

Online Appendix: State-by-State Policy Review

Alabama

Age of majority: Alabama lowered the age of majority from 21 to 19 effective January 22, 1975. The age of majority is still 19.²⁶

Contraception: Alabama enacted a law effective October 1, 1971 granting minors age 14 or older, minors who have graduated from high school and pregnant minors the capacity to consent to "any legally authorized medical, dental, health, or mental health services."²⁷

Abortion: Abortion became legal in Alabama with the *Roe v. Wade* decision on January 22, 1973. At this time, Alabama's law granting pregnant minors the ability to consent to health care presumably allowed minors of any age to consent to abortion.²⁸ Effective September 23, 1987, Alabama enacted a parental consent law for abortions for women under 18.²⁹

Alaska

Age of Majority: Alaska set the age of majority at 19 when it entered the union in 1959. It lowered the age of majority to 18 in 1977.³⁰

Contraception: A medical consent law enacted August 7, 1974 granted minors the right to consent to the "diagnosis, prevention or treatment of pregnancy." It also included a qualifying clause stating that its provisions controlled except as prohibited by the 1970 abortion legislation described below.³¹

Alaska made emergency contraception available over the counter in 2003, ahead of a federal policy change in 2006.³²

Abortion: Alaska was a repeal state; abortion became legal in most circumstances on July 29, 1970. Under the governing statute, women under the age of 18 were required to obtain parental consent for an abortion.³³ Because this statute did not include a parental bypass provision, it presumably was invalidated by the July 1, 1976 ruling in *Danforth*, although the attorney general issued a series of conflicting opinions on this. In the first, from a memorandum issued by the attorney general's office on October 21, 1976, the attorney general advises that the parental consent provision of Alaska's abortion statute was unconstitutional in light of *Danforth*.³⁴ However, an April 13, 1977 opinion advises that "the physician should still attempt to contact the minor's parents or guardian, but the

²⁶ Code of Ala. § 26-1-1 (2010).

²⁷ Code of Ala. § 22-8-4 (2010). Merz, Jackson and Klerman (1995) provide effective date.

²⁸ DHEW (1978) and Merz, Jackson, and Klerman (1995) interpret the statute similarly.

²⁹ Code of Ala. § 26-21-1 to 26-21-8 (2010). Merz, Jackson and Klerman (1995) provide effective date.

³⁰ Alaska Stat. § 25.05.010 (2010).

³¹ Alaska Stat. § 25.20.025 (2010); DHEW (1978); Merz, Jackson, and Klerman (1995).

³² 12 AAC § 52.240 (2003). Zuppann (2012) provides effective date of 2003.

³³ Alaska Stat. § 18.16.010 (2010); DHEW (1978); Merz, Jackson, and Klerman (1995).

³⁴ Op. Att'y Gen. (October 7, 1981); DHEW (1978); Merz, Jackson, and Klerman (1995).

ultimate decision...must be left to the minor."³⁵ On February 10, 1977, the Attorney General issued a second opinion advising that under *Danforth* "the existing law should be read as not requiring parental consent for minors." The Attorney General also interprets a law establishing 16 as the age of consent for sexual intercourse as also determining the age at which a minor may consent to an abortion absent a parental involvement law.³⁶ In the absence of an enforceable parental involvement provision, the right of minors to consent to abortion is presumably affirmed by the 1974 medical consent law that granted minors the right to consent to the treatment of pregnancy.³⁷

In 1997 Alaska passed a parental consent law for women under 17. Enforcement was immediately enjoined and eventually ruled unconstitutional.³⁸ A ballot measure passed in August 2010 amended this measure to require parental notification for women under 18. The law went into effect on December 14, 2010.³⁹ The Alaska Supreme Court reversed a lower court's ruling and permanently enjoined enforcement on July 22, 2016.⁴⁰

Arizona

Age of majority: Arizona lowered the age of majority to 18 effective May 5, 1972.⁴¹

Contraception: Arizona had a Comstock law that restricted the sale of contraception until October 31, 1962, when a ruling by the State Supreme Court clarified and narrowed the scope of the law.⁴² A February 11, 1977 opinion from the attorney general stated that contraception can be provided to unemancipated minors without parental consent by agencies funded through Title X. Moreover, the attorney general states that he is unaware of a state law that prohibits the provision of contraception to unemancipated minors by non-Title X-funded providers.⁴³ An affirmative law has not been passed.⁴⁴

³⁵ Op. Att'y Gen. (April 13, 1977).

