



In Harm's Way

How Michigan's Forced Parental Consent for Abortion Law Hurts Young People





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Summary

The hypocrisy of the law is the notion that someone is *not* mature enough to make this decision on their own, but they *are* mature enough to carry a pregnancy to term.

—Kylee Sunderlin, Michigan judicial bypass attorney, March 9, 2023

It's another obstacle that makes obtaining a safe legal procedure more difficult than it needs to be.

—Sophia V., Michigan healthcare provider, April 7, 2023

Sarissa Montague, an attorney in Michigan, has a case that still haunts her years later because state law prevented her client from accessing health care she needed and deserved. Her client, 17-year-old Ava R. (not her real name), was denied access to abortion care and forced to continue an unintended pregnancy against her will.

Under Michigan law, anyone under the age of 18 must have the consent of a parent or legal guardian, or permission from a judge, to have an abortion. Ava was in the foster system: “She didn’t have parents. She was a ward of the state. If you’re a ward of the state, where are you supposed to go to get parental consent? You can’t. There’s literally no one for you to ask,” said Montague.

Montague helped Ava file a petition for a judicial waiver of the state’s forced parental consent requirement—a process called “judicial bypass.” She carefully prepared her client to appear before a judge in a hearing that would involve deeply personal questions about her family life, sexual health and behavior, and understanding of abortion. After the hearing, the judge denied Ava’s request for an abortion, claiming that she lacked sufficient maturity to make the decision without parental involvement and that a waiver was not in her best interest. Montague believed the judge’s decision was biased. She told her client they should file an appeal. “[She] was not up for the fight,” Montague said. “It was terrible.... She was defeated.” Montague does not know what happened to her client afterward. “I imagine she went on and [continued the pregnancy].... It was years ago, but it still bothers me.”

Ava is one of countless young people who have been harmed by Michigan’s forced parental consent law since it went into effect in 1993.

According to Michigan’s Department of Health and Human Services, about 700 young people under 18—overwhelmingly older adolescents ages 16 and 17—have abortions in Michigan each year.¹ While over 85 percent of pregnant youth already involve a parent or guardian in their abortion decision, some cannot, or do not want to, for compelling reasons.² They often fear parental involvement will lead to physical or emotional abuse, loss of housing or financial support, alienation from their families, or forced continuation of a pregnancy against their will. Some young people do not have access to a parent or legal guardian due to family separation; a parent’s illness, death, or incarceration; challenges establishing or demonstrating legal guardianship; or other reasons.

Some young people in these circumstances are able to navigate judicial bypass, where they must demonstrate to a judge that they are either “sufficiently mature and well-enough informed” to make an independent abortion decision, or that a waiver is in their best interests.³ Data from the Michigan courts show about 100 young people—roughly 14 percent of those under 18 obtaining abortions in the state—go through the bypass process each year.⁴ Others opt to involve a parent, even when it is not in their best interests, and suffer the potentially life-altering consequences that may bring. Some youth self-manage abortion outside the formal medical system, or find the resources, support, and time to travel to a state that does not require parental involvement, such as Illinois. Others simply do not access abortion care and must continue pregnancies against their wishes.

In cases where young people must seek judicial waivers of consent, state law places them at the whims of judges who can make highly subjective determinations on their maturity and interests. The system lends itself to arbitrary decision-making, with judges weighing

¹ Young people account for only about 2 percent of state abortions. Michigan Department of Health and Human Services, Division for Vital Records and Health Statistics, “Induced Abortions in Michigan: January 1 through December 31, 2021,” June 2022, <https://vitalstats.michigan.gov/osr/annuals/Abortion%202021.pdf> (accessed May 18, 2023).

² *Ibid.*; Michigan Supreme Court, State Court Administrative Office, Caseload Reporting System, “Waiver of Parental Consent to Obtain Abortion – Under the Parental Rights Restoration Act: Petitions Filed and Disposed, by Year,” April 6, 2023. On file with Human Rights Watch.

³ Michigan Compiled Laws § 722.904, Parental Rights Restoration Act 211 of 1990, secs. 4(a), (b).

⁴ *Ibid.*; Michigan Supreme Court, State Court Administrative Office, Caseload Reporting System, “Waiver of Parental Consent to Obtain Abortion – Under the Parental Rights Restoration Act: Petitions Filed and Disposed, by Year,” April 6, 2023. On file with Human Rights Watch.

factors like a young person’s grades and extracurricular activities to determine their access to health care. One attorney summarized the cruel power dynamic: “In many ways, it feels like the judges want to know you’re worthy of making this decision.” Ashmi M., a 16-year-old youth advocate, echoed this sentiment: “These laws make us also feel ashamed, like the world doesn’t value us as human beings or that we’re not worth enough.” Ultimately, forced parental consent gives a third party, whether a parent or a judge, veto power over a young person’s ability to access abortion. Catherine N., a woman who had an abortion in Michigan at age 17, explained, “A judge can say no.... Asking someone else for permission [to have an abortion], whether that’s a parent or a judge, their personal convictions or circumstances can determine whether they say yes or not.” This was particularly upsetting for Catherine, who emphasized her decision to have an abortion was straightforward, and that she had “no internal conflict of what to do” and “no moral quandary.”

While Michigan courts grant most young people’s petitions, some—like Ava, whose case opened this report—are denied. According to state data, judges denied between one and three young people’s petitions each year from 2016 to 2021.⁵ In 2022, judges denied seven young people’s petitions, a denial rate of 7.7 percent.⁶ Michigan’s 2022 judicial bypass denial rate was comparable to denial rates observed in recent years in Texas and Florida, two states with harsh abortion restrictions.⁷

Placing decisions around young people’s healthcare access in the hands of judges is inherently problematic and incompatible with the right to health and its underlying principle of autonomy. Judges with anti-abortion views can interpret the statute’s requirements more conservatively and unduly block young people’s ability to get care. A 2021 appeals court decision reveals the highly subjective nature of judges’ decision-making. In this case, a trial court judge denied a young person’s petition for waiver, claiming she lacked maturity to have an abortion without involving a parent. According to the appellate court record:

⁵ Michigan Supreme Court, State Court Administrative Office, Caseload Reporting System, “Waiver of Parental Consent to Obtain Abortion – Under the Parental Rights Restoration Act: Petitions Filed and Disposed, by Year,” April 6, 2023. On file with Human Rights Watch.

⁶ Ibid.

⁷ Amanda Jean Stevenson and Kate Coleman-Minahan, “Use of Judicial Bypass of Mandatory Parental Consent to Access Abortion and Judicial Bypass Denials, Florida and Texas, 2018–2021,” *American Journal of Public Health*, vol. 113, no. 3 (2023): 316-19, accessed January 8, 2024, doi:10.2105/AJPH.2022.307173.

The trial court expressed its concern that petitioner had not undergone ‘counseling’ about the decision. The statute does not require ‘counseling.’ Moreover, the record indicates that petitioner had multiple conversations with staff at Planned Parenthood regarding her choices and the nature of the procedure. The court seemed concerned about whether Planned Parenthood had fully informed petitioner but did not question her about the conversations, and there is no reason to believe that in her consultations with the clinic, her options were not provided to her as required by the law governing informed consent for abortions.⁸

Despite this, a two-judge majority in the appeals court sided with the trial court and again denied the young person’s request for a judicial waiver.

This report, a collaboration between the American Civil Liberties Union of Michigan (ACLU of Michigan), Human Rights Watch, and the Michigan Organization on Adolescent Sexual Health (MOASH), examines the harmful consequences of Michigan’s forced parental consent law. Based on in-depth interviews with 22 Michigan experts, including judicial bypass attorneys, healthcare providers, and reproductive justice advocates, as well as analysis of data from the state and a review of secondary sources, the report finds that Michigan’s forced parental consent law undermines the safety, health, and dignity of young people seeking abortion care in Michigan, whether they obtain parental consent or go through judicial bypass, and regardless of whether their request for a judicial waiver is granted or denied.

