

Parental involvement in minor abortions; making the ultimate choice

Abstract

Girls in the United States deserve the right to access the full range of reproductive and sexual health services they need, including abortion care. Texas is one of the states that have adopted parental involvement in minor abortion policy. Although this law was implemented to protect minors and help foster better decisions in regards to abortions, it has caused more harm than good. Numerous international studies have shown that, abortion-related death rates are indirectly correlated with the legality of abortions. In countries where this practice is licit and accessible, patients often benefit from the skills of professional medical practitioners. Although this Public health law was implemented to reduce morbidity and premature mortality, parental involvement in minor abortion greatly undermines it.

Keywords: minor, abortions, parental notification, parental consent

Volume 2 Issue 6 - 2015

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Received: March 08, 2015 | **Published:** November 30, 2015

Abbreviations: CRC, convention on the rights of the child; UNCRC, the united nations convention on the rights of the child

Introduction

In the 1800's and early 1900's, women were on the backend of the political system in the U.S. Women's rights were very limited across the country, and the limitations of these rights were considered a norm.¹ In the 1960's, a Texas woman named Sarah Weddington, saw firsthand the struggle that women in her generation faced. She faced a lot of discriminations both in her college years and during her search for employment with some law firms although she graduated in the top quarter of her class. In 1969, she finally joined a group of friends on a Referral Project.¹ Around that same time, Abortion was illegal in Texas and it was only permitted if the mental health of the woman was impaired. This law forced many women who wanted an abortion out of Texas to other states. Sarah and her friends, with their Referral Project, helped women who wanted to have safer abortions to find better ways and means of getting it done. However, because most of these women were poor and did not have the means, they opted to have illegal abortions. Sarah witnessed the distress and agony that women in this era went through in an attempt to have an abortion. She and her friends who worked on their Referral Project in a quest to fight for the rights of these women decided to present a case in court. However, with little experience after graduating from law school, she was very hesitant, but she knew she would be one of the few that could bring about this change. In 1970, she filed two cases with the federal court pleading for an amendment and/ or a repeal of the illegality of abortion in Texas.¹ She chose to present her cases in a Federal court instead of a court in Texas or any other state because abortion was deemed illegal in Texas and many of these other states at that time. She argued that women had the right to privacy according to the ninth amendment and how the laws presented in Texas were so vague and therefore making it hard to interpret.¹ In 1973, the U.S. Supreme Court changed the abortion landscape in the United States by giving constitutional sanction to a woman's right to abortion.¹ This success could be attributed to the hard work of Sarah Weddington.

Upon granting women the constitutional right to abortion, states that were not in initial agreement with law, were warranted to grant

women the right to have abortions, but however, they had some measures in place that made it difficult for women who might have wanted to take advantage of this right. One of the many restrictions that were placed on abortions was parental involvement in abortions for minors. There are a total of 38 states in the United States that require parental involvement in a minor's decision to abort a child.² This body of law involves two categories: parental notification and parental consent requirement.³ Out of these 38 states, 21 of them require a single parent's consent, while 3 require both parents' consent.² Twelve (12) states out of the 38 also require parental notification, while only 1 requires that both parents be notified. Five (5) states require both parental consent and notification, and 8 states require that the parental consent documentation be notarized. The state of Texas requires both parental notification and parental consent before a minor can have an abortion.⁴ A form of exemption from a judge is the only way a minor can be exempted from this act. The Texas law became effective in 1999.⁴ Abortion as described in the Texas Family Code is "The use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus." According to the Texas Family Code 33.002, a physician may not perform an abortion on a pregnant minor unless he gives at least a 48hour notice to a parent of a minor, a court-appointed managing conservator, or guardian, either in person or by telephone.⁴

This lack of consolidation between parental and child directives involving abortion rights continues to have a detrimental effect on all within the family structure. Texas' mandate regarding parental consent pressures adolescents to take decisive and often dangerous actions in order to retain control of their developing physiology. Eliminating this statute will enable adolescents to increase communication with their guardians and effectively dissipate the number of illicit abortion operations conducted within the state.

Discussion

Supporters of this Texas law claim that the policy was put in place with the hope of helping teens to make better decisions regarding unwanted pregnancies.⁵ It was also implemented to help improve the

health of teenagers. This policy again ensures that teenage girls benefit from the best possible counsel and be protected from potentially dangerous medical situations and care before, during, and after an abortion decision. Finally, it may also help protect teenage girls from repeated sexual abuse. Although the main idea of implementing this policy was to help overcome some of the problems related to abortion, this policy eventually appears to do more harm than good. Several studies of abortion worldwide have shown that deaths related to abortion are rare in countries where abortion is legal, accessible, and performed early in pregnancy by a skilled medical professional.⁶ Mandating parental involvement only prolongs the days and weeks for a minor to have an abortion.⁷ The longer one waits to get an abortion, the more likely one will be susceptible to risks such as cardiac arrest, cervical tear, infection, and/or, in extreme cases, death. Research by Silvie Colman and Ted Joyce revealed that, abortion at age 18 increased among minors between 1997 and 2003.⁷ This resulted in an increase in second trimester abortion rates between 18-year olds.⁷ Postponing the termination of pregnancy by some teenagers to dodge parental notification requirements poses more threats and risks to the health outcomes of the teenagers than intended.