³⁶ Op. Att'y Gen. (February 10, 1977).

³⁷ Merz, Jackson, and Klerman (1995).

³⁸ Alaska Stat. §§ 18.16.010 and 18.16.020 (2010); *State of Alaska v. Planned Parenthood of Alaska* 171 P.3d 577 (November 2, 2007).

³⁹ "Court upholds Alaska's parental-notice law on abortions for minors." Chicago Tribune, October 9, 2012.

"Judge upholds law on teens, abortion." The Spokane-Review, December 14, 2010.

⁴⁰ *Planned Parenthood of the Great Northwest v. State*, 375 P.3d 1122 (2016).

⁴¹ A.R.S. § 1-215 (2010); DHEW (1978).

⁴² Bailey and Davido (2009).

⁴³ Op. Att'y Gen. (February 11, 1977).

⁴⁴ Guttmacher (2017a) indicates that Arizona currently has a law in place that explicitly grants minors access to contraceptive services. However, I have been unable to find evidence of such a law in the Arizona Revised Statutes or from other secondary sources. I do find limited supporting evidence that there is not, in fact, a governing affirmative statute. In 2006, Arizona House Majority Leader Steve Tully introduced House Bill 2707 that would have required parental consent for birth control. He later withdrew the bill. In a news article in the *Arizona Daily Star* about the bill, Charlotte Harrison, the executive director of the Arizona Family Planning Council, states that there is no law against providing birth control to minors and that "the only thing we have is an opinion from the attorney general in 1979 that says that a provider...cannot be liable...for providing family planning services to a minor without parental consent" (Howard Fischer, "Bill to limit minors' Rx is dead," *Arizona Daily Star* (March 23, 2006)). Searches for "minor" and "family planning" in 1979 opinions from the state attorney general failed to turn up such an opinion. I assume that the speaker is referring to the February 11, 1977 opinion described above.

Abortion: Abortion became legal in Arizona with the *Roe v. Wade* decision on January 22, 1973. Arizona enacted legislation effective October 15, 1974 requiring parental consent for the performance of surgery on an unemancipated minor.⁴⁵ Because the statute did not include a judicial bypass provision, it was presumably unenforceable with regard to abortion after the *Danforth* ruling on July 1, 1976.⁴⁶

Effective July 23, 1982, the legislature enacted a parental notification law.⁴⁷ Enforcement of this law was enjoined by a U.S. District judge on October 28, 1985.⁴⁸ The legislature amended and reinstated the parental notification law effective May 2, 1986. In 1987, the legislature again amended the law to replace the parental notification requirement with a parental consent requirement. The amended law was challenged and struck down on August 18, 1987, the day it was scheduled to go into effect, leaving no enforceable parental involvement law on the books.⁴⁹ In 1989, the legislature again amended and re-enacted the statute. This version of a parental consent law also was challenged, and a preliminary injunction was issued before the law went into effect. The law was ruled unconstitutional, and enforcement was permanently enjoined on September 14, 1992.⁵⁰ The legislature amended and re-enacted the parental consent law in 1996, but enforcement again was enjoined prior to the effective date.⁵¹ After a series of appeals, the law was permanently enjoined in October, 1999.⁵²

Another parental consent law was enacted in 2000 and was scheduled to go into effect on July 14, 2000. Enforcement of this law also was enjoined before it could go into effect. It was eventually upheld and went into effect on March 3, 2003.⁵³ In 2009 this statute was amended to require that notarized proof of parental consent be provided. Planned Parenthood challenged the law, and an injunction against the requirement of a “notarized statement” was issued. The law was upheld in its entirety in 2011.⁵⁴

⁴⁵ A.R.S. § 36-2271 (2010). Merz, Jackson, and Klerman (1995) provide effective date.

⁴⁶ DHEW (1978) confirms this interpretation.

⁴⁷ A.R.S. § 36-2152 (2010); Bush (1983); Neinstein (1987); Merz, Jackson, and Klerman (1995).