Our key findings are:

- **Young people who can, do involve a parent in an abortion decision and care.** While most young people do talk to a parent when facing a pregnancy, every situation is different, and not every young person can.
- **Young people who do not involve their parents have compelling reasons, rooted in their safety and well-being.** They often fear abuse, alienation, or being forced to continue a pregnancy against their will.

⁸ *In re M P F Minor, Michigan Court of Appeals, Case No. 355945 (Mich. Ct. App. January 7, 2021).*

- **Some young people are belittled, humiliated, or punished by their parents.** Some parents even ask doctors to withhold pain medication for young people’s procedural abortions, against medical advice.
- **Judicial bypass is burdensome and difficult to navigate. For young people without resources or access to information, it can be impossible.**
- **Judicial bypass is invasive, distressing, traumatizing, and often arbitrary.** It feels punitive to young people, and may be especially harmful to young people of color.
- **Forced parental consent delays abortion care.** Judicial bypass often delays care by a week or more, limiting patients’ already constrained and time-sensitive healthcare options and pushing them into more expensive and invasive procedures. In some cases, the delays caused by navigating forced parental consent and judicial bypass leave young people ineligible for medication abortion, a noninvasive and more common method of care, available only up to 11 weeks of pregnancy.
- **Young people are capable of making healthcare decisions.** Michigan law allows young people to consent to all other forms of pregnancy-related health care — including those with significantly higher health risks than abortion — such as a C-section.

In November 2022, just five months after the US Supreme Court overturned *Roe v. Wade*, Michigan voters approved a constitutional amendment protecting the right to abortion care in the state. In November 2023, the legislature passed the Reproductive Health Act, repealing statutes that criminalized nurses and doctors for providing abortion care to patients, forced abortion providers to close, and raised costs for patients. The law also ensures students at Michigan public universities have access to reproductive health information. However, the state’s forced parental consent for abortion law continues to pose barriers to reproductive healthcare access in the state.

Michigan’s parental consent law violates a range of human rights, including young people’s rights to health, to privacy and confidentiality of health services and information, to nondiscrimination and equality, to decide the number and spacing of children, and to be free from cruel, inhuman, or degrading treatment.

Michigan has a responsibility to remove harmful barriers and restrictions that limit the ability of pregnant young people to exercise their right to access abortion.

No one should have to face a judge to access basic health care. Forced parental consent creates barriers to health care, puts young people in harm's way, and violates their rights. Michigan should repeal it.

Recommendations

All young people should be safe and healthy. Michigan should invest in solutions that promote healthy families and strong healthcare networks and keep private family conversations free from intrusive laws and policies.

To the Michigan Legislature

- Repeal the Parental Rights Restoration Act 211 of 1990 as a matter of urgency and ensure that young people under 18 can access abortion care without being forced to involve a parent or legal guardian, or a judge, in their decision-making.

Methodology

This report is the product of a collaboration between the American Civil Liberties Union of Michigan (ACLU of Michigan), Human Rights Watch, and the Michigan Organization on Adolescent Sexual Health (MOASH). The report's findings are based on in-depth interviews, analysis of data from the state, and a review of secondary sources conducted between March and August 2023.

Human Rights Watch interviewed 9 healthcare providers who provide reproductive health care to young people under the age of 18 in Michigan and 5 attorneys with experience representing young people seeking judicial waivers of Michigan's parental consent for abortion requirement. MOASH interviewed a young person who shared her story of having an abortion at age 17, and 7 other young people ages 15 to 22 involved in reproductive justice advocacy in Michigan. In total, we spoke with 22 people for this report.

All interviews were conducted individually, in English, and remotely, via telephone or video call. We informed all interviewees of the purpose of the interview, its voluntary nature, and the ways in which the information would be collected and used. We assured participants that they could end the interview at any time or decline to answer any questions, without any negative consequences. All interviewees provided verbal informed consent to participate.

Interviews were semi-structured and covered topics related to sexual and reproductive health and rights, centered on the experiences of young people under 18 seeking abortion care in Michigan. Care was taken with all interviewees to minimize the risk that recounting difficult or traumatic experiences could lead to distress or further trauma. Human Rights Watch did not provide anyone with compensation or other incentives for participating. MOASH and If/When/How: Lawyering for Reproductive Justice offered abortion storytellers and youth advocates small stipends for time spent in interviews, consistent with their organizational policies related to research participation.⁹ The names of some interviewees have been changed to protect their privacy and safety, including all interviewees under age 18. Interviewees' real names were used only in cases where they preferred it and believed there was no risk involved.

⁹ Michigan Organization on Adolescent Sexual Health (MOASH), <https://www.moash.org/> (accessed October 2, 2023); If/When/How: Lawyering for Reproductive Justice, <https://www.ifwhenhow.org/> (accessed October 2, 2023).

Despite our strong interest in hearing from young people directly impacted by forced parental consent, we did not seek interviews with youth who went through judicial bypass, due to potential risks to their privacy and safety.

In March 2023, MOASH and Human Rights Watch requested data from the Michigan Courts regarding judicial bypass petitions filed, granted, and dismissed in recent years. The Michigan Supreme Court’s Office of Public Information replied in April 2023, sharing basic data related to judicial bypass from 2007 to 2022.

This report also draws on a review of publicly available court records from appeals court rulings on judicial bypass cases. We also analyzed state, national, and international laws and policies and conducted a review of secondary sources, including public health studies, reports by the American Academy of Pediatrics and other health professional associations, and other sources.

Physicians for Human Rights’ Ethics Review Board (ERB) reviewed and approved the research plans and protocols for this research project to ensure we took adequate steps to protect research participants.

The findings and conclusions in this report are those of the authors and do not necessarily reflect the views of Planned Parenthood Federation of America, Inc.

Terminology

In this report, we use the terms “youth” and “young people” to refer generally to anyone under the age of 18. We use the terms “youth” and “young people” to be inclusive of everyone who can become pregnant, regardless of their gender identity. We also use these terms to affirm the autonomy and maturity of adolescents to make the best decisions for themselves regarding their sexual and reproductive health care.

Throughout this report, we use the gender-neutral and inclusive pronouns “they” and “them” to describe young people. When referring to a specific person, we use that person’s individual pronouns and terminology that reflects their gender identity. In some cases, for clarity and readability, we use pseudonyms.

We use “Black, Indigenous, and other young people of color” or “young people of color” to describe individuals and communities who may identify as Black or African American; Hispanic, Latino/a, or Latinx of any race; Asian or Pacific Islander; North African or Middle Eastern; Indigenous; or multiracial. We use this terminology to be inclusive of a range of racial and ethnic identities and to bring visibility to the differential impacts of structural racism in a variety of systems on Black, Indigenous, and other communities of color in the United States.

When we use direct quotes, this corresponds to the exact language used by the source, regardless of our policies on terminology.