In order to circumvent parental involvement, some teenagers take the most extreme routes to seek out abortion services. In 1975, the Institute of Medicine of the National Academy of Sciences conducted its first major study on abortion. In this study, they pointed out that legislation and practices that permit women to obtain abortions in proper medical surroundings could lead to fewer deaths and a lower rate of medical complications than restrictive legislation and practices.⁸ Parental involvement laws not only restrict the teenagers' access to abortion services but also force them to seek illegal practices.³ Illegal abortions can be a very hazardous solution to terminating an unwanted pregnancy, but with strict laws and regulations, some teenagers who do not see any other outlet end up undergoing this controversial and often detrimental procedure.

This policy does not further the goal of better decision-making by teenagers dealing with unplanned pregnancy. It also does not improve parent-child communication, teenager's health, or reduce the number of abortions. Parental involvement does not justify whether a teenager facing an unwanted pregnancy will be prone to inform her parents or not. According to recent studies, parental involvement laws do not influence a teenager's decision to talk with her parents about her decision prior to an abortion.³ One thing this policy fails to realize is the differences in family structures in the U.S. Minors who have strong relationships with their parents do not need the law to create this bond.³ "What these laws ignore is that the only community they actually 'serve' vis-à-vis compulsory parental involvement is the group of adolescents that have the best argument for not involving a parent in their decision." However, there are some minors who do not want to involve their parents in their abortion decision-making, and this is an important issue that should not be overlooked. Many of these teenagers fear abandonment, neglect, shame, abuse, and in some extreme cases, death.³ Laws are set in place for the betterment of the citizens, so if a law seems to be more harmful than good, there should be other alternatives in place to enable a safer and healthier population. Repealing the statute will have a myriad of substantial effects on all stakeholders involved. These stakeholders include parents of the minors who want to get the abortions, the minors facing the unwanted pregnancies, abortion clinics, physicians, and advocacy groups. Retention of the right would make adolescents more likely to seek legitimate methods of family planning. This in a way could

enhance effective communication between parents and their children, enabling parents to make informed collaborative decisions involving their children's health.

Policy options

Out of the 50 U.S. states, 12 states have not adopted any laws interfering with a minor's right to have an abortion.² New York is one of those few states. The main reason why New York has not implemented any of these policies is to ensure that minors are provided with better access to abortion care and to promote safer and healthier abortions in teenagers, without involving a parent.⁵ Promoting reproductive health services for minors is one of the paramount priorities of New York. Research continues to show that, parental involvement does not curb the rates of abortion or deter minors from acquiring abortion services.^{3,9,10} It could be beneficial for the state of Texas to adopt New York's no-parental-involvement policy to ensure a safer and healthier state. Minors will take any necessary steps to abort a baby if they want to, so putting in place laws that will make it difficult for them will eventually force them to seek illegal and unsafe options.³

Another alternative is for the United States to amend The United Nations Convention on the Rights of the Child (UNCRC).³ This was known as the "magna carta for children" and was adopted on November 20, 1989. Since the United States signed the convention in 1995, they have refused to ratify and accede to the treaty's provisions. President Bush expressed his displeasure for the CRC, given that, the convention will allow a minor to be able to have an abortion without parental consent, which is against what most states like Texas already have in place.³ The CRC aims at giving children privacy rights; it allows for "adolescent jurisprudence"; something that is currently absent from the United States law, policymaking, and even academic discourse. If the United States ratifies the CRC, it will give minors more of a right to do what they want, especially if it has to do with them directly. An adolescent jurisprudence will be a great thing to have in ensuring the rights of minors. According to the United States constitution, nothing is above the constitution, but U.N laws do trump state's laws. Ratifying the CRC will mean that all states, including Texas, will have to abide by the laws of the convention. Education is the key to success. When one wants to abort a fetus, it does not matter which laws are in place: they will still go beyond all measures to abort it. Having an educational system that sheds lights on the implications of sex, STDs, and abortion would be a great way to combat the rates of teenage abortions. Some argue that there are no parental involvement laws for over-the-counter contraceptives, so why should there be one in place for abortion? There should be a program in place to mandate sex education in all schools.¹¹ Children can never be prevented from having sex, so educating them about the safe way to do it, and giving them access to contraceptives, could go a long way to help them prevent some of these issues related to abortion. Prevention, they say, is always better than cure.

Recommendations

Parental involvement in minor abortion has been a subject that many do not like addressing, although it is a dilemma that confronts many in the United States. The Texas law was intended to correct some of the complications associated with abortion, but it rather appears to cause more harm than good. New York has not adopted any laws but has not seen any difference in abortion rates compared to states like Texas with this policy. Recent studies have shown that the health outcome of minors in the state of New York is better than

minors in Texas. Improved knowledge among the population on how to prevent them from getting pregnant is very vital. It is suggestive to say that safe sex education should be a core component of the educational curriculum in middle and high schools. Within the same learning environment, peer education involving students teaching other students, or students serving as role models to others should also be encouraged. This could greatly dissuade young people from the practice of abortion. To achieve this height, the would-be peer leaders should be well trained and equipped with the right information to help them transfer the needed or appropriate learned skills to their peers.

Conclusion

Repealing this law will be a greater good for the minors and people of Texas. Since states like New York are doing great, having this type of policy in Texas will could be for the betterment of the population. It is the duty of policy makers to make sure that laws and policies set are mitigating negative health outcomes. Assessing the effectiveness of the law with time is highly imperative in ensuring that the law is serving its' intended purpose. Furthermore, it is important to reiterate that access to good physicians and abortion care is paramount.

Acknowledgements

I would like to thank Dr. Julie Reagan for reviewing my script and helping me with my research along the way. Many thanks to Blessing Odion for helping with the formatting of the script. And finally, I would like to acknowledge Mr. Emmanuel Akowuah for helping with the structure of the paper and with the submission of this article.

Conflict of interest

The author declares no conflict of interest.

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