⁴⁸ UPI, "Judge suspends abortion law," *The Courier* (October 29, 1985); Merz, Jackson, and Klerman (1995).

⁴⁹ UPI, "Abortion law rule receives mixed reviews," *The Courier* (August 18, 1987); Merz, Jackson, and Klerman (1995).

⁵⁰ *Planned Parenthood v. Neely*, 804 F. Supp. 1210 (September 14, 1992).

⁵¹ *Planned Parenthood v. Neely* 942 F. Supp. 1578 (October 4, 1996); Merz, Jackson, and Klerman (1995).

⁵² *Planned Parenthood v. Lawall* 193 F.3d 1042 (October 22, 1999).

⁵³ *Planned Parenthood v. Lawall* 307 F.3d 783 (2002); Robbie Sherwood, "Parental Consent for minors to get abortion takes effect," *Arizona Republic* (March 5, 2003); Associated Press, "Parental consent abortion law takes effect," *Daily Courier* (March 5, 2003).

⁵⁴ A.R.S. § 36-2152 (2014); *Planned Parenthood v. American Association of Pro-Life Obstetricians & Gynecologists* 227 Arizona 262 (August 11, 2011).

Arkansas

Age of majority: The age of majority for females was set at 18 in 1873. The age of majority for males was lowered from 21 to 18 in 1975.⁵⁵

Contraception: Arkansas had a Comstock law restricting the sale of contraception, but it contained a blanket physician exemption.⁵⁶ On March 14, 1973 the state adopted the Arkansas Family Planning Act, which made contraception available to anyone regardless of age.⁵⁷

Abortion: Arkansas was a reform state; it adopted the MPC provisions effective February 17, 1969. This statute included a parental consent requirement for minors for the limited circumstances under which abortion was legal. The statute was challenged, and enforcement enjoined on February 17, 1976 before being held unconstitutional in 1980 in *Smith v. Bentley*.⁵⁸ Arkansas's pre-Roe abortion statute was fairly clearly invalidated by *Roe*, and the parental consent provision was not obviously separable from the statute as a whole. However, based on the judicial opinion in *Smith v. Bentley*, which concludes that a "significant threat of prosecution existed" prior to the injunction and on other contemporary sources from the period between *Roe* and the trial, it appears that the parental consent requirement was enforced until its enjoinder on February 17, 1976.⁵⁹

The state adopted a parental notification law effective March 1, 1989. This statute was amended March 4, 2005 to replace the parental notification provision with a parental consent provision.⁶⁰

California

Age of majority: The age of majority was lowered from 21 to 18 effective March 4, 1972.⁶¹

Contraception: A law originally passed in 1873 read "Every person who willfully writes, composes, or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purpose is guilty of a felony and shall be punished as provided in the Penal Code."⁶² Section 4322 of the Code further read "No person shall

⁵⁵ Ark. Ann. Code § 9-25-101 (2009).

⁵⁶ Bailey and Davido (2009).

⁵⁷ Ark. Ann. Code § 20-16-304 (2009); DHEW (1978); Merz, Jackson, and Klerman (1995).

⁵⁸ *Smith v. Bentley* 493 F. Supp. 916 (1980). Merz, Jackson, and Klerman (1995).

⁵⁹ Merz, Jackson, and Klerman (1995); Paul, Pilpel, and Wechsler (1974, 1976).

⁶⁰ Ark. Ann. Code § 20-16-801 to -810 (2009); Merz, Jackson, and Klerman (1995).

⁶¹ Cal. Fam. Code § 6500 (2009); Council of State Governments (1973).

⁶² California Business and Professions Code §600 as reproduced in California Assembly Bill No. 219 in the Regular General Session of 1965.

display or expose for sale any prophylactic, or any containers or packages containing or advertising prophylactics.”⁶³ Both of these provisions were repealed in 1965.⁶⁴

Bailey (2010) treats the pre-1965 version of these laws as an advertising and sales ban rendered invalid by *Griswold*. As support for this interpretation, they cite an account published in *Planned Parenthood Beginnings*:

