

Forced Parental Involvement and Judicial Bypass in Minnesota

A REPORT ON BARRIERS TO
ABORTION ACCESS FOR YOUNG
PEOPLE

if
when
how

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INTRODUCTION

Across the United States, people face extraordinary obstacles to accessing abortion care. This is especially true for young people under age 18, who are not only forced to take time away from school for appointments, travel, and waiting periods, but who are also, because of forced parental involvement laws, stripped of the self-determination to make decisions privately about the abortion care they want or need with the support of those they trust.

In Minnesota, young people are forced to involve both of their parents in their decision to have an abortion. If a young person cannot involve both parents listed on their birth certificate, their only other option is to seek permission from a court to access abortion care in lieu of parental involvement. In Minnesota, this process is referred to as a judicial bypass.

MINNESOTA LAWS REGULATING YOUNG PEOPLE’S ABORTION ACCESS

Young people under age 18 seeking abortion care in the state of Minnesota face a bleak dilemma if they are not able to involve both parents. They are forced to choose between an abortion provider notifying their parents about their private medical decision 48 hours prior to accessing the care they need, or navigating a daunting, complex legal process to request an order permitting them to bypass that notification. And for many young people, these onerous legal requirements force them through the legal system even when they *do* have the support of one or both parents.

The law in Minnesota requires two-parent notification before a young person under 18 years old can access abortion care. It requires that abortion providers give actual or constructive notice of the young person’s decision to have an abortion to both parents at least 48 hours before the procedure.¹ A parent may waive the notice requirement in writing.² Notice is not required if the young person has had a child,³ or if they are legally emancipated by marriage.⁴ Notice is not required if the young person declares sexual abuse, neglect, or physical abuse, and notice of that declaration is given to proper authorities.⁵ And lastly, the notice requirement may also be waived in a medical emergency if the attending physician determines that there is insufficient time to provide the required notice and the abortion is necessary to prevent the woman’s death.⁶ The only other alternative to the two-parent notification law is to successfully navigate an inaccessible, daunting, and often traumatic legal process called judicial bypass.⁷

¹ Minn. Stat. § 144.343, subds. 2-3.

² Minn. Stat. § 144.343, subd. 4.

³ Minn. Stat. § 144.342.

⁴ Minnesota Statutes do not provide grounds or a procedure for emancipation, but jurisprudence has established that a minor can be emancipated by a legal marriage or by parental consent. See *Lundstrom v. Mample*, 285 N.W. 83 (Minn. 1939) (marriage); *In re Fiihr*, 184 N.W.2d 22 (Minn. 1971) (parental consent or act).

⁵ Minn. Stat. § 144.343, subd. 3. See also, Minn. Stat. § 260E.06 (“report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department.”)

⁶ Minn. Stat. § 144.343, subd. 4.

⁷ See e.g., Carol Sanger, *Decisional Dignity: Teenage Abortion, Bypass Hearings, and the Misuse of Law*, 18 COLUM. J. GENDER & L. 409, 447 (2009) (“Courtrooms and courthouses are often intimidating settings, even for adults and even for litigants not testifying about unwanted pregnancy.”); Rachel Rebouché, *Report of a National Meeting: Parental Involvement Laws and the Judicial Bypass*, 37 LAW & INEQ. 21, 31 (2019) (“Stakeholders reminded audiences of the restrictions on young people’s movement and how challenging maintaining confidentiality can be as one navigates school, work, childcare, and home demands. When still enrolled in school, for example, youth may miss class for clinic and court appointments or may have to drop out of extracurricular activities.”).

A judicial bypass is an alternative to the forced parental notification requirement. It is a legal process by which a young person seeks permission from a judge to bypass the two-parent notification law. After filing a petition in district court, the judge responsible for hearing judicial bypass cases is required to schedule a hearing. Unlike a majority of states with forced parental involvement laws, and despite the required expediency, the Minnesota statute does not prescribe the timing by which judges must hold hearings after the petition is filed, nor does it prescribe the timing in which judges must issue a ruling on the bypass petition.⁸

The bypass is granted if the judge determines that the young person is mature and capable of making this decision on their own or, alternatively, if it would be in their best interest not to notify their parents.⁹ If bypass is granted, the court then issues an order that authorizes a physician to perform the abortion absent parental notification.

