Massachusetts’ Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion

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ABSTRACT

Thirty-seven states mandate parental consent or notification before providing abortion care to minors. In Massachusetts’ parental consent law, a minor (17 years old or younger) requires parental approval before a legal abortion is permitted, but parental involvement can be bypassed through some mechanism, such as a petition to a judge (“judicial bypass”). Even in the absence of a legal mandate, a significant majority of minors prefer to inform their parents about their abortions. However, some do not want to involve their parents, because of poor relationship quality, family stressors, fear of abuse, or logistical barriers.

Currently, minors can use judicial bypass hearings to circumvent the parental involvement requirement in 36 states. Although the effects of parental involvement laws and the impact of the judicial bypass process on timeliness of abortion are unclear, previous studies suggest that parental involvement laws may lead to delay in access to abortion. A number of studies have found an increase in second trimester abortion rates after the implementation of parental involvement laws. Due to lack of individual level data, it is unclear whether the delay is associated specifically with use of judicial bypass. The effect of any delay in obtaining abortion resulting from the judicial bypass process remains poorly described in the literature.

The aim of this retrospective cohort study was to describe individual-level delay in obtaining abortion associated with use of the Massachusetts judicial bypass system, which allows legal minors to obtain an abortion without consent of a parent or legal guardian. The study was conducted between September 2010 and June 2016. Data were obtained from a large, statewide network of abortion clinics. The primary outcome was mean delay for a minor in time to obtain an abortion, with delay defined as the number of calendar days between the minor’s first call to schedule an abortion, and the day the abortion was performed. Medicaid was used as a proxy for socioeconomic status.

Of the 2026 abortions provided during the study period, 1559 (77%) were provided with parental consent and 467 (23%) abortions followed judicial bypass. Minors who were Hispanic, non-Hispanic black, or other races were more likely to use judicial bypass, as were women of any age having Medicaid insurance and women with a prior abortion or prior birth (all comparisons, P < 0.05). With univariable analysis, the mean delay in time to abortion was 6.1 days longer for minors using judicial bypass compared with those who had parental consent (8.6 vs 14.8 days, P < 0.001). Using multivariable linear regression analysis, adjusting for demographic factors between groups, this difference persisted; the adjusted mean difference was 5.2 days, with a 95% confidence interval of 4.3 to 6.2, P < 0.001. In the adjusted analysis, moreover, the odds of becoming ineligible for medication abortion were significantly greater among minors with judicial bypass abortions compared with those with parental consent abortions (adjusted odds ratio, 1.57; 95% confidence interval, 1.09–2.26; P < 0.014).

These findings show that the Massachusetts parental consent law for abortion is associated with significant delays, potentially increasing medical risks/complications and constraining the clinical options available to minors. Racial and ethnic minority youth, especially those of lower socioeconomic status, are overrepresented in the judicial bypass group; therefore, the law may worsen reproductive health inequities in these populations. These results may not be generalizable to other states with parental consent laws, particularly, those states with additional abortion regulations (legal barriers) that do not exist in Massachusetts.

EDITORIAL COMMENT

(Parental consent requirements before abortion idealize a situation in which minors have healthy relationships with their parents, can disclose that they are pregnant, and can freely discuss their options for the undesired pregnancy. In Massachusetts, the law includes a safety net
for less ideal situations, a judicial bypass procedure in cases where parents refuse to provide consent. The abstracted study sought to describe the delays associated with the parental consent law in Massachusetts and better understand the additional delays and implications of judicial bypass.

Nearly one quarter of minors receiving abortions obtained approval through judicial bypass, and these abortions were delayed by nearly 1 week longer than minors who had parental consent abortions, a delay long enough to decrease their eligibility for medical abortion by 57%. Judicial bypass abortions, and the consequences of the 1-week delay, were more common among minors of lower financial means, minors identifying as Hispanic, non-Hispanic black, or other race, and minors with a prior birth or abortion. Similar harms have been identified in other states. In Texas, after laws mandating parental involvement in abortion decisions were implemented, teens who conceived at age 17 years and 8 to 9 months delayed their abortions until age 18, increasing the occurrence of costlier and riskier second-trimester procedures in this group by 21% (Perspect Sex Reprod Health 2009;41(2):119–126).

The assumption by proponents that parental involvement will increase the number of minors who carry their pregnancies to term is not borne out in evidence from the states where this has been studied. In Minnesota, Missouri, and Indiana, parental involvement laws decreased the in-state abortion rate for minors relative to older women, but did not increase the birth rates for minors. In the one state with complete data (Missouri), the entire observed decline in abortion was accounted for by an increase in out-of-state procedures (Am J Public Health 1997;87(8):1367–1374).

Requiring minors to continue their undesired pregnancies may have serious, unintended consequences. Many states offer limited social services to assist poor women in raising their children and feeding their families, and have inequities in access to adoption. Although child homicide is extremely rare, one study found nearly 3 times the rate of homicide under 5 years of age in states enacting mandatory delay and parental notification laws versus states that did not implement strict abortion restrictions (Soc Sci Med 2012;75(1):156–164).

Poor minors, minors who identify as Hispanic, non-Hispanic black, and other (nonwhite) race, and minors with a prior birth or abortion bear the heaviest burden of parental consent laws that delay their access to abortion care and narrow their options. The implementation of these laws in 37 US states, despite knowledge of the inequities and harms they create, is a Pyrrhic victory of politics over public health.—LAL)