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The effect of parental involvement laws on the timing of teenagers' abortions

A proposal for a Society of Family Planning small research grant

Abstract:

This project will study the effect of so-called “parental involvement laws” on the timing of teenagers' abortions. A majority of states have implemented these laws, which require a parent to be notified of or consent to the decision of minor to undergo the procedure. The U.S. Supreme Court, however, has ruled that laws requiring parental consent must include a provision for waiving or bypassing the requirement. Almost all states meet this mandate by permitting minors to file a petition in court, asking a judge for permission to bypass the law.

Previous studies have shown that in response to the laws, some minors who seek abortions may petition for a judicial bypass, delay their abortions until they turned 18, or travel to a nearby state without a law to obtain the procedure. Thus, parental involvement laws may affect the timing of a minor's abortion to some degree. As a result, the laws may also affect a minor's choice between a medical or surgical abortion.

To estimate the impact of these laws on abortion timing, this project will use a regression discontinuity approach to examine individual-level data on induced abortions reported to the National Center for Health Statistics by 14 states in selected years. In addition, this project will collect data from state administrative court offices on the number of judicial bypass petitions filed in these states. Using this data, the project will test the hypotheses that parental involvement laws and increases in the number of bypass petitions filed are associated with statistically significant increases in the fetal gestational age of minors' abortions. An analysis of the data in this 14-state sample can help determine whether collecting similar data across more states over a longer time frame will improve the generalizability of the results and the project's ability to inform policy making.

A. Proposal narrative

1) Introduction

A teenager in the United States who finds herself unintentionally pregnant faces two options: she may continue her pregnancy or she may seek an abortion. In a majority of states, however, her access to abortion is restricted by laws which may delay the procedure significantly. One of the most common restrictions is a so-called “parental involvement law.” These laws require a parent to be notified of or consent to the decision of teenager to have an abortion. The laws typically apply to minors who are less than 18 years of age, but the laws’ provisions vary widely by state. As of March 1, 2009, 34 states mandated some type of parental involvement in teenagers’ abortions (Guttmacher, 2009).

This proposal presents a research project that will examine the impact of state parental involvement laws on pregnant minors who seek abortions, focusing on the laws’ effect on fetal gestational age at the time of the procedure. Initially, the research will involve examining a sample of states to determine whether expanding the project by gathering and analyzing data nationwide would be worthwhile.

2) Background

States have codified a variety of parental involvement provisions, and no two state laws are exactly alike. Differences start with the basic provision for either a consent or notification requirement and extend to whom must consent or be notified. Additional variations include the applicability of the laws to teens below different specified ages¹ and provisions that allow teenagers to bypass the parental involvement requirement by undergoing counseling with a physician or mental health professional or by filing a petition in court, asking a judge for permission to bypass the law.² Some of these bypass provisions may permit a minor to circumvent the law’s requirements relatively easily, while others may raise barriers so difficult that some teenagers cannot overcome them.

These bypass provisions have their roots in the U.S. Supreme Court’s decision in *Bellotti vs. Baird II* (1979). The *Bellotti II* Court held that a parent’s consent cannot serve as an absolute veto over a teenager’s right to decide to have an abortion. Laws requiring consent must therefore include a provision for waiving or bypassing the requirement. Although states are not required to provide a judicial proceeding to meet the bypass requirement, almost all states with parental involvement laws have chosen the judicial path.

¹ All states with parental involvement laws apply the laws to teenagers aged 17 and younger, with the exception of Delaware and South Carolina. Delaware’s law applies to teens under age 16; South Carolina’s law applies to teens under age 17 (Delaware Code Annotated, Chap. 24, Sec. 1784; South Carolina Code of Laws, Sec. 44-41-32).

² With the exception of Delaware, Maryland, Maine, and West Virginia, all states that permit teens to bypass their parental involvement laws require the teenager to petition a court to grant the bypass (see Delaware Code Annotated, Chap. 24, Sec. 1784; Maryland Health-General Code Annotated, Sec. 20-103; Maine Revised Statutes, Sec. 22-263B-1597-A; West Virginia Code, Sec. 16-2F-3).