The young person may navigate the proceeding on their own or the court may appoint a guardian ad litem.¹⁰ A young person seeking a judicial bypass has a right to a court-appointed attorney, and the court is legally required to advise them of that right.¹¹ The information that a young person receives throughout the bypass process varies based on location, education, and access to support, which can significantly impact their experience and, ultimately, their ability to access the abortion care they are seeking.¹²

The judicial bypass process is the only option for a young person to access abortion care if they are unemancipated and cannot involve their parents. Youth in foster care and those who are not in contact with their parents have no choice but to navigate the judicial bypass process in order to access abortion care.¹³ And even if a young person has the support of one parent, if they do not have contact with or support from both parents on their birth certificate, they are still required to obtain a judicial bypass to access abortion care.¹⁴

BARRIERS TO YOUNG PEOPLE’S ABORTION ACCESS

This report summarizes interviews conducted in April and May 2021 with various stakeholders addressing youth access to abortion in Minnesota, including advocates, lawyers, clinicians and other clinic staff, guardians ad litem, and social workers. Although several stakeholders are named in the acknowledgements section, others spoke to us confidentially, which is why the quotations in this report do not identify speakers or their organizations. Regardless of anonymity, the clearest thread that emerged involved a critical need to share information about the ways in which Minnesota’s abortion laws harm young people. The obstacles to abortion access described in this report include:

- court is an intimidating and traumatic experience;
- logistical barriers bar meaningful access to abortion care for young people;
- forcing parental involvement does not promote family communication; and
- judicial bypass does not protect young people.

⁸ See *Bellotti v. Baird*, 443 U.S. 622, 644 (1979) (requiring “sufficient expedition to provide an effective opportunity for an abortion to be obtained”).

⁹ Minn. Stat. § 144.343, subd. 6. See also *Bellotti*, 443 U.S. at 647-48 (“If [the young person] satisfies the court that she is mature and well enough informed to make intelligently the abortion decision on her own, the court must authorize her to act without parental consultation or consent. If she fails to satisfy the court that she is competent to make this decision independently, she must be permitted to show that an abortion nevertheless would be in her best interests. If the court is persuaded that it is, the court must authorize the abortion.”).

¹⁰ Minn. Stat. § 144.343, subd. 6.

¹¹ *Id.*

¹² See e.g., *Hodgson v. Minnesota*, 497 U.S. 417, 440 (1990) (recounting District Court findings, including that “a number of counties [in Minnesota] are served by judges who are unwilling to hear bypass petitions”); Rebouché, *Report of a National Meeting*, *supra* note 7, at 34 (“Often at the core of a network is a clinic, and the strong message from several speakers was to build relationships with abortion providers and clinical staff . . . who are the first points of contact. This underscores the need for clinic staff members to know what resources are available to young people seeking a bypass.”).

¹³ See Sanger, *Decisional Dignity*, *supra* note 7, at 439 (“Because most foster children are unable or unwilling to involve their actual parents, the inability of foster parents or social workers to consent places a near impossible burden on a minor’s access to abortion.”).

¹⁴ See *Hodgson*, 497 U.S. at 438-39 (quoting the district court’s findings: “Twenty to twenty-five percent of the minors who go to court either are accompanied by one parent who knows and consents to the abortion or have already told one parent of their intent to terminate their pregnancy. The vast majority of these voluntarily informed parents are women who are divorced or separated from spouses whom they have not seen in years. Going to court to avoid notifying the other parent burdens the privacy of both the minor and the accompanying parent. The custodial parents are angry that their consent is not sufficient and fear that notification will bring the absent parent back into the family in an intrusive and abusive way.”).

This report is an attempt to capture common challenges to youth access to abortion in Minnesota. It relies on the expertise and experience of stakeholders who are part of the judicial bypass process — whether as court advocates, providers, or those providing practical support — but does not include accounts from young people themselves. This means that it is far from exhaustive, especially because young people are the only ones who can tell the story of their own experiences accessing abortion care under the restraints of parental involvement laws and the bypass process. However, this report does capture the significant obstacles posed by these laws and processes as observed by key stakeholders. The sections that follow explain these obstacles to abortion access in greater detail.

