



Legislative Affairs
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2023 – 2024 Legislative Memorandum

**Subject: Notice of abortions performed on unemancipated minors
A.3398 (DeStefano) / S.2911 (Murray)**

Position: OPPOSE

All people, regardless of age, deserve access to health care, information, dignity, and safety, including when they are pregnant. New York has long recognized these values by ensuring young people can access confidential reproductive health care without involving a parent. Indeed, studies demonstrate that requiring parental consent or notification when a young person is pregnant can effectively create barriers to care, or worse, put that young person in a dangerous situation. For decades, adolescents in New York have been able to consent on their own to prenatal care, testing and treatment for sexually transmitted infections, as well as abortion care without involving a parent or guardian.¹ These policies recognize the importance, from a public health perspective, of providing teens with unimpeded access to critical health care services. To disturb them jeopardizes young people's health and safety.

A.3398 (DeStefano) / S.2911 (Murray) would require that parents be informed before a young person can receive abortion care. This legislation would undermine young people's dignity and bodily autonomy, put an often insurmountable barrier in the way of health care, and place the most vulnerable young people in harm's way. For these reasons the NYCLU strongly opposes A.3398/S.2911 and urges the legislature to reject it.

We all want young people to be safe, healthy, and affirmed and to have the support and information they need to make important decisions for themselves, their health, and their futures. The majority of young people already involve a parent in their abortion decision-making. And while involving parents and guardians in a young person's health care decisions is ideal, some young people cannot involve a parent for reasons rooted in their own safety and well-being, including fear of physical or emotional abuse, loss of financial support or homelessness, or other serious family

¹ See generally TEENAGERS, HEALTH CARE, AND THE LAW: A GUIDE TO MINORS' RIGHTS IN NEW YORK STATE (NYCLU, 2018).

problems.² Even young people who feel safe in their families generally may still wish to not involve a parent in their abortion decision, and that should be their decision. When faced with a parental notification law, these young people are less likely to go to a health care provider, get information and resources, and get the care and support they need for fear of their parents finding out.³

No law can force healthy family communication. In fact, according to the American Academy of Pediatrics Committee on Adolescence, parental notification laws have the opposite effect. Studies demonstrate that many adolescents will avoid or delay seeking necessary reproductive and sexual health care if their confidentiality is compromised. In one study by the Journal of American Medicine, more than half of all sexually active teens visiting family planning clinics said they would stop or put off using services if their parents were notified that they were seeking birth control – but virtually all (99 percent) reported that they would continue having sex.⁴ This puts young people at risk. The prospect of disclosure to parents can cause young people to delay or avoid necessary health care and can even lead young people to go to extreme measures to avoid parental notification, such as trying unsafe measures to end a pregnancy or running away from home.

What is more, A.3398/S.2911 will disproportionately impact young people who are already marginalized, including youth of color, young people experiencing homelessness, LGBTQ youth, and young people in the foster care system, because these youth already face systemic barriers to accessing health care generally and abortion care specifically.

While A.3398/S.2911 proposes a judicial bypass alternative for young people who cannot involve their parents, this process is fundamentally flawed and does not cure the harmful effects of this bill. As demonstrated by experiences in other states, these processes are difficult to navigate, can be traumatic for youth, compromise confidentiality, and unnecessarily delay access to health care. Young people are likely to be intimidated by the process of going to court and having to share intimate details of their lives with a stranger who has authority over their future, especially where they do not understand the parameters of confidentiality or live in a smaller community. They may also face significant logistical hurdles to navigating a judicial bypass system, including arranging for time away from school or home; traveling to and from the courthouse; and understanding arcane legal processes. Ultimately, a judicial bypass system will force the state to bear the cost of the considerable judicial resources that will need to be expended to resolve what is more appropriately a

² LA Hasselbacher, A Dekleva, S Tristan, ML Gilliam, *Factors influencing parental involvement among minors seeking an abortion: A qualitative study*, AM J. PUBLIC HEALTH, 104, 2207-11 (2014).

³ Jonathan Klein et al., *Access to medical care for adolescents: Results from the 1997 Commonwealth Fund Survey of the Health of Adolescent Girls*, 25 J. OF ADOLESCENT HEALTH 120 (1999).

⁴ See Press Release, Guttmacher Institute, New Studies Signal Dangers of Limiting Teen Access to Birth Control Information and Services (Jan. 18, 2005) (<https://www.guttmacher.org/news-release/2005/new-studies-signal-dangers-limiting-teen-access-birth-control-information-and>).

personal decision between a young person, their health care provider, and ideally any other trusted adult they choose to confide in.

Moreover, existing law already requires that any person must have the capacity to consent in order to receive confidential health care. That means that in order for a young person to receive abortion care confidentially, they must be able to provide informed consent, which means that they must be able to understand their condition, their options, the risks involved, the benefits of care, and the alternatives thereto.

While parental involvement should be encouraged, it is most important that young people can access the care they need to remain safe and healthy. For these reasons, the NYCLU joins leading medical organizations, including the American Medical Association, the Society for Adolescent Medicine, the American Public Health Association, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatrics,⁵ in strongly opposing parental notification laws and urges the legislature to swiftly reject A.3398/S.2911.

⁵ See *Abortion and Parental Involvement Laws*, ADVOCATES FOR YOUTH, <https://www.advocatesforyouth.org/resources/fact-sheets/abortion-and-parental-involvement-laws/> (last visited Apr. 19, 2023).