Duquesne Law Review

Volume 20 | Number 1 Article 11

1981

Constitutional Law - Fourteenth Amendment - Right to Privacy - Contraceptives - Minors

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CONSTITUTIONAL LAW—FOURTEENTH AMENDMENT—RIGHT TO PRIVACY—CONTRACEPTIVES—MINORS—The United States Court of Appeals for the Sixth Circuit has held that a state-funded family planning center's distribution of contraceptives to minors without parental notice does not violate the parents' constitutional rights.

Doe v. Irwin, 615 F.2d 1162 (6th Cir.), *cert. denied*, 449 U.S. 829 (1980).

The Tri-County Family Planning Center (Center)[1] operated as a family planning clinic serving Ingham County, Michigan,[2] providing contraceptives[3] and counseling services[4] to both minors[5] and adults.[6] Minors were served without regard to their emancipation or whether they had received parental consent to obtain contraceptives,[7] but were required to attend a rap session on

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1. The Tri-County Family Planning Center, also known as the Ingham County Family Planning Center, was operated by the Ingham County Health Department under contract with the Michigan Department of Public Health. Doe v. Irwin, 428 F. Supp. 1198, 1200 (W.D. Mich. 1977), *vacated and remanded*, 559 F.2d 1219 (6th Cir. 1979).

2. *Id.* The Center was located in Lansing, Michigan. Doe v. Irwin, 615 F.2d 1162, 1163 (6th Cir.), *cert. denied*, 449 U.S. 829 (1980). It served the counties of Ingham, Clinton, and Eaton. 428 F. Supp. at 1201.

3. *Id.* at 1202. The Center would provide qualifying minors with either prescriptive or nonprescriptive birth control and birth control devices. *Id.* at 1202-03. No abortions or sterilizations were performed at the Center. 615 F.2d at 1163.

4. *See* note 8 and accompanying text *infra*.

5. 428 F. Supp. at 1202. Neither the district court nor the court of appeals defined the term "minor." *See* notes 55-57 and accompanying text *infra*.

6. 428 F. Supp. at 1201. In 1974 a study was made of age groups to which the Center distributed contraceptives. Of a total of 1,392 females under the age of 18, 623 were 17 years old, 466 were 16 years old, 210 were 15 years old, 74 were 14 years old, and 19 were 13 years old. The study showed that 88% of the minors to whom the Center distributed contraceptives lived at home, 76% were students, 89% had intercourse prior to attending the Center, and 10% had been pregnant at least once. *Id.* at 1202.

7. *Id.* at 1201-02. The Center did not publicize its providing contraceptives to minors or encourage their attendance. *Id.* Although most contraceptive services were available without parental consent, the Center would not insert an intrauterine device within a minor unless parental consent had been obtained. 615 F.2d at 1163.

reproduction and birth control[8] before any of the Center's services would be made available to them.[9] Following each rap session, the Center's services were explained, and those interested were advised to make appointments.[10] If minors chose to return to the Center, a medical history was taken and a physical examination was given.[11] If no medical problems were discovered, the minors were provided with contraceptives at no cost.[12]

In 1973, the Does'[13] sixteen-year-old daughter voluntarily visited the Center to obtain contraceptives.[14] After attending a rap session, giving a medical history, and submitting to a physical examination, their daughter received contraceptives without their knowledge or consent.[15]

On April 7, 1975, the Does filed an action in a Michigan federal district court[16] seeking a permanent injunction against the continuation of the Center's program of distributing contraceptives to minors without parental knowledge or consent.[17] The district

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8. 428 F. Supp. at 1204. Rap sessions were lectures lasting approximately two and one-half hours dealing with human reproduction, the various methods of birth control, the responsibilities of sexual activity, and the desirability of communicating with parents. The sessions were held once each week and were conducted by a social worker with a master's degree in social work. Almost all of those who attended the sessions were female. 615 F.2d at 1163-64.

9. *Id.* at 1201.

10. *Id.* at 1204.

11. *Id.* The procedure conformed to the medical standards set by the Michigan Department of Public Health and the United States Department of Health, Education, and Welfare. *Id.* at 1202.

12. *Id.* In the event that an examination revealed medical complications, the minor was referred to her family physician. *Id.*

13. The plaintiffs, Jane and John Doe, were joined by Thomas and Cora Grost, parents of two teenage children who live in the area served by the Center. 428 F. Supp. at 1200. On the plaintiffs' motion a class action was certified by the district court. The class consisted of parents in Ingham County with children between puberty and majority under their custody who opposed the distribution of contraceptives to their children without parental knowledge or consent. 615 F.2d at 1163.