Findings

Young People Who Can, Do Involve a Parent in an Abortion Decision and Care

In Michigan and across the country, an overwhelming majority of young people under 18 involve a parent or another trusted adult in their abortion decision and care. This remains true even when state law does not require it.¹⁰

Lara Chelian, the vice president of external operations at Northland Family Planning, a Michigan abortion care clinic, said most youth involve a parent before even calling the clinic. “A parent already knows by the time they call us,” Chelian said.¹¹

According to Michigan reproductive health experts, most young people facing an unintended pregnancy can seek the advice of a parent in their lives. When young people cannot involve a parent in their abortion decision and care, they often seek and receive support from other trusted adults in their lives.¹² Attorney Kylee Sunderlin, who has represented more than two dozen young people in Michigan judicial bypass hearings, said:

Every single person I have represented in a judicial bypass hearing has discussed their decision with, and relied on, a supportive adult in their life. Those adults have ranged from older siblings, aunts, and grandparents, to teachers and mentors. They have also included parents or legal guardians who support their decision, but lack the legal documentation required to

¹⁰ See, for example, Stanley K. Henshaw and Kathryn Kost, “Parental Involvement in Minors’ Abortion Decisions,” *Family Planning Perspectives*, vol. 24, no. 5 (1992): 196-207, accessed January 16, 2024, doi:10.2307/2135870; Lauren Ralph, Heather Gould, Anne Baker, and Diana Greene Foster, “The Role of Parents and Partners in Minors’ Decisions to Have an Abortion and Anticipated Coping After Abortion,” *Journal of Adolescent Health*, vol. 54, no. 4 (2014): 428-434, accessed May 24, 2023, doi:10.2307/2135870; Robert W. Blum, Michael D. Resnick, and Trisha A. Stark, “The Impact of a Parental Notification Law on Adolescent Abortion Decision-Making,” *American Journal of Public Health*, vol. 77, no. 5 (1987): 619-620, accessed May 24, 2023, doi:10.2105/ajph.77.5.619.

¹¹ Human Rights Watch remote interview with Lara Chelian, vice president of external operations, Northland Family Planning, April 6, 2023.

¹² See, for example, Laurie S. Zabin, Marilyn B. Hirsch, Mark R. Emerson and Elizabeth Raymond, “To Whom do Inner-City Minors Talk About Their Pregnancies? Adolescents’ Communication with Parents and Parent Surrogates,” *Family Planning Perspectives*, vol. 24, no. 4 (1992): 148-154, accessed May 24, 2023, doi: 10.2307/2136017; Lauren J. Ralph et al., “Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois,” *Journal of Adolescent Health*, vol. 68, no. 1 (2021): 71-78, accessed December 1, 2020, doi:10.1016/j.jadohealth.2020.08.025.

give consent. Every person’s reason for seeking a bypass is different, but the one constant is that no one is making this decision alone.¹³

Dr. Sarah Walleth, an obstetrician-gynecologist and the chief medical operating officer at Planned Parenthood of Michigan, said that young people’s ability to seek support beyond their parents is a healthy part of adolescent development: “As a healthcare provider, I understand that adolescents are in a unique place in their lives where they also rely on a lot of other support systems outside of family. They are growing and becoming adults, and many of those support systems are very, very strong. It’s a normal part of teen development to rely more and more on external support structures.”¹⁴

Young People Who Do Not Involve Their Parents Have Compelling Reasons

If someone was so afraid to tell their parent that they needed an abortion that they are willing to go through all of this [judicial bypass]—especially alone—there must be some pretty intense risk or potential repercussions involved in telling their parent.

—Syd O., age 18, youth advocate, July 31, 2023

[Young people who] have parents that are supportive are just able to get scheduled [for abortion care], get the consent signed.... And the youth that are in foster care, rural areas, far away, have unsupportive parents, are screwed. Their options are limited.

—Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023

Under international human rights law, young people have no obligation to involve their parent in their abortion decision, but it is important to note that many who chose not to involve a parent do so out of fear that parental involvement will have severe and irreparable consequences, such as their parents forcing them to continue a pregnancy against their will; their parents physically, emotionally, verbally, and/or sexually abusing them; their parents kicking them out of the house and rendering them homeless, or cutting off financial support;

¹³ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

¹⁴ Human Rights Watch remote interview with Dr. Sarah Walleth, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

and their parents alienating them from their families. Michigan healthcare providers, attorneys, and others we interviewed emphasized significant threats to a young person’s safety and well-being.

Eileen Scheff, an attorney who has represented hundreds of young people seeking judicial bypass since Michigan’s parental consent requirement went into effect in 1993, said with some of her clients “there was a history of a parent throwing them out, beating them up, CPS [Michigan’s Children’s Protective Services] was involved, and they were afraid their parents would go off on them again if they found out they were pregnant.”¹⁵

Lara Chelian of Northland Family Planning said: “It ranges from ‘I can’t tell my parents because they will literally beat me, kick me out, and I’ll be on the street’ to religious reasons: ‘[abortion] is unacceptable [to my parents].’”¹⁶

“Some young people could be in abusive households, households that aren’t safe,” explained Lauren D., a healthcare provider at a Michigan abortion care clinic. Patients in these circumstances “could get hurt” if they sought consent for an abortion from a parent or legal guardian, she added.¹⁷

Many young people under 18 fear that their parents would force them to continue a pregnancy against their wishes if they sought consent for an abortion. Jack B., an attorney who has represented about 30 young people in judicial bypass cases, said: “Typically [my clients] were in high school, were not ready to become a parent, and were concerned that their parent or guardian wouldn’t be willing to give them consent for whatever reason. Often because of their religious background. Typically, it was an issue regarding their parents’ opposition to the idea of abortion.”¹⁸

Patricia A., a healthcare provider at a Michigan abortion care clinic, described a patient who had observed the difficulties her older sister faced when her parents opposed her desire for an abortion. “It was extremely traumatic to the minor who had approached us

¹⁵ Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

¹⁶ Human Rights Watch remote interview with Lara Chelian, vice president of external operations, Northland Family Planning, April 6, 2023.

¹⁷ Human Rights Watch remote interview with Lauren D., healthcare provider, May 3, 2023.

¹⁸ Human Rights Watch remote interview with Jack B., attorney, April 3, 2023.

about her pregnancy,” Patricia said. “She was just really afraid that her parents were going to disown her if they found out she ever had an abortion. She did go and get a court waiver, and she did have the abortion.... She was afraid of somebody finding paperwork that would [expose what she was going through].”¹⁹

“Most of them say ‘I’m afraid I’ll be kicked out. I’m afraid they [my parents or guardians] will no longer support me,’” said Kristen Harter, a former abortion care patient navigator with Planned Parenthood of Michigan who regularly supports young abortion seekers.

Kate P., a 16-year-old Michigan youth advocate, described her recent experience with an unintended pregnancy:

Once I found out I was pregnant, I was like ‘Okay, what is my next step? I want to finish school. I want to go to college.’ [Continuing a pregnancy] just wasn’t in the cards for me. So I googled what my options are and saw I needed parental consent.... My parents had me when they were very young. They always told me, if it ever happened to you, you would need to find a way to make it work the way they made it work. I knew asking for consent for an abortion was out of the question.²⁰

Kate had a miscarriage about a week after learning she was pregnant before she even knew judicial bypass was an option. “I don’t have parents that would have supported my decision,” she said. “It’s just very hard when you have someone else governing over your body and what you want.... A lot of parents don’t realize that what worked for them might not work for their kids.”²¹

Some young people, such as foster youth in the custody of the state, may not have access to a parent or legal guardian to provide consent and may struggle to navigate a time-consuming and bureaucratic process to obtain an affidavit from the state, as their legal guardian, consenting to an abortion.

¹⁹ Human Rights Watch remote interview with Patricia A., healthcare provider, April 12, 2023.

²⁰ MOASH remote interview with Kate P., youth advocate, August 7, 2023.

²¹ Ibid.