COURT IS AN INTIMIDATING AND TRAUMATIC EXPERIENCE

Many young people in Minnesota are forced to go through the judicial bypass process — a legal proceeding — in order to access health care, because they either cannot or choose not to involve both of their parents in their decision to have an abortion. Without prompting, every stakeholder interviewed for this report expressed that going to court is often intimidating and traumatizing for the young people they support. One stakeholder explained that “this is most young people’s first time in front of a judge. And their experience with judges is that you go in front of a judge when you’ve done something bad or wrong.”

Several stakeholders also expressed that judicial bypass is a frightening process for nearly all of the young people they encounter.

“It makes it seem like you're doing something bad. . . . A lot of them associate going to court as something negative. They see it as taking away their agency because they have to decide what is best for them. There's no court for someone who is carrying a pregnancy to full term.”

According to stakeholders, this tends to be true for young people no matter how robust their support system. It is rare for a young person to navigate the process without any supportive adult involved, but even those with two supportive parents are sometimes forced to navigate the court system if they do not have proper legal documentation to satisfy onerous legal requirements. And bypasses are no less intimidating and traumatic for those who have the support of a parent or are guided through the process by an advocate. One stakeholder described their job as shepherding young people through the process: “Court is scary, and I don’t want them to be afraid.”

This is particularly true for young people who live in communities that are highly criminalized and subjected to state violence.

“Most people haven't been to court. They've only seen it on TV. And if you're a person of color, interacting with the court can be extremely stressful and traumatizing for young people. Even though I'm constantly telling people their information is confidential inside the courtroom, that doesn't mean their experience feels that way from beginning to end. There's an armed deputy and cameras when you first enter the courthouse building. It's scary. It's a big deal.”

Because these populations already face larger systematic barriers to accessing abortion and the legal system in general, parental involvement laws and the judicial bypass process disproportionately impact youth of color, young people experiencing homelessness, LGBTQ youth, immigrant youth, and young people in the foster care system.¹⁵ One stakeholder posed a series of questions to highlight what young people experience: “What does ‘being in a system’ mean? Historically, what has their experience with those systems been? And how does that affect whether they want courts involved in their life?”

If judicial bypass is intended to be an alternative to forced parental involvement and the absolute veto power these laws give to parents, then at the very least, it must be an accessible process. However, the very nature of being forced to go through a legal process, to file a petition, to go before a judge to discuss an intimate and personal healthcare decision, is itself a barrier. This was reiterated by several stakeholders. “Just having to go to court in general is a deterrent. It is still a barrier.”

¹⁵ See Rebouché, *Report of a National Meeting*, *supra* note 7, at 29 (“Reflecting lived realities requires placing race, location, and gender identity at the center of the conversation about parental involvement.”).

Forcing young people through an intimidating and traumatic court experience causes harm, even when the bypass is ultimately granted and they are able to receive abortion care.¹⁶ This is largely because, even when the process is working as intended, it is strongly associated with negativity and wrongdoing.¹⁷ “There is already shame and stigma [associated with abortion care], and explaining that they have to go to court just adds to it.”

Some young people will get the information they need to navigate the bypass process, some will bring a parent or another trusted adult with them to the hearing and connect with an advocate for support, and eventually some young people will be granted a judicial bypass order so that they can receive the confidential health care that is right for them. However, even those young people who successfully navigate the bypass process are often left frustrated and humiliated by what they are forced to endure. And for others, their choices will be further limited by the inaccessible nature of the legal system.

"[Going to court] was not about providing support. It made everything even more painful."

Young people seeking abortion care need compassionate support. They need the autonomy to seek the health care that is right for them. And they need access to comprehensive services and information. Forcing young people to go to court to access the health care they need benefits no one.¹⁸

LOGISTICAL BARRIERS BAR MEANGINFUL ACCESS TO ABORTION CARE FOR YOUNG PEOPLE

In Minnesota, the law generally acknowledges young people’s rights to bodily autonomy and confidential care by explicitly codifying a young person’s right to consent to significant portions of their own medical care without parental involvement, including treatment related to substance abuse and sexually transmitted infections.¹⁹ But the state does not permit those same young people to make independent decisions about abortion care.

When seeking abortion care, young people must have: (1) the abortion provider notify both of their parents followed by a 48-hour waiting period;²⁰ (2) both parents authorize the abortion in writing;²¹ or (3) a judicial bypass granted by the courts.²² Both the forced parental notification law and the judicial bypass process are onerous, difficult to navigate, and create substantial barriers to abortion access for young people under 18.