14. Petitioner's Brief for Certiorari at 3.

15. 428 F. Supp. at 1202.

16. Doe v. Irwin, 428 F. Supp. 1198 (W.D. Mich. 1977), *vacated and remanded*, 559 F.2d 1219 (6th Cir. 1979). *See* note 13 *supra*. No explanation was reported for the two-year gap between obtaining the contraceptives and bringing the suit.

17. 428 F. Supp. at 1200. The original defendants included Marianne Davis, Administrator of the Center, John Hazen, Medical Director, and George Dellaportas, M.D., Director of the Ingham County Health Department and chief administrator of the policies of the Center. All three were succeeded in office

court granted the permanent injunction, finding that the parents' constitutional right of privacy to care for and educate their minor child was unreasonably interfered with by the state-operated Center's[18] practice of distributing contraceptives to minors without parental notification.[19]

Centering its decision around the traditional role of parents,[20] the district court concluded that familial values would be best protected by encouraging minors to seek parental advice.[21] The court considered parents better suited to advise their minor children regarding contraceptives[22] and reasoned that because only informed parents can participate in the minor's decision-making process, the Center's practice of leaving parental notification to the minor produced total parental exclusion.[23] The district court acknowledged the minor's right to privacy in areas of procreation, but found that the right did not encompass access to contraceptives without parental participation.[24] In addition, the court determined that the state's interest in the health and welfare of its youth and in preventing unwanted teenage pregnancies was not so compelling as to necessitate excluding

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and substituted respectively as defendants by Cathy E. Irwin, George Gross, D.O., and Mary Woods, R.N. Additional defendants included Elinor Holbrook, Gilda Richardson, Marie Vande Bunte, and Ronald Peters as members of the Ingham County Board of Health who affirmed the Center's policies. *Id.* at 1201.

18. *Id. See* note 1 *supra.*

19. 428 F. Supp. at 1214-15.

20. *Id.* The right of the parents to the custody, education, and control of their minor children has become an established tradition. *Id.* at 1206 (citing Wisconsin v. Yoder, 406 U.S. 205 (1972)).

21. 428 F. Supp. at 1214-15. It is questionable whether the mandatory parental notice requirement really encourages a minor to seek the aid of his parents. *See* Wynn v. Carey, 582 F.2d 1375, 1388 n.24 (7th Cir. 1978) (disclosure of pregnancy may cause physical abuse); Women's Community Health Center, Inc. v. Cohen, 477 F. Supp. 542, 548 (D. Me. 1979) (disclosure can lead to parental pressure causing emotional and psychological distress, disruption of the family unit, and physical risks to the minor); Goldstein, *Medical Care for the Child at Risk: On State Supervention of Parental Autonomy*, 86 YALE L.J. 645, 662 (1977) [hereinafter cited as Goldstein] (disclosure compels a female to consult a parent when no trust exists). The Supreme Court, however, has stated that the parents are recognized to act in the child's best interest. Parham v. J.R., 442 U.S. 584, 602 (1979). The Court has also noted that it is the parents' duty and right to prepare their children for additional obligations. Pierce v. Soc'y of Sisters, 268 U.S. 510, 535 (1925).

22. 428 F. Supp. at 1214-15.

23. *Id.* at 1214.

24. *Id.* at 1215.

parents from the minor's decision on the contraceptive issue.[25]

Equating the Center's practices with a prohibition on parental involvement and finding that the parental right to notice was unduly burdened, the district court prohibited further distribution of contraceptives unless the state mandated parental notice as a prerequisite.[26] In the court's opinion, restricting a minor's freedom to acquire contraceptives would be less burdensome than excluding parents from these decisions.[27]

Shortly after the district court's decision, the Supreme Court of the United States decided *Carey v. Population Services International*,[28] finding, in a plurality opinion, that a statutory prohibition against any distribution of contraceptives to minors under the age of sixteen violated the minors' constitutional right to privacy in decisions affecting procreation.[29] Thereafter, the Center appealed to the United States Court of Appeals for the Sixth Circuit which vacated and remanded the *Doe v. Irwin* decision to the district court for reconsideration of its notice requirement in light of the decision in *Carey*.[30] Finding that *Carey* did not warrant a different result because it produced no majority opinion and some indication that a majority of the Supreme Court would support a parental notice requirement,[31] the district

