to provide for the judicial waiver, the judicial bypass, I think as it was referred to. And he was greatly troubled because of his faith, because of his convictions.

But he found himself, a sworn judge, required to carry out the law. And now, because of the language in the law, he was required to provide that judicial bypass even though it violated his most profound moral and religious convictions.

Do you believe judges should have conscience protection?

Ms. COLLETT. Congressman, this actually came up on the Texas subadvisory committee on drafting court rules for parental notification and parental consent in that State. At that time, we determined it was appropriate for a judge to recuse, as they can on any matter where they believe their personal values will not allow them to render a judgment under law.

Mr. KING. And, Reverend, is it your position that not to recuse or to apply the same philosophy to the judges as you would the medical practitioners, either pay the price or leave the profession and find something else to do?

Rev. RAGSDALE. Well, you understand I am not a legal expert. Recusal sounds like a reasonable alternative to me, but I haven't given this a lot of thought.

Mr. KING. But if you would allow a judge to recuse himself, wouldn't you allow a medical practitioner to recuse himself as well?

Rev. RAGSDALE. Medical practitioners have a responsibility to respond to the emergencies in front of them. If there is another doctor handy that you can hand off to, that is fine. If not, it is your job to provide medical care.

Mr. KING. Thank you. There are very few pregnancies that are emergencies.

I yield back.

Mr. FRANKS. Thank you, Mr. King.

I now recognize Mr. Scott for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I think a lot of the questions I have have been answered. I just have a couple of technical questions.

Professor Collett, in the phrase "knowingly transports," would that include a taxicab driver who, a young lady hops in the cab and says take me to the abortion clinic; I need an abortion.

Would they be guilty of violating this code section?

Ms. COLLETT. Congressman, I don't believe so, because it also requires with the intention to assist her in obtaining the abortion.

Mr. SCOTT. Taking them to the abortion clinic is not assisting?

Ms. COLLETT. It is not with the intention of assisting her in doing that.

Mr. SCOTT. Okay, knowingly transport, does that include someone who hops in the taxicab with the pregnant teenager?

Ms. COLLETT. Have they hopped in the taxicab with the intention of helping her evade the State's parental involvement law?

Mr. SCOTT. The question is transports.

Ms. COLLETT. I understand, Congressman. Because this has criminal sanctions, it will be strictly construed under constitutional standards, and, therefore, you have to meet all elements.

Mr. SCOTT. So if it is strictly—you are not transporting; you are just accompanying. Is that the same thing?

Ms. COLLETT. Again, it depends on the intention.

Mr. SCOTT. The mens rea is just on the intent to get an abortion, not the mens rea to evade the parental consent; is that right?

Ms. COLLETT. Crossing State lines, that is correct.

Mr. SCOTT. The law exempts parents from the application. Does it exempt a sister?

Ms. COLLETT. No, not on the face of the statute.

Mr. SCOTT. So the sister accompanying a pregnant sister would violate criminal law by accompanying her sister to the abortion clinic?

Ms. COLLETT. Unless the law that is to be applied, the law of the minor's residence, includes siblings. There are a couple States that do.

Mr. SCOTT. I am sorry. Where is it exempt from this law?

Ms. COLLETT. The requirement is that they apply the law of the minor's residence. And, therefore, if the law of the minor's residence allows another adult relative to accompany the minor, they would not be a violation of the law——

Mr. SCOTT. But in absence of that, the sister would be violating Federal law.

Ms. COLLETT. That would be correct.

Mr. SCOTT. Okay, if a college student who lived in a State, was a resident of a State, without parental consent law, went to college in a State without a parental consent law, and sought an abortion, why does this law require a 24-hour parental consent?

Ms. COLLETT. The law does not use college attendance as a standard. Under that standard, there would be numerous adults that would be subject to the involvement of someone else. This law deals with adults only.

Mr. SCOTT. The college wasn't—if you are in another State without a parental consent law for any reason, say college, your home State does not have a parental consent law, you are performing the abortion in a State that is not the residence of the teenager. This law requires a 24-hour notice, notwithstanding the fact that neither State has a parental consent law; is that right?

Ms. COLLETT. I am sorry, Congressman. Could you direct me to the provision. I am confused by your——

Mr. SCOTT. Page 7, line 15.

Ms. COLLETT. I am sorry, I will need the section, because I don't have your printing.

Mr. SCOTT. Section 3, Child Interstate Abortion Notification, and it says offense generally, number two, parental notification, if a physician who performs or endorses an abortion on a minor who is a resident of a State other than the State in which the abortion is performed must provide or cause to provide 24-hour actual notice to parents.

Ms. COLLETT. The numbering is different that I printed off of Thomas, but I see where you are now. I am sorry.

Yes, it does.

Mr. SCOTT. So there is no parental consent law in the State in which abortion is being performed, no parental consent law in the teenager's home residence, and yet Federal law is requiring a parental notice.

Ms. COLLETT. On a minor who is a resident of a State other than State in which the abortion is being performed, yes.

Mr. SCOTT. Okay. And is there any judicial bypass in that?

There can't be any judicial bypass, because you don't have a system in either State; is that right?

Ms. COLLETT. It does not appear to be the case, although most States have emancipation laws, so you can get an order of partial emancipation. That is done in numerous States.

There are at least two States that have parental involvement laws that have no judicial bypass in them.

Mr. SCOTT. Rev. Ragsdale, can you explain whether it is better or worse for a teenager to be accompanied when they go to get an abortion?

Rev. RAGSDALE. Accompanied by an adult? Yes, we want teenagers to have support, adult support, preferably from their parents. When that is not safe or not possible, we would like them to have other adult support. To ask a teenager to undergo any significant decision, and any medical procedure without adult support, seems to us uncharitable and unwise.

Mr. FRANKS. We appreciate the witnesses here. We appreciate your time today.

I always think it is important sometimes just to restate. This bill essentially says that someone cannot arrogate unto themselves the parent's role of taking a minor girl across State lines for an abortion without the parent's knowledge. I am not even sure why we debate that sometimes. It doesn't seem like we have come very far at times.

But in any case, I thank the witnesses.

And without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses, which we will forward and ask the witnesses to respond as promptly as they can so that the answers may be made part of the record.

Without objection, all Members will have 5 legislative days with which to submit any additional materials for inclusion in the record.

And with that, again, I thank the witnesses. I thank the Members and observers.

And this hearing is now adjourned.

[Whereupon, at 10:43 a.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Trent Franks, a Representative in Congress from the State of Arizona, and Chairman, Subcommittee on the Constitution

The Child Interstate Abortion Notification Act, more commonly known as "CIANA," is a modest measure to prevent the transportation of a minor across state lines to avoid parental consent laws that apply to abortion procedures. This law is consistently supported by approximately 70% of the American people in national opinion polls.

More than 30 states have made it clear through legislation that parents have the right to know whether their daughters are trying to undergo abortions. Parents play a critical role in the well-being of their daughters, particularly in the abortion context. I quote the bill's sponsor, Ms. Ros-Lehtinen: "As mother and a grandmother, I understand the importance of the unconditional love and support that parents can give to their children. This responsibility is non-negotiable and non-transferable. This bill assures young women that they are not alone if they ever find themselves contemplating undergoing an abortion." (unquote)

Parental notification laws have proven to be effective at lowering the abortion rate among minors, and therefore they are effective at lowering the attendant risks that accompany abortion. Abortion is a serious surgical procedure, with physical and psychological risks, some of which can be especially detrimental when experienced at a young age. These include increased risk of breast cancer, extremely pre-term birth in subsequent pregnancy (that is, delivering at 28 weeks gestation or less), and suicide.

Where a woman experiences an abortion early in life, she can lose the protective effect against breast cancer that a full term pregnancy provides with the inherent changes in breast tissue. Many developed countries legalized abortion in the early 1970s, and breast cancer rates have increased as much as 80% since the 1970s in these same countries.

Likewise, where a woman has one induced abortion, she is 50% -70% more likely to experience an "extremely pre-term birth" (delivery at 28 weeks or earlier) when she later attempts to carry a wanted child to term. This could be due to damage to the cervix during abortion, rendering it less competent. Where a woman has two abortions, she is 160% more likely to have an extremely pre-term birth.

An extremely pre-term birth carries greatly increased risks for many serious health issues. For example, babies who are extremely pre-term have 38 times the risk of cerebral palsy than babies born full-term, in addition to increased risk for autism and mental retardation. Note that abortionists perform abortions on black women at approximately five times the rate of white women, and black babies therefore have four times the risk of extremely pre-term birth. Also note that the danger of subsequent premature birth is greater where the abortive woman is a girl under seventeen years of age. Premature birth rates are up greater than 43% since *Roe*

v. Wade became law. Forty-nine studies worldwide confirm the abortion/premature birth causal link.

Next, abortion and youth suicide are correlated. A study by two economists appearing in the January 18, 2012 online version of the *Journal of Economic Inquiry* shows that parental involvement laws are correlated with a decrease the incidence of teen suicide. "The adoption of a law requiring a parent's notification or consent before a minor can obtain an abortion is associated with an 11%-21% reduction in the number of 15- through 17-year-old females who commit suicide."

We must enable parents to protect their daughters from an invasive surgical procedure that has significant, and sometimes deadly hidden costs.

Prepared Statement of the Honorable Ileana Ros-Lehtinen, a Representative in Congress from the State of Florida

I would like to thank the House Constitution Subcommittee for holding this hearing. The Child Interstate Abortion Notification Act (CIANA) is an important bill and I am pleased it is receiving the serious consideration it deserves. CIANA deals not only with abortion, but also with parental rights. This bill would make it a federal offense to knowingly transport a minor across state lines with the purpose of obtaining an abortion and circumventing the parental consent and/or notification laws of the minor's home state. It would prohibit doctors from performing abortions on out of state minors without obtaining parental consent for the procedure. This requirement would apply to all out of state abortions. Physicians would be exempted from these requirements if the minor has a judicial bypass from their home state, the minor claims to have been abused by a parent and the doctor informs state authorities or if the minor's life is immediately endangered by the continuation of the pregnancy.

Parents are entitled to the right of being involved in their child's life. Responsibility to guide and direct their children's development belongs to the parents. This responsibility is non-negotiable and non-transferable. Currently, minors cannot get a tattoo without parental consent. Children cannot even take aspirins for headaches at their school without prior authorization from parents. However, that same minor can be taken across state lines to obtain an abortion without so much as a phone call to her mother or father. This is unacceptable and fundamentally corrosive to the institution of the family. More than 30 states have passed laws that require either parental notification and/or consent before a minor can undergo an abortion procedure. Moreover, in poll after poll a majority of the American people have made it clear that parents should be involved if their minor daughter is considering terminating her pregnancy. As mother and a grandmother, I understand the importance of the unconditional love and support that parents can give to their children. This bill assures young women that they are not alone if they ever find themselves contemplating undergoing an abortion. Having this right ripped away by individuals seeking to confuse, and at times even coerce, minors is criminal and the federal government must recognize it as such. Predatory and bullying tactics by a former boyfriend, or his parents, have led to young women being rushed into a decision they ultimately would not have chosen if allowed the chance to reflect and consult with their families.

As a pro-life advocate, I believe that innocent life is sacred and unique. The precious gift of life is something that the unborn are entitled to through their inherent dignity as human beings. Congress has had the courage and wisdom to ensure this basic precept. Through legislation prohibiting the use of federal funds for abortions this body has unequivocally stood by the rights of the unborn. CIANA aims to resolve a gaping hole in Congress' long tradition of supporting pro-life issues.

This legislation is neither radical nor draconian. On the contrary, this legislation is borne out of common sense and affirming our commitment to the unborn and to the rights of parents everywhere. Once again, I thank the House Constitution Subcommittee for convening this hearing and I look forward to working with my congressional colleagues as we move forward on consideration of this important legislation.

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON THE CONSTITUTION

The Honorable Trent Franks, Presiding

H.R. 2299 the "Child Interstate Abortion Notification Act"

Supplemental Testimony of
Professor Teresa Stanton Collett*

By letter dated March 26, 2012, I received Questions for the Record from Congressman Nadler regarding my testimony on March 8, 2012 hearing on H.R. 2299, the "Child Interstate Abortion Notification Act" ("CIANA") by members of the US House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution. This supplemental testimony is submitted in response to those questions.

Question 1 by Congressman Nadler

1. In your testimony (p. 9) you state that "In those few cases where it is not in the girl's best interest, state laws generally provide the pregnant minor the option of seeing a court determination that either involvement of the girl's parent is not in her best interest .... This is a requirement for parental consent laws under existing United States Supreme Court cases, and courts have been quick to overturn laws omitting adequate bypass. "

Section 3 of the bill sets up a federal parental notification statute for any minor who is not a resident of the state in which the abortion in performed whether or not the minor's home state has a parental notification law.

This section has no judicial bypass procedure unless the minor's home state has one. Would this be constitutional according the precedents you cite?

CIANA requires physicians provide 24-hour notice to one parent prior to performing or inducing an abortion on a non-resident minor. This requirement has five exceptions, including exceptions for abuse and medical emergencies. The legislation does not include a judicial bypass mechanism, although it does provide an exception for cases in when a minor presents a judicial bypass order obtained in her home state or an order from a court in the state where the abortion is being performed.

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* Professor of Law, University of St. Thomas School of Law, MSL 400, 1000 LaSalle Avenue, Minneapolis, MN 55403-2015, email tscollett@stthomas.edu. My institutional affiliation is for informational purposes only, and my testimony is not intended to represent the views of my employer, the University of St. Thomas, or any other organization or person.

Based on the exceptions provided in CIANA and United States Supreme Court precedent, I believe that the United States Supreme Court is likely to uphold CIANA against any constitutional challenge based on the absence a federal judicial bypass procedure.

At the outset, it is important to note that the United States Supreme Court has never decided whether judicial bypass is constitutionally required for a one-parent notification law. This makes any prediction of the Court's possible ruling open to dispute.

The case generally cited for the view that a bypass is constitutionally required for parental involvement laws is *Bellotti v. Baird (II)*, 443 U.S. 622 (1979). However, as Justice Stevens noted in his concurring opinion in that case, neither it nor prior cases on the subject "determines the constitutionality of a statute which does no more than require notice to the parents, without affording them or any other third party an absolute veto." *Id.* at 654, n.1.

In a 1997 *per curiam* opinion upholding Montana's parental notice law, the Court summarized the law on this issue, "In *Akron*, we upheld a statute requiring a minor to notify one parent before having an abortion, subject to a judicial bypass provision. We declined to decide whether a parental notification statute must include some sort of bypass provision to be constitutional." *Lambert v. Wicklund*, 520 U.S. 292 (1997).

The *Akron* case referred to by the Court was *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990). In that case the Court upheld a statute requiring a minor to notify one parent before having an abortion, subject to a judicial bypass provision. Justice Kennedy, writing for a majority of the Court, observed, "In analyzing this aspect of the dispute, we note that, although our cases have required bypass procedures for parental consent statutes, we have not decided whether parental notice statutes must contain such procedures. We leave the question open . . . *Id.* at 510.

Dicta in *H.L. v. Matheson*, 450 U.S. 398 (1981), suggests that a one-parent notification statute, like CIANA need not have a bypass. "Although we have held that a state may not constitutionally legislate a blanket, unreviewable power of parents to veto their daughter's abortion, a statute setting out a 'mere requirement of parental notice' does not violate the constitutional rights of an immature, dependent minor." *Id.* at 409.

In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992) then Chief Justice Rehnquist, joined by Justices White, Scalia, and Thomas cited this language in their concurring opinion. "Recently, however, we indicated that a State's ability to impose a notice requirement actually depends on whether it requires notice of one or both parents. We concluded that although the Constitution might allow a State to demand that notice be given to one parent prior to an abortion, it may not require that similar notice be given to two parents, unless the State incorporates a judicial bypass procedure in that two-parent requirement." *Id.* at 946.

I believe the absence of federal judicial bypass procedure does not render CIANA unconstitutional based on the Court's solicitude for parental involvement in children's medical decisions, its long standing reticence on one-parent notice statutes without judicial bypass, and the five exceptions included in the legislation.

Question 2 by Congressman Nadler

2. Does the Constitution require an exception from any abortion prohibition to protect the life and health of the pregnant woman?

This bill only has an exception for an abortion that is "necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself."

Does this exception comply with that constitutional mandate?

To the extent that a woman might need a medical treatment that is inconsistent with pregnancy, but which is not "caused by or arising from the pregnancy itself," would the Constitution require that an abortion be permitted in that case as well?

In responding to Question 2, it is important to note that CIANA deals only with minors and not with adult women. It is also important to note that the language "caused by or arising from the pregnancy itself" is preceded by the word "including." This indicates that the exception applies to *any* abortion that is necessary to save the minors life due to physical disorder, physical injury, or physical illness that endangers a minor's life, *whether or not* the disorder, injury, or illness was "caused by or arising from the pregnancy itself."

The emergency exception is identical to that contained in 18 U.S.C.A. § 1531(a), the Partial-Birth Abortion Ban Act of 2003. In *Gonzales v. Carhart*, the United States Supreme Court upheld the constitutionality of the Partial-Birth Abortion Ban against a challenge based on the absence of a health exception. This ruling was based, in part, on evidence that no broader exception was necessary.

Emergency abortions are exceptionally rare. In the five years between 2005 and 2010, the Wisconsin Department of Health reported almost 3200 abortion performed on minors. Not a single one involved a medical emergency. During the same five years in Alabama, where over 4500 abortions were performed on minors, only two involved a medical emergency. In Nebraska, of the 13,596 abortions performed on women (both minors and adults) from 2005 to 2010, only three involved a medical emergency. It is clear that only a tiny fraction of one percent of all teens obtain abortions in emergency circumstances.

While *Gonzales v. Carhart* is the most applicable precedent because of the identical wording of the emergency exceptions, *Ayotte v. Planned Parenthood of Northern New England*, 546 U.S. 320 (2006) also provides some guidance.

In *Ayotte*, the Court reviewed a lower court opinion striking down a New Hampshire one-parent notice law. The emergency exception in the New Hampshire law was limited to cases in which "[t]he attending abortion provider certifies in the pregnant minor's record that the abortion is necessary to prevent the minor's death and there is insufficient time to provide the required notice." *Id.* at 324. Unlike *Gonzales*, where Congress made explicit findings that the partial-birth abortion process was not needed to protect women's health, New Hampshire did not dispute that a very small percentage of minors "need immediate abortions to avert serious and often irreversible damage to their health." *Ayotte*, 546 U.S. at 328. The reasons for this surprising concession do not appear on the record.

The *Ayotte* Court grounded its analysis in the fact that "[s]tates unquestionably have the right to require parental involvement when a minor considers terminating her pregnancy, because of their 'strong and legitimate interest in the welfare of [their] young citizens, whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely.'" *Id.* at 326.

Based on the importance of parental involvement and the exceptional occurrences of imminent health emergencies that necessitate immediate abortions, the Court unanimously reversed the lower courts and remanded with instructions to narrow an injunction against enforcement to only those circumstances in which the law could not be applied constitutionally.

Based on the Supreme Court's rulings in *Gonzales v. Carhart* and *Ayotte v. Planned Parenthood of Northern New England*, the extraordinary rare occurrence of emergency abortions due to imminent health issues, and the Court's recognition of the high value of parental involvement, I believe the emergency exception is constitutionally adequate.

Thank you, Mister Chairman, for allowing me to respond to Congressman Nadler's questions.

Submitted on April 9, 2012

Teresa S. Collett

Katherine Ragsdale's Answers to Questions for the Record from Mr. Nadler
April 10, 2012

1.1 – Isn't the judicial bypass a sham in practice?
I try to believe that there are honorable judges who respect the Constitutionally-protected right to abortion and who make every effort to be honest brokers when evaluating young women's readiness to make such decisions. I have every confidence that such judges exist. Yet the data you've cited as well as copious anecdotal evidence makes it clear that, by and large, yes, judicial bypass is a sham and young women are too often routinely denied the abortions they need and have chosen. See *Judicial-Bypass Provisions Fail to Protect Young Women* (NARAL), appended.

1.2 – What are the real obstacles faced by young women who either face threats at home or who emancipated and have no one at home to give consent?
Young women who, for any of a number of compelling reasons, cannot obtain parental consent are currently faced with navigating the court system – a daunting challenge even when that system is reliable. Since, as we've discussed above, that system is, more often than not, stacked against them they are faced with travelling to other states or procuring back-alley abortions closer to home. The financial, as well as emotional, implications of either of these courses of action are often severe.

1.3 – How could we best deal with this problem?
It is for reasons such as these that we support legislation which allows young women to obtain support from adults other than parents or judges.

2.1 – What can you tell us about parental involvement irrespective of these notification laws?
I'm unfamiliar with the studies and so unable adequately to evaluate them. However, I am aware of studies showing that most young women do consult with their parents when faced with unplanned pregnancies and that those who do not cite compelling reasons for that decision. It therefore makes sense that the numbers of young women who involve their parents would not be markedly different regardless of the laws. That is – those who can safely involve their parents will even without a law that requires it and those who cannot safely involve their parents will not, also regardless of the law.

2.2 – Could you describe the kinds of situations where another adult – either a relative or clergy person – might need to assist a young woman who is pregnant? Is a parent always the best person to have involved in this situation?
In cases where a pregnancy is a result of incest young women often deem it unsafe to involve their parents. In cases where there is a history of abuse or violence in the household or where the parents are addicted or mentally unstable young women often fear inciting violence or a breakdown of the family system. In such instances it might well be useful for the young woman to be able to involve another supportive adult who can help her make a decision and navigate the health care system and can also keep an eye on the young woman's physical and emotional health.