Rev. Arthur G. Elcombe recounted a conversation with a female patient in a county hospital in San Diego in 1960. She said “all employees, including residents in Obstetrics were forbidden by law to provide her with services for birth control” (p.21). He “immediately inquired regarding this, found it to be true, looked for P.P. [Planned Parenthood] in the phone book, couldn’t find it.” His efforts resulted in the opening of the first clinic in San Diego several years later, but he does not note when the legal environment changed. Other affiliate histories from California do not mention the legal environment, so whether they operating (deliberately) in violation of the law is unclear. Another possibility is that local ordinances mattered more than state law, but no such ordinances have been found thus far.” (Quote from Bailey and Davido, 2010)

I note that a variety of historical sources and circumstances suggest that Planned Parenthood clinics were providing contraceptive services prior to 1965, and that some private physicians were as well. Moreover, the California Medical Association and Board of Health also took action that appear to have been prohibited by the law.

I note the following evidence from contemporary accounts:

- *California Medicine*—the official journal of the California Medical Association, the state’s constituent organization of the American Medical Association—regularly published advertisements for contraception prior to 1965 (Figure A1) and additionally had booths at its annual meetings with representatives of pharmaceutical companies providing information on contraceptives for conference attendees (Figure A2).⁶⁵
- In April 1961 *The Los Angeles Times* published an account of large increases in caseloads of patients at the Los Angeles and Pasadena Planned Parenthood locations, “40% of [whom] have been using the pill, the rest other forms of contraception.”⁶⁶ The article goes on to describe coordination of services

⁶³ California Business and Professions Code §4322 as reproduced in California Assembly Bill No. 219 in the Regular General Session of 1965.

⁶⁴ California Assembly Bill No. 219 in the Regular General Session of 1965. California Legislature at Sacramento 1965 Regular Session. *Assembly Final History*.

⁶⁵ E.g., See advertisements for contraceptives in *California Medicine*. 1960. 92(2): 51. *California Medicine*. 1961. 95(4): 24. See listings for booths with pharmaceutical representatives of contraceptive products in *California Medicine*. 1950. 72(4): 302 and *California Medicine*. 1964. 100(2): 41.

⁶⁶ Harry Nelson. “Inquiries on Parenthood Planning Showing Rise.” *The Los Angeles Times*. April 7, 1961.

Figure A1: Examples of advertisements for contraception in the official journal of the California Medical Association, published prior to the repeal of the state's advertising and sales ban



she can choose her own gown . . .

but she needs your help to plan her family

Delfen VAGINAL CREAM
THE MODERN CHEMICAL SPERMICIDE

Preceptin VAGINAL GEL
THE SPERMICIDAL GEL WITH BUILT-IN BARRIER

PRESCRIBED WITH CONFIDENCE FOR SIMPLE, EFFECTIVE CONTRACEPTION



SUCCESSFUL FAMILY PLANNING...BASED ON YOUR COUNSEL AND LANESTA GEL

As a physician, you play an essential role in the happiness and well-being of the family. At all times—when the young couple is first married, as the children arrive, and even after the family is complete—your counsel, including your recommendations for the use of Lanesta Gel, is of major importance.

Lanesta Gel, with or without a diaphragm, is a most effective means of conception control. Lanesta Gel effects speedier spermicidal action because it diffuses rapidly into the seminal clot. In fact, the mean diffusion spermicidal time of Lanesta Gel is three to seven times faster than the mean diffusion times of ten leading, commercially available contraceptive creams, gels, or jellies, according to Gamble ("Spermicidal Times of Commercial Contraceptive Materials—1959").*

Lanesta Gel has complete esthetic acceptance and is well tolerated.

*Gamble, C. J.: Am. Pract. & Digest Treat. 11:352 (Oct.) 1960. See also Beherian, D. A. and Slighter, R. G.: J.A.M.A. 160:2257 (Dec. 27) 1958; Olson, H. J.; Wolf, L.; Behar, D.; Ungerleider, J. and Tyler, E. T.: California Med. 94:292 (May) 1961; Kaufman, S.A.: Obst. & Gynec. 15:381 (Mar.) 1960; Warner, M.P.: J.Am. M. Women's A. 11:412 (May) 1959.

Active ingredients: 7-chloro-4-nitro-2,2-dimethyl-5-norbornene-2-carboxylic acid, sodium lauryl sulfate, sodium chlorate.

A PRODUCT OF LANTEEN[®] RESEARCH — Distributed by —

Supplied by Este Medical Laboratories, Inc., Allamers, Ohio — BREXON LABORATORIES INC., New York 18, N. Y.

