



Minors' Reproductive Rights & Health

Sexual Activity Among Teens

- 7 in 10 teens of both sexes have had sex at least once by the age of 19.¹
- Most young Americans have sex for the first time around age 17.²

Parental Consent to Abortion and Parental Notification Laws

Two states and the District of Columbia explicitly allow all minors to consent to abortion services.³ Thirty-six states require some parental involvement in a minor's decision to have an abortion.⁴

- Twenty states require only parental consent; Mississippi and North Dakota require the consent of both parents.⁵
- Twelve states require only parental notification; Minnesota requires both parents be notified.⁶
- Four states require both parental consent and notification.⁷
- Each state with parental involvement laws must have an alternative judicial bypass procedure through which a minor can obtain approval for an abortion from a judge.⁸ This process requires the minor to appear in front of a judge and be subjectively deemed "mature" and "capable of making an informed decision."⁹ In addition to the judicial bypass procedures, six of the 34 states requiring parental involvement permit a minor to obtain an abortion if an adult relative (other than a parent) is involved in the decision.¹⁰
- Only some of the 34 states that require parental notification make exceptions under certain circumstances. Of these, 31 states permit an abortion in a medical emergency, and 14 states allow an abortion in cases of abuse, assault, incest, or neglect.¹¹
- Forcing a young woman to involve her parents or the judicial system against her will may increase unsafe or self-induced abortions, family violence, unwanted childbirth, and late-term abortions.¹²

The Child Interstate Abortion Notification Act

First introduced in 2005, the Child Interstate Abortion Notification Act has been passed by the House of Representatives but has never passed in the Senate.¹³

- The Act would make it a crime for those other than parents to knowingly transport minors across state lines to obtain an abortion in order to evade parental involvement laws of the minor's state of residence.¹⁴
 - Under this law, both the physician performing the abortion and the adult who transports the minor could face criminal charges.¹⁵
 - Since only 13% of U.S. counties have abortion providers, this law could harm minors who wish to get abortions from neighboring states.¹⁶
- Despite its repeated failure to pass into law, the Child Interstate Abortion Notification Act was again proposed on January 22, 2009, as H.R. 634.¹⁷ However, the Act did not make it past subcommittee hearings and has not been reintroduced in the 112th Congress.¹⁸

Consent to Contraceptive & STI Services

- Twenty-one states and D.C. allow all minors to consent to contraceptive services.¹⁹
- Twenty-five states allow minors to consent to contraceptive services under certain conditions, such as if the minor is married, already a parent or has been pregnant, can demonstrate maturity, is a high school graduate, or would face risk to her health without contraceptive services.²⁰
- Four states have no policy on whether a minor can consent to contraceptive services.²¹
- All states and the District of Columbia allow all minors to consent to STI services.²²

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- Eighteen of these states allow, but do not require, a physician to inform a minor's parents that he or she is seeking or receiving STI services when the doctor deems it in the minor's best interests.²³
- In California, minors can already consent to STI services but cannot consent to preventative STI services. Legislation is pending to address the gap and allow minors to consent to preventative STI services.²⁴

Access to Emergency Contraception

On August 24, 2006, the FDA approved Plan B, the most widely used emergency contraceptive (EC), for over-the-counter sale to women and men 18 and older.²⁵ However, under the regulation, women 17 and younger were still required to obtain a prescription to get EC.²⁶ This age restriction was imposed despite medical evidence suggesting that EC is safe and effective for women younger than 18.²⁷ This regulation caused potential harm to the health of young women since EC is most effective if taken within 72 hours after intercourse.²⁸

- On March 23, 2009, a federal district court ordered the FDA to permit EC to be available to women 17 and older without a prescription under the same conditions it is currently available to women 18 and older.²⁹ The FDA has declined to appeal the decision and is currently in the process of complying with the order.³⁰

Sex Education: "Abstinence-Only" vs. Comprehensive Programs

Between 1996 and 2008, abstinence-only programs received over \$1.5 billion in federal funding.³¹ There are three major sources of this federal funding:³²

- 1) **Temporary Assistance for Needy Families Act (TANF)/Title V:** TANF, better known as the 1996 "welfare reform," added **Title V**, Section 510 to the Social Security Act. Title V established a new funding stream to provide grants to states for abstinence-only-until-marriage programs. Abstinence-only programs receiving Title V funds must, in addition to meeting other requirements, emphasize that a mutually faithful monogamous relationship in the context of marriage is the expected standard of sexual activity.³³
- 2) **Adolescent Family Life Act (AFLA):** Established to promote "chastity" and "self-discipline" in addition to providing support for pregnant and parenting teens. AFLA funding is now tied to the strict definition of abstinence education funding found in Title V.³⁴
- 3) **Community-Based Abstinence Education (CBAE):** This funding stream awards grants directly to community-based organizations.³⁵