3.1 Could you describe the Episcopal Church's views on this question in great detail? Are you aware of other denominations with similar views?
The Episcopal Church has a long-standing position opposing parental consent or notification laws which do not allow for some form of non-judicial by-pass. The Church was willing to see requirements for some adult involvement so long as that involvement was not restricted to parents or the court system. The Church supported policy which required that some adult – teacher, adult relative, doctor, neighbor… be involved in order to ensure support for young women facing decisions with potentially trying emotional and physical implications. The Church expressed a wish that every young woman could trust and turn to her parents in such circumstances, along with an awareness that this was not always the case and a commitment to insuring the safety and well-being of such young women.

4.1 – Is it possible, or uncommon, for the spouse of that parent to have had a role in that abuse? What do you think of allowing that spouse to sue and enrich herself and, consequently, the abuser?
To penalize a Good Samaritan who attempts to support a minor in need is repellant on its face. The idea that the person who initiates and is enriched by such a suit may be the very one who made the Good Samaritan necessary is unconscionable.

5.1 – Prof. Collett states in her testimony that "there is no case where it has been established that these laws led to parental or to self-inflicted." Is Prof. Collett correct that this is a "phantom fear?"
Congressman Nadler, in your own opening remarks you referenced a case wherein a young woman was murdered by her father after he discovered her pregnancy and desire for an abortion. Certainly there are many other known cases where injury, abuse, or death have occurred. Please see *Mandatory Parental Consent And Notice Laws Endanger Young Women's Health* (NARAL) attached below.

6.1
Young women are denied their Constitutionally protected right to reproductive choice. They bear children they are ill-equipped to care for. They may well be subjected to the abuse and violence they feared within their parents' homes. They may well end up poor and homeless with a child to care for. Their education is interrupted. Their prospects for a productive future are curtailed. They are often precluded from developing the talents God has given those and using those talents for the common good and to build and support healthy families. Lives are shattered.

7.1
They go up. In addition to increases in teen pregnancy rates and abortions, the lack of comprehensive sex education results in increased incidences of sexually transmitted disease and a reduction in young people's ability to recognize sexual contact decision points and to make good decisions. It reduces their ability to say no and to resist violence and coercion. It leads to poorer health and lower self-esteem.

8.1
That's an interesting, if far-fetched, speculation. I believe it's widely understood that teenage sexual behavior is more often a function of hormones than planning. Again, strong comprehensive sex education which helps teens develop the ability to resist coercion as well as temptation and teaches the importance of protection seems far and away the best way to reduce teen-age pregnancy. Penalizing already vulnerable young women by forcing them to consult with parents who may be untrustworthy and even violent is unconscionable.

Mandatory Parental-Consent and Notice Laws Endanger Young Women's Health

Parental-consent and notice laws endanger young women's health by forcing some women—
even some from healthy, loving families—to turn to illegal or self-induced abortion, delay the procedure and increase the medical risk, or bear a child against their will.

- In Indiana, Rebecca Bell, a young woman who had a very close relationship with her parents, died from an illegal abortion that she sought because she did not want her parents to know about her pregnancy. Indiana law required parental consent before she could have a legal abortion.[i]

- The American Medical Association has noted that "[b]ecause the need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. They may run away from home, obtain a 'back alley' abortion, or resort to self-induced abortion. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since . . . 1973."[ii]

- Recognizing that maintaining confidentiality is essential to minors' willingness to obtain necessary health care related to sexual activity, all 50 states and the District of Columbia authorize minors to consent to the diagnosis and treatment of sexually transmitted infections without parental consent.[iii] Many states explicitly include testing and treatment of HIV, with only one state requiring parental notification if a minor tests positive for HIV.[iv] In addition, the Supreme Court has recognized

- that confidential access to contraceptives is essential for minors to exercise their constitutional right to privacy,[v] and federal law requires confidentiality for minors receiving family-planning services through publicly funded programs, such as Title X and Medicaid.[vi]

- According to Leslie Tarr Laurie, president of Tapestry Health Systems, a Massachusetts-based health services provider: "Confidentiality is the cornerstone of our services . . . . We help teenagers avoid not only the costly and often tragic consequences of unintended pregnancy and childbearing, but also an early death from AIDS. The bottom line is, if we don't assure access to confidential health care, teenagers simply will stop seeking the care they desire and need."[vii]

Judicial-Bypass Provisions Fail to Protect Young Women

In challenges to two different parental-involvement laws, the Supreme Court has ruled that a state statute requiring parental involvement must have some sort of bypass procedure, such as a judicial bypass, in order to be constitutional[viii] And that no one person may have an absolute veto over a minor's decision to have an abortion.[ix] Thus, most states that require parental consent or notice provide—at least as a matter of law—a judicial bypass through which a young woman can seek a court order allowing an abortion without parental involvement.

But bypass procedures are often an inadequate alternative for young women, especially when courts are either not equipped or resistant to granting judicial bypasses. Even for adults, going to court for a judicial order is difficult. For young women without a

lawyer, it is overwhelming and at times impossible. Some young women cannot maneuver the legal procedures required or cannot attend hearings scheduled during school hours. Others do not go or delay going because they fear that the proceedings are not confidential or that they will be recognized by people at the courthouse. Many experience fear and distress and do not want to reveal intimate details of their personal lives to strangers.[x] The time required to schedule the court proceeding may result in a delay of a week or more, thereby increasing the health risks of the abortion.[xi] And in many instances, courts are not equipped to handle bypass proceedings in accord with constitutional regulations.[xii] Worse yet, some young women who do manage to arrange a hearing face judges who are vehemently anti-choice and who routinely deny petitions of minors who show that they are mature or that the bypass is in their best interest, despite rulings by the U.S. Supreme Court that the bypass must be granted in those circumstances.[xiii]

- In denying the petition of one young woman, a Missouri judge stated: "Depending upon what ruling I make I hold in my hands the power to kill an unborn child. In our society it's a lot easier to kill an unborn child than the most vicious murderer. . . . I don't believe that this particular juvenile has sufficient intellectual capacity to make a determination that she is willing to kill her own child."[xiv]

- A Toledo, Ohio judge denied a bypass for a 17-year-old, an "A" student who planned to attend college and who testified she was not financially or emotionally prepared for college and motherhood at the same time, stating that the girl had "not had enough hard knocks in her life."[xv]

- In Louisiana, a judge denied a 15-year-old a bypass petition after asking her a series of inappropriate questions, including what the minor would say to the fetus about her decision. Her request was granted only after a rehearing by six appellate court judges.[xvi]

- A Pennsylvania study found that of the 60 judicial districts in the state, only eight were able to provide complete information about Pennsylvania's judicial-bypass procedure. Some county courts referred minors to anti-choice crisis pregnancy centers that typically provide false and misleading information about abortion and pressure women to carry their pregnancies to term.[xvii]

- The Alabama Supreme Court upheld a trial court's denial of a petition for a 17-year-old because the minor's testimony appeared "rehearsed" and she did not show "any emotion." The trial court

refused to find that the minor was mature and well-informed enough to make her own decision or that an abortion was in her best interests—despite the fact that the 17-year-old high school senior had a 3.0 grade point average, had been accepted to college, had discussed her options with the father of the fetus, had spoken to a doctor, a counselor, her godmother, and her 20-year-old sister, was able to describe the abortion procedure, was informed about its risks, and had testified that her legal guardian had thrown a teenage relative out of the house when she became pregnant.[xviii]

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[i] Rochelle Sharpe, *Abortion Law: Fatal Effect*, GANNETT NEWS SERVICE, Dec. 1, 1989; *60 Minutes*, (CBS television broadcast, Feb. 24, 1991) (videotape on file with NARAL Pro-Choice America).

[ii] Council on Ethical and Judicial Affairs American Medical Association, *Mandatory Parental Consent to Abortion*, 269 JAMA 83 (1993).

[iii] The Alan Guttmacher Institute, *Minors' Access to STD Services*, STATE POLICIES IN BRIEF, Oct. 1, 2008.

[iv] The Alan Guttmacher Institute, *Minors' Access to STD Services*, STATE POLICIES IN BRIEF, Oct. 1, 2008.

[v] *Carey v. Population Services International*, 431 U.S. 678 (1977).

[vi] *New York v. Heckler*, 719 F.2d 1191 (S.D.N.Y. 1983) (striking down regulation requiring parental notification within 10 days of a Title X-funded family planning center providing prescription drugs or devices to unemancipated minor because such law conflicted with the program requirements of Title X); *Planned Parenthood Association of Utah v. Dandoy*, 810 F.2d 984 (10th Cir. 1987) (holding state law requiring parental consent for Medicaid conflicted with federal law, which requires states participating in the Medicaid program to provide family planning assistance to eligible minors without parental involvement).

[vii] Heather Boonstra and Elizabeth Nash, *Minors and the Right to Consent to Health Care*, 3 The Guttmacher Report on Public Policy 8 (2000).

[viii] *Hodgson v. Minnesota*, 497 U.S. 417, 420 (1990) (requiring a bypass procedure for a two-parent notification statute); *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 510 (1990) (requiring bypass procedures for parental consent statutes).

[ix] *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 74 (1976).

[x] Fried, Marlene Gerber, *Abortion in the United States: Barriers to Access*, 4 Reproductive and Sexual Rights 174, 182 (2001) (discussing the impact of judicial bypass process on young women); *Hodgson v. Minnesota*, 648 F.Supp. 756, 763-64 (D. Minn. 1986).

[xi]. *Id.*, at 763; Dennis, Amanda, Stanley K. Henshaw, Theodore J. Joyce, Lawrence B. Finer, & Kelly Blanchard. The Guttmacher Institute, *The Impact of Laws Requiring Parental Involvement for Abortion: A Literature Review* at page 3 (March 2009).

[xii] Helena Silverstein & Leanne Speitel, *"Honey, I Have No Idea": Court Readiness to Handle Petitions to Waive Parental Consent for Abortion*, 88 Iowa L. Rev. 75 (2002); Helena Silverstein, Girls on the Stand: How Courts Fail Pregnant Minors (2007)

[xiii] *Hodgson v. Minnesota*, 497 U.S. 417, 420 (1990) (requiring a bypass procedure for a two-parent notification statute); *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 510 (1990) (requiring bypass procedures for parental consent statutes).

[xiv] Excerpt, St. Charles County Juvenile Court, reprinted in *T.L.J. v. Webster*, 792 F.2d 734, 738-739 n.4 (1986).

[xv] Tamar Lewin, *Parental Consent to Abortion: How Enforcement Can Vary*, N.Y. TIMES, May 28, 1992, at A1.

[xvi] National Abortion Federation (NAF) and the National Women's Law Center, The Judicial Bypass Procedure Fails to Protect Young Women, (undated) (factsheet).

[xvii] Helena Silverstein, Road Closed: *Evaluating the Judicial Bypass Provision of the Pennsylvania Abortion Control Act*, 24 Law and Social Inquiry 80, 83-84 (1999); NARAL, Deceptive Anti-Abortion Crisis Pregnancy Centers (Apr. 19, 1999) *available at* http://www.naral.org/mediaresources/fact/pdfs/crisis_pregnancy.pdf (last visited January 21, 2003).

[xviii] *Ex Parte Anonymous*, 812 So.2d 1234 (Ala. Aug. 16, 2001); Bill Poovey, *Divided Court Upholds Denial of Abortion for Unemotional Teen*, Associated Press, Aug. 17, 2001.

Statement of Americans United for Life
Before the United States House Judiciary Committee
Subcommittee on the Constitution
On H.R. 2299: The Child Interstate Abortion Notification Act

March 8, 2012

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Americans United for Life (AUL) is a national public interest law firm with a practice in abortion and bioethics law. AUL attorneys are experts on constitutional law and abortion jurisprudence, including the constitutionality of and basis for laws relating to parental involvement in the abortion decisions of minors.

After thoroughly reviewing H.R. 2299, AUL appreciates this opportunity to submit a statement regarding the constitutionality of and need for this legislation.

I. ANALYSIS OF H.R. 2299.

The Child Interstate Abortion Notification Act (CIANA) will help protect minors from coercion and abuse. In states that lack or have weak parental involvement laws, an adult man can commit statutory rape, impregnate a minor, and take her to an abortion clinic without the consent or even the knowledge of her parents. After obtaining a "secret" abortion, the minor then returns to the abusive situation; further, if she has complications following the abortion, her parents will not have information necessary to ensure that she receives critical follow-up care.

Unfortunately, minors are not fully protected even in states that have *strong* parental involvement laws,[1] because adults can take them to states that do not require parental involvement. To combat this problem, CIANA would: (1) prevent a non-parent—an abuser, a parent of a minor's boyfriend, or someone else—from transporting a minor across state lines to avoid complying with a parental

[1] Common parental involvement requirements include, but are not limited to: An abortion provider must receive the consent of, or provide notification to, a minor's parent(s) prior to an abortion; consent must be notarized or the consenting parent must provide identification; a judicial bypass procedure is available by which a minor may seek court approval for bypassing state parental involvement requirements; there is explicit criteria that courts must use to evaluate whether a minor is mature enough to consent to an abortion or whether permitting her to bypass parental involvement would be in her best interest, and; there is a medical emergency exception to the consent or notification requirements.

involvement law in the minor's state of residence, and (2) require parental notification of a minor's parents when the minor seeks an abortion in a state that is not her state of residence, with certain exceptions (*i.e.*, the abortion provider complies with the parental involvement law in his or her state; there is evidence that the minor obtained a judicial bypass of parental involvement requirements in her home state; the minor declares she is the victim of abuse by a parent and the physician reports such abuse; the minor's life is in danger and the abortion provider subsequently notifies the minor's parents of the emergency; or the minor is physically accompanied by a parent with documentation proving the relationship).

II. H.R. 2299 IS CONSTITUTIONAL.

H.R. 2299 complies with requirements delineated in United States Supreme Court jurisprudence. The Court has reviewed statutes requiring parental consent or notification before a minor may obtain an abortion on eleven occasions.[2] The Court's decisions in these cases provide legislators with concrete guidelines on how to draft parental involvement laws that will be upheld by the courts, specifically by including judicial bypass provisions and medical emergency exceptions.

In *Bellotti v. Baird* (*Bellotti II*), the Court held that a State which requires a pregnant minor to obtain one or both parents' *consent* to an abortion must "provide an alternative procedure whereby authorization for the abortion can be obtained."[3] However, in *Ohio v. Akron Center for Reproductive Health* (*Akron II*), the Court refrained from extending this requirement to a statute requiring parental *notice* rather than *consent*.[4] In other words, the Court has not mandated that a parental notification requirement, such as that contained in CIANA, contain a judicial bypass provision.

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[2] *Bellotti v. Baird* (*Bellotti I*), 428 U.S. 132 (1976); *Planned Parenthood v. Danforth*, 428 U.S. 52 (1976); *Bellotti v. Baird* (*Bellotti II*), 443 U.S 622 (1979); *H.L. v. Matheson*, 450 U.S. 398 (1981); *City of Akron v. Akron Center for Reproductive Health* (*Akron I*), 462 U.S. 416 (1983); *Planned Parenthood v. Ashcroft*, 462 U.S. 476 (1983); *Hodgson v. Minnesota*, 497 U.S 417 (1990); *Ohio v. Akron Center for Reproductive Health* (*Akron II*), 497 U.S. 502 (1990); *Planned Parenthood v. Casey,* 505 U.S. 833 (1992); *Lambert v. Wicklund*, 520 U.S. 292 (1997); *Ayotte v. Planned Parenthood*, 546 U.S. 320 (2006).

[3] 443 U.S. 622, 643-644 (1979) (emphasis added).

[4] 497 U.S. 502, 511 (1990); *See also Hodgson*, 497 U.S. at 461; *Lambert*, 520 U.S. at 295.

In the 1992 case, *Planned Parenthood v. Casey*, a plurality of the United States Supreme Court reaffirmed the constitutionality of parental involvement laws, and held that an exception to a parental consent requirement for a "medical emergency" was sufficient to protect a woman's health, and imposed "no undue burden" on a woman's access to abortion.[5]

The Court noted that the lower court construed the phrase "serious risk" in the definition of "medical emergency" to include serious conditions that would affect the health of the minor. The Court of Appeals stated: "We read the medical emergency exception as intended by the Pennsylvania legislature to assure that compliance with its abortion regulations would not in any way pose a significant threat to the life or health of a woman."[6] Based on this reading, the Court in *Casey* held that the medical emergency definition "imposes no undue burden on a woman's abortion right."[7]

Likewise, H.R. 2299 includes a "medical emergency" exception to the notification requirement that protects a minor if her life is in danger. The definition of "medical emergency" in H.R. 2299 is broad enough to ensure that the parental notification requirement will not pose a "significant threat" to the life or health of a minor.

III. H.R. 2299 IS NEEDED TO PROTECT MINORS.

The purposes behind parental involvement laws are clear – to protect the health and welfare of minors, to foster family unity, and to protect the rights of parents. When a minor is transported across state lines to obtain an abortion without her parents' knowledge and/or consent, in circumvention of her home state's law, the purposes behind that law are thwarted.

The United States Supreme Court has acknowledged that "immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences."[8] Further, the medical, emotional, and psychological consequences of abortion are often serious and can be lasting, particularly when the patient is immature.

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[5] 505 U.S. 833, 879-80, 899 (1992).
[6] *Id.*
[7] *Id.*
[8] *Bellotti II*, 443 U.S. at 640.

In fact, the Supreme Court held that the "abortion decision has implications far broader than those associated with most other kinds of medical treatment."[9] The Court recently held that "[s]evere depression and loss of esteem can follow" the abortion decision.[10] In *Matheson*, the Court stated that the emotional and psychological effects of abortion are markedly more severe for girls under the age of 18—those women H.R. 2299 is designed to protect.[11]

And in *Roper v. Simmons*, the Court took note of the unique vulnerability of minors when it enunciated the following three differences between minors and adults:

1. Minors possess a lack of maturity and an underdeveloped sense of responsibility, which result in impetuous and ill-considered actions and decisions;

2. Minors are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure; and

3. The character of a minor is not as well formed as that of an adult, with the personality traits of minors being more transitory and less fixed.[12]

A. Parental involvement is in a minor's best interest.

Parents usually possess information essential to a physician's exercise of his or her best medical judgment concerning their daughter. Further, parents who are aware that their daughter has had an abortion may better ensure the best post-abortion medical attention. As such, parental consultation is usually desirable and in the best interest of the minor. For these reasons, parental involvement laws protect the health and welfare of minors, as well as foster family unity and protect the constitutional rights of parents to rear their children.

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[9] *Id.* at 649.
[10] *Gonzales v. Carhart*, 550 U.S. 124, 159 (2007).
[11] 450 U.S. at 411 n.20.
[12] 543 U.S. 551, 569-70 (2005).

B. Parental Involvement Laws Reduce the Number of Minors that Have Abortions.

Studies indicate that parental involvement laws appear to decrease teenage demand for abortion. For example, a 1996 study revealed that "parental involvement laws appear to decrease minors' demands for abortion by 13 to 25 percent."[13] In a similar earlier study, the same researcher found a 16 percent decrease overall in the rate of minors' abortions in states where parental involvement laws are in effect.[14] When narrowed to only those minors aged 15 to 19, the abortion rate was 25 percent lower in states with parental involvement laws as compared to states without such laws.[15] A study analyzing the effects of parental involvement laws in Massachusetts and Minnesota found that the number of abortions obtained during the period the laws were in effect decreased by approximately one-third.[16]

These findings, as well those in other similar studies,[17] were echoed in 2007 by research published by Dr. Michael New in the peer-reviewed journal *Catholic Social Science Review*.[18] After reviewing the relevant literature and performing a multi-regression analysis on a dataset that included abortion data from nearly every state between 1985 and 1999, Dr. New determined that parental involvement laws accounted for a reduction in teenage abortion of approximately 16 percent.[19] By demonstrating that the parental involvement laws at issue decreased teenage abortion but not overall abortion rates, Dr. New established that the 16 percent decrease in abortion among minors was causally connected to parental

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[13] D. Haas-Wilson, *The Impact of State Abortion Restrictions on Minors' Demand for Abortions*, J. HUMAN RESOURCES 31(1):140, 155 (1996).
[14] D. Haas-Wilson, *The economic impact of state restrictions on abortion: Parental consent and notification laws and Medicaid funding restrictions*, J. POLICY ANALYSIS & MANAGEMENT 12(3):498, 509 (1993).
[15] *Id.*
[16] P. Donovan, *Judging teenagers: How minors fare when they seek court authorized abortions*, FAMILY PLANNING PERSPECTIVES 15(6): 259 (1983).
[17] *See, e.g.*, R.M. Blank et al., *State Abortion Rates: The Impact of Policies, Providers, Politics, Demographics, and Economic Environment*, J. HEALTH ECON. 15:513 (1996); R.L. Ohsfeldt & S.F. Gohmann, *Do Parental Involvement Laws Reduce Adolescent Abortion Rates?*, CONTEMPORARY ECON. POL'Y 12(2):65 (1994).
[18] M.J. New, *Analyzing the Effect of State Legislation on the Incidence of Abortion Among Minors: A Report of the Heritage Center for Data Analysis*, CATHOLIC SOC. SCI. REV. (Fall 2007), available at http://www.heritage.org/research/reports/2007/02/analyzing-the-effect-of-state-legislation-on-the-incidence-of-abortion-among-minors (last visited Feb. 23, 2011).
[19] *Id.* at 3-4, 5.

involvement laws, as opposed to other factors (such as a state becoming more conservative).[20] He also showed that where parental involvement laws are in effect, teenage abortion decreases; but where parental involvement laws that have been in effect are nullified by a court decree, teenage abortion rates increases after such nullification.[21]

Dr. New acknowledged, however, that researchers are divided over whether parental involvement laws truly reduce the number of overall abortions, or whether minors circumvent abortion laws in their own states by traveling to states without restrictions. For example, researcher Charlotte Ellertson separately analyzed parental involvement laws in Indiana, Minnesota, and Missouri and found that the minor abortion rate declined anywhere from 17 to 26 percent after the enactment of these laws.[22] However, she also found that minors were more likely to travel to other states to obtain abortions when these laws were in effect, speculating that the increase in out-of-state abortions could offset the in-state declines.[23]

Yet, there are ample studies demonstrating exactly the opposite. For example, a study by Virginia Cartoof and Lorraine Klerman found that both in- and out-of-state abortions of minors in Massachusetts declined by 15 percent following passage of the state's parental consent statute.[24]

In addition, several studies analyzing Minnesota's parental notification law have found little evidence that significant numbers of minors are obtaining out-of-state abortions. Rather, one study indicated that the law decreased the in-state minor abortion rate by about 28 percent,[25] with another study finding little evidence that minors are leaving the state to obtain abortions.[26] Another study stated, "[i]n practice, the majority of Minnesota minors do not have the option of going to

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[20] *Id.* at 6-7. If there was a swing in public opinion about abortion in general, then there would have been an overall decrease in both minor and adult abortions in those states.
[21] *Id.* at 7-8.
[22] C. Ellertson, *Mandatory parental involvement in minors' abortions: Effects of the laws in Minnesota, Missouri, and Indiana*, AMER. J. PUB. HEALTH 87(8):1367 (1997).
[23] *Id.*
[24] V.G. Cartoof & L.V. Klerman, *Parental consent for abortion: Impact of the Massachusetts law*, AMER. J. PUB. HEALTH 76(4):397 (1986).
[25] J.L. Rogers et al., *Impact of the Minnesota Parental Notification Law on abortion and birth*, AMER. J. PUB. HEALTH 81(3):294 (1991).
[26] R.W Blum et al., *The impact of a parental notification law on adolescent abortion decision-making*, AMER. J. PUB. HEALTH 77(5):619, 620 (1987) ("there is little evidence indicating [that] large numbers of Minnesota youths are leaving the state for abortion").

another state, although some of those who live in the northwest section of the state can go to Fargo, North Dakota, and minors living along the southern border can go to Iowa; very few go to either state, however."[27]

Researchers obtained similar results when analyzing the impact of the parental notification law in Texas, which went into effect in 2000.[28] In 2006, researchers reported in the *New England Journal of Medicine* the following statistically significant findings:

- Abortion rates fell by 11 percent among 15-year-olds;
- Abortion rates fell by 20 percent among 16-year-olds; and
- Abortion rates fell by 16 percent among 17-year-olds.[29]

The researchers rigorously collected data from neighboring states and found little evidence that minors from Texas were obtaining abortions elsewhere.[30]

Regardless of whether or not a statistically large number of minors obtain abortions out-of-state to circumvent their home laws, minors are vulnerable to coercion and abuse in states that do not require parental notification or consent prior to an abortion decision. CIANA will ensure that parental involvement laws are not circumvented in states without protective laws.

