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Science

Suit challenges law requiring parent abortion notification



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Planned Parenthood of the Great Northwest and two doctors have sued the state to block a new law requiring notification of parents before their teenage daughters obtain an abortion.

Alaska voters approved the law in the August primary election. The new legal requirements are set to take effect Dec. 14. Planned Parenthood wants to prevent that from happening, saying the law violates the constitutional rights of the girls and their doctors.

Under the new law, teens 17 and under generally won't be able to get an abortion unless their parents are notified. Girls will be able to get around that requirement if they appear before a judge or provide the doctor notarized statements attesting to abuse at home.

The parental notification law "will, for some minors who are subject to strict parental control, function as a parental consent requirement. And for some minors, (the law) will take away their ability to obtain abortion services at all" because of delays or other

burdens, the plaintiffs contend in a motion seeking to immediately stop the law from taking effect.

The state Department of Law is reviewing the lawsuit. Officials say the state will likely defend the parental notification measure, as it generally does when state laws are challenged, said department spokesman Bill McAllister.

PRIVACY FOR PREGNANT GIRLS

The suit, filed Friday in Anchorage Superior Court, asserts that pregnant teens who are seeking an abortion are treated differently from those who want to continue their pregnancy, a violation of their constitutional right to equal protection.

Girls who want to have their baby can make the decision without involving their parents, while girls who want an abortion generally won't be allowed to do so, said Clover Simon, Planned Parenthood's vice president overseeing Alaska.

The challenge also says that the law violates privacy rights guaranteed in the state Constitution.

"We really believe under the Alaska Constitution that minors really do have the same protection of privacy as an adult woman. And that this law, the way that it's been written, has so many burdens on minors that it means they can't adequately exercise that right," Simon said.

The suit contends the law also violates the due process rights of physicians.

The law gives doctors the job of notifying the parent. A doctor who fails to do that could be hit with felony charges and a prison sentence of up to five years.

But the measure is vague on what doctors must do to ensure they comply with the notification requirements and avoid criminal prosecution, the suit contends. For instance, if the doctor notifies the parent by phone, and the number was provided by the teen, the doctor must verify the number indeed belongs to the parent. But many people only have cell phones or otherwise have unlisted numbers, the suit notes.

The state Department of Commerce, which oversees regulation of doctors, has not proposed any regulations to clarify the requirements.

Two doctors who provide abortions in Alaska have joined with Planned Parenthood in the lawsuit: Drs. Jan Whitefield and Susan Lemagie.

FEAR OF FAMILY TURMOIL

Most teens getting abortions already involve a parent, aunt, grandmother or other close adult, according to Planned Parenthood and the doctors. But as it is now, if the teens don't tell a parent, the doctors don't either, no matter how young the girl.

Those who seek abortions without their parents being involved often come from an abusive home, fear being cut off from the family or worry they will be forced to continue an unwanted pregnancy, the suit says. Going to court isn't a realistic option for a girl in a troubled circumstance.

Activists who pushed the ballot measure say they expected a court challenge.

Jim Minnery, president of the anti-abortion, pro-traditional marriage group Alaska Family Council, said the measure's supporters will likely try to intercede in the state case to ensure the law takes effect.

"It seems like every time that Planned Parenthood fails in the court of public opinion or in the Legislature they are going to go to the courts and see if they can push it through that way. But we're pretty confident," Minnery said.

The state Legislature passed a law in 1997 over the veto of then-Gov. Tony Knowles that said pregnant teens had to get the approval of their parents or a judge before having an abortion.

It never took effect because of court challenges. In 2007, the state Supreme Court, in a 3-2 decision, struck down the law, saying it robbed a pregnant teen of her constitutional right to make such an important decision.

Then-Chief Justice Dana Fabe, writing for the majority, left the door open for a law requiring parental notification.

Minnery said he expects Fabe -- whom his group tried unsuccessfully to remove from the bench in the November election -- to hold true to that.

Counting Alaska, some three dozen states now have a requirement for parental involvement in a teen's abortion, and big problems haven't emerged elsewhere, Minnery said.

But in three other states, parental notification requirements were permanently barred from taking effect because of court challenges, according to the Guttmacher Institute.

Last year in Alaska, 125 girls age 17 and under received abortions, the lowest number since the state began requiring doctors to report the data in 2003.

The abortion measure was one of the most fiercely contested items in the primary election, with total spending by both sides of about \$1 million. The group fighting the measure, Planned Parenthood-backed Alaskans Against Government Mandates, spent the most by far.

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