During the fiscal year of 2009 the federal government allocated a little over \$162 million to these three abstinence-only programs.³⁶ The fiscal year of 2010 marked a significant change in federal funding for abstinence-only-until-marriage programs. President Obama sought to shift funding from ineffective abstinence-only programs to evidence-based, age-appropriate, medically accurate "programs that work".³⁷ The Obama administration and Congress eliminated the AFLA and CBAE programs and created the Teen Pregnancy Prevention Program and Personal Responsibility Education Program (PREP).³⁸

- 1) **Teen Pregnancy Prevention Program:** Run by the newly created Office of Adolescent Health within the Department of Health and Human Services, \$75 million of the \$114.5 million will go towards sex education programs that have proven to be effective in reducing teen pregnancy or its associated risk factors.³⁹ \$25 million is allocated to research



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towards innovative strategies and the remaining \$14.5 million will go to program support and evaluation.⁴⁰

2) **Personal Responsibility Education Program (PREP):** Program run by the Administration on Children, Youth and Family (ACYF) which provides \$75 million per year over five years for sex education programs that promote personal responsibility, educates adolescents about both abstinence and contraception to prevent pregnancy and sexually transmitted infections and prepares them for adulthood with the teaching of such subjects as healthy relationships, financial literacy, parent-child communication and decision-making.⁴¹

With the expiration of Title V funding in June 2009, Congress had intended PREP to replace the Title V abstinence-only program. However, the Patient Protection and Affordable Care Act, which passed in March 2010, extended the program for five years to provide \$50 million each year for states to continue abstinence-only education.⁴²

The Effects of “Abstinence-Only” Sex Education

- In 2009, over 46% of U.S. high school students reported having had sex at least once,⁴³ yet from 1997-2007 there was a decrease in the number of students taught about HIV and STIs in school.⁴⁴
- Many sexually experienced teens (46% of males and 33% of females) did not receive formal instruction about contraception before they first had sex⁴⁵
- 78% of teens say they have all the information they need in order to avoid an unplanned pregnancy⁴⁶ however:
 - 49% of teens admit that they know “little or nothing” about condoms and how to use them.⁴⁷
 - 34% of teens believe “it doesn’t matter whether you use birth control or not, when it is your time to get pregnant, it will happen.”⁴⁸
- In 2008, the first national study of STIs in young women found that one in four girls aged 14-19 are infected with at least one of the following infections: trichomoniasis, HPV, chlamydia, or genital herpes.⁴⁹
- Each year, approximately 9.1 million 15- to 24-year-olds are infected with sexually transmitted infections (STIs), accounting for almost one-half of the total new STIs occurring annually in the U.S.⁵⁰ The Centers for Disease Control & Prevention estimate that 50% of all new HIV infections occur among people under age 25, with the majority contracted through sexual intercourse.⁵¹
- The U.S. continues to have a substantially higher teenage pregnancy rate than most other developed countries—for example, the U.S. rate is more than twice that of Canada or Sweden.⁵²
- Of the approximately 750,000 teen pregnancies that occur each year, 82% are unintended. 59% end in birth and more than 25% end in abortion.⁵³
- Unintended pregnancy costs U.S. taxpayers roughly \$11 billion each year⁵⁴

¹ GUTTMACHER INST., STATE POL'S IN BRIEF: FACTS ON AMERICAN TEENS' SEXUAL AND REPRODUCTIVE HEALTH 1-2 (Jan. 2010), available at http://www.guttmacher.org/pubs/fb_ATSRH.pdf.

² *Id.*

³ GUTTMACHER INST., STATE POL'S IN BRIEF: AN OVERVIEW OF MINORS' CONSENT LAWS 1-2 (June 2011), available at http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf.



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⁴ GUTTMACHER INST., STATE POL'S IN BRIEF: PARENTAL INVOLVEMENT IN MINORS' ABORTIONS 1-2 (June 2011), *available at* http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Heather Boonstra & Elizabeth Nash, *Minors and the Right to Consent to Health Care*, GUTTMACHER REP. ON PUB. POL'Y (Aug. 2000), *available at* <http://www.guttmacher.org/pubs/tgr/03/4/gr030404.pdf>.

¹⁰ GUTTMACHER INST., STATE POL'S IN BRIEF: PARENTAL INVOLVEMENT IN MINORS' ABORTIONS, *supra* note 4.

¹¹ *Id.*

¹² NARAL PRO-CHOICE AM. FOUNDATION, WHO DECIDES?: THE STATUS OF WOMEN'S REPRODUCTIVE RIGHTS IN THE UNITED STATES 19 (2011), *available at* <http://www.prochoiceamerica.org/government-and-you/who-decides/who-decides-2011.pdf>.

¹³ Press Release, NARAL Pro-Choice America, Pro-Choice Senators Block Controversial Last Minute Anti-Choice Legislation (Sept. 29, 2006), *available at* http://legacy-pcha.pub30.convio.net/news/press-releases/2006/pro9292006_cianablocked.html.