C. Parental Involvement Laws Decrease the Teenage Birth Rate.

Like teenage abortion rates, teenage birth rates decline once a parental involvement law is enacted. Further, despite repeated claims by abortion proponents to the contrary, there is no evidence that parental involvement laws cause the birthrate to increase among minors.[31] "[T]here is no empirical support for the claim that recent restrictions on access to abortion [including parental consent statutes] have led to

[27] Donovan, *supra*, at 262.
[28] Texas has since enacted a parental consent law.
[29] T. Joyce et al., *Changes in Abortion and Births and the Texas Parental Notification Law*, N.E.J.M. 354(10):1031 (2006).
[30] *Id. See also* P.B. Levine, *Parental involvement laws and fertility behavior*, J. HEALTH ECON. 22(5):861 (2003) (taking into account state-of-residence, as opposed to state-of-occurrence, and finding that parental involvement laws do result in a significant reduction in abortions).
[31] *See, e.g.*, J. Rogers & A. Miller, *Inner-City Birth Rates Following Enactment of the Minnesota Parental Notification Law*, LAW & HUMAN BEHAVIOR 17(1):27 (1993); J.L. Rogers et al., *supra*.

higher teen birth rates."[32] To the contrary, "teen birth rates f[a]ll, rather than r[i]se, following the implementation of parental consent laws."[33] For example, a study by Ohsfeldt and Gohmann concluded, "the results imply that a parental involvement law is associated with about an 18 percent reduction in the adolescent abortion rate and an 8 percent reduction in the adolescent pregnancy rate."[34]

Likewise, Joyce et al. found that, in the two years after the Texas parental notification law went into effect, there was a decrease in the birthrate among minors of 4.8 percent.[35] The researchers concluded that "minors increase the use of contraception or decrease sexual activity in response to a parental notification or consent law."[36]

D. Parental Involvement Laws Protect Minors from the Physical and Psychological Harms Inherent in Abortion.

Medical studies demonstrate that abortion carries immediate and long-term physical risks, as well as psychological consequences, that are harmful to women's health.

i. Minors who abort face demonstrated physical risks.

a. Short-term Physical Risks of Abortion

The undisputed[37] short-term physical risks of surgical abortion include blood clots; incomplete abortions, which occur when part of the unborn child or other products of pregnancy are not completely emptied from the uterus; infection, which includes pelvic inflammatory disease and infection caused by incomplete abortion; and injury to the cervix and other organs, which includes cervical lacerations and incompetent cervix—a condition that affects subsequent pregnancies.

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[32] T.J. Kane & D. Staiger, *Teen Motherhood and Abortion Access*, QUARTERLY J. ECON. 111(2):467, 470 (1996).
[33] *Id.* at 476; *see also* C. Jackson & J. Klerman, *Welfare, Abortion and Teenage Fertility*, RAND Corporation working paper, August 1994 (supporting the conclusion that teen birth rates fall after passage and enforcement of parental notification laws).
[34] R.L. Ohsfeldt & S.F. Gohmann, *supra*, at 74.
[35] Joyce et al., *supra*, at 1034.
[36] *Id.* at 1037.
[37] These risks are openly acknowledged by abortion providers. *See, e.g.*, Planned Parenthood, *In-Clinic Abortion Procedures* (2010), available at http://www.plannedparenthood.org/health-topics/abortion/abortion-procedures-4359.htm (last visited Feb. 23, 2011).

Minors are even more susceptible to these risks than are older women. For example, minors are up to twice as likely to experience cervical lacerations during abortion.[38] Researchers believe that smaller cervixes make it more difficult to dilate or grasp with instruments. Minors are also at greater risk for post-abortion infections, such as pelvic inflammatory disease and endometritis.[39] Again, researchers believe that minors are more susceptible because their bodies are not yet fully developed and do not yet produce the protective pathogens found in the cervical mucus of older women.

While these risks apply to surgical abortion, it is important to note that drugs producing a chemical abortion have never been tested on minors. For example, the common abortion drug RU-486 has only been tested on women aged 18 to 46.[40] We simply do not yet know how RU-486 has specifically impacted young women; but we do know that, by April 2011, the FDA acknowledged a total of 2207 adverse event reports related to the use of RU-486.[41] These adverse events included 14 deaths, 612 hospitalizations, 339 blood transfusions, and 256 cases of infection.[42] A European drug manufacturer has publicly stated that 29 women have died worldwide after using RU-486.[43]

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[38] *See, e.g.*, K.F. Schultz et al., *Measures to prevent cervical injury during suction curettage abortion*, LANCET 1(8335):1182 (1993); R.T. Burkman et al., *Morbidity risk among young adolescents undergoing elective abortion*, CONTRACEPTION 30(2):99 (1984).

[39] *See, e.g.*, R.T. Burkman et al., *Culture and treatment results in endometritis following elective abortion*, AM. J. OBSTET. GYNECOL. 128(5):556 (1997); W. Cates, Jr., *Teenagers and sexual risk-taking: The best of times and the worst of times*, J. ADOLESC. HEALTH 12(2):84 (1991); D. Avonts & P. Piot, *Genital infections in women undergoing therapeutic abortion*, EURO. J. OBSTET. GYNECOL. & REPROD. BIO. 20(1):53 (1985).

[40] *See* Mifeprex Label, available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2000/20687lbl.htm (last visited Aug. 23, 2010).

[41] *See* Food and Drug Administration, *Mifepristone U.S. Postmarketing Adverse Events Summary Through 04/30/2011*, (July 19, 2011), available at http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/UCM263353.pdf (last visited Mar. 6, 2012).

[42] *Id.*

[43] *See, e.g.*, APM Health Europe, *Italy questions safety of Exelgyn's abortion pill, approval still not granted* (June 23, 2009), available at http://www.apmhe.com/story.php?mots=MIFEPRISTONE&searchScope=1&searchType=0&numero=L15579 (last visited Aug. 23, 2010).

b. Long-term Physical Risks of Abortion

Minors are also more susceptible to the long-term risks of abortion. In fact, the Guttmacher Institute—Planned Parenthood's research wing—has acknowledged that because minors are less likely than adults to take prescribed antibiotics or follow other regimens of treatment, they are at greater risk for subsequent miscarriage, infertility, hysterectomy, and other serious complications.[44]

Included in these long-term risks are the harmful effects on future pregnancies—yet most women who abort do so early in their reproductive lives while desiring to have children at a later time.[45] However, induced abortion increases the risk of pre-term birth (premature birth) and very low birth weight in subsequent pregnancies. Induced abortion has been associated with an increased risk of the premature rupture of membranes, hemorrhage, and cervical and uterine abnormalities, which are responsible for the increased risk of pre-term birth.[46]

Pre-term birth occurs prior to the 37th week of pregnancy and is very dangerous to the child. In 2006, the U.S. Centers for Disease Control (CDC) announced that premature birth is the leading cause of infant mortality.[47] It is also a risk factor for later disabilities for the child, such as cerebral palsy and behavioral problems.[48] Additionally, pre-term birth poses risks to the mother's health. For example, studies demonstrate that delivering a child before 32 weeks gestation when it is the mother's first pregnancy (as is the case for most minors) may increase the mother's breast cancer risk.[49]

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[44] Guttmacher Institute, *Teenage Pregnancy: Overall Trends and State-by-State Information* (Feb. 19, 2004).

[45] C. Moreau et al., *Previous Induced Abortions and the Risk of Very Preterm Delivery: Results of the EPIPAGE Study*, BRIT. J. OBSTET. & GYN. 112:430, 431 (2005).

[46] *Id.*

[47] J.M. Thorp et al., *Long-Term Physical and Psychological Health Consequences of Induced Abortion: Review of the Evidence*, OBSTET. & GYNECOL. SURVEY 58[1]:67, 75 (2003); W.M. Callaghan, *The Contribution of Preterm Birth to Infant Mortality Rates in the U.S.*, PEDIATRICS 118(4):1566 (Oct. 2006).

[48] B. Rooney & C. Calhoun, *Induced Abortion and Risk of Later Premature Births*, J. AM. PHYSICIANS & SURGEONS 8(2):46, 46-47 (2003).

[49] M. Melbye et al., *Preterm Delivery and Risk of Breast Cancer*, BRITISH J. CANCER 80(3-4):609 (1999); C.C. Hsieh et al., *Delivery of Premature Newborns and Maternal Breast-Cancer Risk*, LANCET 353:1239 (1999). The breast cancer risk arises because breast tissue does not mature into cancer-resistant tissue until the last eight weeks of pregnancy, after women have received great amounts of potentially cancer-causing estrogen during the first trimesters. A. Lanfranchi,

There are currently 114 studies showing a statistically significant association between induced abortion and subsequent pre-term birth.[50] In 2009 alone, three different systematic studies demonstrated the risk of pre-term birth following abortion. P. Shah et al. reported that induced abortion increases the risk of pre-term birth in a subsequent pregnancy by 37 percent, with two or more abortions increasing the risk by 93 percent.[51] Similarly, R.H. van Oppenraaij et al. found that a single induced abortion raises the risk of subsequent pre-term birth by 20 percent, with two or more abortions increasing the risk by 90 percent.[52] Those researchers also found that a woman who has two or more abortions doubles her risk of subsequently having a "very" premature baby (before 34 weeks gestation).[53] Likewise, Swingle et al. reported an odds ratio of a statistically significant 64 percent higher risk of "very pre-term birth" (before 32 weeks gestation) for women with one prior induced abortion.[54]

The 2009 studies simply confirmed what was already in the medical literature. For example, a 2005 study demonstrated that a woman who has an abortion is 50 percent more likely to deliver before 33 weeks, and 70 percent more likely to deliver before 28 weeks in subsequent pregnancies.[55] A 2003 study demonstrated that a woman who has two abortions doubles her future risk of pre-term birth, and a woman who has four or more abortions increases the risk of pre-term birth by 800 percent.[56]

The Institute of Medicine, which is part of the National Academy of Science, lists first-trimester abortion as a risk factor associated with subsequent pre-term birth.[57]

The Breast Physiology and the Epidemiology of the Abortion Breast Cancer Link, IMAGO HOMINIS 12(3):228-36 (2005).

[50] *See, e.g.*, J.M. Thorp et al., *supra*; B. Rooney & C. Calhoun, *supra*; American Association of Pro-Life Obstetricians & Gynecologists, *Dr. Iams* (2010), available at http://www.aaplog.org/get-involved/letters-to-members/dr-iams/ (last visited Feb. 23, 2011).

[51] P. Shah et al., *Induced termination of pregnancy and low birth weight and preterm birth: a systematic review and meta-analysis*, B.J.O.G. 116(11):1425 (2009).

[52] R.H. van Oppenraaij et al., *Predicting adverse obstetric outcome after early pregnancy events and complications: a review*, HUMAN REPROD. UPDATE ADVANCE ACCESS 1:1 (Mar. 7, 2009).

[53] *Id.*

[54] H.M. Swingle et al., *Abortion and the Risk of Subsequent Preterm Birth: A Systematic Review and Meta-Analysis*, J. REPROD. MED. 54:95 (2009).

[55] J.M. Thorp et al., *supra*, at 75.

[56] B. Rooney & C. Calhoun, *supra*, at 46-47.

[57] R.E. Behrman, PRETERM BIRTH: CAUSES, CONSEQUENCES, AND PREVENTION 519 (2006).

Likewise, a renowned pregnancy resource book states, "if you have had one or more induced abortions, your risk of prematurity with this pregnancy increases by about 30 percent."[58] The resource also states that birth before 32 weeks is ten times more likely when a woman has an incompetent cervix—which has already been discussed as a common risk following abortion.[59]

Abortion is also a risk factor for placenta previa in subsequent pregnancies.[60] Placenta previa increases the risk of fetal malformation and excessive bleeding during labor.[61] Placenta previa also increases the risk that the baby will die during the perinatal period, which begins after 28 weeks gestation and ends 28 days after birth.[62]

Finally, it is undisputed that a first full-term pregnancy offers a protective effect against subsequent breast cancer development.[63] A woman who aborts her first pregnancy loses this protection. Thus, not only does abortion pose an increased risk for future pregnancies, it also strips a woman of the protective effects of a first full-term pregnancy. Furthermore, while it is debated whether abortion is a direct cause of breast cancer, a study by pro-abortion researcher Dr. Janet Daling in the *Journal of the National Cancer Institute* sheds light on the risk to minors. In her study, *every woman* with a family history of breast cancer who was under the age of 18 at the time of her abortion developed breast cancer before age 45.[64] In other words, the risk to minors was immense.

ii. <u>Minors who abort face demonstrated psychological risks.</u>

Numerous studies have examined the effect abortion has on the mental state of women and confirm that abortion poses drastic risks—risks that inflict minors with particular force. These risks include depression, anxiety, and even suicide.

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[58] B. Luke, EVERY PREGNANT WOMAN'S GUIDE TO PREVENTING PREMATURE BIRTH 32 (1995).
[59] *Id.*
[60] D.C. Reardon et al., *Deaths Associated with Abortion Compared to Childbirth: A Review of New and Old Data and the Medical and Legal Implications*, J. CONTEMP. HEALTH LAW & POL'Y 20(2):279 (2004).
[61] J.M. Barrett, *Induced Abortion: A Risk Factor for Placenta Previa*, AM. J. OBSTET. & GYNECOL. 141:7 (1981).
[62] *Id.*; TABER'S CYCLOPEDIC MEDICAL DICTIONARY 1630 (20th ed. 2001).
[63] D.C. Reardon et al., *supra*. The woman also loses the protective effect against cancers of the cervix, colon, rectum, ovaries, endometrium, and liver. *Id.*
[64] J.R. Daling et al., *Risk of Breast Cancer Among Young Women: Relationship of Induced Abortion*, J. NAT'L CANCER INST. 86(21):1584 (1994).

Significantly, a new meta-analysis of studies examining the mental health of women following induced abortions, examining and combining results of 22 studies published between 1995 and 2009, affirms that these women face an 81 percent increased risk of mental health problems.[65]

One of the leading studies examined a sample group of over 500 women from birth to age 25.[66] That study, led by pro-abortion researcher D.M. Fergusson, was controlled for all relevant factors, including prior history of depression and anxiety and prior history of suicide ideation.[67] The Fergusson study found that 42 percent of young women experience major depression after abortion.[68] Moreover, minors were found to be particularly at risk for depression. In studying teens aged 15 to 18, researchers found that minors who became pregnant and carried to term had a 35.7 percent chance of experiencing major depression, but minors who aborted had an astonishing 78.6 percent chance of experiencing major depression.[69]

The study also found that women who abort are twice as likely to experience anxiety disorders.[70] In teens, the chance of experiencing anxiety after abortion was 64.3 percent, and the chance of suicidal ideation was 50 percent.[71] Importantly, the study showed that abortion led to depression and anxiety, and that it was not depression and anxiety that led to the abortion. Likewise, a 2003 study showed that women who abort their first pregnancies were 65 percent more likely to be at "high risk" for depression than women who did not abort.[72]

Yet another study stated that "anxiety and depression have long been associated with induced abortion," and that anxiety is the most common adverse mental effect

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[65] P.K. Coleman, *Abortion and Mental Health: Quantitative Synthesis and Analysis of Research Published 1995-2009*, BRIT. J. OF PSYCHIATRY 199:180-86 (2011).
[66] D.M. Fergusson et al., *Abortion in Young Women and Subsequent Mental Health*, J. CHILD PSYCHOL. & PSYCHIAT. 41(1):16 (2006).
[67] *Id.*
[68] *Id.*
[69] *Id.* at 19.
[70] *Id.* at 16.
[71] *Id.* at 19.
[72] J.R. Cougle et al., *Depression Associated with Abortion and Childbirth: A Long-Term Analysis of the NLSY Cohort*, MED. SCI. MONITOR 9(4):CR157, CR 162 (2003).

of abortion.[73] Up to 30 percent of women experience extremely high levels of anxiety and stress one month after abortion.[74]

Consider also the findings of the following studies:

- P.K. Coleman et al.: Across the four years studied, women who aborted had 40 percent more claims for neurotic depression than women who gave birth.[75]

- W.B. Miller et al.: Six to eight weeks post-abortion, 35.9 percent of women experienced some depression.[76]

- G. Congleton & L. Calhoun: Depression was reported in 20 percent of women who aborted.[77]

- P.K. Coleman & E.S. Nelson: Depression increased after abortion to a rate of 56.7 percent.[78]

- H. Soderberg et al.: 50 to 60 percent of aborting women experienced emotional distress of some form, with 30 percent of cases classified as severe.[79]

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[73] V.M. Rue et al., *Induced Abortion and Traumatic Stress: A Preliminary Comparison of American and Russian Women*, MED. SCI. MONITOR 10(10):SR5, SR6 (2004).
[74] P. Coleman, *Induced Abortion and Increased Risk of Substance Abuse: A Review of the Evidence*, CURRENT WOMEN'S HEALTH ISSUES 1:21, 23 (2005); Z. Bradshaw & P. Slade, *The Effects of Induced Abortion on Emotional Experiences and Relationships: A Critical Review of the Literature*, CLINICAL PSYCHOL. REV. 23:929-58 (2003).
[75] *State-funded abortions vs. deliveries: A comparison of outpatient mental health claims over four years*, AMER. J. ORTHOPSYCHIATRY 72:141 (2002).
[76] *Testing a model of the psychological consequences of abortion*, in L.J. Beckman & S.M. Harvey, THE NEW CIVIL WAR: THE PSYCHOLOGY, CULTURE, AND POLITICS OF ABORTION (American Psychological Association 1998).
[77] *Post-abortion perceptions: A comparison of self-identified distressed and non-distressed populations*, INT'L J. SOC. PSYCHIATRY 39:255 (1993).
[78] *The quality of abortion decisions and college students' reports of post-abortion emotional sequelae and abortion attitudes*, J. SOC. & CLINICAL PSYCHOLOGY 17:425 (1998).
[79] *Emotional distress following induced abortion: A study of its incidence and determinants among abortees in Malmo, Sweden*, EUROPEAN J. OBSTET. & GYNECOL. & REPROD. BIOLOGY 79:173 (1998).