Lara Chelian from Northland Family Planning supported a pregnant young person who was 17 and about to age out of the foster system. “She was living in a facility, a group home, so there wasn’t a legal guardian. The state would have been [the entity to consent to an abortion], but the quickest way [for her to access care] was judicial bypass.... She just really had no one [to consent to her care] ... because of her life circumstances. Our hearts all broke for her.”²²

Some young people have attentive adult caregivers supporting their decisions, but these caregivers do not have legal guardianship and therefore cannot consent under Michigan law. Beth W., a healthcare provider at a Michigan abortion care clinic, explained: “Sometimes [we see] issues with guardianship where our patients might not have the best relationship with their parents. They are living in someone else’s temporary custody, but there are issues with those guardians having the right to consent to abortion.... Sometimes they have to go for a judicial bypass for those reasons.”²³

Lauren D., a healthcare provider at a Michigan abortion care clinic, said: “I’ve had quite a few patients who lived with their grandma or aunt or something, but their parent was very hard to even get into contact with. It’s definitely difficult. They have consent from the person who really is their guardian and supports them, but legally we can’t accept that [because they do not have legal guardianship]. We have to put them through the process of judicial bypass which is frustrating.”²⁴

Michigan’s parental consent requirement can pose barriers for youth even when their parents are willing to consent. Dr. Sarah Walleth of Planned Parenthood said: “Recently I had a patient whose parents were totally supportive and wanted to help them have an abortion, but both [parents] worked full time jobs ... and could not get time off to come into the health center for the visit. They didn’t have the paid time off, or a secure job that would allow them to miss work.” Walleth said the patient was forced to go through the judicial bypass process.²⁵

²² Human Rights Watch remote interview with Lara Chelian, vice president of external operations, Northland Family Planning, April 6, 2023.

²³ Human Rights Watch remote interview with Beth W., healthcare provider, April 18, 2023.

²⁴ Human Rights Watch remote interview with Lauren D., healthcare provider, May 3, 2023.

²⁵ Human Rights Watch remote interview with Dr. Sarah Walleth, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

Other young people fear that seeking consent from a parent or legal guardian for an abortion will strain, deteriorate, or ruin familial relationships, or burden already taxed caregivers.

Attorney Kylee Sunderlin has represented young people whose parent “has a mental illness or is actively experiencing trauma in a way where they’re just not capable of being present for their child.” Sunderlin explained: “Oftentimes these young folks come to me completely nonjudgmental, just fully understanding the limitations of their parents and being really mature in understanding what their options are.”²⁶

Some Young People Are Belittled, Humiliated, or Punished by Their Parents

Several healthcare providers we interviewed said some patients feel compelled to involve unsupportive or abusive parents in their abortion decisions because of Michigan’s forced parental consent law. Providers saw parents belittle, humiliate, or punish their patients while they received abortion care.

“Parents aren’t always the most supportive,” said Sophia V., a provider at a Michigan abortion care clinic. “I’ve seen parents reprimand their children in front of other people saying, ‘This is your fault. You got yourself into it. I’m just here to sign paperwork.’” She added: “It’s traumatic. It’s a stressful situation [for a young person] and then you don’t have support from the people who should be supporting you.” Sophia said that she’s seen signs that young people in these circumstances have tried to hurt themselves: “There’s a lot of young people that self-harm.... I’ve seen that in several, several cases. A lot of the home dynamics appear to be not supportive in those situations. A lot of times you’ll see the minor sitting several seats away from their parents. They don’t even want to be in the waiting room together.... There’s definitely been hostility.... A lot of these patients would have benefited from a judicial bypass, but going through courts can be daunting and intimidating.”²⁷

Healthcare provider Lauren D. said: “I had a patient who I was doing her ultrasound, and her mom was in the room. She just started yelling at her, and the patient was crying. I was

²⁶ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

²⁷ Human Rights Watch remote interview with Sophia V., healthcare provider, April 7, 2023.

trying my best to deescalate the situation, but it was very hard to do because who am I to these people?... It's really difficult to witness especially because ... you don't want to overstep boundaries as an outsider, but you don't want this young person who's already in a difficult situation to feel down about themselves because of their parents.”²⁸

Patricia A., another provider, said she supported a patient “where the mom signed the papers but walked out and told her she could find her own ride home.”²⁹

“A teen trying to get health care while also having a disapproving parent sitting, listening, and providing input is so hard and heartbreaking,” said Dr. Sarah Wallett of Planned Parenthood. “Sometimes a teen comes in with a parent, and the parent is clearly upset. The parent wants me not to provide pain medication for the procedure. ‘They should have to feel all of this. They got themselves in this situation.’” She added: “Not every parent is supportive. Having an unsupportive parent there is so much worse. It's horrible.”

Wallett said she has treated multiple youth whose parents asked her to withhold pain medication. “Clearly there's a palpable lack of support [from a parent] sometimes.” Wallett said that she wished her patients had the freedom to bring other, truly supportive, individuals with them, instead of being forced to involve unsupportive parents or guardians: “It would be so amazing if those teens could come in [for care] with a supportive aunt, or sister, or the person who can help them in the moment. That's who should be there with them and be in the room for the abortion.”³⁰

Judicial Bypass Is Burdensome and Difficult, or Impossible, to Navigate

Under Michigan state law, young people who want to access abortion without parental consent can petition a judge for a waiver in a confusing, difficult, and burdensome process called “judicial bypass.” To obtain a waiver, young people must show they are “sufficiently mature and well-enough informed” to make an abortion decision without a parent, or that a waiver is in their best interests.³¹ The “sufficiently mature and well-enough informed”

²⁸ Human Rights Watch remote interview with Lauren D., healthcare provider, May 3, 2023.

²⁹ Human Rights Watch remote interview with Patricia A., healthcare provider, April 12, 2023.

³⁰ Human Rights Watch remote interview with Dr. Sarah Wallett, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

³¹ Michigan Compiled Laws § 722.904, Parental Rights Restoration Act 211 of 1990.

standard is not defined in the law and, as this report demonstrates, can be very subjective. Despite the efforts of dedicated and compassionate Michigan care providers, attorneys, and advocates, young people face formidable logistical hurdles throughout the process, particularly around communicating safely, scheduling and attending hearings, and securing transportation. Many young people are understandably overwhelmed by the process, and some—especially those with fewer resources—are unable to navigate it.

“Finding out about [judicial bypass], that’s the first barrier,” said attorney Eileen Scheff. “Sometimes kids will come to me ... and say, ‘No one told me I could get a bypass. No one gave me an alternative to trying to get a parent to sign consent for the abortion.’”³²

Some young people are connected to attorneys by clinic staff. Some receive court-appointed attorneys. Others find attorneys through their own research on the internet or through networks of advocates.

But for young people, finding reliable information about abortion care, parental consent, and judicial bypass can be challenging, especially with fake clinics targeting and lying to pregnant youth about their care options to stop them from accessing abortion care.³³ Syd O., an 18-year-old youth advocate, shared the story of a classmate who became pregnant as a high school junior and wanted to access abortion care but unknowingly visited an anti-abortion clinic, or crisis pregnancy center. The clinic misinformed her about her options and lied to her about her pregnancy, so as to prevent her from receiving the abortion she explicitly stated she wanted and needed: “She had been seeking an abortion and wasn’t able to get one.”³⁴ Syd added: “To get a judicial bypass, you have to have enough confidence and understanding of the legal system, or at least be able to find someone who can help you to navigate that process. A lot of people wouldn’t even know what resources to turn to.”³⁵

³² Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

³³ See, for example, Andrea Swartzendruber and Danielle N. Lambert, “A Web-Based Geolocated Directory of Crisis Pregnancy Centers (CPCs) in the United States: Description of CPC Map Methods and Design Features and Analysis of Baseline Data,” *JMIR Public Health and Surveillance*, vol. 6, no. 1 (2020): accessed January 16, 2024, doi: 10.2196/16726.

³⁴ MOASH remote interview with Syd O., age 18, youth advocate, July 31, 2023.

³⁵ MOASH remote interview with Syd O., age 18, youth advocate, July 31, 2023.