Some abortion rights opponents have argued that the bypass provisions nullify the purpose of parental involvement laws by permitting teens to easily avoid the laws' requirements (see, e.g., Spangler, 1991). In contrast, other researchers have argued that circumvention is difficult in practice, because variations in bypass provisions and the manner in which state courts implement them create long delays and other logistical difficulties for pregnant minors (Silverstein, 2007). To avoid these difficulties, some teenagers may travel to nearby states without the laws, where feasible, to obtain an abortion (Cartooff and Klerman 1986; Henshaw, 1995; Ellertson, 1997). Regardless of the nature of the bypass provision, all parental involvement laws affect the timing of a minor's abortion to some degree.

3) Specific aims

This project will examine the impact of the laws on the timing of teenagers' abortions by testing the following hypotheses:

a) Parental involvement laws are associated with statistically significant increases in the fetal gestational age of abortions obtained by teenagers subject to the laws.

b) Increases in the number of judicial bypass petitions filed in states with parental involvement laws are associated with statistically significant increases in the fetal gestational age of abortions obtained by teenagers subject to the laws.

This project will test these hypotheses using currently available data from a sample of states. If initial findings support these hypotheses, I will expand the project by collecting data from additional states to increase the generalizability of the results. The long-term objective of this work is to assess the overall impact of parental involvement laws on the timing of a minor's abortion and to determine whether the impact remains consistent despite variations in state laws and in the number of bypass petitions filed.

4) Previous research

At least six previous studies have examined the gestational impact of parental involvement laws as part of their broader examination of the laws' effect on teenage abortion rates. For example, in a nationwide study, Bitler and Zavodny (2001) examined the effect of abortion restrictions on both the timing and rate of abortions. The authors found that enforced parental involvement laws were associated with a single percentage point increase in the proportion of abortions occurring after 12 weeks' gestation. In a tri-state study, Ellertson (1997) found mixed evidence that the laws delay teenagers' abortions, with significant results in Minnesota for delays past eight weeks. Also in Minnesota, Rogers and Miller (1993) found an association between the law and an increased proportion of second trimester abortions among teenagers when compared to adults. In their analysis of Mississippi and South Carolina data, Joyce and Kaestner (2001) found that the mean gestational age at abortion among minors increased significantly in Mississippi following that state's enactment of a parental consent law. Henshaw (1995) also found small but significant delays in abortions among minors when compared to adults in Mississippi.

However, several of these studies may have been hampered by a lack of controls for teenagers who travel to states without the law to obtain abortions. Also problematic in some studies is the use of inappropriate control groups for minors. Using unique data from Texas, Colman et. al. (2008) found that older 17 year-olds delayed their abortions until they turned 18 and were no longer subject to that state's parental notification law. Such delays may inflate abortion rates for 18 year-olds and artificially lower rates for 17-year-olds, which may have biased findings in studies that used 18 year-olds as a control. Not surprisingly, using the same Texas data, Joyce et. al. (2006) found that proportion of abortions performed past 12 weeks gestation was significantly elevated among women who conceived just before age 18, as those teens waited to terminate their pregnancies until they turned 18.

In addition to these quantitative studies, other researchers have conducted qualitative studies of the impact of parental involvement laws that demonstrate the difficulties and resulting delays that the laws and the judicial bypass component create for teenagers (Donovan, 1983; Ehrlich, J. S., 2003). In particular, Silverstein (2007) described the struggles that courts in Alabama, Pennsylvania, and Tennessee have had in trying to implement judicial bypass provisions in those states, problems that are often expressed in the unwillingness of judicial personnel to adhere to their state's law. These struggles have led to delays of two weeks or more in some teenagers' abortions.

Thus, several quantitative studies that estimated the effect of the laws on abortion rates have included a gestational component, and a few qualitative studies have examined the effect of judicial bypass provisions. This project, however, will produce the first study that focuses solely on the impact of the laws on gestation and the first quantitative study to examine the effect of the bypass provisions on gestation.

