

**WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Changes California Constitution to prohibit abortion for unemancipated minor until 48 hours after physician notifies minor's parent or legal guardian.
- Permits notification to certain adult relatives if doctor reports parent to law enforcement or Child Protective Services.
- Provides notification exceptions for medical emergency or parental waiver.
- Permits courts to waive notice based on clear and convincing evidence of minor's maturity or best interests.
- Mandates reporting requirements, including reports from physicians regarding abortions on minors.
- Authorizes damages against physicians for violation.
- Requires minor's consent to abortion, with exceptions.

**Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined.

**ANALYSIS BY THE LEGISLATIVE ANALYST****BACKGROUND**

In 1953, a state law was enacted that allowed minors to receive, without parental consent or notification, the same types of medical care for a pregnancy that are available to an adult. Based on this law and later legal developments related to abortion, minors were able to obtain abortions without parental consent or notification.

In 1987, the Legislature amended this law to require minors to obtain the consent of either a parent or a court before obtaining an abortion. However, due to legal challenges, the law was never implemented, and the California Supreme Court ultimately struck it down in 1997. Consequently, minors in the state currently receive abortion services to the same extent as adults. This includes minors in various state health care programs, such as the Medi-Cal health care program for low-income individuals.

**PROPOSAL****Notification Requirements**

This measure amends the State Constitution to require, with certain exceptions, a physician (or his or her representative) to *notify* the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an "unemancipated" minor. The measure identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents' or guardians' custody and control under state law.

A physician would provide the required notification in either of the following two ways:

**Personal Written Notification.** Written notice could be provided to the parent or guardian personally—for example, when a parent accompanied the minor to an office examination.

**Mail Notification.** A parent or guardian could be sent a written notice by certified mail so long as a return receipt was requested by the physician and delivery of the notice was restricted to the parent or guardian who must be notified. An additional copy of the written notice would have to be sent at the same time to the parent or guardian by first-class mail. Under this method, notification would be presumed to have occurred as of noon on the second day after the written notice was postmarked.

### Exceptions to Notification Requirements

The measure provides the following exceptions to the parental notification requirements:

**Medical Emergencies.** The notification requirements would not apply if the physician certifies in the minor's medical record that the abortion is necessary to prevent the mother's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."

**Waivers Approved by Parent or Guardian.** A minor's parent or guardian could waive the notification requirements and the waiting period by completing and signing a written waiver form for the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's 18<sup>th</sup> birthday. The form would need to be notarized unless the parent or guardian delivered it personally to the physician.

**Notice to Adult Family Member and Report of Abuse.** The physician could notify an adult family member instead of notifying the minor's parent based on the minor's written statement that (1) she fears physical, sexual, or severe emotional abuse from a parent who would otherwise be notified, and (2) that her fear is based on a pattern of such abuse of her by a parent. The measure defines an adult family member as a person at least 21 years of age who is the

grandparent, stepparent, foster parent, aunt, uncle, sibling, half-sibling, or first cousin of the minor. The manner of notice to an adult family member must be consistent with that required for parental notice. In addition, the measure requires the physician to make a written report of known or suspected child abuse to the appropriate law enforcement or public child protection agency. The physician would also be required to include with the notice a letter informing the adult family member about the report of abuse.

**Waivers Approved by Courts.** The pregnant minor could ask a juvenile court to waive the notification requirements. A court could do so if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interest. If the waiver request is denied, the minor could appeal that decision to an appellate court.

A minor seeking a waiver would not have to pay court fees, would be provided other assistance in the case by the court, and would be entitled to an attorney appointed by the court. The identity of the minor would be kept confidential. The court would generally have to hear and issue a ruling within three business days of receiving the waiver request. The appellate court would generally have to hear and decide any appeal within four business days.

The measure also requires that, in any case in which the court finds evidence of physical, sexual, or emotional abuse, the court must refer the evidence to the appropriate law enforcement or public child protection agency.

### State Reporting Requirements

Physicians are required by this measure to file a form reporting certain information to the state Department of Health Services (DHS)<sup>1</sup> within one month after performing an abortion on an unemancipated minor. The reporting form would include the date and facility where the abortion was performed, the minor's month and year of birth, and certain other information about the minor and the circumstances under which the abortion was performed. The forms that physicians

<sup>1</sup> Effective July 1, 2007, DHS was divided into two departments: the Department of Health Care Services and the Department of Public Health. The measure does not specify which of these departments would perform these activities and incur the related costs.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

would file would not identify the minor or any parent or guardian by name. Based on these forms, the department would compile certain statistical information relating to abortions performed on minors in an annual report that would be available to the public.