Attorneys, care providers, and youth we interviewed said that young people seeking judicial bypass struggled to secure transportation and arrange unnoticed time away from school, work, and family obligations to meet with their lawyers, attend in-person or video hearings, and make one or sometimes multiple trips to a clinic to access care and complete paperwork. Attorney Eileen Scheff said: “Some kids just can’t take time off [for a hearing] because the school will report they were absent, and the parent is going to find out.”³⁶ Some youth are navigating these obstacles with the added pressure of time-constrained healthcare options: Medication abortion is available in Michigan until 11 weeks of pregnancy, and many clinics only offer in-clinic procedures until 19 weeks and 6 days of pregnancy.

Patricia A., a provider with an abortion care clinic, explained: “We don’t have weekend appointments, so it’s all difficult to navigate. They may need a counseling appointment, then the court hearing, and then the appointment to get their care.”³⁷ Nicholas T., a judicial bypass attorney added: “They have to find time and transportation to get to [the clinic],... then my office, the court, then back to [the clinic].”³⁸

Kristen Harter, a provider with Planned Parenthood, said: “Travel is the biggest barrier,” particularly for youth living in more remote areas. “For an in-clinic abortion, it may be 6 or 7 hours of driving. Often youth in rural households do not have transportation, do not have buses ... They can’t order an Uber.”

Many courthouses operate primarily during the same hours as school. Harter added: “If you’re in school, if you’re tardy, they alert your parents. So if you don’t want your parents to know, you can’t miss school.”³⁹ Attorney Kylee Sunderlin explained: “Even for virtual hearings, there’s often a sliver of 45 minutes where my client isn’t in school, and the courthouse is still open. These cases have to be expedited.... It makes scheduling difficult.”⁴⁰

³⁶ Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

³⁷ Human Rights Watch remote interview with Patricia A., healthcare provider, April 12, 2023.

³⁸ Human Rights Watch remote interview with Nicholas T., attorney, April 19, 2023.

³⁹ Human Rights Watch remote interview with Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023.

⁴⁰ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

For young people crossing state lines, navigating the process can be particularly daunting. Marie Khan, the director of programs at the Midwest Access Coalition—a practical support abortion fund assisting people across the Midwest—described supporting Quinn S. (not her real name), a 15-year-old who traveled to Michigan from Ohio to access abortion care early in the Covid-19 pandemic. She chose to travel to Michigan because Ohio’s abortion laws were more restrictive. Quinn’s parent was not accessible, and while she had the support of an older sibling, the sibling did not have legal guardianship. Khan said:

This young person took a bus from Ohio, a two-hour bus ride up to Detroit, and got to the court. They were by themselves ... and the court doors were all locked up because of Covid [closures and restrictions]. She was trying to figure out how to get in for her bypass appointment. Usually, the lawyer would be there. It was freezing cold, it was around the holidays, and she was talking to me and texting me ... Eventually someone got her into the courthouse, and she figured out what to do.⁴¹

Khan said she was struck by “the panic the young person was having ... not knowing ‘how am I going to figure this out.’” Quinn was granted a judicial waiver, but her ordeal was not over. After obtaining the bypass, she returned to Ohio and made a separate trip back to Michigan, two hours each way, for abortion care. She had to bring signed copies of an informed consent form, which had to be printed at least 24 hours prior to her appointment, but didn’t have access to a printer. If she traveled to the clinic without the paperwork signed, she would be forced to wait at least 24 hours for care. Khan helped her print the paperwork at a nearby business and arranged transportation for her to retrieve it. Then she traveled back to Michigan for abortion care. “It took two trips across state lines. In Covid too.”⁴² Without an advocate to support her, any one of these obstacles could easily have prevented Quinn from receiving care.

⁴¹ Human Rights Watch remote interview with Marie Khan, director of programs, Midwest Access Coalition, April 11, 2023.

⁴² Ibid.

Judicial Bypass Is Invasive, Distressing, and Traumatizing

I would feel terrified [to go through judicial bypass] because there's so much depending on that outcome. It's going to impact your life.

— Carla D., age 16, youth advocate, July 24, 2023

Forcing young people who choose not to involve a parent in their abortion decision to go through a court process infringes on their legal rights to privacy, and can jeopardize their safety and well-being. Attorney Eileen Scheff said some young people she represented were found out or exposed after receiving their waivers: “I had helped a minor get a waiver order, and her mother found out and threw her out of the house ... I’ve had cases where a parent found out and destroyed the order.”⁴³ Kristen Harter, a provider with Planned Parenthood, said that youth living in small towns fear that they will be seen or recognized in court, especially if they have had prior court involvement: “[They say] ‘I’ve been in that court before. People will recognize me. Even if a confidentiality policy is in place, I know what it’s like. I live in a small town. People will talk.’”⁴⁴

Appearing before a judge to request permission to see through an abortion decision is highly stressful for young people, and even traumatizing for some.⁴⁵ Young people repeatedly have to answer intimate and invasive questions about their sexual health and behaviors, family trauma, and other highly sensitive topics, first with their attorneys, and again before a judge.

Jack B., an attorney, described how intimidating he believed the process was for his clients: “Coming to me [for legal support] was hard.... I’m an old guy. They’re coming to a business office in a high rise [building] meeting with someone they’ve never laid eyes on in their life and talking about having sex, and the consequences of that, and their bodily autonomy. That’s hard enough with someone you’ve known for a long time.”⁴⁶

⁴³ Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

⁴⁴ Human Rights Watch remote interview with Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023.

⁴⁵ Kate Coleman-Minahan, Amanda Jean Stevenson, Emily Obront, and Susan Hays, “Young Women’s Experiences Obtaining Judicial Bypass for Abortion in Texas,” *Journal of Adolescent Health*, vol. 64, no. 1 (2019): 20-25, accessed January 9, 2023, doi:10.1016/j.jadohealth.2018.07.017.

⁴⁶ Human Rights Watch remote interview with Jack B., attorney, April 3, 2023.

“Appearing in front of a judge can be an incredibly traumatizing and intimidating experience. There is an enormous power differential,” said Kylee Sunderlin, a Michigan attorney. While Sunderlin said some young people felt confident and empowered about going to court, “A majority—I’d say 70 percent—of the people I represent come to me really worried. Nervous, some terrified. They are scared about being honest. They feel shame. They’re terrified about their family finding out.... Terrified that if they put their home address on a court filing that the court will send something to their home.” Sunderlin added: “Going to court can be a frightening experience—whether in person or virtual—because courts are so frequently a place of punishment. Involving courts gives an air that these young folks have done something wrong. But they haven’t.”⁴⁷

Ashmi M., a 16-year-old youth advocate, survived emotional abuse by her father and empathized with young people forced to defend their abortion decisions to a judge. She shared her own experience in court during her parents’ divorce, requesting a change in her parents’ custody agreement so that she could live safely with her mother:

The judicial bypass process feels so scary. I’ve experienced having to go through the court system and defend my choices. It’s extremely stressful and instills a lot of shame in youth ... I was lucky enough to have my voice heard, especially because I had resources and another parent to fight for me, but I know that’s not the experience for a lot of youth navigating the court system.⁴⁸

Speaking on forced parental consent, Ashmi added: “These laws make us feel ashamed.... When they [judges] ask us questions like, why do we want to get an abortion, do we have good grades, they’re basically asking us if we’re good kids. It makes us feel like we are shameful.”⁴⁹

For foster youth or others who have had traumatic or difficult court involvement in the past, judicial bypass may be especially painful. Speaking of foster youth, Sunderlin added: “For someone who has already had to go to court for this specific scenario in their life, to then

⁴⁷ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

⁴⁸ MOASH remote interview with Ashmi M., age 16, youth advocate, August 15, 2023.

