

MEMORANDUM

DATE: MARCH 16, 2023
TO: KELLIE KALA / SONNY GANADEN, 30TH DISTRICT
FROM: ALEX NAKASONE
RE: SENATE BILL 1 [SB1] - COUNTERARGUMENT

Issue

The issue is whether minors should be allowed to make the decision of abortion without parental consent.

Rule

Planned Parenthood v. Casey, 505 U.S. 833 (1992) - The U.S. Supreme Court held that states may require parental consent for minors seeking an abortion, but there must be a judicial bypass option available.

Bellotti v. Baird, 443 U.S. 622 (1979) - The Court held that states may require a pregnant minor to obtain either parental consent or a court order before obtaining an abortion, ensuring that the minor's best interests are considered.

Hawaii Revised Statutes § 577-21 (2021) - Hawaii's abortion law allows for minors to obtain an abortion without parental consent, but requires that the physician notify the minor's parents or guardians before performing the abortion.

In re T.W., 551 So. 2d 1186 (Fla. 1989) - A case illustrating the potential dangers of involving parents in certain circumstances.

Engel v. Vitale, 370 U.S. 421 (1962) - A landmark case establishing that the government must remain neutral with respect to religion.

Analysis

A. Autonomy and Decision-Making Capacity of Minors in Hawaii

Opponents of minors' rights to abortion without parental consent argue that minors lack the maturity and decision-making capacity to make such a critical decision independently. However, research indicates that by age 14, most adolescents possess the cognitive abilities necessary for mature decision-making (Steinberg & Cauffman, 1996). Furthermore, the American Academy of Pediatrics (2016) recognizes that minors can make informed decisions about their reproductive health without parental consent.

B. Protecting Minors from Harm in Hawaii

Requiring parental consent may put minors at risk of harm. In some cases, seeking parental consent may lead to abuse, neglect, or rejection, leaving the minor in a precarious situation (American Academy of Pediatrics, 2016). Hawaii's abortion law addresses this concern by allowing minors to obtain an abortion without parental consent, but requiring parental notification (Hawaii Revised Statutes § 577-21). This approach aims to balance the need for parental involvement with the potential harm that may arise from mandating parental consent.

C. Judicial Bypass and Minors' Best Interests in Hawaii

While Hawaii's abortion law does not require parental consent, the judicial bypass process established in *Bellotti v. Baird* and affirmed in *Planned Parenthood v. Casey* can still be a valuable safeguard for minors. If Hawaii were to consider implementing a parental consent requirement, incorporating a judicial bypass option would ensure that minors can access abortion services without parental consent when it is in their best interest to do so. The judicial bypass would also address opponents' concerns about minors making uninformed decisions, as the court would evaluate the minor's maturity and understanding of the consequences.

D. Parental Involvement in Hawaii

While opponents argue that parental involvement is crucial, research has demonstrated that the majority of minors involve their parents in the decision-making process voluntarily (Jones, 2010). Hawaii's approach, which requires parental notification but not consent, fosters communication between minors and their parents while respecting the autonomy and unique circumstances of each minor.

E. Mental Health and Well-Being of Minors in Hawaii

Some opponents claim that abortion has long-term mental health consequences for minors. However, the American Psychological Association found that the mental health risks associated with abortion are no greater than those associated with carrying an unwanted pregnancy to term (Major et al., 2009).

Conclusion

Minors in Hawaii should maintain the legal right to decide on abortion without parental consent, as they often possess the cognitive abilities necessary for mature decision-making. Hawaii's current approach, requiring parental notification but not consent, balances the need for parental involvement with the potential harm that may arise from mandating parental consent. The autonomy and well-being of minors should be the primary concern in Hawaii's abortion laws, and respecting the rights of minors to decide without parental consent is essential in protecting their best interests. If Hawaii were to consider implementing a parental consent requirement, incorporating a judicial bypass option would ensure that minors can access abortion services without parental consent when it is in their best interest to do so.

MEMORANDUM IN OPPOSITION

DATE: MARCH 16, 2023
TO: KELLIE KALA / SONNY GANADEN, 30TH DISTRICT
FROM: ALEX NAKASONE
RE: SENATE BILL 1 [SB1] - COUNTERARGUMENT

Life Begins at Conception

The statement, "Life begins at conception," asserts that a fertilized egg should be considered a human life from the moment of conception, with all the rights and protections that come with it. However, there are several arguments that rebut this.

Biological Ambiguity

From a biological standpoint, defining the exact moment when life begins is far from clear-cut. Conception is a process that unfolds over time, involving multiple stages such as fertilization, implantation, and the development of the embryo. Many fertilized eggs fail to implant in the uterus or are spontaneously aborted before a woman even knows she is pregnant. If life begins at conception, it would imply that the majority of human "lives" never progress beyond the earliest stages of development.

Viability

The concept of viability, or the point at which a fetus can potentially survive outside the womb, is a crucial factor in determining the moral and legal status of a fetus. Viability typically occurs around 24 weeks of gestation, and modern medicine has made it possible for some extremely premature babies to survive with intensive medical intervention. However, before this point, the fetus is entirely dependent on the woman's body for survival. Arguing that life begins at conception ignores the fetus's reliance on the woman's body and the complex ethical considerations that arise from this dependency.