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25. *Id.* at 1214-15.
26. *Id.* at 1214.
27. *Id.*
28. 431 U.S. 678 (1977).
29. In *Carey* a state statute prohibited the distribution of contraceptives to minors under the age of 16. Justice Brennan noted that blanket prohibitions or parental consent requirements prior to the distribution of birth control to minors was violative of their constitutional right to privacy. *Id.* at 693-94 (opinion of Brennan, J.). Although notice provisions were not at issue, Justice Brennan indicated that all restrictions on a minor's access to contraceptives required close constitutional scrutiny. *Id.* at 697 (opinion of Brennan, J.).
30. Doe v. Irwin, 559 F.2d 1219 (6th Cir. 1979) (vacated and remanded without published opinion).
31. Doe v. Irwin, 441 F. Supp. 1247, 1258 (W.D. Mich. 1977). The court cited United States v. Pink, 315 U.S. 203 (1942), for the proposition that a failure by a majority to agree on a point of law restricts the use of a case as authority. After analyzing the opinion of each Justice in *Carey*, the district court felt that its judgment would have been upheld by a majority of the Supreme Court. 441 F. Supp. at 1258. The court stated that its decision was consistent with the recent approval by the Michigan State Legislature of a proposed statute requiring parental notice before a minor could attend a reproductive health class in school. *Id.* at 1260-61. *See* MICH. COMP. LAWS ANN. § 380.1507(3) (Supp. 1981-1982).

court reasserted the parental right to participate in the contraceptive decisions of their minor children and re-adopted its previous opinion and injunctive order.[32]

The Center again appealed to the Court of Appeals for the Sixth Circuit for review of the district court's holding.[33] The court of appeals concluded that the Center had no constitutional obligation to notify parents prior to distributing contraceptives to their minor children.[34] The judgment of the district court was reversed and the complaint dismissed.[35]

The court of appeals began its analysis by exploring three separate sets of rights involved in the *Doe v. Irwin* decision: The minor's right to privacy which embraced the right to obtain contraceptives;[36] the parents' fourteenth amendment right to the care, custody, and nurture of their children;[37] and the state's right to protect the health and welfare of its youth, including the

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32. 441 F. Supp. at 1261.

33. Doe v. Irwin, 615 F.2d 1162 (6th Cir.), *cert. denied*, 449 U.S. 829 (1980).

34. *Id.* at 1169.

35. *Id.*

36. *Id.* at 1166. The court stated that it is the right of personal privacy which is involved in obtaining the Center's services, and that within the most intimate area of this right lies a woman's decisions concerning childbearing. *Id. See, e.g.*, Whalen v. Roe, 429 U.S. 589, 599-600 (1977); Roe v. Wade, 410 U.S. 113, 152 (1973). Furthermore, it was a case involving a statute prohibiting the use of contraceptives which first explicitly recognized the right of privacy. 615 F.2d at 1166 (citing Griswold v. Connecticut, 381 U.S. 479 (1965)). The court determined that although the state's authority over the conduct of minors is broader than over that of adults, minors nonetheless possess a constitutionally protected right of privacy. 615 F.2d at 1166. *See* Bellotti v. Baird, 443 U.S. 622 (1979); Carey v. Population Services Int'l, 431 U.S. 678, 692-93 (1977) (opinion of Brennan, J.); Planned Parenthood of Missouri v. Danforth, 428 U.S. 52, 74-75 (1976); Wynn v. Carey, 582 F.2d 1375, 1383-84 (7th Cir. 1978). This right of privacy includes a minor's right to obtain contraceptives. 615 F.2d at 1166. *See* Carey v. Population Services Int'l, 431 U.S. 678 (1977).