⁴⁹ *Ibid.*

have to go to court again for something entirely unrelated, just feels like adding insult to injury.”⁵⁰

Kristen Harter, a provider with Planned Parenthood, further explained the complicated experience for youth with involvement in the child welfare system: “Minors are afraid to answer the questions asked. ‘I don’t want to say the wrong thing and get my mom in trouble, but she’s not around and I need help.’... The scariest thing in the world is to be taken away from your family.”⁵¹

Healthcare provider Patricia A. said she believed all of the young patients she supported through the judicial bypass experienced stress, anxiety, or trauma. “If I was 16 and had to face going to court to ask permission to do something like this, I would have such high anxiety.”⁵²

Attorney Kylee Sunderlin had a client whose mother had died two years prior. “She was estranged from her father. She had a supportive family member who was her legal guardian, but the family member only had temporary guardianship.” Without a final guardianship order, the family member could not consent to her having an abortion. Sunderlin said her client was in “deep distress” and struggled to speak in court about her parent’s death to the judge: “It was awful to have to testify about that to a complete stranger. Just really, really terrible.”⁵³

Sunderlin said even clients that had not experienced such devastating loss and trauma were distressed at having to speak about painful or complicated family dynamics. “There are scenarios where young people have deep abiding love for their families and are in a scenario that they have to share with a judge that they’re not values-aligned with their family [around abortion].” She added that some said, “I deeply love my parents. I go to them with all important decisions in my life, but I can’t go to them about this because I fear

⁵⁰ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

⁵¹ Human Rights Watch remote interview with Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023.

⁵² Human Rights Watch remote interview with Patricia A., healthcare provider, April 12, 2023.

⁵³ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

that they'd kick me out, but I don't want to sit here and say bad things about them.' There's no room for nuance [in a hearing]."⁵⁴

While Michigan courts grant most young people's petitions, some are denied. According to state data, judges denied between one and three young people's petitions each year from 2016 to 2021.⁵⁵ In 2022, judges denied seven young people's petitions.⁵⁶ Young people often fear that the judge will deny their request. Eileen Scheff explained: "They have to tell their story to someone they don't know and who doesn't know them. It's not an easy time for a minor. Some are really scared, asking 'Is the judge going to deny me the waiver?'"⁵⁷

Some attorneys said judges made stigmatizing comments or gave their clients demeaning lectures before granting their petitions. For example, Nicholas T. said one judge pressured his clients to choose adoption, even while granting their petitions: "One judge would say, 'I'm granting the order, but I want to make some comments. My sister was adopted. What a wonderful thing it is to have a baby adopted out. The happiest hearings I have in my court are when people are adopting a baby.'" Nicholas T. added: "I considered standing up and walking out, but we both had to sit there and listen to that diatribe by a judge."⁵⁸

Jack B., also a judicial bypass attorney, recounted a similar experience with a judge:

She would grant the petition, but then encourage the young woman to consider alternatives. She'd talk about all the parents trying to have children who can't, but 'you have this gift.' I thought this was really repugnant under the circumstances. These are kids hanging on a life-changing decision and they don't need a lecture.⁵⁹

Another attorney has appeared before a judge who has asked young people seeking a judicial waiver about abortion regret, asking question such as, "Are you aware that some

⁵⁴ Ibid.

⁵⁵ Michigan Supreme Court, State Court Administrative Office, Caseload Reporting System, "Waiver of Parental Consent to Obtain Abortion – Under the Parental Rights Restoration Act: Petitions Filed and Disposed, by Year," April 6, 2023. On file with Human Rights Watch.

⁵⁶ Ibid.

⁵⁷ Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

⁵⁸ Human Rights Watch remote interview with Nicholas T., attorney, April 19, 2023.

⁵⁹ Human Rights Watch remote interview with Jack B., attorney, April 3, 2023.

people who have abortions regret it later in life?” “Are you prepared to have mixed feelings about this as you get older?” and “Are you prepared to possibly regret this?”⁶⁰ Research studies have found no evidence that individuals who undergo abortions regret their decision over time, and such questions can make the process more traumatizing for young people.⁶¹

Harm to Young People of Color

Michigan’s forced parental consent law may cause particular harm to young people of color. The Michigan courts did not provide information on the racial or ethnic identity of young people who go through judicial bypass in the state, so we are unable to assess the disparate racial impacts of the state’s forced parental involvement law in this report. However, nationwide, abortion restrictions like forced parental involvement are a form of racial and economic discrimination, in that they disproportionately harm Black, Indigenous, and other people of color, as well as people with lower socioeconomic status. National data show that people of color need to seek abortion care, and confront obstacles to it, more frequently than white people⁶² for a variety of reasons, including disparities in rates of unintended pregnancy; economic, geographic, and social barriers to accessing health care; and unequal access to health insurance and contraception.⁶³ Research in the states of Illinois and Massachusetts found that young people of color were disproportionately harmed by forced parental involvement laws.⁶⁴

⁶⁰ Email from Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, to Human Rights Watch, December 14, 2023.

⁶¹ Corinne Rocca et al., “Emotions and Decision Rightness over Five Years Following an Abortion: An Examination of Decision Difficulty and Abortion Stigma,” *Social Science and Medicine*, vol. 248 (2020): accessed January 16, 2024, doi:10.1016/j.socscimed.2019.112704.

⁶² Katherine Kortsmitt et al., “Abortion Surveillance – United States, 2020,” *Morbidity and Mortality Weekly Report Surveillance Summaries*, vol. 71, no. 10 (2022): 1-27, accessed September 13, 2023, doi:10.15585/mmwr.ss7110a1.

⁶³ See, for example, Amnesty International, the Global Justice Center, the Southern Rural Black Women’s Initiative for Economic and Social Justice, and Human Rights Watch, “Joint Submission to the United Nations Committee on the Elimination of Racial Discrimination,” July 15, 2022, <https://www.hrw.org/news/2022/07/15/us-joint-submission-united-nations-committee-elimination-racial-discrimination>; “The Disproportionate Harm of Abortion Bans: Spotlight on *Dobbs v. Jackson Women’s Health*,” Center for Reproductive Rights press release, November 29, 2021, <https://reproductiverights.org/supreme-court-case-mississippi-abortion-ban-disproportionate-harm/> (accessed January 6, 2023); Amanda Jean Stevenson, “The Pregnancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant,” *Demography*, vol. 58, no. 6 (2021): 2019–2028, accessed January 6, 2023, doi:10.1215/00703370-9585908; Sarah Green Carmichael, “Criminalizing Abortion Will Hurt Black Women Most,” *Bloomberg*, June 25, 2022, <https://www.bloomberg.com/opinion/articles/2022-06-25/abortion-bans-will-disproportionately-affect-black-women> (accessed January 6, 2023); Amici Curiae Brief of Birth Equity Organizations and Scholars in Support of Respondents, *Dobbs v. Jackson Women’s Health Organization*, No. 19-1392 (US filed September 20, 2021).

⁶⁴ Human Rights Watch and the American Civil Liberties Union of Illinois, “*The Only People It Really Affects Are the People It Hurts*”: *The Human Rights Consequences of Parental Notice of Abortion in Illinois* (New York: Human Rights Watch, 2021), <https://www.hrw.org/report/2021/03/11/only-people-it-really-affects-are-people-it-hurts/human-rights-consequences>;

Ashmi M., a 16-year-old youth advocate, explained:

When you look at who is having abortions, Black and Latinx people have abortions at higher rates than white people. When you ask yourself why, it's because communities of color have been disinvested [from]. Policies have prevented them from inheriting wealth, prevented their communities from having access to health care like high quality contraceptives and education. It's about money and power, and we can't separate class and race from each other. The history of control over bodies is more pervasive on people of color. The policies and impacts are insidious, and it's the same with forced parental consent where you can't always see who it harms more, but when you look into the policies you see it does harm certain communities more, like people of color and working-class people.⁶⁵

Micah B., a 22-year-old Black youth advocate, explained that some young people of color who are seeking abortion care feel uncomfortable or unsafe when facing adults in positions of power who do not share their racial identity: "For BIPOC [Black, Indigenous, and people of color] individuals, I feel like there's always a fear with health care often due to lower levels of diversity of individuals who sit at the table in positions of power." He added: "Maybe the judges are typically white and the BIPOC youth may not feel as safe in that environment.... Young people could fear implicit bias [from the judge] when going through that situation, including the judge placing stereotypes on that young person."⁶⁶

Forced Parental Consent Delays Abortion Care

Forced parental involvement and the judicial bypass process can delay abortion care, sometimes quite significantly. Studies in the states of Illinois and Massachusetts have shown that the judicial bypass process adds, on average, nearly a week to young people's abortion-seeking timelines.⁶⁷ Michigan attorneys and providers we interviewed similarly

Elizabeth Janiak et al., "Massachusetts' Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion," *Obstetrics & Gynecology*, vol. 133, no. 5 (2019): 978-986, accessed January 16, 2024, doi:10.1097/AOG.0000000000003190.