Two-Parent Notification

When a young person seeks abortion care, the parental notification statute puts the onus on abortion providers to ensure that one of the three previously listed conditions are legally satisfied. Under the current statute, it is clear that noncompliance is a misdemeanor and grounds for civil action.²³ What is unclear is what noncompliance actually looks like, including what types of legal documents are required to confirm consent or notification. Accordingly, clinics are forced to grapple with the gray area in the law concerning what could rise to the level of “evidence sufficient to convince a careful and prudent person” and “reasonable diligence.”²⁴ And that chilling effect leads clinics to have especially stringent documentation requirements.

¹⁶ See Sanger, *Decisional Dignity*, *supra* note 7, at 419 (pointing out that measuring harm only in terms of petitions denied “distracts attention from the injurious content of the hearings themselves.”).

¹⁷ *Id.* at 418 (“The hearings provide an opportunity to inflict a kind of legal harm—harm by process—on young women seeking to abort. They produce a civil version of what Malcolm Feeley identified in the criminal context as ‘process as punishment.’ This is the proposition that participation in criminal proceedings, long before trial or conviction, can itself be punitive.”). See also *PLANNED PARENTHOOD OF CENT. N.J. v. FARMER*, 165 N.J. 609, 612 (2000) (“[A]pplications for waiver of notification in Massachusetts and Minnesota, two states brought to the Court’s attention, are granted by the courts almost without exception, suggesting that the waiver process serves only to delay the abortion rather than advance the State’s asserted interests.”).

¹⁸ American Academy of Pediatrics, Committee on Adolescence, *The Adolescent’s Right to Confidential Care When Considering Abortion*, *PEDIATRICS* 139(2), February 2017: 3 (“Judicial bypass procedures also risk causing medical and psychological harm to the pregnant adolescent.”).

¹⁹ Minn. Stat. Ann. § 144.343, subd 1.

²⁰ Minn. Stat. Ann. § 144.343, subd 2.

²¹ Minn. Stat. Ann. § 144.343, subd 4(2).

²² Minn. Stat. Ann. § 144.343, subd 6.

²³ Minn. Stat. Ann. § 144.343, subd 5.

²⁴ *Id.*

Providers we spoke to detailed that, for these reasons, clinics require birth certificates to identify who is entitled to notice. One stakeholder said, “if both parents are on the birth certificate, then both parents need to have the [notification waiver] notarized.” Clinics encourage young people to bring their parents with them to the clinic. Another shared that “with these laws, the best way to handle it is to bring parents with them to the appointment if possible. At the clinic, parents are asked to show picture ID and sign documents authorizing the abortion or acknowledging notification. Some clinics have notaries on site.” Still another said that “parents have to have IDs that match the names on the birth certificate, so if their name has changed, we have to have legal documentation to trace the name back to the name of the birth certificate.” If only one parent can go in person to the clinic, they must bring a notarized letter from the other parent acknowledging notification. If one parent is deceased, clinics require a death certificate.

One stakeholder said: “We need the official birth certificate, not just a copy. Same if the parent gets married — we need the official document. Even when there is a parent who is really supportive, getting the documents is difficult.” Another stakeholder said that it was sometimes hard to know what the law requires: “When the person is a ward of the state, is the state the person who gives consent for the minor to come in, or do we have to go to court?” And when asked about relying on written, notarized letters from parents, one stakeholder explained that because it can be difficult to understand what is “sufficient under the law,” the clinics maintain strict documentation requirements.

“Because of the unclear documentation requirements, this [process] is basically consent, not just notification.”

Alternatively, a provider can notify one or both parents by certified mail that is addressed to the parent at their usual residence with return receipt requested and restricted delivery.²⁵ Restricted delivery means that the mail must be delivered to and signed for by the addressee, and may require proof of identification from the recipient to deliver the mail.²⁶ But this option can present even more logistical barriers because “it requires knowing the address. And a lot of young people do not live with or have contact with the people on their birth certificate.”

Judicial Bypass

For young people who cannot or choose not to tell their parents about their decision to have an abortion, the logistical barriers are particularly daunting because they must navigate the judicial bypass process. Not only is court an intimidating and traumatic experience, it can also be difficult to access.