37. 615 F.2d at 1167. The fourteenth amendment protects the parents' liberty interest in their children. *Id. See* Wisconsin v. Yoder, 406 U.S. 205 (1972) (statute requiring school attendance unconstitutional with regard to Amish religious requirement of foregoing one or two years of education); Pierce v. Soc'y of Sisters, 268 U.S. 510 (1925) (statute requiring minor to attend public school is an unconstitutional interference with parents' right to educate minors as they see fit); Meyer v. Nebraska, 262 U.S. 390 (1923) (statute prohibiting study of German language by minor unconstitutional interference with parents' right to educate minors).

prevention of teenage pregnancies.[38] The court found no need to decide whether parental rights outweighed those of the minor children as it determined that the voluntary nature of the Center did not unconstitutionally interfere with parental rights.[39] In the court's opinion, the Center's practice was neutral, neither prohibiting nor mandating parental involvement.[40] The court distinguished the Supreme Court decisions defining parental rights, cited as controlling by the district court, as either requiring or prohibiting a particular activity.[41] The Center merely operated a voluntary birth control clinic with no requirement that minors seek its services and no prohibition against participation by parents.[42] As a result, parents were free to exercise their traditional care, custody, and control over their minor children.[43] Because the court found no unconstitutional interference with the parents' rights, it did not consider whether the state's interest was compelling in this case.[44]

Recent decisions appear to lead minors capable of making independent decisions to a new freedom to enjoy constitutional rights taken for granted by adults, while restricting immature, unemancipated minors to decisions made with parental approval.[45] Because the constitutional right to privacy is applicable to minors as well as adults,[46] the right has been extended to encompass a minor's decision to procreate,[47] obtain an abortion,[48] and

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38. 615 F.2d at 1167. The court recognized this as a legitimate state interest which led Michigan to establish clinics such as the Center. *Id. See* Ginsberg v. New York, 390 U.S. 629 (1968).

39. 615 F.2d at 1169.

40. *Id.* at 1168.

41. *Id. See* note 37 *supra.* In *Wynn v. Carey* the court found these same cases not determinative of the constitutionality of a parental consent requirement prior to authorizing an abortion. 582 F.2d at 1385 & n.18. In each case the parents' rights conflicted only with the state's interest, and the minor's rights were not raised. *Id.* Therefore, the court found the cases not controlling when the minor's rights conflict with those of the parents. *Id.*

42. 615 F.2d at 1168.

43. *Id.*

44. *Id.* at 1169. The Does subsequently petitioned for a writ of certiorari to the United States Supreme Court but were denied. Doe v. Irwin, 449 U.S. 829 (1980).

45. *See* Aladdin's Castle, Inc. v. Mesquite, 630 F.2d 1029, 1042-43 (5th Cir. 1980).

46. *Id.* at 1042. *See* Tinker v. Des Moines School Dist., 393 U.S. 503 (1969).

47. *See* 582 F.2d at 1384 (quoting Eisenstadt v. Baird, 405 U.S. 438, 453 (1972)).

48. *See* Bellotti v. Baird, 443 U.S. 622, 640 (1979).

use contraceptives[49] without unwarranted state intervention.[50] Although the court of appeals in *Doe v. Irwin* did not characterize the rights of the parents and minors as conflicting,[51] a minor's right to obtain contraceptives without parental knowledge does encroach upon the parents' right to participate in their minor childrens' decisions. Therefore, by upholding the Center's practice and rejecting the district court's judicially mandated parental notice provision, the decision of the court of appeals is consistent with the recent line of cases that has slowly been qualifying parental rights and carving out an area of individual autonomy for minors.[52]

If the court of appeals had upheld the district court's determination that parents have a constitutional right to notice, it would have been confronted with the problem of fashioning a notice requirement that did not alternatively restrict the constitutional rights of minors by being overly inclusive, ambiguous, or by failing to provide for certain contingencies.[53] The district court failed to define or qualify the term "minor" in its decision, and courts have recently begun to invalidate notice provisions that leave the term ambiguous, finding substantial differences between children, adolescents, and mature teenagers.[54] In a recent United States Supreme Court decision, Justice Powell found that a provision failing to distinguish between a minor capable of making independent decisions and one incapable of doing so was an unconstitutional infringement of the minor's rights.[55] A parental notice provision may not be necessary in the case of a married female minor, but an exclusion of married persons from the

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49. *See* Planned Parenthood v. Danforth, 428 U.S. 52, 74 (1976).

50. Whalen v. Roe, 429 U.S. 589, 599-600 nn.24-26 (1977).

51. *See* text accompanying note 39 *supra.*

52. *See* Bellotti v. Baird, 443 U.S. 622 (1979); Parham v. J.R., 442 U.S. 584 (1979); Carey v. Population Services Int'l, 431 U.S. 678 (1977).