The courts are required by the measure to report annually to the state Judicial Council the number of petitions filed and granted or denied. The reports would be publicly available. The measure also requires the Judicial Council to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

**Penalties**

Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. The measure would require such a legal action to commence within four years of the minor's 18<sup>th</sup> birthday or later, under specified circumstances. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

**Relief From Coercion**

The measure allows a minor to seek help from the juvenile court if anyone attempts to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it found necessary to prevent coercion.

**FISCAL EFFECTS**

The fiscal effects of this measure on state government would depend mainly upon how these new requirements affect the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of this measure on the birthrate for California minors would be limited, if any. If it were to increase the birthrate for California minors, the net cost to the state would probably not exceed several million dollars annually for health and social services programs, the courts, and state administration combined. We discuss the potential major fiscal effects of the measure below.

**Savings and Costs for State Health Care Programs**

Studies of other states with laws similar to the one proposed in this measure suggest that it could result in a reduction in the number of abortions obtained by minors within California. This reduction in abortions performed in California might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If, for either reason, this measure reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal Program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs.

This measure could also result in some unknown additional costs for state health care programs. If this measure results in a decrease in minors' abortions and an increase in the birthrate of children in low-income

families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and follow-up care.

The net fiscal effect, if any, of these or other related cost and savings factors would probably not exceed costs of a few million dollars annually to the state. These costs would not be significant compared to total state spending for programs that provide health care services. The Medi-Cal Program alone is estimated to cost the state \$14.1 billion in 2007–08.

### **State Health Agency Administrative Costs**

The state would incur first-year costs of up to \$350,000 to develop the new forms needed to implement this measure, establish the physician reporting system, and prepare the initial annual report containing statistical information on abortions obtained by minors. The ongoing state costs to implement this measure could be as much as \$150,000 annually.

### **Juvenile and Appellate Court Administrative Costs**

The measure would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the

notification requirements. The magnitude of these costs is unknown, but could reach several million dollars annually, depending primarily on the number of minors that sought waivers. These costs would not be significant compared to total state expenditures for the courts, which are estimated to be \$2.2 billion in 2007–08.

### **Social Services Program Costs**

If this measure discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, but because all CalWORKs federal funds are capped, these additional costs would probably be borne by the state. These costs would not be significant compared to total state spending for CalWORKs, which is estimated to cost about \$5.3 billion in state and federal funds in 2007–08. Under these circumstances, there could also be a minor increase in child welfare and foster care costs for the state and counties.

★ ARGUMENT IN FAVOR OF PROPOSITION 4 ★

It's time to close the loophole in California law that allows minor girls to be taken for secret chemical or surgical abortions by anyone—even an adult male who impregnated her—*WITHOUT THE DOCTOR NOTIFYING ANY FAMILY MEMBER*. These predators can even take girls out of school to hide their crimes.

*Sarah was only 15 when she had a secret abortion. Within days a high fever set in. No one knew why, or how seriously ill she was. By the time she was hospitalized and doctors determined she had a deadly infection from a torn cervix, it was too late. Sarah died. Had someone in her family known about the abortion, Sarah's life could have been saved.*

Proposition 4—Sarah's Law—would require doctors to notify a parent or, in case of parental abuse, *another adult family member*, such as a grandparent, aunt, or sister, before performing an abortion on a girl under 18. Parental consent is not required, but an adult who cares about her can help her understand all options, ensure competent care, and provide her medical history.

Over the past twenty-five years, more than thirty states have enacted laws similar to Proposition 4. *THESE LAWS REDUCE TEEN PREGNANCIES AND SEXUALLY TRANSMITTED DISEASES, WITHOUT DANGER OR HARM TO MINORS.*

Medical professionals and lawmakers know *children are safer when a family member knows of their medical situation* and is informed about risks to their health and safety. New California law requires a parent to provide written consent in person before a minor can use a tanning salon . . .

Yet a young girl can get an abortion *WITHOUT A FAMILY MEMBER BEING NOTIFIED*—and this could endanger her safety, *even her life.*

*WHEN ABORTIONS ARE KEPT SECRET, ADULT SEXUAL PREDATORS GO FREE.* Sarah's Law will protect young victims of sexual crimes.

*Planned Parenthood performed an abortion on a 14-year-old and then, at the request of the male predator who brought her in, gave her a shot of Depo-Provera so he could have sex with her again right away.*

*ABORTION PROVIDERS AREN'T REPORTING THESE CRIMES TO LAW ENFORCEMENT.* Family members will!

*Planned Parenthood failed to report the sexual abuse of a 13-year-old brought for an abortion by the 23-year-old who raped her. After the secret abortion, the same man impregnated her again, and she had a second abortion.*

Sadly, the list of victims of secret abortions continues to grow. Without Sarah's Law, most parents won't know their minor daughter is seeking an abortion.