⁶⁵ MOASH remote interview with Ashmi M., age 16, youth advocate, August 15, 2023.

⁶⁶ MOASH remote interview with Micah B., age 22, youth advocate, August 7, 2023.

⁶⁷ Lauren J. Ralph et al., "Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois," *Journal of Adolescent Health*, vol. 68, no. 1 (2021): 71-78, accessed May 18, 2023, doi:10.1016/j.jadohealth.2020.08.025; Elizabeth Janiak et al.,

estimated that the process typically added a week to young people’s timelines, but for some it took significantly longer.

Like all pregnant people seeking abortion care in Michigan, young people navigating forced parental consent must also abide by the state’s 24-hour mandatory wait law. That law requires patients to obtain certain biased information online, and sign or print a time-stamped document, at least 24 hours prior to their abortion care.⁶⁸

In some cases, the delays caused by navigating these restrictions and going through judicial bypass leave young people ineligible for medication abortion, a noninvasive method available only up to 11 weeks of pregnancy. Delays also require some patients to have multiple appointments over consecutive days to complete their abortion care.

“The [judicial bypass] process can result in unnecessary delay for the minor,” said attorney Eileen Scheff. She said:

They [young people] go into the clinic ready to have an abortion, and they’re told no, you can’t get it without consent or a waiver. They contact me. I have to set up a hearing. It has to coincide with when I’m available and the judge is available.... The order the minor takes to the clinic must have the court seal on it. Sometimes if we’re doing the hearing remotely late on Friday afternoon, the staff person is not in the court building, or doesn’t have the seal. That’s another delay the minor has to go through.... It can push them over into a second trimester abortion, and it’s more expensive and there are more risks.⁶⁹

Kristen Harter of Planned Parenthood said it took most youth at least a week or two to get through the court process. “Most of the court websites say they’ll get the client in ASAP for these hearings, but how it actually plays out, it’s at least two weeks before they wrap their

“Massachusetts’ Parental Consent Law and Procedural Timing Among Adolescents Undergoing Abortion,” *Obstetrics & Gynecology*, vol. 133, no. 5 (2019): 978-986, accessed May 18, 2023, doi:10.1097/AOG.0000000000003190.

⁶⁸ Planned Parenthood of Michigan, “Michigan’s 24-Hour Wait Law,” undated, <https://www.plannedparenthood.org/planned-parenthood-michigan/healthcare/abortion-services/michigans-24-hour-wait-law> (accessed May 24, 2023).

⁶⁹ Human Rights Watch remote interview with Eileen Scheff, attorney, March 24, 2023.

brain around what’s going on and make the call to make the court appointment ... And if they are denied and have to go through the appeal process, that’s an additional week.” Harter said these delays affected patients’ care options: “The price could go up. Your gestation is farther along. You might need a procedure now if you wanted medication.”⁷⁰ In addition to the direct cost of the procedure, young people may face additional indirect costs, including lodging, childcare, transportation, and lost wages.

Michigan’s forced parental consent law can also delay care for young people who choose to involve a parent or legal guardian in their decision. Clinics must verify the identity of a parent or legal guardian with a birth certificate or other reliable documentation. Some patients and their families struggle to find appropriate documents. For example, Beth W., a provider at a Michigan abortion care clinic, said:

We had one patient who was trying to figure out the paperwork for a little while. Her mom didn’t have her birth certificate.... The parent has to provide a birth certificate that proves guardianship or parenthood. This was delaying scheduling, but she finally got in. And while she was in the office already, her mom called from the parking lot and said: ‘I want to revoke my consent. I don’t want her to do this anymore.’ They can revoke consent up until the procedure is done. We had to stop. We couldn’t see the patient [for her care] that day.⁷¹

The clinic staff helped the patient get a judicial bypass, but it delayed her care further. “It was a month from the initial phone call to her finally being seen,” Beth said. “She was approaching the legal limit [for abortion care in Michigan],... but luckily we got her in on time.”⁷²

Kristen Harter of Planned Parenthood described a similar case, one that “always lives with me.” Harter said the young person’s mother was willing to consent to the abortion but had underlying health issues and kept missing appointments. “I finally got ahold of her, and she was like ‘I have my mom’s consent, I just can’t get her to the clinic. She keeps not

⁷⁰ Human Rights Watch remote interview with Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023.

⁷¹ Human Rights Watch remote interview with Beth W., healthcare provider, April 18, 2023.

⁷² Human Rights Watch remote interview with Beth W., healthcare provider, April 18, 2023.

meeting me there. She has my birth certificate. I don't want to do judicial bypass. That sounds scary.” The patient eventually obtained abortion care, but she had wanted a medication abortion at 7 weeks and instead got a procedural abortion at 14 weeks.⁷³

Young people may prefer medication abortion to procedural abortion for many reasons, including because they can end a pregnancy in a safe space with support of their choosing. Medication abortion also eliminates the need to arrange transportation after an in-clinic procedure involving sedation or provision of pain medication.

Several providers we interviewed said they had supported 17-year-old patients who opted to wait and access abortion care after turning 18, rather than involving a parent or going to court.

Patricia A., a provider, said she had seen many patients choose to delay care until they turn 18: “I always encourage them to come in for an ultrasound to see how much time they have, so we can determine where they'll be in pregnancy when they turn 18, and what the price [of their care] would be and what the procedure would have to be.” She added: “There have been times when people are just a couple of weeks from turning 18, and waiting a couple of weeks was a better option for them than to speak with their parents.”⁷⁴

Patricia said waiting often changed the abortion care options available to her patients. “The [abortion] pill is generally the most favorable option for young women, as opposed to a surgical procedure.” She said patients often expressed “disappointment at having to go through a surgical procedure because of waiting.... I come in and let them know that we have all the support they need during that surgical procedure if they choose to wait.”⁷⁵

Young People Are Capable of Making Healthcare Decisions

Young people under 18 are capable of making the best decisions regarding their own sexual and reproductive health care. Prominent professional healthcare associations,

⁷³ Human Rights Watch remote interview with Kristen Harter, former abortion care patient navigator, Planned Parenthood of Michigan, July 20, 2023.

⁷⁴ Human Rights Watch remote interview with Patricia A., healthcare provider, April 12, 2023.

⁷⁵ Ibid.

including the American Medical Association,⁷⁶ the American Academy of Pediatrics,⁷⁷ the American Public Health Association,⁷⁸ the American College of Obstetricians and Gynecologists,⁷⁹ and others, oppose forced parental consent. The associations have concluded that mandatory parental consent laws and judicial bypass procedures can cause adverse health effects and psychological harm to young people.