Subsection 6 of the parental notification statute provides that any judge of a court of competent jurisdiction can hear a bypass case, that the court may appoint a guardian ad litem in a bypass hearing, and that a court must advise a young person of their right to court appointed counsel and provide such counsel if requested by the young person. The statute also provides that, for the purpose of filing a bypass petition, the court must be accessible twenty-four hours a day, seven days a week.

In practice, however, there are no uniform, consistent processes. For example, the court *is not* available twenty-four hours a day, seven days a week and it is not clear that attorneys are actually available for appointment in these hearings. As a result, a young person’s access to judicial bypass seems to depend largely on whether they are lucky enough to tap into the right information network.

“The judicial bypass process causes additional delays because the court isn’t always open. You’re scheduling a medical appointment with a small number of appointments. Then you’re adding yet another appointment in court. Guardians ad litem and judges have restrictions on their schedules. And we’re trying to get all of this scheduled in one day so the young person doesn’t have to spend even more time traveling. It’s a real hardship.”

²⁵ Minn. Stat. Ann. § 144.343, subd 2(a).

²⁶ USPS.com <https://www.usps.com/ship/insurance-extra-services.htm> (last visited May 19, 2021).

One stakeholder reported “situations where people say they called the courthouse and were told [judicial bypass] doesn't exist. And I can only imagine how lost and confused you could be from getting that conflicting information from the provider you're trying to be seen with and the courthouse.”

Even with accurate information, young people seeking a judicial bypass must overcome a number of obstacles to abortion services and often experience delay in medical care. Although the process is intended to be confidential, the more time spent traveling to and from a court and clinic, as well as missing school, work, and extracurricular activities, makes that confidentiality precarious. One stakeholder explained that “being able to travel to a clinic is a huge barrier. Then there's the waiting period. Money. Parental notification. And when you're talking about something as time sensitive as pregnancy, the wait and the judicial bypass process really harms young people.” Another noted that “when clinic appointments are only available on certain days, and the judicial bypass cases are only heard on certain other days, then it can really delay the procedure.”

These obstacles are exacerbated for young people living in rural areas because “there is so little access to abortion care in rural Minnesota that people drive hundreds of miles for abortions.” It is unclear whether courts in rural Minnesota have established processes for judicial bypass hearings, and the vast majority of stakeholders identified and interviewed for this report are located in or near a city with clinics. When asked about the bypass process in rural counties, several stakeholders were unsure about what happens in other parts of the state, while others said that most young people travel to the cities for care and the bypass. One stakeholder said the following about supporting young people in rural counties: “It is difficult to describe the process to young people in rural areas because it's not as streamlined. Also, there is always the fear that you might know the judge.” As abortion care providers find ways to better serve rural populations, young people who need judicial bypasses get left behind if they cannot access the process through their local court.

These hurdles are not limited to young people navigating the processes alone. Because of onerous documentation requirements, even a young person with the support of a parent or legal guardian may be forced to navigate the court system.

“There was one situation where a young woman's father was killed while he was serving in the military. Guardianship rights were then granted to her aunt and grandfather. But when she needed an abortion, even when her family members supported her, the law created barriers for this family because they couldn't find the documents they needed to prove that they had custody of her.”

One stakeholder shared the practical implications for families navigating language barriers:

“I drove a young person to her appointment at the clinic, but the judge wasn't available, so I had to drive her home and then back another day. And because of the language barrier, she couldn't have even told her parents and had them consent because everything is in English.”

Forced parental notification and the judicial bypass process make access to care dependent on informal community networks. They also force clinics to interpret unclear legal requirements, and put young people at risk of exposing the confidential decisions that they go to great lengths to keep private. This is not genuine access to health care, and does not reflect Minnesota's general recognition of young people's rights to bodily autonomy and confidential care.

FORCING PARENTAL INVOLVEMENT DOES NOT PROMOTE FAMILY COMMUNICATION

Proponents of forced parental involvement claim that the notification and consent requirements promote family communication.²⁷ But the American Academy of Pediatrics has explicitly stated these restrictions actually have the opposite effect.²⁸ Instead, forcing parental involvement delays access to appropriate medical care, increases unwanted births, and, ultimately, risks causing both physical and emotional harm to young people.²⁹

²⁷ See e.g., *PLANNED PARENTHOOD OF Cent. N.J.* at 640 (acknowledging and rejecting the State's assertion that forced parental notification facilitates and fosters family communications).