5) Rationale

Parental involvement laws are unique among abortion restrictions in that they receive support from both proponents of and opponents to abortion rights. For example, for more than 10 years, Gallup polls have shown that roughly 7 out of 10 Americans favor laws that require parental consent for a teenager's abortion. The most recent Gallup poll, conducted in November, 2005, found 69% in favor of parental consent laws, with only 28% opposed. A Newsweek poll conducted in that same year found even higher support – 78% - when the question focused on parental notification (The Gallup Poll, 2006).

Broad public support makes the laws popular among state lawmakers as well. The number of states that require a parent to be involved in a teenager's abortion decision has more than doubled since 1988. In addition, proponents regularly seek passage of parental involvement legislation in those states that lack the law. For example, in November, 2008, supporters in California attempted for the third time to amend that state's constitution to prohibit abortions for minors until a physician notifies the minor's parent, but the ballot measure was defeated (Guttmacher Institute, 2008). Further, since 2000, federal

lawmakers in the U.S. House and Senate have repeatedly introduced measures that would extend enforcement of a parental involvement law in a teenager's state of residence to any state in which she seeks an abortion, although such measures have yet to pass both houses (see, e.g., Child Custody Protection Act of 2008). Given the support of the laws among policymakers and potential voters, they are not likely to disappear from state legislative agendas any time soon.

Despite their widespread appeal, the laws have disparate impacts. The majority of minors – about 60% - discuss their pregnancies with their parents, including their desire to have an abortion (Henshaw and Kost, 1992). These teens are largely unaffected by the laws. But for those minors who do not discuss their pregnancies with a parent, the laws' potential to adversely affect their mental and reproductive health is quite real. Delays associated with the laws may force the teenager to face a more difficult abortion procedure, while the judicial bypass process not only contributes to further delays in abortions, it may add to the mental and emotional stress of an unwanted pregnancy. However, without concrete evidence of these factors, lawmakers and the voting public will continue to support them. In the meantime, a substantial minority of pregnant teens will continue to bear the brunt of the laws' potentially negative effects. This project is therefore justified because it explores the possibility of the adverse reproductive health impacts of a law on a segment of the population that has little voice in the policy making process.

6) Relevance to SFP

The research described in this project falls squarely within at least one of the Society of Family Planning's high priority research areas. The project will examine the hypotheses that parental involvement laws, and the bypass provisions that accompany them, are associated with significant increases in the fetal gestational age of minors' abortions. Because medical abortion is approved in the United States only for termination of pregnancies at seven weeks' gestation or less, delays in the timing of a minor's abortion may directly affect her ability to choose between a medical or surgical abortion. The study of factors associated with decision making between medical and surgical abortions is one of SFP's high priority research areas.

7) Research design

a) Theoretical considerations

In general, when analyzing the impact of abortion restrictions, social scientists, particularly economists, often frame the analysis in terms of the "economic cost" of the restrictions to women with unwanted pregnancies. The term "cost" as used in economic models includes not only the monetary cost of the procedure but a variety of other dimensions as well. As examples of these additional costs, Levine (2004) used the physical, emotional, and psychological difficulties that many women associate with the procedure. Under this framework, parental involvement laws can be viewed as an attempt to reduce teen

abortion rates in general, or more specifically, teen abortions that occur without parental involvement, by increasing the economic cost of abortions for teenagers who do not want to discuss their pregnancies with a parent. As Levine and Staiger (2002) argue, for women who are at high risk of having an unwanted pregnancy, such as teenagers, if the cost of abortion rises from near zero to prohibitive levels, then abortion rates are likely to fall substantially. In response, pregnant minors who seek abortions without parental involvement attempt to lower the cost of the law in a variety of ways. As previous studies have suggested, they may delay their abortions until they turned 18 and the law no longer applies to them or they may travel to a nearby state without a parental involvement law to obtain an abortion.