¹⁴ *Id.*

¹⁵ Press Release, Planned Parenthood, Teen Endangerment Act Stalled in Congress (Sept. 9, 2006), *available at* <http://www.plannedparenthood.org/about-us/newsroom/press-releases/teen-endangerment-9691.htm>.

¹⁶ NARAL PRO-CHOICE AM. FOUNDATION, WHO DECIDES?, *supra* note 12 at 34.

¹⁷ Child Interstate Abortion Notification Act, H.R. 634, 111th Cong. (2009).

¹⁸ *Bill Summary and Status 111th Congress (2009-2010) H.R. 634*, THE LIBRARY OF CONGRESS THOMAS, <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.00634> (last visited June 30, 2011).

¹⁹ GUTTMACHER INST., STATE POL'S IN BRIEF: MINORS' ACCESS TO CONTRACEPTIVE SERVICES 1-3 (June 2011), *available at* http://www.guttmacher.org/statecenter/spibs/spib_MACS.pdf.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Assemb. B. 499, 2011 Leg., Reg. Sess. (Cal. 2011).

²⁵ Gardiner Harris, *F.D.A. Approves Broader Access to Next-Day Pill*, N.Y. TIMES, Aug. 25, 2006, *available at* <http://www.nytimes.com/2006/08/25/health/25fda.html>.

²⁶ *Id.*

²⁷ THE NAT'L ORG. FOR WOMEN, LIMITED SUCCESS: ONE YEAR OF ACCESS TO EMERGENCY CONTRACEPTION: WHAT ACTIVISTS AND ADVOCATES CAN DO TO ELIMINATE BARRIERS (Aug. 24, 2007), *available at* http://www.nowfoundation.org/issues/reproductive/ec_report.pdf.

²⁸ *Id. at 1.*

²⁹ *Tummino v. Torti*, 603 F. Supp. 2d 519, 550 (E.D.N.Y. 2009).

³⁰ Gardiner Harris, *F.D.A Easing Access to 'Morning After' Pill*, N.Y. TIMES, Apr. 22, 2009, at A14, *available at* <http://www.nytimes.com/2009/04/23/health/23fda.html>.

³¹ *No More Money: A Brief History of Federal Abstinence-Only-Until-Marriage Funding*, SEXUALITY INFO. AND EDUC. COUNCIL OF THE U. S., <http://www.nomoremoney.org/index.cfm?pageid=947> (last updated Nov. 2010).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Heather D. Boonstra, *Sex Education: Another Big Step Forward – And a Step Back*, GUTTMACHER POL'Y REV. Vol. 13, No. 2 (Spring 2010), *available at* <http://www.guttmacher.org/pubs/gpr/13/2/gpr130227.pdf>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *The New Health Care Reform Legislation: Pros and Cons for Reproductive Health*, GUTTMACHER INST., (Mar. 29, 2010), <http://www.guttmacher.org/media/inthenews/2010/03/29/index.html>.

⁴³ *Trends in the Prevalence of Sexual Behaviors*, CTR. FOR DISEASE CONTROL AND PREVENTION, http://www.cdc.gov/HealthyYouth/yrbs/pdf/us_sexual_trend_yrbs.pdf (last visited June 16, 2011).

⁴⁴ *Id.*



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⁴⁵ Guttmacher INST., FACTS ON AMERICAN TEENS' SOURCES OF INFORMATION ABOUT SEX (Feb. 2011) *available at* <http://www.guttmacher.org/pubs/FB-Teen-Sex-Ed.pdf>.

⁴⁶ BILL ALBERT, THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, WITH ONE VOICE 2010 AMERICA'S ADULTS AND TEENS SOUND OFF ABOUT TEEN PREGNANCY, A PERIODIC NATIONAL SURVEY, 5 (Dec. 2010), *available at* http://www.thenationalcampaign.org/resources/pdf/pubs/WOV_2010.pdf.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Lawrence K. Altman, *Sex Infections Found in Quarter of Teenage Girls*, N.Y. TIMES, Mar. 12, 2008, *available at* <http://www.nytimes.com/2008/03/12/science/12std.html>.

⁵⁰ Hillard Weinstock et al., *Sexually Transmitted Diseases Among American Youth: Incidence and Prevalence Estimates, 2000*, 36 PERSP. ON SEXUAL AND REPROD. HEALTH (2004), *available at* <http://www.guttmacher.org/pubs/psrh/full/3600604.pdf>.

⁵¹ *Id.*

⁵² GUTTMACHER INST., FACTS ON AMERICAN TEENS' SOURCES OF INFORMATION ABOUT SEX, *supra* note 45.

⁵³ *Id.*

⁵⁴ Rebecca Wind, *Nation Pays Steep Price For High Rates of Unintended Pregnancy*, GUTTMACHER INST. (May 19, 2011), <http://www.guttmacher.org/media/nr/2011/05/19/index.html>.