- L.M. Pope et al.: 19 percent of women experienced moderate to severe levels of depression 4 weeks post-abortion.[80]

- W. Pedersen: Women with an abortion history were nearly 3 times as likely as their peers without an abortion to report significant depression.[81]

- D.I. Rees & J.J. Sabia: After adjusting for controls, abortion was associated with more than a two-fold increase in the likelihood of having depressive symptoms at a second follow-up.[82]

- F.O. Fayote et al.: Previous abortion was significantly associated with depression and anxiety among pregnant women.[83]

Thus, abortion increases stress and decreases the ability to deal with stress.[84] These findings are significant, because depression is a known risk factor for suicide.[85] For example, the Fergusson study found that 27 percent of women who aborted reported experiencing suicide ideation, with as many as 50 percent of minors experiencing suicide or suicide ideation.[86] The risk of suicide was three times greater for women who aborted than for women who delivered. The researchers concluded that their findings raised the possibility that, for some young women, exposure to abortion is a traumatic life event which increases longer-term susceptibility to common mental disorders.[87]

The Fergusson study is not the first (nor the last) to demonstrate a connection between induced abortion and suicide. Ten years prior to the 2006 Fergusson Study, a team led by M. Gissler found that the suicide rate was nearly 6 times greater among women who aborted compared to women who gave birth.[88] In

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[80] *Post-abortion psychological adjustment: Are minors at increased risk?*, J. ADOLESCENT HEALTH 29:2 (2001).
[81] *Abortion and depression: A population-based longitudinal study of young women*, SCANDINAVIAN J. PUB. HEALTH 36(4):424 (2008).
[82] *The relationship between abortion and depression: New evidence from the Fragile Families and Child Wellbeing Study*, MED. SCI. MONITOR 13(10):430 (2007).
[83] *Emotional distress and its correlates*, J. OBSTET. & GYNECOL. 5:504 (2004).
[84] V.M. Rue et al., *supra*, at SR5-SR16.
[85] J.R. Cougle et al., *supra*, at CR 162.
[86] D.M. Fergusson et al., *supra*, at 19, Table 1.
[87] *Id.* at 22.
[88] M. Gissler et al., *Suicides after pregnancy in Finland, 1987-94: Register linkage study*, BRIT. MED. J. 313:1431 (1996).

2005, Gissler et al. once again found that abortion was associated with a 6 times higher risk for suicide compared to birth.[89]

Other studies have found an even higher risk following abortion. In 1995, Gilchrist et al. reported that, among women with no history of psychiatric illness, the rate of deliberate self-harm was 70 percent higher after abortion than childbirth.[90] In a comparison study of American women and Russian women, V.M. Rue et al. reported that 36.4 percent of the American women and 2.8 percent of the Russian women reported suicidal ideation.[91] While abortion has a "deleterious effect," childbirth appears to have a protective effect against suicide—contrary to erroneous claims made by some abortion advocates.[92]

Other studies have linked a history of abortion to sleeping disorders, eating disorders, and promiscuity, all of which are destructive to women's health.[93] In 2006, researchers in a federally funded study found that adolescents who abort their unintended pregnancies are five times more likely to seek help for psychological and emotional problems afterward than those adolescents who carried their pregnancies to term.[94] The study also revealed that adolescents who had abortions were three times more likely to experience trouble sleeping.[95]

Abortion also appears to fuel other destructive behaviors, such as subsequent drug and alcohol abuse. Women who abort are twice as likely to drink alcohol at dangerous levels and three times as likely to become addicted to illegal drugs.[96]

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[89] M. Gissler et al., *Injury deaths, suicides and homicides associated with pregnancy, Finland 1987-2000*, EURO. J. PUBLIC HEALTH 15:459 (2005).
[90] A.C. Gilchrist et al., *Termination of pregnancy and psychiatric morbidity*, BRIT. J. PSYCHIATRY 167:243 (1995).
[91] V.M. Rue et al., *supra*.
[92] J.R. Cougle et. al., *supra*, at CR162. *See also* M. Gissler et al., *Pregnancy-associated deaths in Finland 1987-1994: Definition problems and benefits of record linkage*, ACTA OBSTETRICA ET GYNECOLOGICA SCANDINAVICA 76:651 (1997).
[93] D.C. Reardon & P.C. Coleman, *Relative Treatment Rates for Sleep Disorders and Sleep Disturbances Following Abortion and Childbirth: A Prospective Record-Based Study*, J. SLEEP 29:105-06 (2006); D.C. Reardon et al., *supra*.
[94] P.J. Smith, *Study Shows Abortion Takes Toll on Adolescent Mental Health* (Aug. 18, 2006), available at http://www.lifesitenews.com/ldn/2006/aug/06081805.html (last visited Feb. 23, 2011) (discussing the federally-funded P. Coleman research in *Journal of Youth and Adolescents*).
[95] *Id.*
[96] D.M. Fergusson et al., *supra*.

Women who never abused drugs before abortion are 4.5 times more likely to abuse drugs after abortion.[97] Another study found that the use of drugs other than marijuana was 6.1 times higher among women who had abortions than woman who did not have abortions.[98] Regarding minors, one study found that minors who abort their pregnancies are nine times more likely to report marijuana use after their abortions than are minors who carry their pregnancies to term.[99]

There are over 1 million induced abortions performed in the United States each year.[100] Minors aged 15 to 17 account for six percent of all abortions—thus an estimated 60,000 abortions per year.[101] The Guttmacher Institute has estimated that 40 percent of teenage abortions occur without parental involvement.[102] Those teens are left without the protective oversight of their parents following abortion—oversight that might alert parents to psychological effects before it is too late.

E. Parental involvement laws protect minors from sexual exploitation.

Finally, parental involvement laws protect weak and vulnerable teens from sexual exploitation. It is obviously easier for child predators to use abortion to cover up criminal behavior in states without parental involvement laws. Parental involvement laws help protect vulnerable minors by alerting parents or guardians of potential abuse.

Evidence suggests there is widespread confusion and ignorance among young girls about their sexual encounters and that a "considerable proportion" of minors experience their first sexual intercourse under coercive conditions.[103] In one study,

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[97] P.G. Ney, *Abortion and Subsequent Substance Abuse*, AM. J. DRUG & ALCOHOL ABUSE 26:61-75 (2000).
[98] K. Yamaguchi & D. Kandel, *Drug Use and Other Determinants of Premarital Pregnancy and its Outcome: A Dynamic Analysis of Competing Life Events*, J. MARRIAGE & FAMILY 49:257-70 (1987).
[99] P.J. Smith, *supra* (discussing P. Coleman research in *Journal of Youth & Adolescents*).
[100] Guttmacher Institute, *In Brief: Facts on Induced Abortion in the United States* (May 2010), available at http://www.guttmacher.org/pubs/fb_induced_abortion.html (last visited Feb. 23, 2011).
[101] *Id.*
[102] Guttmacher Institute, *Teenage Pregnancy*, *supra*.
[103] M. Oberman ["Oberman I"], *Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape*, 48 BUFFALO L. REV. 703, 708 (2000); M. Oberman ["Oberman II"], *Girls in the Master's House: Of Protection, Patriarchy and the Potential for Using the Master's Tools to Reconfigure Statutory Rape Law*, 50 DEPAUL L. REV. 799, 820 (2001) (citing J. Abma et al.,

60 percent of women who had sexual intercourse before the age of 15 reported having had a forced sexual experience.[104] Of those with a first sexual experience before the age of 14, 74 percent reported a forced sexual experience.[105]

Simply put, because of their inexperience and the sexual culture surrounding them, minors are inherently vulnerable to exploitation and coercion in their sexual interactions.[106] Unfortunately, sexual abuse is "vastly underreported."[107] In fact, nearly 88 percent of sexual abuse is never reported—let alone prosecuted.[108] Many experts refer to sexual violence and date/acquaintance rape as a "hidden" or "silent" epidemic because of the high rates of occurrence and its infrequent disclosure.[109] Yet studies reveal that *at least* one in five girls is sexually abused before the age of 18.[110] Some researchers estimate even higher numbers.[111]

Numerous studies document the consequences of sexual abuse, ranging from psychological to physical to behavioral effects. Psychologically, sexual assault leads to severe emotional and traumatic reactions.[112] Such effects include post-traumatic stress disorder; difficulty regulating reactions to disturbing events; a

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Young Women's Degree of Control Over First Intercourse: An Exploratory Analysis, FAM. PLAN. PERSP. 30(1):12, 12-18 (Jan./Feb. 1998)).

[104] Lewin Group, *Statutory Rape: A Guide to State Laws and Reporting Requirements* 1 (2004) (citing Guttmacher Institute, *Sex and America's Teenagers* (1994)); *see also* Oberman I, *supra*, at 717; P. Donovan ["Donovan II"], *Can Statutory Rape Laws be Effective in Preventing Adolescent Pregnancy?*, FAM. PLAN. PERSP. 29(1):30 (Jan./Feb. 1997).

[105] Oberman I, *supra*, at 717; Donovan II, *supra*, at 30.

[106] Oberman I, *supra*, at 704-05, 709-10, 778 (citing numerous studies and resources).

[107] National Association of Children's Hospitals and Related Institutions ["NACHRI"], *Child Sexual Abuse Fact Sheet* (2004); E.M. Saewyc et al., *Teenage Pregnancy and Associated Risk Behaviors Among Sexually Abused Adolescents*, PERSP. ON SEXUAL & REPROD. HEALTH 936(3):8, 99 (May/June 2004).

[108] Stop It Now, *Commonly Asked Questions: Answers to Commonly Asked Questions About Child Sexual Abuse* (2005) (citing R.F. Hanson et al., *Factors Related to the Reporting of Childhood Sexual Assault*, CHILD ABUSE & NEGLECT 23:559, 559-69 (1999)).

[109] C.E. Irwin & V.I. Rickert, Editorial: Coercive Sexual Experiences During Adolescence and Young Adulthood: A Public Health Problem, 36 J. ADOLES. HEALTH 359 (2005); V.I. Rickert et al., *Disclosure of Date/Acquaintance Rape: Who Reports and When*, 18 J. PED. ADOLES. GYN. 17 (2005).

[110] NACHRI, *supra*.

[111] G. Murphy, BEYOND SURVIVING: TOWARD A MOVEMENT TO PREVENT CHILD SEXUAL ABUSE 3 (2002).

[112] P.T. Clements et al., *Issues and Dynamics of Sexually Assaulted Adolescents and Their Families*, J. MENTAL HEALTH NURSING 13:267, 273 (2004).

detrimental effect on "adolescent intrapsychic development and interpersonal relationships"; a poorly-developed sense of self; an inability to trust that directly impacts the potential for intimate relationships; eating and sleep disorders; intense, negative self-evaluations; depression; and increased incidences or attempts of suicide.[113]

From a physical standpoint, minors enduring sexual abuse have an increased incidence of soft tissue injury, pelvic pain syndromes, and gastrointestinal illness.[114] Some of the most drastic physical consequences occur as a result of the behavioral effects common in sexual abuse victims. Evidence demonstrates a strong correlation between sexual abuse and compulsive, addictive, and high-risk behavior.[115]

For example, sexually abused minors are more likely not to use contraception and to have multiple partners.[116] One study found that minors who have been sexually abused are twice as likely not to use birth control and are more likely to have had more than one sexual partner.[117] Another study found that previously abused minors were three times more likely to have had three or more partners in the last year, with currently abused minors seven times more likely than never-abused minors to have had three or more partners in the last year.[118]

These actions bring higher rates of pregnancy and sexually transmitted diseases, as well as an increased risk of sexual violence in relationships.[119] One study found that sexually abused teens are three times more likely to become pregnant before the age of 18.[120]

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[113] *Id.* at 267, 271, 273; J.L. Stock et al., *Adolescent Pregnancy and Sexual Risk-Taking Among Sexually Abused Girls*, FAM. PLAN. PERSP. 29(5):200, 201 (Sept./Oct. 1997); V.I. Rickert et al., *supra*, at 23 (2005); G. Murphy, *supra*, at 3.
[114] P.T. Clements et al., supra, at 271.
[115] J.L. Stock et al., *supra*, at 202; Oberman I, *supra*, at 729-30; Saewyc et al., *supra*, at 102.
[116] *See, e.g.*, Saewyc et al., *supra*, at 98; Clements et al., *supra*, at 271.
[117] J.L. Stock et al., *supra*, at 202; *see also* Saewyc et al., *supra* (reporting that sexually abused adolescents are less likely than their non-abused peers to use condoms or other birth control methods).
[118] T. Luster & S.A. Small, *Sexual Abuse History and Number of Sex Partners Among Female Adolescents*, FAM. PLAN. PERSP. 29(5):204, 207 (Sept./Oct. 1997).
[119] J.L. Stock et al., *supra*, at 202; National Campaign to Prevent Teen Pregnancy ["NCPTP"], *14 and Younger: The Sexual Behavior of Young Adolescents* 18 (Summary 2003); Clements et al., *supra*, at 267, 271; Saewyc et al., *supra*, at 98, 102.
[120] J.L. Stock et al., *supra*, at 200.

In addition, sexually abused minors have higher rates of substance abuse and addictions, including the use of alcohol, cigarettes, and illegal substances.[121] Often these substances are used as coping devices.[122]

Finally, repeated victimization is a major concern. Studies show a link between sexual abuse and the repetition of assaults and prostitution.[123] In fact, one study claims that previous victimization is the "most highly correlated predictor of subsequent victimization."[124] Forty-four percent of women who were sexually abused before the age of 18 are victimized again at least once later in life.[125] Between 38 and 48 percent of survivors later have physically abusive husbands.[126] One report documented that 65 percent of prostitutes were forced into sexual activity before the age of 16.[127] Another study revealed that more than 75 percent of teenage prostitutes had been sexually abused.[128]

CIANA is needed to protect minors from predators who would take their victims to states with permissive laws to cover their crimes.

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[121] NCPTP, *supra*, at 13; Clements et al., *supra*, at 267; K. Moore & J. Manlove, *A Demographic Portrait of Statutory Rape*, presentation to *Conference on Sexual Exploitation of Teens* (2005), available at http://www.childtrends.org/Files//Child_Trends-2005_03_23_SP_StatRapePres.pdf (last visited Feb. 23, 2011).
[122] *See* Saewyc et al., *supra*, at 98.
[123] Clements et al., *supra*, at 267, 271.
[124] *Id.*
[125] Oberman I, *supra*, at 730.
[126] *Id.* at 729.
[127] *Id.* at 730.
[128] Darkness to Light, *Statistics Surrounding Child Sex Abuse* (2010), available at http://www.darkness2light.org/KnowAbout/statistics_2.asp (last visited Feb. 23, 2011).

IV. CONCLUSION.

Laws requiring parental involvement in a minor's abortion decision are in effect in 35 states. However, to better protect minors from coercion and abuse, a federal law requiring compliance with state laws is needed. Further, abortion providers in states that do not require parental involvement should be required to notify the parents of a minor from another state, given the serious consequences that an abortion poses for a minor. The Child Interstate Abortion Notification Act is a commonsense piece of legislation that will protect minors and their unborn children.

NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

Testimony of the National Latina Institute for Reproductive Health

Testimony on H.R. 2299:
The Child Interstate Abortion Notification Act (CIANA)

Submitted March 7, 2012

We submit this testimony as an organization concerned with protecting the rights and ensuring the well-being of all women, with a particular focus on Latinas. We are the only national organization working on behalf of the reproductive health and justice of the 20 million Latinas, their families, and communities in the United States through public education, community mobilization and policy advocacy. We are deeply concerned about the introduction of H.R. 2299, the "Child Interstate Abortion Notification Act," (CIANA) because of its negative implications for young people, especially young women of color. This bill is only the latest attempt to curtail abortion access for women in the United States. CIANA would place an additional hurdle in the path of young women, who already face numerous challenges to healthy, informed, and empowered reproductive health decision-making, including lack of access to comprehensive sex education and affordable contraception. We write to go on record with our opposition to this legislation and to the harmful effects it may have for young women in this country.

I. This legislation would be particularly harmful for Latinas

Studies show that the Latino population is younger than the non-Latino population, with almost 30% of Latinos under the age of 15 (compared to just over 20% of non-Latino whites).[1] Because CIANA is a law that targets young people, Latinos would see greater impacts. Furthermore, young Latinas are pregnant at higher rates than other ethnic and racial groups: despite decreases in teen pregnancy across the board in recent years, the Latina teen pregnancy rate fell the least and remained the highest, when compared with white and black young women.[2] And geography, too, plays a role in how CIANA would affect Latinos. According to the 2010 U.S. Census, approximately 60% of Latinos live in these states that

[1] Jorge del Pinal, The Hispanic Population, U.S. Census Bureau, http://www.census.gov/population/www/pop-profile/hisppop.html.
[2] Guttmacher Institute, *U.S. Teenage Pregnancies, Births and Abortions: National and State Trends and Trends by Race and Ethnicity* (updated 2012), *available at* http://www.guttmacher.org/pubs/USTPtrends.pdf.

New York City
50 Broad Street, Suite 1937
New York, NY 10004
Phone: 212-422-2553 | Fax: 212-422-2556

Washington, DC
1901 L Street NW, Suite 300
Washington, DC 20036
Phone: 202-621-1435 | Fax: 202-621-1427

have and actively enforce parental involvement laws.[3] Almost three-quarters of states (37 out of 50) in the country have laws in place that require notification and/or consent of the parents or legal guardians of a minor who seeks an abortion.[4] CIANA would go much further than these already onerous state requirements: it would punish an individual who assists a minor in traveling *to another state* to obtain an abortion and would require any abortion provider to comply with the legal requirements of the state of residency of a minor who seeks abortion care. Failure to comply with these requirements could result in fines or imprisonment.

II. CIANA ignores the realities faced by young people who do or may experience violence at home, including those who became pregnant as a result of incest

We recognize that family support is helpful to women of all ages when they are making important health decisions, and the case of a young woman seeking an abortion is no exception. Less than 20% of abortions obtained each year are by young women between the ages of 15 and 19[5] and studies show that more than 60 percent of young women report that one or both of their parents knew of their decision to obtain abortion care.[6] In this sense, a relatively small number of young people need to comply with burdensome parental notification requirements. That does not mean, however, that these restrictions are not a problem or that it is acceptable to cut young women off from legitimate healthcare like abortion care. In fact, if a young woman feels so strongly about not involving her parents or guardians in this medical decision, we should respect that she is the person who is best positioned to evaluate the unpleasant and even dangerous response she may receive at home upon revealing her unintended pregnancy.

While we wish that all young people lived in households that are both physically and emotionally safe spaces, this is not the case for everyone. CIANA ignores the realities faced by young people who do or may experience violence at home, including those who became pregnant as a result of incest. Too many young people live in homes in which violence is present before an unintended pregnancy is revealed: an estimated 772,000 children were found to be victims of abuse or neglect in 2008,[7] and it is estimated that

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[3] In calculating this number, the Latino populations of the seven states that do not have these laws on the books were excluded. The substantial Latino populations of California and New Mexico were also excluded because, even though they *do* have these laws on the books, they are not in effect due to a permanent injunction.

[4] Guttmacher Institute, *State Policies in Brief: Parental Involvement in Minors' Abortions* (updated March 1, 2012), *available at* http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf.

[5] National Abortion Federation, *Women Who Have Abortions* (2003), *available at* http://www.prochoice.org/pubs_research/publications/downloads/about_abortion/women_who_have_abortions.pdf.

[6] Martin Donohoe, *Parental Notification and Consent Laws for Teen Abortions: Overview and 2006 Ballot Measures* MEDSCAPE Ob/Gyn & Women's Health, February 9, 2007 at http://www.medscape.com/viewarticle/549316.

[7] U.S. Department of Health and Human Services, Administration of Children, Youth and Families, Children's Bureau, *Child Maltreatment 2008* (2010).

New York City
50 Broad Street, Suite 1937
New York, NY 10004
Phone: 212-422-2553 | Fax: 212-422-2556

Washington, DC
1901 L Street NW, Suite 300
Washington, DC 20036
Phone: 202-621-1435 | Fax: 202-621-1427

one in three girls will be sexually abused at some point in their childhood.[8] Disclosing a pregnancy to family members may be risky even if violence had not previously been an issue because research shows that family violence is often at its worst during a family member's pregnancy.[9] For some, violence in the home may be present both before and after revealing a pregnancy: nearly half of pregnant teens who have a history of abuse report being assaulted during their pregnancy, most often by a family member.[10]

Immigrant women are particularly susceptible to this kind of abuse, and abusers often use young women's immigration status as a tool of violence and control.[11] CIANA assumes that all dependent children and teenagers reside in healthy parent-child households with open channels of communication. Because not everyone's home life and family relationships are the same, this could place a young person who lives in an abusive household in a risky or dangerous situation.

III. Latinas tend to have close, supportive, relationships with friends and family members other than parents

In addition to ignoring the dangers that an individual may face at home, this law also turns a blind eye to the fact that young people may have close, positive, and supportive relationships with friends and family members other than their parents. A recent study of Latinas, for instance, indicates that 67% of Latino voters would give support to a close friend or family member who had an abortion.[12] Because CIANA would punish non-parents whose support and assistance a young person *would* feel safe and secure seeking out, this legislation harms a young person's ability to make the best decisions for herself.

IV. CIANA imposes unworkable and excessive burdens on medical professionals

Existing laws regarding other medical care—for example, the diagnosis and treatment of sexually transmitted infections (STIs)—recognize a young person's ability to make healthcare decisions for herself, as well as the reality that there may be reasons she may not want to involve her parents in every health-

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[8] Briere, J., Eliot, D.M. *Prevalence and Psychological Sequence of Self-Reported Childhood Physical and Sexual Abuse in General Population: Child Abuse and Neglect*, 2003, available at http://www.stopitnow.org/csa_fact_prevalence1

[9] H. Amaro, et al., *Violence During Pregnancy and Substance Abuse*, 80 American J. of Pub. Health 575-579 (1990); University of Pittsburg Medical Center, Information for Patients, Abuse During Pregnancy, ED/JAW Rev. (March 2003).

[10] American Psychological Association, *Parental Consent Laws for Adolescent Reproductive Health Care: What Does the Psychological Research Say?* (Feb. 2000), citing A.B. Berenson, et al., *Prevalence of Physical and Sexual Assault in Pregnant Adolescents*, 13 J. of Adolescent Health 466-69 (1992).

[11] Futures Without Violence, *Facts on Immigrant Women and Domestic Violence* http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Immigrant.pdf

[12] Lake Research Partners, *Poll: Latinos Voters Hold Compassionate Views on Abortion* (2011), *available upon request or with password at* https://www.talkingtolatinos.org/pdfs/RHTP_Memo_from%20Lake_final.pdf.