Personhood and Moral Value

The statement "life begins at conception" conflates biological life with personhood, assuming that a fertilized egg possesses the same moral value as a fully developed human being. However, many philosophers and ethicists argue that personhood is not a simple binary concept, but rather a gradual process that unfolds throughout development. Factors such as self-awareness, consciousness, and the capacity for suffering are often considered essential components of personhood, and these traits are not present in a fertilized egg or early-stage embryo.

Legal and Ethical Implications

If life is considered to begin at conception, it would have significant legal and ethical implications. For example, it could potentially outlaw some forms of contraception, in-vitro fertilization, and stem cell research, as well as criminalize abortion in all circumstances. This would not only infringe on women's reproductive rights but also impede scientific advancements that have the potential to save lives and alleviate suffering.

Cultural and Religious Diversity

The belief that life begins at conception is rooted in specific religious and cultural perspectives. However, not all religious or cultural traditions share this belief, and many have different views on when life begins and the moral status of a fetus. Imposing the "life begins at conception" perspective on everyone would ignore the rich diversity of beliefs and values present in our society.

In conclusion, the statement "life begins at conception" is a contentious and oversimplified assertion that fails to account for the biological, ethical, and cultural complexities surrounding the concept of life and personhood. By challenging this statement, we can engage in a more nuanced and inclusive discussion about reproductive rights and the moral status of the fetus.

Placing an Emphasis on Education

Health Consequences

While it is important to acknowledge the potential physical and emotional impacts of abortion, it is important to recognize that many minors seeking abortions may not have a safe or supportive home environment. Requiring parental consent in these situations could put minors at risk of abuse or neglect. In fact, studies have shown that parental involvement laws are associated with increased rates of self-induced abortion and delayed care, which can have serious health consequences.

Safety

Many minors who seek abortions have already made the decision to terminate their pregnancy. Denying them access to safe and legal abortion care could force them to resort to dangerous and potentially life-threatening methods. It is important to prioritize the health and safety of minors seeking abortions, and to ensure that they have access to the care they need without unnecessary barriers.

Forcing Minors

Forcing minors to carry an unwanted pregnancy to term could have serious consequences for their education, career prospects, and overall quality of life. Additionally, denying minors access to abortion care could perpetuate cycles of poverty and inequality, particularly for marginalized communities. While it is important to educate minors about the potential risks and consequences of abortion, placing an emphasis on education over allowing minors to consent to abortion care without parental involvement is not an effective solution. Requiring parental consent can put minors at risk of abuse or neglect, and denying them access to safe and legal abortion care could have serious consequences for their health, education, and overall well-being.

Impact on Our Community

High Rates of Natural Loss

A significant proportion of zygotes never develop into viable embryos, with some studies estimating that up to 50% of fertilized eggs are naturally lost before implantation in the

uterus. This high rate of natural loss suggests that not all zygotes have the potential to develop into human beings, calling into question the notion that a zygote is inherently a human life.

Impact on Our Community

Personal autonomy and bodily integrity: First and foremost, it is crucial to understand that every individual, regardless of age, has the right to make decisions about their own body. Requiring minors to obtain parental consent for an abortion infringes upon their personal autonomy and bodily integrity. This is particularly concerning given that a minor's access to safe and legal abortion services can have significant implications for their physical and emotional well-being.

Parental Consent Does Not Guarantee Increased Birth Rates

The assumption that requiring parental consent for abortions will lead to an increase in birth rates is flawed. There is no direct evidence to support this claim. It is essential to consider the complex social, economic, and cultural factors that contribute to declining birth rates rather than oversimplifying the issue by focusing on parental consent for abortion.

Alternative Strategies for Addressing Economic Concerns

The focus on increasing birth rates as a means of addressing economic productivity in Hawaii is an oversimplification of a complex issue. A more effective approach would involve investing in education, job training, and economic development opportunities to enhance productivity and economic growth. Additionally, attracting skilled workers from other regions or countries can help to address any potential workforce shortages.

The Potential for Unsafe Abortion Practices

Restricting access to safe and legal abortion services for minors by requiring parental consent can potentially drive them to seek unsafe alternatives. This can lead to serious health complications, long-term physical and psychological harm, or even death. It is essential to prioritize the health and well-being of minors over economic concerns.

Confidentiality and Trust

Requiring parental consent for abortions may lead minors to avoid seeking professional medical help or counseling, fearing the judgment or potential repercussions from their parents. This lack of trust can create an unhealthy family environment and impede the development of open communication between parents and their children.

Conclusion

In conclusion, the statement that minors should need parental consent to do an abortion because of decreased birth rates and its impact on Hawaii's economy fails to account for the fundamental rights of minors, the lack of evidence supporting a correlation between parental consent and increased birth rates, and the importance of addressing economic concerns through alternative strategies. Furthermore, it neglects the potential dangers of unsafe abortion practices and the value of fostering trust and confidentiality between minors and their parents.