*SECRECY ENABLES ABUSE TO CONTINUE*, even abuse inside the home. Sarah's Law will protect vulnerable girls by ensuring abuse is reported and putting their health and safety first.

*DON'T LET YOUNG GIRLS LIKE SARAH FACE THE PHYSICAL AND EMOTIONAL RISKS OF SECRET ABORTIONS ON THEIR OWN*—or worse yet, *COERCED BY A SEXUAL PREDATOR!*

Join doctors, nurses, teachers, parents, and law enforcement officials who urge you to protect our daughters and stop child predators by *VOTING YES on PROPOSITION 4!*

[www.YESon4.net](http://www.YESon4.net)

**BARBARA ALBY**, Author

California's "Megan's Law" Child Protection Legislation

**JOSEPH R. ZANGA, M.D., FAAP**, Past President

American Academy of Pediatrics

**THE HONORABLE TONY RACKAUCKAS, J.D.**, District Attorney  
Orange County

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 4 ★

PLANNED PARENTHOOD, California HAD NOTHING TO DO WITH THE TRAGEDIES DESCRIBED ABOVE.

In fact, NONE of these cases HAPPENED IN CALIFORNIA.

Proponents want you to believe absurd charges so you'll ignore 4's real dangers.

Don't be misled.

In the real world, LAWS LIKE THIS CAN'T FORCE TEENS TO TALK TO THEIR PARENTS but may cause them to seek illegal, unsafe abortions, go over the border, or even consider suicide.

PROP. 4:

WON'T REDUCE TEEN PREGNANCY.

PUTS TEENS IN DANGER.

ENCOURAGES LAWSUITS AGAINST DOCTORS.

The facts:

- "SARAH" (whose real name was Jammie Garcia Yanez-Villegas) was a married mother, with a child, when she died in Texas in 1994. Nothing in Prop. 4 would have prevented her tragic death.
- PLANNED PARENTHOOD PROTECTS TEENS, NOT PREDATORS. Its staff complies with all child abuse reporting laws. 97% of what Planned Parenthood does

involves preventive care, comprehensive sex education, and cancer screenings.

- When pregnant teens need help, Planned Parenthood's caring counselors urge teens to talk to parents—and most do . . . and IF THEY FIND EVIDENCE OF ABUSE, THEY REPORT IT.

Backers are exploiting fears to advance their own political agenda: *The San Diego Union Tribune* reported that THEIR REAL GOAL IS TO OUTLAW ABORTION.

Parents rightfully want to be involved in their teenagers' lives, but extremists are making wild charges to divert voters from the real and dangerous consequences of 4. For the real facts about its danger to teens, visit [www.NoOnProposition4.org](http://www.NoOnProposition4.org).

THE MOST IMPORTANT THING IS KEEPING TEENS SAFE. VOTE NO.

**KATHY KNEER**, President

Planned Parenthood Affiliates of California

**DR. RAQUEL ARIAS**, Associate Dean

Obstetrics and Gynecology (Keck School of Medicine)

University of Southern California

**DR. JEANNIE CONRY**, Chair

American College of Obstetricians and Gynecologists, District IX



★ ARGUMENT AGAINST PROPOSITION 4 ★

PROPOSITION 4 PUTS TEENS AT RISK.

The AMERICAN ACADEMY OF PEDIATRICS,  
CALIFORNIA DISTRICT,

The CALIFORNIA MEDICAL ASSOCIATION,  
The CALIFORNIA ASSOCIATION OF FAMILY  
PHYSICIANS,

The AMERICAN COLLEGE OF OBSTETRICIANS AND  
GYNECOLOGISTS, DISTRICT IX,

The CALIFORNIA TEACHERS ASSOCIATION,

And parents throughout California urge you to VOTE NO on 4.  
MANDATORY NOTIFICATION LAWS MAY SOUND  
GOOD, BUT, IN THE REAL WORLD THEY PUT  
TEENAGERS IN REAL DANGER.

A SCARED, PREGNANT TEEN who can't go to her parents  
can feel trapped and desperate. Instead of seeking the counseling  
and safe medical care she needs, she MAY CHOOSE AN  
UNSAFE, BACK ALLEY, ILLEGAL ABORTION, GO ACROSS  
THE BORDER, OR EVEN CONTEMPLATE SUICIDE.

Proposition 4 is DANGEROUS.

PARENTS RIGHTFULLY WANT TO BE INVOLVED  
IN THEIR TEENAGERS' LIVES. We want our daughters  
to come to us if they become pregnant. BUT, IN THE REAL  
WORLD, NOT ALL TEENS LIVE IN HOMES WHERE  
COMMUNICATION IS POSSIBLE, and, even in the best  
homes, many teens aren't able to talk about something as sensitive  
as pregnancy.