²⁸ American Academy of Pediatrics, *supra* note 18, at 4.

²⁹ *Id.* at 3.

One stakeholder focused on how pernicious the myth of the perfect nuclear family is for young people: “Legislators imagine a perfect situation where two loving parents are able to talk to their child. And they’re imagining this construct, but that’s not the reality of most people’s lives.” And another explained that young people know their limitations and where they can seek support, so forcing notification or consent does not change, and certainly does not improve, their relationship with their parents.

“There’s no situation I can think of, ever, where a parent had been notified, that was going to help the patient. You can either tell your parents or you can’t. And the idea that notification will support the young person is not a reality. It’s just a cruel impediment.”

The need for the state to force this communication is even less justifiable when research shows that young people do not make decisions about abortion in a vacuum. Studies show that they actively involve adults they trust and feel close to, and that most young people voluntarily involve at least one parent in their decision.³⁰ Yet in Minnesota, even though stakeholders said that a majority of the young people they see have one supportive parent, without proper documentation for their second parent, they’re still forced to navigate the court system and request a judicial bypass.

“Almost all of the young people we see have a parent with them. But needing the support of both parents is a huge barrier to care for young people. Dad is in jail. Dad is in another country. Dad is in the wind somewhere. So this young person has a supportive parent, but is still being forced to go through the court system.”

Several stakeholders shared that for some young people, the two-parent notification becomes a painful reminder of a parent’s absence. One said that “a lot of patients have concerns that they’ve never in their life spoken with a parent, or it’s been so long that they don’t know their address, or they died. . . . And understandably, that brings up a lot of different emotions.” Another stakeholder emphasized the power this gives to someone who is, in reality, a complete stranger to their child. “When a minor has to reach out to a parent who has been absent in their life, then you’re giving them the power to be involved in this important decision when they haven’t been involved in any other decisions throughout their entire life.”

Because most young people voluntarily involve at least one parent in their decision, the reasons for not doing so are usually compelling. They most frequently include the fear of conflict or escalated conflict, the belief that sharing the information would damage their relationship with their parent, and the desire to protect a vulnerable parent.³¹ Each of these reasons was confirmed by stakeholders who shared stories of young people who could not and did not involve their families in their decision to have an abortion because of the significant ways it would affect their lives and their relationships. One said that “among certain diasporas, it is not uncommon for young people to say that if they told their parents, they would be forced to marry.” Another shared: “We’ve also had some minors who go to court, their parents somehow manage to find out, and their parents kick them out. One minor was 17, and when she came home, she found all of her belongings out on the lawn.” And another young person went through the judicial bypass process alone “because her mom has just passed away from cancer. Her dad was grieving. And she didn’t want to burden him any further.”

Two-parent notification creates even more complications by exposing families to further family court litigation, with one parent using the abortion, or the other parent’s support or opposition to it, as leverage. One stakeholder said that “when there’s a contentious relationship between parents or a divorce, they frequently don’t want to tell the other because it can be used against them in court for custody.”

The laws also ignore the myriad important relationships young people have with other trusted adults in their lives. They completely fail to recognize all the support a young person may have in their life, pushing to disclose confidential information to a stranger in a courtroom rather than leaning on their community. “Even if you live with adults you love and trust — aunts, grandparents, chosen family — you still have to go through this daunting court process because it’s all about the people on your birth certificate, not your actual support system.”

There is no evidence that legally forcing disclosure results in improved family communication. And ultimately, stakeholders stressed again and again that parental notification and the judicial bypass process primarily serve to create more barriers for young people. “It

³⁰ *Id.* at 4.

³¹ *Id.*

doesn't foster better family communication. It ruins some young people's lives. It ruins some families' lives. It puts more stress on the family."