New York City
50 Broad Street, Suite 1937
New York, NY 10004
Phone: 212-422-2553 | Fax: 212-422-2556

Washington, DC
1901 L Street NW, Suite 300
Washington, DC 20036
Phone: 202-621-1435 | Fax: 202-621-1427

related decision.[13] Like STI testing and treatment, abortion is a healthcare procedure, yet CIANA and similar regulations do not treat it as such and they impose unworkable and excessive burdens on abortion providers. Because of how differently abortion is treated from other healthcare procedures, it is difficult to find a health-related analogue to illustrate how preposterous this regulation is. The issue of alcohol consumption by minors, however, is, like minors' access to abortion, treated differently across states and also raises similar issues of child protection and parental rights. Most states prohibit individuals under the age of 21 from purchasing, possessing, or consuming alcohol, but a small handful allow those under 21 to engage in these activities in limited circumstances—for example, with the consent or in the present of a parent or guardian.[14] In that context, a law like CIANA would require individual bartenders or merchants selling alcohol to abide by the rules of individual customers' home states. A store in Texas, for instance, would have to violate its own state law and sell alcohol to a young person from Oklahoma or Wisconsin who is traveling with his or her parents, because those states allow the purchase of alcohol by minors under such circumstances. Individual merchants would be burdened with knowing and complying with the laws of the other 49 states. CIANA does exactly this, with the added dimension of punishment for failure to comply. CIANA-type laws would promote difficult and ridiculous outcomes in other contexts, and it should be apparent that requiring young people and medical professionals to jump through these kinds of hoops *in the context of obtaining and providing healthcare* is plainly outrageous.

V. Conclusion: Lawmakers should focus on empowerment tools young women need to make the best decisions about their reproductive health

Imagine a pregnant, young, Latina living in Houston, Texas. She does not feel comfortable or safe talking to her parents about terminating her pregnancy. Texas' judicial bypass procedure may be an option, but what if she cannot obtain legal representation to help her through the process? She could theoretically represent herself, but that is intimidating for anyone, and what if she is not completely fluent in English? Under current law, this young woman already faces a difficult situation. Assuming she has appropriate identification documents and enough money, she could have to buy a plane ticket to another state. Or she could drive more than 700 miles—that is more than 11 hours—to New Mexico to obtain an abortion. If CIANA were passed, even this already impossibly difficult scenario would no longer be an option. Without access to an abortion, this young woman could become one of the more than half of Hispanic teen mothers who do not complete high school.[15]

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[13] Guttmacher Institute, *State Policies in Brief: Minors' Access to STD Services* (2012), *available at* http://www.guttmacher.org/statecenter/spibs/spib_MASS.pdf.

[14] Division of Legal Analysis and Enforcement, Center for Policy Analysis and Training, Pacific Institute for Research and Evaluation, *Alcohol Beverage Control Enforcement: Legal Research Report* (2003), *at* http://www.nllea.org/reports/abcenforcementlegalresearch.pdf.

[15] The National Campaign to Prevent Teen and Unplanned Pregnancy, *Latina Teen Pregnancy and Educational Attainment* (May 2010) at http://www.thenationalcampaign.org/espanol/PDF/latino_education.pdf.

New York City
50 Broad Street, Suite 1937
New York, NY 10004
Phone: 212-422-2553 | Fax: 212-422-2556

Washington, DC
1901 L Street NW, Suite 300
Washington, DC 20036
Phone: 202-621-1435 | Fax: 202-621-1427

We believe that all women, including young women, should be able access to the tools they need to make the best decisions about their reproductive health. Comprehensive sex education and affordable contraception are two integral pieces of this puzzle—two pieces that are not guaranteed at the federal level, much less in the states—and abortion is the third. If passed, CIANA would have major repercussions for young people. We condemn this piece of legislation and encourage you to resist this latest attack on abortion.

New York City
50 Broad Street, Suite 1937
New York, NY 10004
Phone: 212-422-2553 | Fax: 212-422-2556

Washington, DC
1901 L Street NW, Suite 300
Washington, DC 20036
Phone: 202-621-1435 | Fax: 202-621-1427

Written Statement of the American Civil Liberties Union

Laura W. Murphy
Director, Washington Legislative Office

Vania Leveille
Senior Legislative Counsel

Sarah Lipton-Lubet
Policy Counsel

Submitted to the U.S. House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution

Hearing on: H.R. 2299, the "Child Interstate Abortion Notification Act"

March 8, 2011

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide, dedicated to protecting the principles of freedom and equality set forth in the Constitution and in our nation's civil rights laws, we thank you for giving us the opportunity to submit this statement for the record on the so-called Child Interstate Abortion Notification Act (CIANA), H.R. 2299. We oppose CIANA and we urge the Subcommittee and the Committee to set the bill aside and not let it advance out of committee.

The ACLU has a long history of defending reproductive freedom. We have participated in nearly every critical case concerning reproductive rights to reach the Supreme Court, and we routinely advocate in Congress and state legislatures for policies that promote access to reproductive health care. In particular, the ACLU has advocated on behalf of teens. We work to ensure that young women have access to safe, confidential counseling, contraception and abortion care. At stake are young women's lives, safety, health and dignity.

CIANA, better described as the "Teen Endangerment Act," would impose a mandatory parental notification requirement on young women who need abortion services in a state where they do not reside, and it lacks any exception to protect a teen's health – in clear violation of Supreme Court precedent. The bill would make it a federal crime for a person other than a parent – including a grandparent, aunt or uncle, sibling, or clergy member – to help a teen travel to another state to obtain abortion care, unless the teen had already fulfilled the requirements of her home state's teen abortion restrictions.

H.R. 2299 would force doctors, under the threat of federal criminal prosecution, to comply with a hopelessly complex legal scheme mandating that an out-of-state teen's parents be notified of her decision to have an abortion. It would also place onerous burdens on teens. In some circumstances, a teen seeking an abortion must comply with two states' abortion restrictions. In others, the most vulnerable teens are left without even the option of going to court to obtain permission from a judge rather than inform parents who may be abusive.

Taken as a whole, H.R. 2299 would deny young women in difficult situations the assistance of trusted adults, endanger their health, and violate their constitutional rights.

I. This bill will not create good family communication where it does not already exist.

Even in the absence of any legal requirement, the parents of most young women who seek abortions are aware of their decisions.[1] Those young women who choose not to involve their parents usually have valid and compelling reasons for making that decision. Many young women do not involve a parent because they fear family violence, or are afraid of being forced to leave home.[2] As the Supreme Court has acknowledged, "[m]ere notification of pregnancy is frequently a flashpoint for battering and violence within the family. The number of battering incidents is high during the

[1] Amanda Dennis, Stanley K. Henshaw, Theodore J. Joyce, Lawrence B. Finer, & Kelly Blanchard. The Guttmacher Institute, *The Impact of Laws Requiring Parental Involvement for Abortion: A Literature Review* at page 3 (2009), *available at* http://www.guttmacher.org/pubs/ParentalInvolvementLaws.pdf.
[2] Stanley K. Henshaw & Kathryn Kost, *Parental Involvement in Minors' Abortion Decisions*, 24 Family Planning Perspectives 196, 207 (1992).

pregnancy and often the worst abuse can be associated with pregnancy."[3] For example, in Idaho, a 13-year-old sixth-grade student named Spring Adams was shot to death by her father after he learned she planned to end a pregnancy he had caused.[4]

H.R. 2299's limited exceptions provide no safety net for the most vulnerable teens. The bill's "exception" for teen victims of certain forms of abuse only applies if the young woman "declares in a signed written statement that she is the victim of abuse." This "exception" ignores the painful reality that most abused teens are too ashamed or too afraid to report the abuse. Moreover, because the bill requires the doctor to notify the authorities of the abuse before the abortion is performed, many teens will not report the abuse for fear that their parents will discover the abortion. As Justice O'Connor aptly stated in *Hodgson v. Minnesota*, an "exception to notification for minors who are victims of neglect or abuse is, in reality, a means of notifying the parents."[5] Moreover, "[t]he combination of the abused minor's reluctance to report sexual or physical abuse . . . with the likelihood that invoking the abuse exception for the purpose of avoiding notice will result in notice, makes the abuse exception less than effectual."[6]

This bill could force some teens to take desperate and drastic measures. A teenager facing an unintended pregnancy is already in crisis. Teenagers who are unwilling or unable to tell a parent about an unintended pregnancy sometimes resort to self-induced abortion or illegal abortion with tragic results. For example, Becky Bell, an Indiana teenager, died from an illegal abortion because she couldn't bear to tell her parents about her pregnancy and thus could not comply with Indiana's teen abortion law.[7]

II. This bill second guesses families' decisions.

H.R. 2299 would also undercut functional families by second-guessing their decisions. The bill requires at least a 24-hour waiting period and written notification, with no medical emergency exception. This may also be the case where a parent accompanies his or her daughter to an out of-state abortion provider. The bill provides an exception only where the parent presents "documentation showing with a reasonable degree of certainty that he or she is in fact the parent of the minor." There is no indication of what sort of documentation (e.g., a birth certificate, medical records, multiple forms of documentation) would or would not suffice to obtain a "reasonable degree of certainty." Given that violation of this section can result in criminal penalties, it is likely that institutions may interpret the documentation required exceedingly narrowly, preventing families from acquiring the medical care they've decided is best.

In such cases, this requirement will act as a built-in mandatory delay, imposing logistical and financial hardships on functional families who are trying to support their daughters. Even in a health

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[3] *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 889 (1992).
[4] Judith Warner, *When the Parents Can't Know*, N.Y. TIMES, Jul. 29, 2006, at A13; Margie Boule, *An American Tragedy*, OREGONIAN, Aug. 27, 1989, at E01.
[5] 497 U.S. 417, 460 (1990) (O'Connor, J. concurring) (noting that an abuse report "requires the welfare agency to immediately 'conduct an assessment;'" if the "agency interviews the victim, it must notify the parent of the fact of the interview" and the parent has the right to access the investigation record).
[6] *Id.*
[7] Rochelle Sharpe, *Abortion Law: Fatal Effect?*, Gannett News Service, Nov. 27, 1989; *60 Minutes* (CBS television broadcast, Feb. 24, 1991).

emergency, this bill could rob a parent of his or her ability to authorize immediate care. For example, in many places, the nearest abortion provider is in a neighboring state. Indeed, only 13 percent of counties in America have an abortion provider.[8] If a parent and daughter traveled to a hospital across state lines for emergency abortion care, this bill could require a doctor to wait 24 hours before providing that care if the parent hadn't traveled with sufficient documentation.

III. This bill would criminalize compassion.

This bill would impose federal criminal penalties on any non-parent who helps a young woman cross certain state lines to obtain an abortion if she has not first complied with her home state's abortion law. If passed, this legislation would criminalize caring, responsible behavior on the part of adults – including a teen's grandparent, sibling, or clergy member – concerned with a young woman's well-being. It would deter trustworthy adults and professionals from helping a young woman to obtain an out-of-state abortion no matter what the circumstances. The bill provides no exception for cases in which a young woman's health would be harmed if medical care were delayed in order for her to comply with her home state's and the provider state's abortion statutes. It thus creates a barrier to safe, timely medical care and endangers young women's well-being.

IV. This bill endangers young women's health.

H.R. 2299 does not contain any exception whatsoever to protect a young woman's health. It would thus bar a teen from obtaining a medically necessary abortion unless she is able to comply with the bill's tangled requirements. Navigation of the bill's provisions will delay needed medical care and could further endanger a teen's health. Although some teens are permitted under the bill to seek court permission rather than inform their parents, this process can take several days – time that is precious during a health crisis. Other teens are denied even the option of court approval. For these teens, parental notification under the bill can take up to 96 hours or more, a delay that can place a young woman with health problems in serious jeopardy.

The Supreme Court has made clear that any parental restriction on abortion must contain an exception to protect the health of a minor. In *Planned Parenthood v. Casey*, for example, the Court held that all abortion regulations must contain a valid medical emergency exception, "for the essential holding of *Roe* forbids a state to interfere with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health."[9] The lack of such a health exception renders the bill dangerous and unconstitutional.

V. The bill places burdensome requirements on some teens and leaves others with no options.

Some teenagers must travel out of state to obtain an abortion, either because the closest abortion facility is located in a neighboring state or because there is no in-state provider available at their stage of pregnancy. Others, such as college students, may be living in a state temporarily, but are legal

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[8] Rachel K. Jones, Mia R. S. Zolna, Stanley K. Henshaw & Lawrence B. Finer, *Abortion in the United States: Incidence and Access to Services, 2005*, 40 Persp. on Sexual & Reprod. Health 6 (2008), *available at* http://www.guttmacher.org/pubs/journals/4000608.pdf (last visited Oct. 13, 2010).

[9] 505 U.S. 833, 880 (1992). *See also Ayotte v. Planned Parenthood of Northern New England*, 546 U.S. 320, 327 (2006).

residents of another state. H.R. 2299 would create a patchwork system of parental notification mandates that would impose extra hurdles on some teens and leave others with no options.

Under the bill's provisions, some teens would have to comply with two states' teen abortion laws. For example, a teenager who travels with assistance from Missouri to Kansas for an abortion must comply with both Missouri's law and Kansas's law. A young woman who is unable to involve her parents in her abortion decision, and thus pursues a court waiver, must therefore obtain a judicial bypass in both her home state and the provider's state before she can obtain the abortion care she needs.

Paradoxically, the bill would deny other young women the option of obtaining a court waiver at all. The bill takes away the option of going to court for those teens who live in a state without an enforceable teen abortion restriction, and who seek an abortion in another state that either does not have an enforceable teen abortion law or has a law that does not meet the bill's standards for such a law.[10] In these situations, the minor's home state has no waiver system in place and the bill does not permit use of another state's waiver system. Accordingly, the teen will not be able to obtain an abortion until the doctor provides notice of the abortion to one of her parents. The bill thus makes parental involvement mandatory for these teens with absolutely no option for a court bypass. Courts have made clear that such a scheme is constitutionally impermissible.[11]

VI. The bill imposes hopelessly complex and burdensome requirements on doctors.

Under the threat of civil and criminal penalties, the bill would require doctors to make "reasonable" efforts to provide in-person, written notice to an out-of-state teen's parents. It provides no guidance to help a physician know what efforts suffice as "reasonable" to track down a parent in another state to provide this in-person written notice. This requirement places extremely burdensome demands on doctors. Because many communities do not have abortion providers, women often have to travel to a neighboring state to obtain an abortion; thus, doctors or their agents could routinely be forced to travel hundreds of miles out of state in order to comply with the bill's notification mandate.

Moreover, because the bill operates differently depending on a teen's state of origin, it would require health care providers to be familiar with the legal regimes of all 50 states and to understand the interaction between these varying legal regimes and the local state laws of the provider. The bill would thus impose an onerous system of Byzantine complexity on doctors, any misunderstanding of which could result in prison time.

VII. This bill violates constitutional principles of federalism.

This bill conflicts with core constitutional principles of federalism – principles reaffirmed by the Supreme Court in its landmark ruling *Saenz v. Roe*.[12] The Constitution protects the right of every individual to travel freely from state to state and, when visiting another state, not to be treated as a

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[10] *See* Child Interstate Abortion Notification Act of 2011, H.R. 2299, 112th Cong. § 2432 (d)(4) (2011) (defining a "law requiring parental involvement in a minor's abortion decision" for purposes of H.R. 2299).
[11] *See Belotti v. Baird*, 443 U.S. 622 (1979); *Hodgson v. Minnesota*, 497 U.S. 417, 420 (1990); *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 510 (1990).
[12] 526 U.S. 489 (1999).

foreigner. As the Supreme Court held in *Saenz*, "[A] citizen of one state who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the 'Privileges and Immunities of Citizens in the several States' that he visits."[13] The Supreme Court has previously applied this principle in the context of restrictive abortion laws. In *Doe v. Bolton*, the Court held that, because the Privileges and Immunities Clause "protect[s] persons who enter [other states] seeking the medical services that are available there," a state must make abortions available to visitors on the same legal terms under which it makes them available to residents.[14]

In violation of these essential principles of federalism, this bill would treat a young woman who travels to a state, or who resides in a state temporarily (such as a college student), differently than a teen living in that state. For example, because New York does not have a law restricting teen abortions, a young woman living in New York need not notify her parents in order to obtain an abortion. However, a teen who travels into New York, or who temporarily resides in New York, is saddled with an entirely different legal scheme: she must either obtain a court bypass from her home state or, if no bypass is available, be subject to the bill's mandatory notice requirements. The federal bill thus would discriminate against teenagers within the same state on the basis of their state of origin and would deprive teens of their right to travel to engage in conduct legal in another state.[15]

The Constitution also protects the right of each state to enforce its own laws within its territorial boundaries. Yet, this legislation supplants states' decisions to include reasonable alternatives to parental notice in their abortion statutes, or not to restrict young women's access to abortion at all, by imposing a federal notification requirement on certain (but not all) teens seeking abortion care in that state.

This bill conflicts with the fundamental nature of our federal scheme, and should, therefore, concern anyone who respects the integrity of the American constitutional system.

* * * *

Because H.R. 2299 would both endanger vulnerable teens and violate their constitutional rights, the ACLU vigorously opposes its passage and urges members of the committee to set the bill aside and not let it advance out of committee.

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[13] 526 U.S. at 501.
[14] 410 U.S. 179, 200 (1973); *see also Saenz*, 526 U.S. at 502 (Privileges and Immunities Clause "provides important protections for non-residents who enter a State... to procure medical services...").
[15] *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969).

March 7, 2012

The Honorable Trent Franks
Chairman
House Judiciary Subcommittee
on the Constitution
U.S. House of Representatives
Washington, DC 20515

The Honorable Jerry Nadler
Ranking Member
House Judiciary Subcommittee
on the Constitution
U.S. House of Representatives
Washington, DC 20515

Dear Representatives:

As organizations dedicated to the health and well-being of adolescents, we write to oppose the Child Interstate Abortion Notification Act, H.R. 2299. This legislation would require physicians to breach the confidentiality of out-of-state adolescent patients under threat of fine or imprisonment.

We firmly believe that parents should be involved in and responsible for assuring medical care for their children. Moreover, our organizations agree that parents ordinarily act in the best interests of their children and that minors benefit from the advice and emotional support provided by parents. We strongly encourage adolescents to involve their parents or other trusted adults in important health care decisions, including decisions regarding pregnancy and pregnancy termination. Research confirms that most adolescents do so voluntarily. Adolescents who live in caring environments and feel supported by their parents will, in most instances, communicate with their parents in a crisis, including the disclosure of a pregnancy. It is the role of physicians and other adolescent health professionals to support, encourage, strengthen and enhance parental communication and involvement in adolescent decisions without compromising the ethics and integrity of the relationship with adolescent patients.

Young people must be able to receive needed health care expeditiously and confidentially. Concern about confidentiality is one of the primary reasons young people delay seeking health services for sensitive issues, whether for an unintended pregnancy or for other reasons. Health care providers have an ethical and legal duty to protect the confidentiality of their patients; a number of federal and state laws mandate protection of the confidentiality of medical records and information. A physician who violates a patient's confidentiality can be subject to disciplinary action, including revocation of a license to practice medicine. This legislation will force health care providers to violate their confidentiality obligations in order to comply with requirements of a neighboring state.

There is evidence that mandatory parental consent and notification laws may have an adverse impact on some families and increase the risk of medical and psychological harm to adolescents. Data show that a significant portion of minors who do not inform their parents about pregnancy do so because they have already experienced domestic violence and fear it will recur. Young people facing a health-related crisis must be able to turn to a trusted adult, including family members and medical providers, to help them decide what is best when they cannot involve their parents.

We urge you to oppose this legislation. If you have any questions, please contact James Baumberger at the American Academy of Pediatrics (202.347.8600) or Nevena Minor at the American Congress of Obstetricians and Gynecologists (202.314.2322).

Sincerely,

American Academy of Pediatrics
American Congress of Obstetricians and Gynecologists
Society for Adolescent Health and Medicine

CENTER FOR REPRODUCTIVE RIGHTS

Testimony of the Center for Reproductive Rights

Hearing: H.R. 2299, the "Child Interstate Abortion Notification Act"

March 8, 2012

The Center for Reproductive Rights respectfully submits the following testimony to the House Judiciary Committee, Subcommittee on the Constitution. Since 1992, the Center for Reproductive Rights has worked toward the time when the promise of reproductive freedom is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.

We urge this Subcommittee to reject H.R. 2299, the so-called Child Interstate Abortion Notification Act, as it would:

- Harm young women seeking safe and legal abortion care;
- Criminalize caring adults who accompany a teen from one state to another to obtain abortion care;
- Criminalize physicians who inadvertently run afoul of laws of states in which they do not practice; and
- Violate several fundamental constitutional principles of federalism, equal protection, and reproductive rights.

OVERVIEW

We should do more to counsel our teens to avoid unwanted pregnancy and to support them, not punish them. The Child Interstate Abortion Notification Act (H.R. 2299), or CIANA, does not protect teens; instead it harms young women who face unwanted pregnancies. It criminalizes family members and friends for trying to help. It serves no health purpose. In fact, because it lacks an exception for when a teen's health is in danger, it puts young women's health at risk. In all of these ways, CIANA endangers young women who face unwanted pregnancies. It also

1634 Eye Street, NW, Suite 550
Washington, DC 20006
Tel. 202 629 2657
www.reproductiverights.org

violates basic constitutional principles of federalism, reproductive rights, due process, equal protection and the right to travel.

CIANA will impose a mandatory parental notification and delay requirement on young women who need abortion services outside of their home state. It will also make it a federal crime to assist young women who cross state lines to obtain an abortion - making criminals of friends and family members who help teens unable to involve a parent in their decision. The proposed law will subject young women, abortion providers, and others who assist the women to a confusing maze of overlapping and conflicting state and federal laws, which will make it more difficult and more dangerous for young women to obtain abortions.