In its policy opposing forced parental involvement in young people’s abortion decisions, the American Academy of Pediatrics states:

Existing research shows that most minors 14 to 17 years of age are as competent as adults to provide consent to abortion, are able to understand the risks and benefits of the options, and are able to make voluntary, rational, and independent decisions.⁸⁰

Experts we interviewed in Michigan said that the majority of young people who go through judicial bypass in the state are ages 16 or 17. They stressed that pregnant youth they supported had carefully considered their options and identified abortion as the best decision, whether or not a parent was involved. “Everyone has had clarity about their options and been certain about their decisions,” said Kylee Sunderlin, a judicial bypass attorney.⁸¹

Lara Chelian of Northland Family Planning said:

⁷⁶ American Medical Association Council on Ethical and Judicial Affairs, “Mandatory Parental Consent to Abortion,” *Journal of the American Medical Association*, vol. 269, no. 1 (1993): 82–86, accessed January 16, 2024, doi:10.1001/jama.1993.03500010092039.

⁷⁷ American Academy of Pediatrics, Committee on Adolescence, “Policy Statement: The Adolescent’s Right to Confidential Care When Considering Abortion,” *Pediatrics*, vol. 139, no. 2 (2017): accessed May 18, 2023, doi:10.1542/peds.2016-3861.

⁷⁸ American Public Health Association, “Ensuring Minors’ Access to Confidential Abortion Services,” Policy No. 20115, November 2011, <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/03/11/14/ensuring-minors-access-to-confidential-abortion-services> (accessed May 26, 2023).

⁷⁹ American College of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, “Increasing Access to Abortion,” Committee Opinion Number 815, December 2020, <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/12/increasing-access-to-abortion> (accessed May 26, 2023).

⁸⁰ American Academy of Pediatrics, Committee on Adolescence, “Policy Statement: The Adolescent’s Right to Confidential Care When Considering Abortion,” *Pediatrics*, vol. 139, no. 2 (2017): 3, accessed May 18, 2023, doi:10.1542/peds.2016-3861.

⁸¹ Human Rights Watch remote interview with Kylee Sunderlin, attorney and legal support director, *If/When/How: Lawyering for Reproductive Justice*, March 9, 2023.

It harms minors to not be able to make decisions about their bodily autonomy, their futures, whether to parent or not. There cannot be a bigger decision in front of them. To make them jump through hoops is inhumane. They should be allowed to make their own decisions without having someone else sitting there in a robe saying they can or can't make this decision on their own.⁸²

“I’m always impressed by the maturity of young people who figure out how to make an appointment for themselves in the first place, how to get there, what they need to do, how to have money for the procedure,” said Dr. Sarah Wallett of Planned Parenthood. “Young people know what they need for their lives.... There’s this narrative that parents have to be involved because teens aren’t mature enough. Doing all of this requires an extraordinary amount of maturity.”⁸³

Wallett shared the story of a patient who was already parenting and still subjected to the state’s forced parental consent mandate. “She had an 18-month-old and she got pregnant again. She is a mom, so she knew exactly what it meant to have a baby, but she had to bring her mom with her to get approval to have an abortion.” She added: “She didn’t have to bring her mom to give birth to the baby she had, or make decisions for her child, but she needed her mom to [consent] to get an abortion. It really highlighted the absurdity of parental involvement.”⁸⁴

Wallett said she had also supported patients whose parents were unduly pressuring them to end a pregnancy they wished to continue, but state law allows young people to decide to continue a pregnancy without parental consent. “Teens are really able to understand what it means to become a parent and not become a parent, and what that means for all their options.” She added: “[Forced parental involvement] really keeps them from independently reviewing their own values, their own dreams, their own futures. Everyone

⁸² Human Rights Watch remote interview with Lara Chelian, vice president of external operations, Northland Family Planning, April 6, 2023.

⁸³ Human Rights Watch remote interview with Dr. Sarah Wallett, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

⁸⁴ Human Rights Watch remote interview with Dr. Sarah Wallett, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

should involve the people they love and respect in their decisions *and* ultimately get to make the decision themselves.”⁸⁵

Michigan law recognizes young people’s rights and capacity to make independent decisions related to sexual and reproductive health care, including related to pregnancy.

Under state law, Michigan youth under 18 can decide to continue a pregnancy, access prenatal care, make decisions around labor and delivery, or consent to a caesarean section without involving a parent.⁸⁶ In Michigan, youth under 18 with children of their own can make autonomous decisions about their children’s health care.⁸⁷ Trusting young people to make important healthcare decisions, except about abortion, further highlights that forced parental consent is not actually about supporting or protecting young people, but about limiting access to abortion care.

Access to abortion is a human right, including for young people under 18. Human rights experts have consistently called for the removal of barriers that deny access to safe and legal abortion and have specifically identified parental involvement requirements as a barrier to abortion care.⁸⁸ Michigan’s parental consent law violates a range of human rights, including young people’s rights to health, to be heard, to privacy and confidentiality of health services and information, to nondiscrimination and equality, to decide the number and spacing of children, and to be free from cruel, inhuman, or degrading treatment.

⁸⁵ Human Rights Watch remote interview with Dr. Sarah Walleit, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

⁸⁶ Guttmacher Institute, “An Overview of Consent to Reproductive Health Services by Young People,” updated May 1, 2023, <https://www.guttmacher.org/state-policy/explore/overview-minors-consent-law> (accessed May 24, 2023).

⁸⁷ *Ibid.*

⁸⁸ UN Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/HRC/32/32, April 4, 2016, para. 16; UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/22 (2016), para. 41.

Conclusion

Young people deserve power and control over their own bodies, including if and when they are pregnant. Michigan's forced parental consent law places youth in harm's way and violates their rights.

The testimonies and cases presented in this report show young people forced to continue pregnancies against their will; to endure abuse, humiliation, and punishment by unsupportive parents; or to face a challenging and even traumatizing court experience just to be able to make decisions about their own bodies and lives.

To ensure all young people in the state can safely access basic health care, Michigan should repeal parental consent and enable young people to access abortion care without being forced to involve an unsupportive parent or face a judge. This would allow providers to give their patients the best possible quality care, while ensuring they have the support they need.

Dr. Sarah Wallett explained:

I went through years of training to make sure I provide my patients with the care they need in a way they can understand. To talk about alternatives, risks, and benefits and to ensure they understand it and make an informed decision. Part of my training is to assess [a patient's] capacity to make that decision. It's part of my job, no matter what health care I'm providing ... It's an ethical requirement for a provider. Much more than a judge, than a legislator, healthcare providers are trained to do that. Just like we do that with every other healthcare decision, we should be trusted to do that with all of our patients, no matter their age.⁸⁹

⁸⁹ Human Rights Watch remote interview with Dr. Sarah Wallett, obstetrician-gynecologist and chief medical operating officer at Planned Parenthood of Michigan, July 27, 2023.

All young people deserve access to health care, information, and resources when they are faced with an important life decision—not barriers and delays. Michigan has a responsibility to keep youth safe, and that requires removing unnecessary and dangerous hurdles that interfere with their access to abortion care. Michigan should defend young people’s rights and dignity and repeal forced parental consent.

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In Harm's Way

How Michigan's Forced Parental Consent for Abortion Law Hurts Young People

Under Michigan law, anyone under the age of 18 must have the consent of a parent or legal guardian, or permission from a judge, to have an abortion. While over 85 percent of pregnant youth involve a parent or guardian in their abortion decision, some cannot, or do not want to, often because they fear abuse, alienation from their families, or the forced continuation of a pregnancy. In such cases, young people must navigate a “judicial bypass” process to demonstrate to a judge that they are either sufficiently mature and well-enough informed to make the decision without parental involvement, or that parental involvement is not in their best interests. This joint report by the American Civil Liberties Union (ACLU) of Michigan, Human Rights Watch, and the Michigan Organization on Adolescent Sexual Health (MOASH) documents the law's devastating effects. The report urges state legislators to repeal the Parental Rights Restoration Act and affirm the human rights and dignity of young people under 18.



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