IF OUR DAUGHTERS COULDN'T COME TO US,  
for whatever reason, THE MOST IMPORTANT THING IS  
KEEPING THEM SAFE. New laws cannot force our teens to talk  
to us, but they may force them into the back alleys . . . or worse.

PROPOSITION 4 DOESN'T PROTECT TEENS IN  
DANGEROUS HOMES. A scared pregnant teen is not going to  
go to her doctor, claim mistreatment, and then stand by as law  
enforcement comes to the door—the same door she has to return  
to. She may not seek care at all.

Prop. 4 is not about "family involvement." Family notification  
is no more than a state-scripted form letter sent to another relative

who may not live in the same town. Prop. 4 contains  
NO REQUIREMENT FOR COUNSELING and no  
requirement that the other adult help her when she is in crisis.  
PROP. 4 PUTS OUR MOST VULNERABLE TEENAGERS IN  
HARM'S WAY . . .

OR FORCES TEENS TO GO TO COURT.

Think about it: she's pregnant, she can't go to her parents, and  
she's already desperate. She isn't going to go to court to reveal  
the most intimate details of her life to an unfamiliar judge in an  
impersonal courthouse. SHE DOESN'T NEED A JUDGE; SHE  
NEEDS A CARING COUNSELOR AND SAFE, QUALITY  
MEDICAL CARE, WITHOUT DELAY.

MANDATORY NOTIFICATION LAWS MAKE SCARED,  
PREGNANT TEENS WHO CAN'T GO TO THEIR  
PARENTS DO DANGEROUS THINGS.

And if in desperation, teenagers turn to illegal, self-induced,  
or back-alley abortions, THEY WILL SUFFER SERIOUS  
INJURIES AND SOME WILL DIE.

REAL FAMILY COMMUNICATION MUST START LONG  
BEFORE A TEEN FACES AN UNPLANNED PREGNANCY.  
The best way to protect our daughters is to begin talking with  
them about responsible, appropriate sexual behavior—including  
abstinence—from the time they are young and fostering an  
atmosphere assuring they can come to us.

Because NO LAW CAN MANDATE FAMILY  
COMMUNICATION and while mandatory laws like these  
may sound good, IN THE REAL WORLD THEY JUST PUT  
TEENAGERS IN REAL DANGER.

TO PROTECT TEENS, please vote No on 4.

**DR. MYLES B. ABBOTT**, Chair

American Academy of Pediatrics, California District

**DONNA GERBER**

California Nurses Association

**NANCY SCHUBB**, President

California Association of School Counselors

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 4 ★

NOTIFICATION LAWS ARE PROTECTING GIRLS IN  
OVER 30 STATES, and have been for up to 25 years.

THAT'S WHY LAW ENFORCEMENT SUPPORTS  
PROPOSITION 4!

Read the opposing argument carefully. Notice it says "may" and  
"if." There are NO REAL STORIES. Not a single example of a  
"real" teenager harmed by a notification law. THAT'S BECAUSE  
IT HAS NEVER HAPPENED.

Out of millions of girls, the opposition couldn't find ONE  
REAL GIRL harmed by a notification law.

Meanwhile, the list of victims of secret abortions keeps growing.

*A 12-year-old was given alcohol by an adult male who raped  
her when she passed out. Weeks later, the rapist's mother took  
her to an abortion clinic and afterwards dumped her 30 miles  
from home. The police finally located her after the girl's frantic  
mother reported her missing. She was suffering severe abortion  
complications that could have led to her death had she not  
received immediate medical treatment.*

*Adam Gault, 41, lured a 14-year-old from her home with  
promises of drugs and a job. Instead, she became his sex slave*

*for a year, captive in his house. When she became pregnant,  
Gault arranged an abortion for her at Planned Parenthood.  
PLANNED PARENTHOOD didn't report the girl's  
victimization.*

Secret abortions leave girls vulnerable to further sexual abuse,  
pregnancies, abortions, and sexually transmitted diseases.  
Predators are free to prey on new victims.

VOTE YES ON 4 to protect REAL GIRLS in the REAL  
WORLD, victimized by secret abortions and sexual predators.  
[www.YESon4.net](http://www.YESon4.net)

**MARY L. DAVENPORT, M.D.**, Fellow

American College of Obstetricians and Gynecologists

**THOMAS MURPHY GOODWIN, M.D., FAAP, FACOG**

Professor of Obstetrics & Gynecology and Pediatrics  
Keck School of Medicine, University of Southern California

**THE HONORABLE ROD PACHECO, J.D.**, District Attorney  
Riverside County