The proposed legislation would create at least two federal crimes. The first section of the bill - the Travel Provision (§2431) - makes it a federal crime for any person, other than a parent or guardian, to knowingly travel with a teen across certain state lines to obtain an abortion, if she does not fulfill the requirements of her home state's law restricting minors' access to abortions. This provision will harm young women who are unable to discuss their unwanted pregnancies with their parents, who may be unsympathetic or even abusive. It will make criminals of caring relatives and friends who assist young women seeking abortions and will force many young women to travel alone for an abortion, seek risky alternatives, or carry unwanted pregnancies to term. To avoid turning trusted relatives and friends into criminals, some teens will have to comply with two states' abortion restrictions and may have to go to court in two states in order to obtain an abortion.

The second section of the bill - the Federal Notification Provision (§ 2435) - imposes a federal parental notification and mandatory delay requirement on abortions performed on nonresident teens in more than half of the states. Abortion providers in 32 states will not be able to perform an abortion on a young woman who resides in another state until at least 24 hours after a parent has been notified. Teens in some states who are unable to involve a parent will have no alternative to notification, because the proposed law does not include a mechanism for obtaining a judicial waiver of the notification requirement.

While a majority of teens do consult a parent, some young women cannot involve a parent in the very personal decision to terminate a pregnancy. Many of those young women seek guidance from another adult, such as a grandparent, aunt, spiritual advisor, or adult sibling. Fear of abuse, pressure to carry the pregnancy to term, threats of being thrown out of the house or other negative repercussions top the list of reasons that keep young women from involving a parent in their decision. For battered teenagers and incest survivors in particular, laws that require that one or both parents consent to, or be informed of, a planned abortion increase risks to teens in an already dangerous situation.

Young women who seek an abortion in a state in which they do not reside do so for a variety of reasons. They travel due to lack of a nearby abortion provider in their home state, because of cost considerations, because of the reputation of the provider, or due to differences in the services provided. Some of these young women travel with a parent for their abortion and others travel with other trusted relatives or friends. Other young women travel because they wish to avoid the harm they may suffer if forced to involve a parent. Whatever their reason, CIANA will: require some to travel alone out of state, rather than with a trusted relative or friend; force some to involve a parent under difficult or dangerous circumstances; interfere with the decisions made together with a parent; deprive some of the ability to obtain an abortion in a health-threatening situation; and cause some to have later, riskier abortions or become unwilling teen mothers.

HOW CIANA CHANGES EXISTING LAW

All minors must comply with the forced parental involvement law, if any, of the state in which they obtain an abortion; this proposed law would not change that fact. What the bill does is severely restrict most young women's ability to obtain an abortion outside their home states, in many cases forcing them to comply with the laws of two states and imposing additional federal notification and delay requirements. There are two primary components: the "Travel Provision" and the "Federal Notification Provision."

The Travel Provision

The Travel Provision of the bill criminalizes currently lawful situations in which a teen travels out of state for an abortion with assistance. The bill will criminalize the "knowing transport" of a teen across a state line or to a foreign country with the intent that she obtain an abortion if doing so "abridges the right of a parent" under the forced parental involvement law of the minor's resident state. "Abridgement of the right of a parent" occurs if the young woman obtains an abortion outside her home state without "the parental consent or notification, or the judicial authorization" that would have been required if she obtained an abortion in the state where she resides.

CIANA discriminates amongst state laws: not every state's parental involvement law will follow a young woman from her state of residency to the state where she obtains an abortion. The proposed enactment gives extra-territorial effect only to those laws that meet the its definition of a "parental involvement law." The bill does not clearly identify which states have laws matching that definition, but defines such laws so as to exclude those that allow for notification to, or consent of, someone other than a parent, guardian, "legal custodian," or "person standing in loco parentis who has care and control of the teen, and with whom she regularly resides." Under the legislation, a young woman traveling from a state with a parental involvement law that matches its definition must comply with her home state's law if she travels with a companion. However, a teen traveling from a state whose requirements are less onerous than the definition in the bill

(such as a law that allows a grandparent to consent to the minor's abortion or allows a physician to waive the state's notice requirement) need not comply with her home state's law even if she travels with a companion.

Well over half of the states enforce a requirement for notification or consent of a parent:

- 32 states have *"most restrictive"* parental involvement laws - those which fit the bill's parental involvement law definition. These laws require consent by, or notification of, a parent or guardian or a judicial bypass and do not allow anyone else, such as other family members, to give consent or be notified. Young women who live in these states ARE subject to the Travel Provision; those who have abortions in these states are NOT subject to the Federal Notice and Delay Provision. These states are: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming.

- 6 states have *"less restrictive"* parental involvement laws - those which do not fit the bill's definition. These laws require parental consent or notification but allow notification to or consent by someone other than a parent or guardian - such as a grandparent or other adult family member - or provide other alternatives to parental notice or consent besides a judicial waiver. Young women who live in these states are NOT subject to the Travel Provision; those who have abortions in these states ARE subject to the Federal Notice and Delay Provision. These states are: Delaware, Iowa, Maine, North Carolina, South Carolina, Wisconsin.

- 12 states, and the District of Columbia, have no parental involvement law; either they have never enacted a parental involvement requirement or their parental involvement law is not enforced, due to a court ruling or state Attorney General opinion. Young women who live in these states are NOT subject to the Travel Provision; those who have abortions in these states ARE subject to the Federal Notice and Delay Provision. These states are: California, Illinois, Montana, Nevada, New Jersey, New Mexico (enjoined); Connecticut, Hawaii, New York, Oregon, Vermont, Washington (no law).

The Federal Notification Provision

Under the Federal Notification Provision of the bill, a nonresident minor who seeks an abortion in a state other than the thirty-two with parental involvement laws matching the legislation's definition will be subject to a federal notification and delay requirement, unless she has a court order from her home state authorizing an abortion or she signs a written statement declaring that she is the victim of sexual abuse, neglect, or physical abuse by a parent and the physician notifies

the designated authorities in the young woman's home state. States that mandate parental involvement before a young woman may terminate her pregnancy must provide an alternative procedure by which she may obtain authorization - confidentially and expeditiously - for an abortion without parental knowledge. Typically, the procedure is a "judicial bypass procedure" through which a young woman may seek a court order waiving the state's forced parental involvement requirement. The twelve states that do not have an enforceable parental involvement law lack a judicial bypass procedure, but the bill does not include any mechanism for minors from those states to obtain court authorization if they seek an out-of-state abortion.

Under this legislation, the required federal notice must be given in writing directly to a parent and the physician then must wait 24 hours before performing the abortion. If, after making a "reasonable effort," the physician is unable to provide actual notice, he or she may mail the notice to a parent, but must then wait more than 72 hours before performing the abortion. The term "reasonable effort" is not defined.

Liability under the Proposed Law

Both provisions of the legislation impose civil and criminal liability. People who assist a young woman in violation of the Travel Provision and abortion providers who violate the Federal Notification Provision will be guilty of a misdemeanor, punishable by imprisonment for up to one year, fines of up to $100,000, or both.[i] The bill also allows parents to bring civil suits against persons who violate its provisions. Prosecution may be avoided only if the abortion is necessary to save the life of the teen because her life was endangered by a physical disorder, physical injury, or physical illness.

Summary of How the Bill Would Change Existing Law

CIANA violates the general legal principles that the laws of one state are not enforceable in another state and that people are required to comply with the laws of the state in which they are located but not simultaneously with the laws of any other state. The legislation would make a young woman seeking an out-of-state abortion who is accompanied by a non-parent (such as a trusted relative or friend) subject to the laws of the state in which she seeks the abortion *and* the law of her state of residency. Although the young woman herself is exempt from prosecution under the proposal, she must comply with both states' laws or risk federal criminal prosecutions of her companion and possibly the abortion provider and others who assist her as well.

To avoid risk of prosecution of those who would help them, some young women will travel out of state alone. If a young woman seeks an out-of-state abortion in one of the nineteen jurisdictions that do not have a parental involvement law matching the bill's definition, she will be subject to its parental notification and mandatory delay provision. The requirements of that provision will apply even when both the state in which the minor lives and the state in which she

seeks the abortion do not require parental involvement, or she is in the state for an unrelated reason (such as school attendance or a summer job). To avoid the restrictions imposed by CIANA, young women may seek illegal abortions in their own state, attempt to self-abort, or carry unwanted pregnancies to term. The proposed legislation is an extreme and intrusive attempt to deter young women from obtaining safe and legal abortions.

CIANA HARMS YOUNG WOMEN

By making it more difficult for young women to safely access constitutionally protected abortion services, CIANA will harm those that it purports to protect in numerous ways, including:

- Forcing some teens to rely on abusive and dysfunctional parents;
- Making it risker for young women to exercise their rights to reproductive decision making;
- Trapping young women in a maze of confusing state laws;
- Prohibiting young women from turning to other trusted adults for help; and
- Ignoring geographic and economic realities and flaws in the judicial bypass system.

We explore each of these issues in turn.

The Bill Forces Young Women to Rely on Potentially Abusive and Dysfunctional Parents

Family communication is desirable and most parents know when their daughters undergo an abortion, even when their involvement is not mandated by law.[ii] The younger the minor is, the more likely it is that her parents will know about her abortion decision; one study found that ninety percent of girls under the age of fifteen reported that at least one of their parents knew about their decision.[iii]

Unfortunately, not all young women are in situations in which they can communicate openly with their parents. Those who avoid parental involvement in the decision to have an abortion usually do so out of fear of abuse, pressure to carry the pregnancy to term, threats of being thrown out of the house, or other negative repercussions.[iv] In families where abusive relationships or other problems prevent good communication between parents and their teenage daughters, state-mandated discussions can exacerbate existing problems. For battered teenagers and incest survivors in particular, forced parental involvement laws increase the risks they face in an already dangerous situation.[v] CIANA imposes one rule for all circumstances, regardless of the family situation that a young woman may face.

Even in the best of circumstances, candid communication about sexuality and reproductive issues may not take place in families. Generally, mandatory notification and consent requirements are not an effective means of encouraging more open discussion and can actually damage relations among family members. Attempts to legislate family dynamics without considering the different relationships that exist within families are dangerous and unrealistic.

CIANA Makes it Riskier for Young Women to Exercise Their Right to Reproductive Choice

By criminalizing assistance from trusted relatives and friends, the proposal will force some young women - already struggling physically and emotionally with unwanted pregnancies - to travel alone. Those young women will be deprived of the benefits of trusted companionship before and after their medical procedure, isolating them from adults who are best able to help them. Some young women will be forced to obtain later, potentially riskier abortions, due to the delays imposed by the legislation. Moreover, by imposing its restrictions even in situations in which the minor needs a prompt abortion to protect her health, the bill will endanger the health of some young women.

CIANA Will Trap Young Women iu a Confusing Maze of Conflicting State Laws

A young woman who seeks an abortion in a state other than her home state will be subject to multiple requirements, depending on where she lives, where she seeks the abortion, and whether she travels alone. If she travels out of state with a companion, she may need to comply with the laws of both her home state and the state to which she travels in order to protect those assisting her from criminal and civil liability. Currently, a young woman seeking an abortion can expect the health care providers from whom she seeks the procedure to be familiar with the legal requirements of the state in which they are practicing medicine and the young woman can rely on those persons for assistance in understanding how to comply with the law of that state. However, under the proposed law, a young woman could no longer rely solely on the assistance of the provider to ensure that she and those accompanying her are meeting all applicable legal requirements. Instead, a young woman who plans to travel out of state with a companion will need to determine the law in both her home state and the state to which she is traveling in order to protect those assisting her. This may require contacting clinics in multiple states or researching the applicable forced parental involvement laws, using the definition specified under the bill, to determine whether her home state's law will travel with her and what it requires. Even if she decides to travel alone or is already outside her home state for a reason unrelated to her abortion, she may be subject to the federal parental notification and delay requirements, depending on where she seeks her abortion.

If a young woman is unable to involve a parent and exercises her constitutional choice to seek a judicial waiver of a state's parental involvement law, she may have to go to court in two states:

her home state and the state in which the abortion will be performed. For example, under the Travel Provision, if she travels from a state with a law matching the definition of a parental involvement law in the bill (such as Michigan) into another state with a parental involvement law (such as Indiana or Ohio), she would need orders from courts in both states. Under the Federal Notification Provision, if she resides in a state with a parental involvement law (such as Georgia or North Carolina) and seeks her abortion in a state with a parental involvement law that does not match the bill's definition (such as South Carolina), she would need orders from courts in both states. Having to obtain just one judicial waiver can delay a young woman in obtaining an abortion and cause other harms.[vi] While going to court can be a daunting experience even for adults, minors face additional difficulties in judicial bypass proceedings. It is frightening for many young women to disclose intimate details of their lives to strangers in a formal, legal process. Some young women live in regions where the local judges never grant bypass petitions, or the closest court that hears the petitions is located hundreds of miles away, or where their confidentiality may be jeopardized because people who know them or their family work in the courthouse. Moreover, many young women find it difficult to be absent confidentially from school or work in order to appear at a hearing. Having to go through the process twice, in two different states, will compound these serious difficulties, and risks their safety because some young women may choose an illegal or unsafe procedure instead.

CIANA Fails to Recognize the Importance of Other Family Members and Trusted Adults in a Young Woman's Life

Some young women have trusted adults in their lives, other than their parents, whom they voluntarily consult in their decision to seek an abortion.[vii] These adults include: grandparents, siblings, and other extended family members; clergy, teachers, social workers, or other counselors; and supportive friends. This legislation will discourage such helpful relationships, forcing young women to choose between forgoing needed assistance from these adults and exposing them to criminal liability. The proposed law could lead to the arrest of family members and friends who are looking out for the best interests of the young women they care about.

CIANA Ignores Geographic and Economic Realities and Flaws in the Judicial Bypass System

Many women - both adults and teens - travel out of state for an abortion. They do so for various reasons, including lack of a nearby abortion provider in their home state, the presence of supportive loved ones in another state, recommendations from trusted relatives or friends, or for financial reasons. In addition, some young women travel out of state due to difficulties in securing a judicial bypass in their home state.

Eighty-seven percent of all U.S. counties lacked an abortion provider in 2008; 35% of women live in those counties.[viii] Moreover, in some states abortions are not generally available past a

certain point in pregnancy due to state laws restricting the performance of abortions or the absence of physicians performing abortions later in pregnancy. Therefore, for some young women, the closest available abortion provider is located in another state. Some may be unable to obtain an abortion anywhere in their home state.

Young women may also travel to neighboring states based on clinic recommendations or for financial reasons. A young woman may receive a recommendation from a trusted individual for a doctor or a clinic that happens to be in a neighboring state. Or varying medical costs may mean that a clinic in a neighboring state provides a more economical option for her.

This bill would require young women to grapple with the laws of two states regardless of why they traveled out of state for an abortion. Moreover, the Federal Notification Provision imposes another layer of restrictions on abortion access even if the young woman is seeking an abortion out of state because she is temporarily there for some unrelated reason, such as school or work. If young women are deterred from obtaining an abortion outside their home state, they may obtain unsafe, illegal abortions, attempt to self-abort, or carry an unwanted pregnancy to term.

PUNISHING CARING RELATIVES AND OTHERS WHO HELP YOUNG WOMEN

CIANA will punish caring relatives and others who help young women obtain abortions. Most young women voluntarily involve a parent, relative or other adult in their decision to obtain an abortion.[ix] This bill will discourage those non-parents from assisting minors in obtaining desired medical care by the threat of criminal penalties. For example, if a young woman who lives in a state with a parental involvement law matching the definition in the bill travels with her grandmother to a state (such as South Carolina or Wisconsin) that allows a grandparent to provide consent for an abortion, the grandmother will face prosecution if the young woman did not also involve a parent or get a court waiver in order to satisfy her home state's law. Or if she travels with an adult sister and obtains a judicial bypass in the state where she seeks her abortion, her sister will risk prosecution unless the minor also goes to court in her home state and gets a court order there also.

Healthcare providers who know that a young has been accompanied across state lines by a non-parent could also be at risk from a number of complex provisions regarding conspiracy and accessory liability.[x] To avoid the risk of liability, healthcare providers will have to determine whether the teen seeking an abortion is from another state; whether she was accompanied across state lines by a non-parent; whether, under the bill, she is required to comply with the forced parental involvement law of her home state and, if so, whether she did; and whether she is subject to the federal parental notification and delay requirement. The requirements set forth in state parental involvement laws differ in various ways, including:

1) The age below which young women are subject to the law's requirements;

2) The categories of young women who are not subject to the law's requirements;

3) Whether consent by or notification of a parent is required;

4) The number of parents who must give consent or be notified;

5) Whether someone other than a parent or legal guardian may give consent or receive notification;

6) The ways in which consent must be obtained or documented;

7) The ways in which notification must be provided; and

8) The amount of time that must elapse between notification and performance of the abortion.

If the provider determines that the young woman was required to, but did not, comply with the law of her home state, the provider may risk liability himself unless he denies her the health service she seeks. If the minor is subject to the Federal Notification Provision, the physician risks liability unless he correctly provides notice and waits the required period of time before performing the abortion. Thus, to avoid the risk of criminal liability, healthcare providers in every state will need to be familiar with numerous state laws, or will have to deny services to any minor who cannot prove she resides in the state in which the provider is located.

THE PROPOSED LEGISLATION VIOLATES THE CONSTITUTION

CIANA's radical attempt to limit young women's access to abortion will come at the expense of the right to reproductive choice established in *Roe v. Wade*[xi] and numerous other established constitutional principles.

CIANA Violates Fundamental Principles of Federalism

CIANA will violate fundamental principles of federalism and state sovereignty. A core principle of American federalism is that laws of a state apply only within the state's boundaries. This legislation would require some people to carry their own state's laws with them when traveling out of state. A minor crossing state lines with a trusted relative or friend will not only be subject to the parental involvement law of the state she has entered, but will also need to comply with the parental involvement law of the state she left, if her home state's law matches the bill's definition (and a majority do).

Allowing a state's laws to extend beyond its borders runs completely contrary to state sovereignty principles on which this country is founded. For example, gambling using slot machines is legal under the laws of Nevada, but not under those of California. Residents of Nevada are prohibited from gambling while in California, while California residents are

permitted to gamble while in Nevada. Forcing citizens of California to carry their home state's law into Nevada, thereby prohibiting them from using slot machines while in Nevada, would be inconsistent with federalism principles. Requiring compliance within the borders of one state with the different and possibly conflicting law of another state will be even more improper in the case of abortion - a constitutionally protected right - than it would be in the case of casino gambling, which is not a constitutionally protected activity.

Eighteen states and the District of Columbia either have parental involvement laws that do not match the bill's definition of a "parental involvement law," have parental involvement laws that are not enforced in their state, or have not enacted a parental involvement law. These states' legal requirements for the provision of abortion to younger women are treated as second-class laws by the bill. Within those twenty-four states and the District, the bill will impose the requirements of other states, whose laws come within its definition of a parental involvement law, on non-resident minors accompanied by a non-parent. Thus, within those states and the District, this legislation will impose the laws of the other thirty-two states.

Healthcare providers will be faced with the task of comparing the law of their patients' home states to the bill's definition of a "parental involvement law" and then, if necessary, making sure that those patients had met the requirements that would have applied if they sought an abortion in their home state - requirements that the providers' own state did not adopt, does not enforce, or even has explicitly rejected. The Federal Notification Provision goes even further: it imposes a parental notification and mandatory delay requirement in those nineteen jurisdictions. Under this provision, nonresident minors who seek an abortion will be subject to parental notification and delay even if both the state in which they seek the abortion and their home state have not adopted, do not enforce, or even have explicitly rejected a parental involvement requirement.

In effect, CIANA will make certain state laws (those requiring involvement of a parent or guardian) controlling in states with laws that allow other adults to receive notice or provide consent or with no parental involvement requirements. This is an unprecedented congressional intrusion into what has traditionally been an arena in which each state regulates its own citizens.

Failing to Provide an Adequate Medical Emergency Exception

The United States Supreme Court has repeatedly ruled that any restriction on abortion must contain exceptions to allow for abortions that are necessary to protect the health and life of the pregnant woman.[xii] To be constitutionally adequate, the exception must cover situations in which a woman faces the risk of psychological or emotional harm, not just physical harm.[xiii] CIANA, however, does not include any exception for situations in which the young woman's health is threatened if she does not obtain an abortion. Nor does it include an exception for situations in which the young woman has an emergency need for an abortion to save her life where it is

endangered by mental illness or disorder. The failure to include these provisions shows an utter lack of regard for established constitutional law and the health of young women.

Placing an Undue Burden on Young Women's Access to Abortion

This proposed legislation will unduly burden access to abortion for young women who travel across state lines to obtain services and who choose not to involve their parents. In 1973, the United States Supreme Court recognized a constitutional right to choose whether or not to have an abortion in the landmark decision *Roe v. Wade*.[xiv] The Court reaffirmed the right to choose in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, holding that restrictions on this right are unconstitutional if they impose an "undue burden" on a woman's access to abortion.[xv] The right extends to both minors and adults, but the Supreme Court has permitted individual states to impose some restrictions on the ability of young women to obtain abortions within the state's borders.[xvi] The United States Supreme Court has ruled that states may require parental consent or notification before a minor obtains an abortion in the state, if the law also provides an "alternative" to parental involvement, such as a judicial bypass procedure, by which a young woman can obtain an abortion without involving a parent.[xvii] To obtain a judicial bypass, a young woman must appear before a judge and prove either that she is mature enough to decide whether to have an abortion or that an abortion will be in her best interests.

