



City Council

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
July 25, 2005

To: Honorable Mayor and  
Members of the City Council

From: Councilmember Darryl Moore  
Councilmember Kriss Worthington  
Councilmember Linda Maio

Subject: Oppose Constitutional Amendment Requiring Parental Notification for Abortions

RECOMMENDATION:

Adopt a resolution that would oppose the Initiative Constitutional Amendment that would require health care providers to notify the parents of women under the age of 18 before providing abortion services.

BACKGROUND:

This ill-conceived initiative is slated to go on the November 8<sup>th</sup> ballot. It would amend California's constitution to require health care providers to notify the parents of a young woman seeking abortion services. The patient must then wait 48 hours after the notification before the doctor can proceed with the abortion. The only exemptions from parental notification that is articulated in the initiative would be teens that are in dire need of an abortion due to a medical emergency or through a "judicial bypass."

Not only is this initiative a direct contradiction of *American Academy of Pediatrics v. Lungren*, a 1997 California Supreme Court decision that ruled requiring parental or judicial consent for abortion is unconstitutional because it violated the California Constitution's right to privacy, but it is also a direct attack on the health of young, pregnant woman, the most vulnerable teenage population.

This law would have little effect on the large percentage of teenagers who voluntarily consult their parents when pregnant, except for the fact that it would delay medical care and counseling when the time element may be critical. The portion of young women who, for a variety of reasons, are unwilling to reveal their pregnancy to their parents would definitely be affected, unfortunately in a detrimental manner. These young women may be forced to travel to another state where abortion access is less restricted, they may unwilling bear children who may

subsequently be abandon or neglected, or turn to dangerous, unlicensed or self-induced abortions.

The option of a “judicial bypass” is unrealistic. For the population of young women that is unwilling to reveal their pregnancy to their parents, going before a judge is a daunting and stressful undertaking during a time in which they are already under a tremendous amount of pressure. Many teens lack the knowledge of court procedures or reside in rural areas in which it may be difficult to access the courts. Even if these teens successfully navigate the court system, they will go before a judge that could potentially impose their arbitrary judgment or worse, one who is anti-choice, unwilling to grant a waiver however compelling the circumstances may be.

The adoption of this resolution would demonstrate to the electorate that Berkeley’s City Council is opposed to this initiative and would help to bring the issue to light.

FINANCIAL IMPLICATIONS:

None

CONTACT PERSON:

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| Councilmember Linda Maio, District One          | 981-7110 |

**RESOLUTION NO. -N.S.**

**WHEREAS**, Proposition 73 is an initiative that would amend California Constitution to bar abortion on unemancipated minor until 48 hours after physician notifies minor's parent/legal guardian, except in medical emergency or with parental waiver; and

**WHEREAS**, the issue of requiring parental or judicial consent for abortion has already been addressed in California and was found to be unconstitutional because it violated the California Constitution's right to privacy; and

**WHEREAS**, this initiative will only have a detrimental impact on pregnant minors by delaying medical attention for those who are already willing to consult with their parents or to push those who are unwilling to reveal their pregnancies to their parents toward dangerous alternatives; and

**WHEREAS**, the initiative *does* allow for exemptions, but only for extenuating circumstances, during medical emergencies, at which time the mother's life is already in jeopardy, or through a "judicial bypass," which is an unlikely and impractical event; and

**WHEREAS**, this law, if passed, would provide a dangerous precedent for not only sidestepping the judicial system through the initiative process, but would allow an opening for attacks on individual rights.

**NOW THEREFORE, BE IT RESOLVED** that the Council of the City of Berkeley adopt a resolution in opposition to Proposition 73 scheduled for the November 8<sup>th</sup>, 2005 special election.