53. *See* notes 54-62 and accompanying text *infra.*

54. 582 F.2d at 1383 n.11; 428 U.S. at 74 (state-defined age does not give automatic maturity or a sudden constitutional right).

55. In *Bellotti v. Baird* Justice Powell defined a minor in two ways: Those capable of giving informed consent with independent decisionmaking ability, and those incapable of doing so. He felt it inappropriate for a parental notification statute to provide the same requirements for both of these types of minors. Justice Powell used the term "children" throughout his reasoning about why a child's right cannot always be equated with an adult's. 443 U.S. at 630-47.

requirement could subject the provision to an equal protection argument.[56]

The district court failed to provide for certain contingencies: The manner in which notice should be given;[57] the consequences of repeated failures to notify a parent;[58] and special circumstances where parental notice may not be in the minor's best interest.[59] Although it is traditionally accepted that parents naturally act in their child's best interest,[60] contingencies must still be provided for when a parent fails to so act. As Justice Powell admonished, failure to provide for any contingencies where notification may be contrary to the minor's best interest renders a notice requirement unconstitutionally overinclusive.[61]

Parental notice requirements have been a constant source of litigation in the federal courts.[62] While some courts have found the notice provision constitutional,[63] others have found it to be an

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56. *See* 582 F.2d at 1387 (unconstitutional violation of the minor's right to equal protection to exclude married minors from requirement of parental notification); State v. Koome, 84 Wash. 2d 901, 530 P.2d 260 (1975) (married minors not necessarily more mature or responsible than unmarried minors).

57. 428 F. Supp. at 1214. Notice must be provided "in some manner." *Id.*

58. A Utah statute requiring parental notice prior to a minor's receiving an abortion contained the provision: "notify, if possible." H.L. v. Matheson, 450 U.S. 398, 400 (1981) (construing UTAH CODE ANN. § 76-7-304(2) (1978)). This was interpreted by the Utah Supreme Court to mean the physician would notify parents "if under the circumstances, in the exercise of reasonable diligence, he can ascertain their identity and location and it is feasible or practicable to give them notification." 450 U.S. at 405.

59. *See* note 21 *supra*. The dissent in *Matheson* acknowledged a number of instances when parental notice will not be in the minor's best interest. 450 U.S. at 437-40 (Marshall, J., dissenting).

60. Parham v. J.R., 442 U.S. 584, 602 (1979).

61. In *Bellotti v. Baird* Justice Powell found a parental notification provision unconstitutional for failing to provide procedures for determining whether nondisclosure would be in a minor's best interest. 443 U.S. at 646-51. *Wynn v. Carey*, an abortion case, cited examples where notification would not be in the minor's best interest: physical abuse on disclosure, forced marriages, or compelled continuation of pregnancy as punishment. 582 F.2d at 1388 n.24. In *Women's Community Health Center, Inc. v. Cohen* the plaintiff's expert witness stated that disclosure can lead to parental pressure causing emotional and psychological distress, disruption of the family unit, physical risks to the minor, and either delayed assistance or illegal abortions. 477 F. Supp. at 548. With the exceptions of compelled pregnancy and delayed or illegal abortions, these same justifications for not notifying parents are also present in contraceptive cases.

62. *See* notes 63 & 64 *infra*.

63. *See* 441 F. Supp. at 1261; T.H. v. Jones, 425 F. Supp. 873, 882 (D. Utah 1975), *aff'd*, 425 U.S. 986 (1976) (dicta that a state parental notification provision would be constitutional if applied nondiscriminately).

unconstitutional infringement of the minor's right to privacy on decisions affecting procreation.[64] The Supreme Court of the United States has recently resolved the constitutionality of a parental notice provision as a condition precedent to a minor's right to obtain an abortion.[65] After the court of appeals decided *Doe v. Irwin*, the Supreme Court found in *H.L. v. Matheson*[66] that a Utah statute requiring parental notice, if possible, prior to performing an abortion was constitutional at least as applied to immature, unemancipated minors.[67] Because the Supreme Court cautioned that its holding in *Matheson* could not be used to intimate or predict its view as to the proper resolution of a future case,[68] the Court has not squarely considered the constitutionality of requiring parental notice prior to the distribution of contraceptives.