Thirty-eight states enforce parental involvement laws. These laws vary in their requirements, but at present, they apply only to minors receiving an abortion within those individual states. Under current law, a minor must always meet the requirements of the state in which she is receiving an abortion. If this bill were to pass, a minor from one of the 32 states that has a forced parental involvement law that matches the bill's definition will carry her home state's law with her when she travels across state lines with a trusted relative or friend to receive an abortion. This will be true even when she travels into one of the other 37 states that has an enforceable parental involvement law. She will therefore have to meet the requirements of both her home state and the state in which she receives the abortion, thus being forced to comply with extra burdens beyond those imposed on any other minors seeking abortions. If the young woman does not do so, persons who assisted her will face liability. Every minor from a state with a parental involvement law that matches the bill's definition will be faced with a choice: overcome the extra obstacles created by the legislation or travel alone out of state. For example, a minor who lives in Minnesota and seeks an abortion in Wisconsin will have to comply with both states' laws, because Minnesota's law matches the bill's definition of a parental involvement law. Minnesota requires that both parents of a minor be notified, while Wisconsin allows a minor to obtain an abortion if an adult family member, who can be a sibling over the age of 25, gives consent.[xviii] If the minor travels to Wisconsin with her 30-year-old sister to receive an abortion, the consent of her sister will satisfy Wisconsin's law. However, to satisfy Minnesota's law, the

physician will need to notify both of the young woman's parents or she will have to go to court in Minnesota for a judicial waiver; otherwise, her sister will have violated the law.

Nonresident minors who seek an abortion in a state that does not have a parental involvement law matching the definition in the bill will be subject to the federal notification and delay requirements; in some cases those requirements will be in addition to the differing notification or consent requirements of the state in which they seek their abortion. Depending on their state of residence and the state in which they seek their abortion, some minors will be subject to the restrictions of both parts of the proposed legislation, some to the restrictions of only the Travel Provision, and others to the restrictions of only the Federal Notification Provision.

If a young woman chooses to obtain a judicial bypass of the parental involvement requirements, to avoid the restrictions of either the Travel Provision or the Federal Notification Provision, she will also face an undue burden under the bill, as she may need to go to court in two states - her home state and the state in which she seeks the abortion. For example, a Massachusetts resident traveling to Rhode Island with a non-parent to obtain an abortion will have to obtain a judicial waiver of the parental involvement requirements of both states because the minor carries Massachusetts's parental involvement law with her wherever she goes.[xix] Similarly, a minor who resides in any state with a parental involvement law and seeks an abortion in a state with a parental involvement law that does not match the bill's definition will need to go to court in two states to avoid mandatory parental notification and delay. Going through the judicial process just one time is a burden on minors; doing it two times in two different states will place an unconstitutional undue burden on a young woman's access to abortion.

This legislation would also create an undue burden on minors' access to abortion by deterring trusted relatives and friends from helping a young woman due to fear of criminal and civil liability. Young women seeking abortions may refrain from seeking advice and assistance for fear of exposing family members, counselors, or other supportive friends to liability. As a result, young women may instead travel alone across state lines. Moreover, in addition to putting persons who travel with the minor at risk of liability, the bill places health care providers at risk. Fear of prosecution may lead some abortion providers to refuse to provide services to young women, thus further unduly burdening minors' access to abortion services.

Imposing a Parental Notification Requirement Without Providing any Judicial Waiver Option

Federal courts have consistently required that laws imposing parental notice or consent requirements provide a confidential, expeditious mechanism for waiver of the parental involvement requirement if the minor is mature or an abortion without parental involvement would be in the minor's best interest.[xx] The 12 states and D.C. that do not have enforceable parental involvement laws - either because they have not enacted such a law or one has been

enjoined due to defects in the law - do not have such a process in place. Thus, minors who reside in those states will not have available to them an expeditious, confidential judicial alternative to the federal parental notification and delay requirement. CIANA's failure to provide a judicial waiver option for such minors violates their constitutional rights.

Hindering the Right to Travel

The proposed law will unconstitutionally regulate interstate travel between *certain* states, for *certain* people and under *certain* conditions. It will make the legality of interstate travel dependent upon the traveler's *state of residency*, the *purpose* of the travel, and the *people with whom she* is traveling.

The right to travel freely between the states is a fundamental right of state citizenship. This includes the right to travel into a state to seek medical services - including abortion services - and to be treated the same as state residents when one does so.[xxi] Therefore, a minor accompanied from, for example, Massachusetts to Maine by a friend or relative for an abortion is entitled to receive abortion services on the same basis as a Maine minor. Similarly, a minor working in New York for the summer is entitled to receive abortion services on the same basis as a New York resident. However, under the bill, they will not be able to do so.

Under the bill, minors who come into a state to seek medical services will be subjected to different treatment than minors who reside in that state and seek medical services there. Also, minors crossing state lines to seek medical services will be treated differently depending on their state of origin: minors from states with parental involvement laws that match the bill's definition will face special burdens not imposed on minors from states with other or no parental involvement laws. Moreover, a minor who traveled alone into a state from a state with a parental involvement law matching the bill's definition will be treated more favorably than a minor from the same state who traveled with a non-parent: the lone minor will only need to comply with the law of the state she entered, but the accompanied minor will have to comply with the requirements of both her home state and of the state she entered. Thus, the proposed legislation creates a hodgepodge of restrictions on interstate travel and results in the disparate treatment of people based on their state of residency, thereby violating the right to interstate travel protected by the Constitution.

Infringing Upon Equal Protection Rights Under the Fifth Amendment

The Fifth Amendment prohibits Congress from depriving individuals of equal protection of the law.[xxii] Equal protection principles prohibit Congress from creating a classification that penalizes the exercise of a constitutional right, except in furtherance of a compelling governmental interest.[xxiii] When such a classification is formed, it is subject to strict scrutiny, the highest level of judicial review. Under strict scrutiny, the government has the burden of establishing that the

classification is narrowly tailored and furthers a compelling governmental interest. The proposed law would impermissibly classify persons based on the exercise of two fundamental rights - the constitutional right to choose abortion and the right to interstate travel - and it is not narrowly tailored, nor does it further a compelling governmental interest.

As to the right to reproductive choice, the bill impermissibly creates classifications among minors traveling across state lines and among those persons accompanying them by penalizing only those who assist minors in exercising their right to abortion. However, persons traveling with young women across state lines are not penalized by the bill if the young women are going to the other state for other purposes, including, for example, to seek pregnancy-related care associated with carrying a pregnancy to term, or to seek a medical procedure far riskier than abortion.

With respect to the right to interstate travel, the proposal also impermissibly creates classifications among both minors and the persons accompanying them. A minor's state of residency determines whether the person traveling with her or the abortion provider is committing a crime. No other federal statute classifies interstate travelers based upon their state of residency. Indeed, the Supreme Court's decision in *Saenz v. Roe*[xxiv] confirms the illegitimacy of classifications based on state of residency, holding that it is not permissible to classify based upon state residency for the purpose of determining eligibility for welfare benefits. Surely, if it is unconstitutional for the government to limit access to welfare benefits for persons from another state, it is unconstitutional to limit access to constitutionally protected abortion services based on a person's state of residency.

Endangering the Health of Young Women By Making it More Dangerous for Them to Engage in Constitutionally Protected Conduct

The Supreme Court has ruled that the government cannot deter someone from engaging in constitutionally protected conduct by making it more dangerous to engage in that conduct,[xxv] yet that is exactly what this proposal does. The bill tries to dissuade young women from exercising their constitutional right to obtain an abortion by making it more dangerous for them to exercise that right. It deters young women from traveling with a trusted relative or friend, who will be at risk of criminal prosecution, and thus encourages young women to travel alone out of state to obtain an abortion. Yet, depending on the abortion procedure, it may be unsafe for the young woman to drive herself home after the abortion, especially over long distances. Thus, the young woman is exposed to more danger than if she traveled with a trusted adult.

CONCLUSION

CIANA is an extreme measure that will severely restrict young women's ability to obtain an abortion outside their home states, even in situations in which the abortion is necessary to protect

the young woman's health. It will not only harm the health of teenagers across the country, but will also direct the full force of the federal criminal justice system against family members, friends, and others who attempt to help young women in need. This bill is not about protecting minors – instead, its purpose is to make it more difficult for minors to obtain abortions by threatening to punish trusted adults to whom they turn for help.

CIANA is also an assault on the core American principles of federalism and state sovereignty, which hold that the laws of a state only apply within its boundaries, as well as on the constitutional right to reproductive choice, due process, and equal protection.

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[i] Any individual, minor or adult, except the young woman seeking an abortion and her parents, could be liable under the Teen Endangerment Act. Violation of the Act will be a Class A misdemeanor.

[ii] *See* Mary S. Griffin-Carlson & Paul J. Schwanenflugel, *Adolescent Abortion and Parental Notification: Evidence for the Importance of Family Functioning on the Perceived Quality of Parental Involvement in U.S. Families*, 39 J. Child Psychol. Psychiat. 543 (1998); Mary S. Griffin-Carlson & Kathleen J. Mackin, *Parental Consent: Factors Influencing Adolescent Disclosure Regarding Abortion*, 28 Adolescence 1 (1993); Stanley K. Henshaw & Kathryn Kost, *Parental Involvement in Minors' Abortion Decisions*, 24 Fam. Plan. Persp. 196 (1992); Laurie S. Zabin, *et al.*, *To Whom Do Inner-City Minors Talk About Their Pregnancies? Adolescents' Communication With Parents and Parent Surrogates*, 24 Fam. Plan. Persp. 148 (1992); Raye Hudson Rosen, *Adolescent Pregnancy Decision-Making: Are Parents Important?*, 25 Adolescence 43 (1980).

[iii] Henshaw & Kost, *supra* note ii, at 200.

[iv] *See, e.g.*, Council on Ethical and Judicial Affairs, American Medical Association, *Mandatory Parental Consent to Abortion*, 269 JAMA 82, 8284 (1993); Henshaw & Kost, *supra* note ii, at 207; Patricia Donovan, *Judging Teenagers: How Minors Fare When They Seek Court-Authorized Abortions*, 15 Fam. Plan. Persp. 259 (1983).

[v] *See* Am. Acad. of Pediatrics, *The Adolescent's Right to Confidential Care When Considering Abortion*, 97 Pediatrics 746, 748 (1996); Council on Ethical and Judicial Affairs, *supra* note iv, at 82-86.

[vi] *See* Charlotte Ellertson, *Mandatory Parental Involvement in Minors' Abortions: Effects of the Laws in Minnesota, Missouri, and Indiana*, 87 Am. J. of Pub. Health 1367 (1997); Stanley K. Henshaw, *The Impact of Requirements for Parental Consent on Minors' Abortions in Mississippi*, 27 Fam. Plan. Persp. 120 (1995).

[vii] *See* Griffin-Carlson & Mackin, *supra* note ii, at 9; Henshaw & Kost, *supra* note 11, at 205-06; Zabin, *et al.*, *supra* note ii.

[viii] Jones RK and Kooistra, K., Abortion incidence and access to services in the United States, 2008, *Perspectives on Sexual and Reproductive Health*, 2011; 43(1):41-50.

[ix] Henshaw & Kost, *supra* note ii, at 207.

[x] As a proposed addition to the federal Criminal Code, the Act will be read with other provisions of the Code, including conspiracy and accessory liability. Attempts to amend the Act to limit the scope of liability to the principal who commits the offense were repeatedly rejected by the bill's sponsors during the 105th and 106th Congresses.

[xi] 410 U.S. 113 (1973).

[xii] *Roe v. Wade*, 410 U.S. 113, 164-165 (1973); *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S, 833, 879 (1992); *Stenberg v. Carhart*, 530 U.S. 914, 931, 937 (2000).

[xiii] *Doe v. Bolton*, 410 U.S. 179, 193 (1973).

[xiv] 410 U.S. 113.

[xv] 505 U.S. 833 (1992).

[xvi] *See, e.g., Hodgson v. Minnesota*, 497 U.S. 417 (1990); *Bellotti v. Baird*, 443 U.S. 622, 644-45 (1979) ("*Bellotti II*").

[xvii] *Casey*, 505 U.S. 833; *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990); *Bellotti II*, 443 U.S. 622.

[xviii] Minn. Stat. § 144.343; Wis. Stat. § 48.375.

[xix] R.I. Gen. Laws § 23-4.7-6; Mass. Gen. Laws ch. 112, § 12S.

[xx] *See, e.g., Bellotti II*, 443 U.S. at 643-44; *Hodgson*, 497 U.S. at 460-61 (O'Connor, J., concurring).

[xxi] *See, e.g., Saenz v. Roe*, 526 U.S. 489, 500, 502 (1999); *Doe v. Bolton*, 410 U.S. at 200.

[xxii] This prohibition on the federal government denying equal protection of the laws acts in the same manner in which the Fourteenth Amendment prohibits the states from denying equal protection. *See Bolling v. Sharpe*, 347 U.S. 497 (1954).

[xxiii] *Romer v. Evans*, 517 U.S. 620, 631 (1996).

[xxiv] 526 U.S. 489.

[xxv] *See Carey v. Population Servs. Int'l*, 431 U.S. 678, 694 (1977) (plurality opinion).

March 8, 2012

The Honorable Trent Franks
Chairman
Judiciary Subcommittee on the
Constitution
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member
Judiciary Subcommittee on the
Constitution
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Franks and Ranking Member Nadler:

We, the undersigned organizations, write to express our opposition to the Child Interstate Abortion Notification Act (CIANA) (H.R.2299). This bill makes criminals of caring adults who help young women obtain abortion care and imposes a complex patchwork of parental-involvement laws on women and doctors that is both complicated and unconstitutional.

We believe that young women should be encouraged to talk to their parents about important health issues like an unintended pregnancy – and thankfully, most do. Even in states that do not have mandatory parental-involvement laws, more than 60 percent of young women report that one or both of their parents knew of their decision to choose abortion care. However, some teens simply cannot approach their parents about such matters, and often for good reason. Unfortunately, some young women cannot involve their parents because physical violence or emotional abuse is present in their homes, because their pregnancies are the result of incest, or because they fear parental anger and disappointment. CIANA does not solve the problem of inadequate family communication; it only exacerbates a potentially dangerous situation.

Teens who decide they cannot involve a parent – for whatever reason - often seek help and guidance from other trusted adults. Unfortunately, this bill would deter them from doing so. CIANA would make criminals of grandparents, adult siblings, and even clergy members for helping young women obtain medical care *that is legal* – even if that person does not know of a home state parental-involvement law, or intend to evade it. Threatening a caring grandmother with a prison sentence for accompanying her granddaughter to the doctor is hardly a constructive response to teen pregnancy in America.

CIANA also imposes an extremely complex patchwork of parental-involvement laws on women and doctors across the country. Among other things, the bill forces doctors to learn 49 other states' laws, under the threat of fine, imprisonment, and civil suits. In some cases, CIANA forces young women to comply with two states' parental-involvement mandates. These are just a few examples of the legislation's onerous requirements.

Finally, CIANA is unconstitutional and tramples on some of the most basic principles of federalism. In the words of legal scholars Laurence Tribe of Harvard University and Peter Rubin then of Georgetown University, now Associate Justice of the Massachusetts Appeals Court, such legislation "violates the rights of states to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States and of the District of Columbia to travel to and from any state of the Union for lawful purposes, a right strongly affirmed by the Supreme Court…."

For these reasons, we urge you to oppose this dangerous legislation. Our nation's families would be much better served if Congress instead focused its time and energy on enacting commonsense policies, such as honest and comprehensive sex education and improved access to birth control, both of which would help prevent teen pregnancy and reduce the need for abortion.

Thank you for your consideration.

Sincerely,

Abortion Care Network
Advocates for Youth
American Association of University Women (AAUW)
American Civil Liberties Union
American Medical Student Association (AMSA)
Association of Reproductive Health Professionals (ARHP)
Black Women's Health Imperative
Break the Cycle
Center for Reproductive Rights
DC For Democracy
JACPAC
National Abortion Federation
National Asian Pacific American Women's Forum (NAPAWF)
National Council of Jewish Women
National Latina Institute for Reproductive Health
National Family Planning & Reproductive Health Association
National Network of Abortion Funds
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
National Organization for Women
NARAL Pro-Choice America
People For the American Way
Physicians for Reproductive Choice and Health
Planned Parenthood Federation of America
Population Connection

Religious Coalition for Reproductive Choice
Reproductive Health Technologies Project
Sexuality Information and Education Council of the U.S. (SIECUS)
SisterReach
SisterSong NYC
SisterSong Women of Color Reproductive Justice Collective
Unitarian Universalist Association of Congregations
Women of Reform Judaism

Testimony of the National Abortion Federation
March 8, 2012

In Opposition to H.R. 2299, the Teen Endangerment Act:
A Menacing Maze for Young Women, their Families, and their Doctors

The National Abortion Federation (NAF) opposes H.R. 2299, the Child Interstate Abortion Notification Act (CIANA), more aptly called the Teen Endangerment Act. CIANA makes it a federal crime for a person other than a parent to help a minor from one state obtain an abortion in another state if the minor has not fulfilled the parental involvement requirements of her home state. This bill would threaten the welfare of teens by isolating them from trusted adults and relatives, and by creating delays and obstacles that could endanger their health. In fact, this callous legislation does not include a health exception or adequate safeguards for abortion care after rape and/or incest. Additionally, this bill would put doctors who treat teens at risk of federal prosecution if they are not expert in the maze of varying state laws on parental involvement.

CIANA would make it a federal crime to help teens in crisis. Under the Teen Endangerment Act, trusted grandparents, aunts, sisters, brothers, clergy, and counselors could be fined or imprisoned for helping a teen who may be a victim of family abuse, rape, or incest. Parents rightfully want to be involved in their teenagers' lives. The majority of teens do involve their parents in important decisions about their future. When teens do not reach out to their parents for help, there is often a very good reason why. For example, teens who are the survivors of incest and teens who come from abusive families might not feel safe approaching their parents for help in obtaining abortion care. By making it a federal crime for a trusted relative or friend to help a teen in crisis, this bill would prevent teens from seeking the adult help they need and disregards the fact that teenagers' individual family circumstances differ.

CIANA would make doctors criminally liable for providing safe and legal health care. If passed into law, CIANA would require that doctors become expert in the maze of varying state laws on parental involvement. Under the provisions of this bill, doctors are criminally liable if they knowingly provide abortion care to a teen from another state without first notifying a parent, regardless of the law in the doctor's jurisdiction or the teen's home state. The notice requirement is actually a waiting period in disguise: teens must wait either 24 hours or at least 72 hours depending on the type of notice the doctor must provide. Moreover, CIANA contains no exceptions for when abortion care may be necessary to protect a teen's health and inadequate safeguards in cases of rape and/or incest. This is an unprecedented burden on health care providers.

CIANA has numerous troubling implications for teen health. Imbedded in the bill's text are considerable obstacles for teens. Not only will teens be foreclosed from reaching out to trusted adults to help them obtain legal health care, they may be forced to comply with two different state's laws restricting teens' access to abortion care. If CIANA is enacted, the health of teens would be endangered, their rights violated, and the ability of trusted adults to help teens limited. CIANA will delay teen's access to health care providers thereby jeopardizing their health.

Here are some possible outcomes if this bill is signed into law:

- A teen obtains a judicial bypass in Arkansas and travels with her aunt to her nearest provider who happens to be in Louisiana, which also has a parental involvement law. She may be required to obtain a judicial bypass in both Louisiana and Arkansas if she does not want to involve her parents in her decision, a process which would further tax her already limited resources.

- A New Jersey teen travels to New York, both states without parental involvement laws. The New York doctor would be required to provide notice to her parents regardless of whether she has decided to involve them in her decision. A judicial bypass would not be available since neither New Jersey nor New York has such a system in place. CIANA mandates parental involvement even in states that have chosen not to legislate such requirements.

- A Virginia teen from an abusive home becomes pregnant. She fears telling her parents about the pregnancy will provoke further abuse. Instead, she confides in her pastor and discusses her options at length. After advice from her pastor, the teen decides to seek abortion care and not to notify her parents to preserve her safety. Her pastor accompanies the teen to obtain abortion care but they must travel to Maryland for the care she needs. CIANA mandates that the teen's parents be notified 24 hours prior to obtaining abortion care even though she seeks abortion care under the guidance of her pastor. Additionally, the pastor is at risk of incarceration for helping the teen.

- A Pennsylvania teen attending college in California after long conversations with her parents seeks abortion care in California (a state with no waiting periods or parental involvement laws). Because she attends school in California and her parents live in Pennsylvania, they are not able to accompany her when she seeks abortion care. The young woman is still required to wait 24 hours, undermining and delaying the decision the family has already made. The Pennsylvania teen is treated differently under the law than a similarly situated California teen.

CIANA places enormous obstacles in the paths of teens and their families and creates civil and criminal penalties for doctors who try to treat patients to the best of their abilities. In most instances, parents know about a teen's decision to terminate a pregnancy, whether or not the family lives in a state with a parental involvement law. Unfortunately, parental involvement is not

a realistic option for teens who come from homes that are emotionally or physically abusive, or for teens who are the survivors of rape and/or incest.

Major medical groups such as the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the Society for Adolescent Health and Medicine have all stressed that although parental involvement is often beneficial, laws like the Teen Endangerment Act that mandate parental involvement not only threaten minors' health by creating delays to accessing health care but also put doctors in the untenable ethical situation of either breaching teen patient confidentiality or facing jail time. Moreover, in a letter dated March 7, 2012 these groups expressed concerns about the negative consequences of the Teen Endangerment Act, stating: "There is evidence that mandatory parental consent and notification laws may have an adverse impact on some families and increase the risk of medical and psychological harm to adolescents."

This latest version of the Teen Endangerment Act continues to threaten the welfare of teens by isolating them from trusted adult friends and relatives and creating delays and that could endanger their health. CIANA further imposes incredibly onerous restrictions upon doctors who risk civil and criminal liability in the face of an ambiguous law. CIANA cruelly lacks a health exception or an exception for survivors of rape or incest. Finally, CIANA erodes the policy decisions of states that have specifically declined to mandate parental involvement.

