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Overview of Proposition 4: Parental Notification for Minors' Abortions

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Assembly Health Committee
Hon. Mervyn Dymally, Chair and
Senate Health Committee
Sheila Kuehl, Chair





General Provisions of Proposition 4

- Notice Required 48 Hours in Advance.** A physician (or his or her representative) must notify the parent or legal guardian of a minor at least 48 hours before performing an abortion on that minor. This requirement applies only to cases involving an “un-emancipated” minor, which the measure identifies as a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents’ or guardians’ custody under state law.

- Personal or Mailed Notification Permissible.** A physician could provide notification by personally giving the minor’s parent or guardian written notice or by sending written notice to the parent or guardian by certified mail, with a copy sent simultaneously by first-class mail. When using the mail option, notification would be presumed to occur at noon on the second day after the notice was mailed.



Exceptions to Notification Requirements

- Medical Emergencies.** The notification requirements would not apply if the physician certified in written records that the abortion was necessary to prevent the mother's death or that a delay would raise substantial risks of harm to the minor.
- Waivers Approved by Parent or Guardian.** A minor's parent or guardian could waive the notification requirements, including the waiting period, by submitting a signed, written waiver form to the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's eighteenth birthday.
- Notice to Adult Family Member.** The physician could notify one of the minor's adult family members, such as a grandparent, aunt, uncle, first cousin, or sibling, in lieu of the parent if the minor had made a written statement that she feared abuse from her parent and had suffered a pattern of past abuse by a parent. The physician would be required to report the known or suspected abuse to an appropriate law enforcement or child protection agency.
- Waivers Approved by Courts.** The pregnant minor could seek a waiver from a juvenile court, which would generally have to issue a ruling within three court days. To waive the notification requirements, the court would have to find either (1) that the minor is sufficiently mature and well-informed to decide whether to have an abortion, or (2) that notification would not be in the minor's best interests. The minor's identity would be kept confidential and the court also would provide her with certain other assistance. The minor could also appeal a denial to an appellate court.



Other Provisions of Proposition 4

- State Reporting Requirements.** The proposition requires physicians to report certain information regarding abortions performed on minors to the state. These reports would not identify by name the minor, the parent or guardian, or the physician. State health officials would compile certain statistical information received from the physicians into an annual report that would be available to the public.

- Court Reporting Requirements.** The proposition requires the courts to report annually to the state Judicial Council the number of petitions filed and granted or denied. These reports would be publicly available. The Judicial Council is required to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

- Penalties for Noncompliance.** Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for civil damages. Any individual who provides false information with respect to the notification requirements would be guilty of a misdemeanor punishable by a fine.

- Relief From Coercion.** The proposition allows a minor to seek help from the juvenile court if anyone were to attempt to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it finds necessary to prevent coercion.



LAO Estimate of Fiscal Effects of Proposition 4



Potential Overall Costs Up to Several Million Dollars Annually. Depending primarily on the behavior of minors with respect to childbearing and abortion, we estimate that the net cost to the state would probably not exceed several million dollars annually for health and social services programs, court administration, and health agency administration combined. These fiscal effects, which would not be significant relative to total state spending for these programs, could occur primarily in the following areas.

- **State Health Care Program Savings and Costs.** State savings could occur from a decrease in the number of abortions provided by Medi-Cal, either because minors obtain abortions outside of California or avoid becoming pregnant. However, an increase in the birthrate to minors could increase the caseload for Medi-Cal or other state health care programs and thereby increase state costs. The net effect of these factors, if any, on the state would probably not exceed costs of a few million dollars annually.
- **Social Services Program Costs.** If the proposition increases the birthrate among low-income minors, state costs would increase for the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. There could also be a minor increase in child welfare and foster care costs for the state and counties.
- **Juvenile and Appellate Court Costs.** State costs for the courts would likely increase by up to several million dollars annually, depending on the number of minors that seek waivers of the parental notification requirements through the courts.
- **State Health Agency Administrative Costs.** State health officials would incur first-year costs of up to \$350,000 to develop the new forms, establish the physician reporting system, and prepare the initial annual report. Ongoing state costs for these activities could be as much as \$150,000 annually.