JUDICIAL BYPASS DOES NOT PROTECT YOUNG PEOPLE

The judicial bypass process is often presented as a reasonable alternative to forced parental involvement laws and critical to protecting young people who cannot involve a parent in their decision to have an abortion. But what is clear from stakeholders in Minnesota is that neither two-parent notification nor the judicial bypass process does either of these things. Judicial bypass is certainly not a reasonable alternative, and it does not expose sexual abuse, parental abuse, trafficking, or any of the other harms alleged by legislators.³²

As health care providers, social workers, and advocates working closely with young people, a majority of the stakeholders we spoke with are mandated reporters in Minnesota. Yet they explained how they very rarely have information that enables them to detect cases of harm to young people, and that even when they do, the harm had previously been reported or the young person reached them as a result of the reporting. And critically, because navigating the court system and the judicial bypass process is frightening, young people do not see it as a safe space to disclose any harm they may be experiencing. One stakeholder said that they "wouldn't even capture [instances of abuse or trafficking] because young people don't feel safe enough to tell us."

This was exemplified by a stakeholder who has guided hundreds of young people through the judicial bypass process, but has never had a single young person disclose anything that would require reporting to legal authorities. Another provider who has also supported hundreds of young people through the process has had a similar experience: "Years ago, a minor from a rural town disclosed sexual abuse, so we reported it to the police. But they'd already received reports, so they never even followed up with us. This has happened a couple of times, but it's very rare."

Even when stakeholders came in contact with young people exposed to the types of harms highlighted by proponents of forced parental involvement laws, they only became involved after the harm had been reported.

"Those cases were always brought to us by the police or social workers, and not vice versa. So the bypass process wasn't 'catching' anything the systems didn't already know about."

If the goal is to support young people, there are evidence-based ways to do so, including having scientifically accurate, gender-inclusive sexual health education,³³ access to contraception,³⁴ and acknowledging that young people are in the best position to assess and communicate their needs.³⁵ This last point was particularly salient in every conversation with stakeholders: young people are in the best position to know their own needs, to communicate those needs voluntarily with the supportive adults they trust, and to disclose when they need additional help and resources.

"There are a lot of other ways our youth need protection, including through housing and food access, but putting additional barriers to health care in their way is not protecting them."

CONCLUSION

"Young people always get left behind. The parental notification law is the most harmful abortion regulation in the state of Minnesota."

³² See e.g., *Hodgson*, 497 U.S. at 439 ("The District Court found that few minors can take advantage of the exception for a minor who declares that she is a victim of sexual or physical abuse because of the obligation to report the information to the authorities and the attendant loss of privacy.").

³³ American Academy of Pediatrics, *supra* note 18, at 1.

³⁴ *Id.*

³⁵ *Id.* at 7 (concluding that "[u]ltimately, the pregnant patient's right to decide who should be involved and what the outcome of the pregnancy will be should be respected.").

Forced parental involvement laws and judicial bypass processes require many young people to navigate an intimidating and traumatic court experience; create logistical barriers that bar meaningful access to abortion services for young people; do not promote family communication; and harm rather than protect young people.

“These are not good laws. They place a burden on minors who already are going through a lot of obstacles trying to get the care they need, and this is just an additional barrier. They know what they need and want. They don't make this decision without thinking it through.”

And this sentiment — that young people take this decision seriously and in consultation with people they love and trust — was confirmed by every single stakeholder. One shared that, even after representing hundreds of young people in the judicial bypass process, they continue to be struck by the thoughtfulness and maturity of the young people they encounter. “They are all so aware of the weight of their decision. They have really given it a lot of gut-wrenching, mind-wrenching thought. So the idea that young people are frivolously trying to fix their lives by getting an abortion, that's just not what we see. Not at all. Not even close.” And in commenting on the hurdle of going in front of a judge, all on their own, just in order to be able to make a decision about their health care, another stakeholder said: “You'd have to be a pretty brave and determined young person to do all of that.”

While stakeholders explained that almost all judicial bypasses they are involved with are granted, they still see the harm and trauma caused by it. Despite this, most stakeholders acknowledged that navigating the bypass process was the only way to guarantee many young people access to abortion care.

“When the easiest route is getting a judicial bypass, that just shows you how daunting these barriers are. That says it all. Going in front of the judge is the easiest route, then there's something wrong with the whole system.”

What is clear from stakeholders is that Minnesota's laws regulating youth access to abortion care are not working. Indeed, they are causing more harm than good. And although dedicated advocates ensure that the young people they see ultimately receive the care they need, this doesn't account for all of the young people who never find their way to these advocates, all the young people who are forced to involve a parent they would otherwise have chosen not to, and all of the hurt, delay, and fear created by these unnecessary legal processes.