The U.S. Supreme Court requirement of a judicial bypass also offers means of lowering the laws' economic cost. However, the degree to which it lowers the cost will vary, depending on the teenager's circumstances and the nature of the bypass provision. For example, a pregnant minor seeking a judicial bypass typically must complete the following tasks: find a judge willing to hear her petition for a bypass; negotiate court procedures for filing the petition; get excused from school to attend hearings without her parent's knowledge; find transportation to and from the hearings; wait for the court's decision; and prepare an appeal if needed. The ease with which a minor is able to navigate this process will vary greatly from teen to teen and is likely to be reflected in the number of bypass petitions filed. Thus, the number filed may also serve as a measure of the cost of the law. The project's hypotheses are therefore based on the theory that the cost of the law affects the timing of minors' abortions.

b) Data sources

To examine the project's hypotheses, I will use individual-level data on induced abortions reported by 14 states³ in selected years to the National Center for Health Statistics. These cross-sectional data include information on the patient's race, age, marital status, education, parity, city and county of residence, county in which the abortion occurred, gestational age of the pregnancy, date of the abortion, and any complications that may have resulted from the procedure. Because every state is not represented in each cross-sectional year, sample sizes vary, ranging from about 100,000 to more than 300,000 observations. Abortions to minors represent about 10 to 12 percent of these observations. In addition, of the 14 reporting states, seven either had no parental involvement law in effect during the reporting years or had a law that was enforced throughout the period. In the remaining seven states, legislatures adopted laws at some point during the reporting period, or the status of an enacted law changed from being

³ These states are Colorado, Indiana, Kansas, Maine, Missouri, Montana, New York, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, and Virginia. Available years are 1978, 1980, 1983, 1985, 1986, 1988, 1989, 1990, 1991, and 1992.

enforced to not being enforced.⁴ Thus, the individual-level observations in states with laws that change serve as the experimental data and observations in states without changes can serve as control data.

I will add to this data information on the number of judicial bypass petitions filed in parental involvement law states during the reporting period. In states that have enacted such laws, this information is collected by an office in the judicial branch of state government typically called the Administrative Office of the Courts. It is possible that AOC offices in some states will be highly reluctant to disseminate the data. In these cases, as a last resort, a Freedom of Information Act request would probably force state AOC offices to provide the information.

c) Methodology

To test the project's hypotheses, I will use a regression discontinuity approach to explore pre-law and post-law trends in the timing of abortion. Using gestational age as an outcome measure, I will plot gestation by age of patient, comparing predicted outcomes for minors in experimental states to predicted outcomes among older women in the same state who are unaffected by the law⁵ or to outcomes among minors in control states. Given the availability of data by state of residence, I can exclude non-residents from the analysis, thus minimizing the confounding effect of cross-state travel. If a parental involvement law has a significant effect on gestation at the time of the abortion, a discontinuity between those affected and unaffected by the law should appear in plots following the law's enactment. I can then assess differences in levels and trends of predicted gestation between experimental and control states.

To determine which states are appropriate for inclusion in the analysis, I will consider not only the socio-economic, demographic, and geographic conditions of states in the sample, but also the specific provisions of the parental involvement laws themselves, particularly the bypass component. States with highly similar parental involvement laws may have comparable post-law trends that could be grouped, while states with dissimilar laws may show unique post-law trends that should be evaluated separately. In their selection of experimental and control states, previous studies have not considered the specific provisions of the laws. This project will be the first to do so.

I will also add additional controls to the models to improve the precision of the difference-in-difference estimates. For example, the NCHS data offer the potential to expand the analysis by controlling for race, education, type of facility performing the abortion, and rural versus urban locations. To explore the effect of variations in petition numbers on gestational trends, I will also incorporate controls for the number of judicial bypass petitions filed in experimental states. This initial analysis of

⁴ States in which the status of the law changed during the reporting period include Indiana, Maine, Missouri, Montana, Rhode Island, South Carolina, and Tennessee. States in which the status of the law did not change are Colorado, Kansas, New York, Oregon, Utah, Vermont, and Virginia (Mertz, 1996).