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California Medicine. 1960. 92(2): 51.

California Medicine. 1961. 95(4): 24.

Figure A2: Examples of booths with representatives of contraceptive products at the annual meetings of the California State Medical Association, prior to the repeal of the state's advertising and sales ban

HOLLAND-RANTOS COMPANY, Inc.
New York, New York Booth No. 77

Plan to visit the Holland-Rantos exhibit, featuring latest developments in Koromex contraceptive specialties. Inspect the various combination sets, each one of which meets a particular need in the doctor's practice. Investigate how Koromex Sets—without added cost—enable patients to determine individual preference for jelly or equally-effective but less-lubricating cream. See the convenient, permanent plastic container for Koromex Diaphragm Fitting Rings.

LANTEEN MEDICAL LABORATORIES, Inc.
Evanston, Illinois Booth No. 25

Lanteen Medical Laboratories, Inc., extend a cordial invitation to visit their Space No. 25. Representatives will be happy to discuss an improved contraceptive technique. All of the well-known Lanteen products will be available for discussion.

ORTHO PHARMACEUTICAL CORPORATION Booth 66
Raritan, New Jersey

ORTHO is proud to present a complete line of products for the control of conception. Of special interest are ORTHO-NOVUM Tablets, the oral product specifically designed for contraception. Also on display are our well-

California Medicine. 1950. 72(4): 304.

California Medicine. 1964. 100(4): 41.

between the Pasadena Planned Parenthood and the Pasadena Health Department as “close” and says that the health department and local hospital referred women seeking contraceptives to Planned Parenthood.

- In May 1961, *California Medicine* published the results of a study of contraceptive efficacy conducted at the Los Angeles Planned Parenthood clinic between 1957 and 1959. The article describes the provision of contraceptives to 659 patients, as well as “the custom of the Los Angeles Planned Parenthood Center to provide patients with a choice of several contraceptive methods.”⁶⁷
- *California Medicine* published a notice of the California legislature’s vote to repeal the advertising and sales ban in 1965, as a short notice without comment.⁶⁸
- An article published in 1966 in the American Journal of Public Health describes the development of family planning services in Alameda County, California in the early 1960s. The authors of the article state that the Alameda County Health Department began providing comprehensive family planning services in 1962, and that prior to that it had referred interested clients to local Planned Parenthood clinics, the oldest of which had been in operation in Oakland since 1929. In May of 1962, county officials received grant funding that allowed them to provide nursing staff with a “kit” with contraceptive samples, which they offered to patients. If patients desired a prescription method, the nurses referred them to private physicians or Planned Parenthood. This article further describes a series of important policy changes that encouraged the establishment and expansion of the program: a 1961 policy statement by the California Conference of Local Health Officers, a 1963 legislative bill related to family planning services, a 1964 official unanimously-adopted recommendation from the State Board of Health promoting the availability of family planning services; and a 1964 recommendation from the County Board of Supervisors. Nowhere in this article do the authors mention the ban on the advertisement and sale of contraceptives that was on the books through 1965.
- In January of 1964, the California State Board of Health recommended that local health departments provide specified family planning services. One contemporary source states that “thereafter, family planning assumed an important position in a rapidly increasing number of local, maternal health programs.”⁶⁹
- A 1967 article in *California Medicine* describes the opening of a family planning clinic in Sacramento in July 1964 with assistance from the local chapter of Planned Parenthood; this article makes no mention of any legal barriers to the opening of the clinic at that time.⁷⁰

⁶⁷ Henry Olson, Lucille Wolf, Dorothea Behne, Jerry Ungerleider, and Edward Tyler. “Contraception: Effectiveness of Diaphragm and Jelly in a well-motivated group of clinic patients.” *California Medicine* 94(5): 292-294.

⁶⁸ *California Medicine*. 1965. 102(4): 326.

⁶⁹ Earl Siegel and Ronald Dillehay. 1966. “Some approaches to family planning counseling in local health departments: a survey of public health nurses and physicians.” *The American Journal of Public Health* 56(11): 1840-1846.

⁷⁰ Miller (1967).