The National Abortion Federation strongly opposes CIANA, a bill that would endanger teen health.

* * *

NAF is the professional association of abortion providers in North America. Our mission is to ensure safe, legal, and accessible abortion care, which promotes health and justice for women. Our members include clinics, doctors' offices, and hospitals, who together care for more than half the women who choose abortion each year in the United States and Canada. For more information, visit our website at www.prochoice.org.

"H.R. 2299, the 'Child Interstate Abortion Notification Act'"

Testimony submitted by

Debra Ness, President
Andrea Friedman, Director of Reproductive Health Programs

U.S. House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution

March 8, 2012

1875 connecticut avenue, nw ~ suite 650 ~ washington, dc 20009 ~ phone: 202.986.2600 ~ fax: 202.986.2539
email: info@nationalpartnership.org ~ web: www.nationalpartnership.org

Members of the Judiciary Committee Subcommittee on the Constitution: we are honored to submit this testimony on behalf of the National Partnership for Women & Families and the women and families we represent.

That National Partnership for Women & Families is a nonprofit, nonpartisan 501(c)3 organization located in Washington, D.C. We have worked tirelessly for the last forty years to expand access to quality, affordable health care that includes comprehensive reproductive health services for all Americans; to eliminate discrimination in the workplace; and to enable women and men to meet the dual demands of work and family.

The National Partnership for Women & Families strongly supports access to abortion for all women and opposes efforts to restrict the abortion access of young women. The National Partnership has done extensive research into the impact of abortion restrictions impacting minors. We found that these restrictions violate minors' constitutional rights and endanger their health. H.R. 2299 would exacerbate the problems of parental involvement laws, threaten the freedom of caregivers and doctors, place young women in untenable situations, and violate their constitutional rights. We urge Congress to reject this appalling attack on the health and rights of teens.

Parental involvement laws threaten young women's health and rights

In 1979, the Supreme Court held that a parent cannot be given an absolute veto of a minor's abortion decision.[i] States must provide a means for minors to access abortion care when they cannot involve their parents. The court further required that process to be "completed with anonymity and sufficient expedition to provide an effective opportunity for an abortion to be obtained."[ii] States with parental involvement requirements have developed what is known as the judicial bypass process.

In 2008-2009, the National Partnership did an extensive study of parental involvement laws and the judicial bypass process across the country. Our research showed that the judicial bypass system is not working. In a large majority of counties a judicial bypass is not available, either because judges refuse to hear them or because court personnel are unfamiliar with the law or unwilling to help. Outside of urban or suburban areas, and in at least two entire states, there may be no judge available to hear bypass petitions. These gaps force young women to travel to another part of the state or to another state entirely in order to assert their constitutional rights.

In addition, the requirements for a confidential, timely, and effective process required by the Supreme Court simply do not exist in most states. Many minors are unaware of the judicial bypass option. Parental involvement laws often require that a minor have a lawyer at no cost, but most minors do not realize this right. Calls to courthouses in three states revealed that in two of the three states, almost no one answering the courts' telephones could give accurate information about the bypass. In addition, many judges require that minors meet additional standards than those imposed by the Supreme Court. Moreover, judges receive almost no training on bypass hearings and may impose their own biases on the process by asking minors humiliating and irrelevant questions.

The National Partnership's research, as well as other studies, has showed that over 60% of minors include their parents in their abortion decisions.[iii] However, laws that assume that parental involvement is always desirable put some young women in dangerous situations. Minors who do not involve their parents often have good reason.[iv] This is part of the reason that major medical associations, such as the American Medical Association, the American Congress of Obstetricians and Gynecologists, the American College of Physicians, and the American Public Health Association all oppose parental involvement laws. The law can't make families work by forcing parental involvement and instead may put minors in dangerous family situations at risk of abuse.

H.R. 2299 would place another hurdle between a woman and her health care

Because nearly 90% of all counties in the United States do not have a single abortion provider, the closest abortion option to a woman may be in another state. The issue of distance is exacerbated for minors who have fewer resources, less access to transportation, and face other logistical hurdles. At the same time, minors are forced to comply with other laws such as waiting periods and mandatory ultrasound bills that further limit their access to abortion care. These obstacles push abortion care later into pregnancy when it is more expensive and carries greater risks.[v] H.R. 2299 would exacerbate these problems.

Even if the minor lives in a state without a parental involvement law, H.R. 2299 would require a doctor to notify that minor's parent 24-hours in advance of an abortion. If the doctor cannot personally reach the parent, she or he must wait another 48 hours after mailing the parent notice. This provision imposes onerous restrictions on the doctors and minors who live in states that don't impose such restrictions.

H.R. 2299 is Unconstitutional and Dangerous

H.R. 2299 is unconstitutional on a number of grounds, including its lack of a health exception, its imposition of parental notification requirements without a judicial bypass alternative, its violation of the constitutional right to travel between states to take advantage of different laws in different states, and the undue burden it places on minors seeking abortion care.

- **No Health Exception**

The failure to provide a health exception violates minors' constitutional rights and threatens their health. The Supreme Court has held on numerous occasions that abortion restrictions must have exceptions to protect a women's health. As recently as 2006, the Court refused to uphold a New Hampshire parental involvement law that did not provide a constitutionally required health exception.[vi] Yet H.R. 2299 includes no exceptions to protect a minor's health, forcing doctors and young women to comply with extraordinarily burdensome requirements even when there are significant health implications.

- **No Judicial Bypass Provision**

The blanket imposition of a parental notice requirement on all states is unconstitutional. The law would impose a parental notice requirement on states that do not currently have parental involvement laws. The provision would require a doctor to provide notice to the minor's parent

or get notice from a court in the minor's home state indicating that she is authorized to have the abortion. Failure to do so could result in imprisonment. This would be onerous for all states, but would be unworkable and unconstitutional in the situation where a minor is traveling between two states neither of which currently requires parental involvement. In states that do not have parental involvement laws, there would be no system in place to allow the minor to get judicial permission. This violates Supreme Court precedent requiring that minors have another option besides complying with a parental involvement law. Moreover, it imposes it on minors who live in states that have decided that the best public policy is to not require parental involvement.

- **Violation of States Rights**

The restrictions in H.R. 2299 are unconstitutional and contrary to our system of federalism and states' rights, which allows each state to make the policy decisions that are right for individuals within its borders. The bill would require minors to carry their own states restrictive laws with them and not allow them to enjoy the benefits of other states' laws. The Supreme Court has held that, under the Privileges and Immunities Clause of the Fourteenth Amendment, every American has the right to travel freely between states and to enjoy the "privileges and immunities" of the state he or she visits.[vii] For example, an individual might travel to Las Vegas from Utah, where gambling is illegal; while in Nevada he or she could not be forced to follow Utah's laws prohibiting gambling. Similarly, an individual traveling from Massachusetts to Texas would be able to avail him or herself of Texas' more permissive laws on carrying firearms, even though it might be illegal in his or her home state.

- **Undue Burden**

The Supreme Court held in *Planned Parenthood v. Casey* that, while states may pass laws regulating abortion, they may not place an undue burden on a woman's constitutional right to obtain an abortion.[viii] An undue burden is one that's "purpose or effect is to place substantial obstacles in the path of a woman" who wants a pre-viability abortion. H.R. 2299 would place enumerable burdens on a young woman seeking abortion care. A minor whose closest or most convenient abortion provider is in another state would have several options. She could place her grandmother, minister, teacher or other adult at risk of imprisonment by relying on their assistance; she could travel on her own, without adult accompaniment or the transportation, support and other benefits that come with adult assistance, to an adjoining state; she could comply with the onerous and different judicial bypass requirements of both her home state and the state in which the abortion is performed; or she could involve her parents in her abortion decision – something she may have legitimate reasons for not doing and which the Supreme Court has held she should not be compelled to do. This choice, as well as all of the constitutional issues previously mentioned, puts a teen in an untenable situation and is certainly an unconstitutional undue burden on her right to abortion.

H.R. 2299 Endangers Young Women and Threatens their Doctors and Caregivers

The limited exceptions place a heavy burden on minors at risk of abuse. A 1992 study found that approximately one-third of teenagers who did not tell their parents about their decision to seek an abortion had experienced violence in their family, or feared that violence would occur

or that they would be forced to leave home.[ix] While the bill does provide an exception for minors who have been abused, it is wholly inadequate. It requires a minor to sign a written statement affirming that she has been abused and requires the doctor to notify the authorities in the state the girl is from. This not only undermines young women's access to confidential care and ignores the fact that women facing abuse may be afraid or ashamed to report the abuse; it also makes it likely that their parents will be notified anyway. Additionally, it requires that the doctor comply with the child abuse reporting laws of all fifty states. Moreover, it does nothing to protect a minor who reasonably fears abuse, but is not yet the victim of abuse.

The criminal and civil penalties endanger caregivers. The law would impose fines and imprisonment on doctors and on grandparents, teachers, ministers and other adults who accompany young women outside of their home state to access abortion, a legal healthcare service, at what may be the nearest abortion provider. It would also create a civil right of action for parents who claim they are harmed by violations. These provisions not only place minors' supporters in untenable situations, but force minors in an already difficult and scary situation, to navigate the difficult system to access abortion care all by themselves.

Conclusion

Parental involvement laws and similar attempts to legislatively control parent-child relationships don't work and endanger young women's health. H.R. 2299 would exacerbate these dangers. This bill is unconstitutional, interferes in young women's health care decisions and threatens to put doctors and trusted adults trying to help those young women into jail. The National Partnership urges members of this committee to reject H.R. 2299 and all proposals that threaten the health and well-being of young women.

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[i] Bellotti v. Baird, 443 U.S. 622 (1979).

[ii] Id.

[iii] *See*, Cynthia Dallard and Chinué Turner Richardson, Teenagers' Access to Confidential Reproductive Health Services, Guttmacher Report on Public Policy (Nov. 2005).

[iv] *See*, J. Shoshanna Ehrlich, Grounded in the Reality of Their Lives: Listening to Teens Who Make the Abortion Decision without Involving Their Parents, 18 Berkely Women's L.J. 61 (2003).

[v] Id.

[vi] Ayotte v. Planned Parenthood of Northern New England, 546 U.S. 320 (2006).

[vii] Saenz v. Roe, 526 U.S. 489 (1999).

[viii] 505 U.S. 833 (1992).

[ix] Cynthia Dallard and Chinué Turner Richardson, Teenagers' Access to Confidential Reproductive Health Services, Guttmacher Report on Public Policy (Nov. 2005).

PHYSICIANS FOR

REPRODUCTIVE
CHOICE AND HEALTH

Headquarters:
55 West 39th Street
Suite 1002
New York, NY 10018-3869
Tel: 646-366-1890
Fax: 646-366-1897

Additional Locations:
San Francisco, CA
Washington, DC

www.prch.org

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1001 Maryland
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Testimony of Michelle Forcier, Board Member
Physicians for Reproductive Choice and Health
House Judiciary Committee
Subcommittee on the Constitution
March 8, 2012

Physicians for Reproductive Choice and Health (PRCH) is a doctor-led national advocacy organization that relies upon evidence-based medicine to promote sound reproductive health policies. PRCH opposes the Child Interstate Abortion Notification Act (CIANA). This bill would make caring adults into criminals and impose an impossible patchwork of parental involvement laws on physicians and their patients. CIANA does nothing to promote the welfare of teens or to encourage healthy family communication. Instead, it would be incredibly detrimental to the health and well-being of teens seeking abortion care.

I currently serve as an Assistant Professor of Pediatrics and Family Medicine at Brown University Alpert Medical School. I received my medical degree from the University of Connecticut School of Medicine, obtained a Master's in Public Health and completed a Robert Wood Johnson Clinical Scholars fellowship and Preventive Medicine residency at the University of North Carolina. I have provided adolescent health services, specializing in sexual health care, since 1997. I am faculty for PRCH's Adolescent Reproductive and Sexual Health Education Project, a highly respected educational program for educating health care providers about best practices in adolescent sexual and reproductive health and am currently a member of the PRCH board. I am pleased to submit this testimony on behalf of PRCH.

I. Teens Should be Encouraged, Not Required, to Involve a Parent

Numerous medical and public health authorities support minors' direct access to reproductive health care, including abortion care. The American Medical Association (AMA) states that physicians should strongly encourage a pregnant teen to discuss her pregnancy with her parents. The AMA also states the ultimate decision of whether to involve a parent should rest with the patient.[i] The American Academy of Pediatrics (AAP) also encourages parental communication and recognizes that mandated parental consent can have "an adverse impact on some families and that it increases the risk of medical and psychological harm to the adolescent."[ii] AAP also notes that judicial bypass provisions do not eliminate that risk.[iii] The Society for Adolescent Health and Medicine similarly states that parental involvement should be encouraged, but not mandated.[iv]

PRCH agrees with these positions. As physicians, we encourage young women to talk to their parents about health issues including unintended pregnancy. It is our experience that most teens do involve a parent or

some trusted adult family member in the decision to have an abortion. Even in states that do not have mandatory parental-involvement laws, more than 60 percent of young women report that one or both of their parents knew of their decision to end a pregnancy.[v]

A colleague of mine in New York has a story that is very common. A family practice physician, she cared for both Megan and her mother. Megan was 17 when she had an unplanned pregnancy and decided to have an abortion. The doctor encouraged her to involve her mother in her decision. Megan told her mother, and brought her with her for the appointment. Most families have loving, open communication even in difficult situations, and physicians are trained to support this communication as this doctor did. My colleague was able to help this family through a difficult situation without any interference by the government.

II. Some Teens Cannot Safely Involve a Parent in their Decision

There are young women who determine that they cannot talk to a parent about an unplanned pregnancy or abortion. Some teens do not live with their parents and reside with other relatives or are in a foster care situation. Some teens may fear parental anger; other teens experience violence in their homes or may be the victims of sexual abuse. CIANA does not solve the problem of inadequate family communication; it only exacerbates potentially dangerous situations.

Dr. Norma Jo Waxman in San Francisco recalls one of her patients, a pregnant twelve-year old girl. Her mother's boyfriend had been molesting her since she was 8. Her mother was addicted to drugs and absent as a parent. The girl's aunt brought her to Dr. Waxman. They worked with law enforcement and Dr. Waxman arranged for social work management and referred her for abortion care. California law does not require parental notice or consent and Dr. Waxman was well trained and experienced in providing this needed care and support.

If CIANA were to become law, trusted and loving adults like aunts, grandmothers and sisters could face imprisonment for helping a teen access abortion care across state lines. One study showed that 93 percent of minors who did not involve a parent in their decision to obtain an abortion were still accompanied by a trusted support person.[vi] Dr. Suzanne Poppema in Seattle states that her teen patients often had a parent with them and almost always had an adult of some kind – usually a sister, aunt, or grandmother. They brought the people who loved them and could snpport them. Dr. Poppema observes that one of the worst things about state inference with minors' decisions about abortion is that it forces the teen to choose a parent over another trusted adnlt who might be better suited to support her. CIANA does nothing to improve the health of teens in difficult situations – it only puts them at increased risk of not getting timely, needed care.

III. CIANA Places Impossible Burdens on Physicians

PRCH believes CIANA places extreme and unreasonable burdens on physicians and the patients they treat. CIANA would require teens to carry with them any parental involvement law applicable in their home state, without adequate exceptions. CIANA imposes an incredibly complicated patchwork of state laws about parental consent and

notice for abortion on women and doctors across the country. If enacted, doctors would be forced to become experts in 49 other states' laws, under the threat of fine, imprisonment and civil suits.

CIANA would require doctors, in many cases, to notify a young woman's parents before he or she can provide abortion care. Since CIANA applies only to cases in which the patient travels from another state, physicians would be required to track down parents in another state before providing a safe and legal medical procedure. In other situations, a doctor may be required to give 24 hours notice to the parent – creating an unnecessary delay in care. This makes abortion care all the more difficult to access. In some cases, CIANA would force young women to comply with not one, but two states' parental-involvement mandates. If a teen were to travel from a state with no parental involvement mandate to another state with no mandate, a physician would still need to notify her parents. And if the teen did not live with her parents or was in a dangerous situation, there would be no judicial bypass option available since neither state has a parental involvement law.

IV. Conclusion

With a dearth of abortion providers in many parts of the country, many women, including teens, have to travel long distauces to obtain a safe abortion. CIANA's requirements are onerous and lack any medical justification. As a physician, an adolescent health specialist and a parent, I cannot support politicians aud non-medical personal making harmful medical decisions for my patients. If my daughter found herself in a complicated situation, I hope that she would come to me first. But if she felt that she could not, I would want her to be able to get the care and support she needed from another trusted adult.

As evidenced by the experiences related above, physicians who care for teens are well trained and equipped to help them navigate difficult situations. Our patients always come first and we are able to recognize when a patient, including a minor, is in danger. We make sure that patients and their families receive all services and resources, medical and non-medical, they need for their health and well being. Physicians have a professional obligation to deliver the highest quality medical care that women of all ages deserve.

The sponsors' true intent is to prevent teens from having safe, legal abortions. But rather than having a conversation about what causes teen pregnancy in the first place and how it could be prevented, the House of Representatives is discussing yet another piece of legislation meant to make it harder for women to have abortions and for physicians to care for their patients. As a woman, mother of a young daughter and a women's health specialist, I know that this legislation is dangerous and ill-advised. On behalf of PRCH and its network of physicians, I urge you to vote against this bill.

[i] Council on Ethical and Judicial Affairs, American Medical Association. Mandatory Parental Consent to Abortion, 269 *JAMA* 82, 83 (1993).
[ii] American Academy of Pediatrics, Committee on Adolescence. The Adolescent's Right to Confidential Care When Considering Abortion. 97 *Pediatrics* 746, 748 (1996).
[iii] Id.
[iv] Society for Adolescent Medicine. Position statements on reproductive health care for adolescents. *J Adolesc Health*.1991:12:657-661.
[v] Martin Donohoe. *Parental Notification and Consent Laws for Teen Abortions: Overview and 2006 Ballot Measures*. MEDSCAPE *Ob/Gyn & Women's Health*, February 9, 2007
[vi] Stanley K. Henshaw and Kathryn Kost. Parental Involvement in Minors' Abortion Decisions. 24 *Family Planning Perspectives* 207 (1992).

Child Interstate Abortion Notification Act (HR 2299)
Testimony Presented by Kirsten Moore, President & CEO

U.S. House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution

March 8, 2012

Members of the House Judiciary Subcommittee on the Constitution: I am honored to submit this testimony. Today you are considering the Child Interstate Abortion Notification Act (H.R.2299), introduced by Rep. Ileana Ros-Lehtinen (R-FL). While we are all committed to building strong, healthy families, mandatory parental-involvement laws do not solve the problem of inadequate family communication. They only exacerbate a potentially dangerous situation and put the health of teens at risk.

HR 2299 creates a convoluted hodgepodge of onerous requirements, along with civil and criminal penalties. The bill purports to protect teens but in fact alienates supportive family members and turns caring physicians into felons simply for providing a teen with the best evidence-based care possible.

Keeping Teens Healthy & Safe

Parents rightfully want to be involved in their teens' lives. Studies show that even in states that do not have mandatory parental involvement laws most teens involve one or both of their parents in the decision process. We all want teens to talk with us about important health issues, but some teens simply cannot approach their parents about such matters, and often for good reason. She may live in an abusive environment where she fears physical violence or being forced from her home.

For the small number of teens who feel they cannot talk to their parents, especially those who have been exposed to physical violence in the home, requiring parental notification actually increases the risk of physical harm. If a teen cannot go to her parent, she should be encouraged to turn to another trusted adult for support. When dealing with an unintended pregnancy what's most important is for them to have access to safe, medical care in a timely fashion with a caring person by her side.

HR 2299 is predicated on the assumption that a teen is traveling to another state to circumvent the law when for many teens without local access to services, the closest provider may in fact be located in a different state. Unable to approach their parents, a loving relative or even a trusted health care provider, some young women will be left in the precarious position of having nowhere to turn.

Respecting Evidence-Based Standards of Care

HR 2299 erodes the doctor/patient relationship by forcing physicians to second guess the teens in their care. In the same way we want to protect our teens we want to trust doctors to provide the appropriate standard of care.

Confidentiality is an important part of the trust that is built between a doctor and their patient. This allows patients to provide an accurate, detailed history with the knowledge that the information will remain private. It also provides an opportunity for the physician to work with the patient to determine the best course of treatment for their unique life and health circumstances. Forcing parental notification regardless of exiting state law or potential consequences to the teen is likely to decrease the number of young women who seek care.

This legislation will also impair the ability of physicians to provide the same standard of care to all of their patients by creating obstacles to providing services in a timely fashion. The bill require doctors to adhere not only to their own state's laws, but become legal experts and adhere to every other state's laws on parental consent and notification, which are constantly changing. Faced with the threat of fines or imprisonment, some doctors may simply choose not to provide reproductive health services to any young women.

Major medical groups such as the American Medical Association (AMA), the American Academy of Pediatrics (AAP), the American Medical Women's Association (AMWA), and the American Public Health Association (APHA) all stress that while parental involvement is ideal, laws like this one threaten the health of teens by creating delays or pushing them to seek out dangerous alternatives to avoid telling their parents. We cannot create laws without concern for medical evidence or the real life impacts on teens.

Conclusion

This legislation simply does not work in the real world. While at first glance it might sound like a good idea, this legislation threatens the health and well-being of teens and denies them the support and guidance they need from responsible and caring adults.

The Child Interstate Abortion Notification Act (H.R.2299) does nothing to help build strong families or protect the safety of teens. The Reproductive Health Technologies Project opposes this legislation. We cannot mandate healthy family communication and it is extremely harmful to the health of young women when we attempt to do so. Our daughter's safety has to come first. Thank you.

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