⁵ As Colman et. al. (2008) have shown, if some 17 year-olds delay their abortions until they turn 18, 18 year-olds cannot serve as an appropriate control group. I will therefore explore the use of trends among those aged 19 and older as controls.

the data in the 14-state sample can then help determine whether collecting similar data across more states over a longer time frame will improve the external validity of this project and its ability to inform policymaking.

d) Limitations

The project's primary limitation involves the lack of complete information in the NCHS datasets regarding the number of minors in a state with a parental involvement law who travel to states without the law to obtain abortions. The minors who travel may receive earlier abortions than the minors who remain in-state and who are left to negotiate the requirements of the law. Thus, cross-state travel could inflate the average gestational age in the parental involvement state. I will minimize this problem, if possible, by selecting states in regions where cross-state travel is least likely.

A second limitation arises from the cross-sectional nature of the data. Without longitudinal data, the time frame that I can examine in plots of gestation by age is limited and may be insufficient to establish trends and detect discontinuities in post-law periods. In addition, some states may prove to be inappropriate controls, thus limiting the generalizability of the results. Such limitations, however, would support the need for expanding the project through additional data collection and analysis to address the hypotheses presented in this proposal.

8) Links with other projects

I know of no other project that uses the datasets described in this proposal to study the hypotheses set forth earlier or to study any directly related hypotheses.

9) Expected outcomes

I will report the results of this project in either one or two papers to be submitted for presentation at conferences concerning topics such as public health, reproductive health, population, and public policy. Applicable conferences include those jointly sponsored by SFP and the Association for Reproductive Health Professionals, and conferences held by the Population Association of America and the Association for Public Policy Analysis and Management. In particular, I plan to present the project results at an APPAM conference, if possible. State lawmakers attend the APPAM conference, and I hope to generate discussion among those legislators about the impact of parental involvement laws on minors in their states. In addition, I will submit these papers for publication in peer-reviewed journals that focus on reproductive health and policy analysis, such as the journals published by these professional organizations.

B. Budget

For this proposal, I am requesting a total of \$14,520. This amount comprises the direct cost of \$13,200 in stipend support for me as principal investigator and \$1,320 in indirect costs to the University of North Carolina to administer the grant, as follows:

1) Stipend support:

$(\$1,650) \times (\text{eight months' project duration}) = \$13,200$

2) Indirect institutional costs:

$(\$13,200 \text{ direct cost}) \times (10\% \text{ permitted by SFP grant requirements}) = \$1,320$

3) Total cost of proposal:

$(\$13,200 \text{ direct costs}) + (\$1,320 \text{ indirect costs}) = \$14,520$

The stipend of \$1,650 per month is based on the current pay rate for doctoral students who work as research assistants in UNC's Department of Public Policy. With this stipend, students are expected to work an average of 15 hours a week conducting research. I am not requesting funds for any other direct costs. UNC's Office of Sponsored Research has indicated they will not waive the indirect costs but will limit those costs to 10% of direct costs.

The project will likely incur additional costs related to data collection and travel. For example, some state administrative offices of the courts may charge fees for providing data on the number of judicial bypass petitions filed. Travel costs will include expenses to attend conferences that are not covered by UNC or by the public policy department. I will seek other sources of funding to cover these costs, such as a data collection grant from UNC and a dissertation improvement grant from the National Science Foundation's Law and Social Science program. These grants do not provide stipend support. Application dates open in August, 2009, with funding to begin within the subsequent six-month period.

C. Timeline

I will serve as the principal investigator for this study and will be responsible for completing the specific tasks described in this proposal. My timeline for completion of the study is as follows:

1. October 1 – December 31, 2009

Defend project proposal before dissertation committee. Prepare NCHS data for analysis. Gather data from state AOC offices regarding judicial bypass petitions. Begin data analysis. Estimated time: 12 weeks, approximately 15 hours per week.

2. January 1 – March 31, 2010

Continue data analysis. Write drafts of papers. Estimated time: 12 weeks, approximately 15 hours per week.

3. April 1 – May 31, 2010

Revise drafts. Defend project papers before dissertation committee. Estimated time: eight weeks, approximately 15 hours per week.

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