Several of the state's interests in a minor's decision on whether to have an abortion are significantly different from those in decisions to use contraceptives.[69] In *Matheson*, the state encouraged minors to seek the advice of their parents before an abortion because parents ordinarily possess information about the child that can help a physician exercise his best medical judgment.[70] Also, minors may not understand the consequences of an abortion decision, which are of a permanent nature.[71] In addition, the emotional stress and long range consequences of an

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64. *See* Womens Services, P.C. v. Thone, 483 F. Supp. 1022 (D. Neb. 1979), *aff'd*, 636 F.2d 207 (8th Cir. 1980) (statute requiring informed consent and parental consultation prior to minor's abortion unconstitutional); Planned Parenthood Ass'n v. Ashcroft, 483 F. Supp. 679 (W.D. Mo. 1980) (statute that required parental notice in abortion decision unconstitutional); Scheinberg v. Smith, 482 F. Supp. 529 (S.D. Fla. 1979) (statute requiring parental consent or court order unconstitutional as is a spousal notice provision in abortion decision); Akron Center for Reproductive Health, Inc. v. City of Akron, 479 F. Supp. 1172 (N.D. Ohio 1979) (ordinance requiring parental notice and consent in abortion decision of minor unconstitutional for not providing alternative that would be in the minor's best interest); Jones v. Smith, 474 F. Supp. 1160 (S.D. Fla. 1979) (state statute requiring unmarried pregnant female under age 18 to receive parental consent or a court order prior to abortion unconstitutional).

65. H.L. v. Matheson, 450 U.S. 398 (1981).

66. *Id.*

67. *Id.* at 413.

68. *Id.* at 414 n.25.

69. *See id.* at 407-13.

70. *Id.* at 405. *See* Doe v. Bolton, 410 U.S. 179, 191-92 (1972).

71. 405 U.S. at 409-10.

abortion make parental consultation desirable as it is unlikely that a minor can receive adequate counsel and support from a physician.[72]

Prior to *Matheson*, the Supreme Court had considered the principles developed in abortion cases equally applicable to contraceptive cases.[73] However, given the emphasis in *Matheson* that the Supreme Court has placed on the unique nature of an abortion decision[74] and the less critical nature of a decision to use contraceptives, the effect of *Matheson* on *Doe v. Irwin*'s refusal to judicially mandate a contraceptive notification provision is not certain.

While the developing rights of minors have been viewed as the cause of a gradual destruction of the family unit, replacing the state as parent,[75] it may also be a means of strengthening the family bond, encouraging children to confide in parents without feeling pressure.[76] Nonetheless, parental authority to direct and educate children is a part of our culture,[77] and protecting the right of parents to make decisions for their minor children cannot be accomplished without interfering with the rights of the minor to some degree.[78]

If the *Matheson* decision is extended to cases involving the

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72. *Id.* at 410.

73. In *Carey v. Population Services Int'l* the Court cited the principles set forth in Planned Parenthood v. Danforth, 428 U.S. 52 (1976), an abortion case, as applicable to *Carey*, a contraceptive case. 431 U.S. at 688.

74. Medical decisions on electing to carry the child to term are not nearly as grave emotionally or psychologically as an abortion decision. 405 U.S. at 412. "There are few situations in which denying a minor the right to make an important decision will have consequences so grave and indelible." Bellotti v. Baird, 443 U.S. at 646.

75. *See* Note, *Parent, Child, and the Decision to Abort: A Critique of the Supreme Court's Statutory Proposal in Bellotti v. Baird*, 52 S. CAL. L. REV. 1869, 1887-88 (1979): "True personal autonomy is more probably ensured by continuing parental control and input. [T]o the extent that the state rescues the child from parental decisions it finds repugnant, it impeaches the parents' own judgment and authority. [F]amilial estrangement can only lead to the individual's further isolation and loneliness . . . ."

76. *See* Goldstein, *supra* note 21, at 661-62 ("[T]hose who insist on parental consent are concerned less with the child's well being than with strengthening their general opposition to abortion, which they cloak in the magical notion that law can improve family communications by compelling a young woman in trouble to consult her parents when such family trust does not exist.").

77. Ginsberg v. New York, 390 U.S. 629, 639 (1968).

78. *See* notes 55-62 *supra*.

distribution of contraceptives to minors, the parental right to direct and control the education of such minors will be preserved.[79] Legislation mandating parental notification, at least in the case of immature, unemancipated, and dependent minors, would give each set of rights—the state's, the parents', and the minors'—substantive effect without enforcing one to the exclusion of the others.

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79. 428 F. Supp. 1213-14.