The California state legislature enacted a bill in late 1972 that would have permitted minors (at this point defined as under age 18) to consent to contraceptive care, but Governor Ronald Reagan vetoed it.⁷¹ Minors were explicitly granted capacity to consent to contraceptive services effective January 1, 1976.⁷²

A 1961 A 1969 paper in *Family Planning Perspectives* describes a Planned Parenthood clinic established in San Francisco in 1967.⁷³ The author reports that between 1967 and 1969 the clinic saw 476 patients seeking contraceptive services, and that 38 percent of these were legally emancipated or had parental consent. The authors states that in California at that time it was common medical practice to provide confidential contraceptive services to minors aged 18 and over because 18 was the legal age of consent to intercourse. (The age of majority was 21.) The author writes “the legal situation with regard to unmarried girls under 18 years of age is marked by absence of precedent.” The author argues that the clinic feels it is “covered” by California law with respect to providing services to emancipated minors and in providing gonorrhea testing. The author does not state a conclusion with respect to providing contraceptive services without parental consent, but it is clear that the clinic is doing so. A 1966 article in the *Daily Independent Journal* quotes representatives of the Planned Parenthood Association of Marin County as saying that they provided contraception to any woman aged 18 or older, regardless of marital status.⁷⁴

In 2002 California made Emergency Contraception available over the counter. The legislation makes no mention of age.⁷⁵

In summary, a strict interpretation of California statutes and judicial rulings indicates that the state’s Comstock law prohibited the distribution of oral contraceptives until 1965, and that women aged 18-20 could not provide legal consent to contraceptive services until the age of majority was lowered in 1972. However, a variety of secondary sources suggest that neither law may have governed the provision of contraceptives in practice, and that oral contraceptives were provided at Planned Parenthood facilities to unmarried women aged 18 and older since the early 1960s.

Abortion: California adopted MPC provisions with the Therapeutic Abortion Act of November 8, 1967. In 1969 the California Supreme Court struck down the pre-1967 anti-abortion law, which had prohibited abortions except to save the life of the mother.⁷⁶ The court did not comment on the legality of the MPC provisions in the 1967 Therapeutic Abortion Act, and this ruling therefore did not explicitly legalize abortion in California. The court's ruling, however, stated that the pre-1967 law violated a woman's fundamental rights to privacy and liberty in matters related to marriage, family, and sex. This strongly suggested that the Therapeutic Abortion Act would be unconstitutional on similar

⁷¹ UPI “Regan vetoes contraceptives for ‘sexually active’ teens.” *Lodi News-Sentinel* (December 28, 1972).

⁷² Cal. Fam. Code § 6925 (2009). Paul, Pilpel, and Wechsler (1976); DHEW (1978).

⁷³ Goldsmith (1969)

⁷⁴ “Planned Parenthood lecture draws standing room crowd.” *Daily Independent Journal*. November 16, 1966.

⁷⁵ Cal. Business and Professions Code §4052 (2017) effective January 1, 2002.

⁷⁶ *People v. Belous* 71 Cal. 2d 954 (September 5, 1969).

grounds.⁷⁷ In practice, abortion appears to have become de-facto legal and widely available at about this time.⁷⁸ Legal abortions skyrocketed from 1967 through the early seventies to a rate of 270 per 1,000 live births in 1971, similar to that in other repeal states.⁷⁹ Contemporary sources suggest that providers broadly interpreted mental health reasons for abortions, and that as a result abortions were available to virtually all women in the state by the late sixties.⁸⁰ On November 22, 1972 a ruling of the California Supreme Court clearly struck down the provisions of the Therapeutic Abortion Act, making abortion freely available two months prior to *Roe v. Wade*.⁸¹

California enacted in a law in 1953 that gave pregnant minors the right to consent to medical care related to pregnancy. Whether this law granted pregnant minors the capacity to consent to abortion was unclear immediately following the Therapeutic Abortion Act. A *California Medicine* article from 1969 advises "the non-emancipated, unmarried pregnant minor probably can consent to a therapeutic abortion, but this has not yet been tested in the courts."⁸² On October 21, 1970 the California Court of Appeals ruled in *Ballard v. Anderson* that a minor could not consent to abortion. This was reversed by the California Supreme Court on May 19, 1971, which declared "There is no rational basis for discriminatorily singling out therapeutic abortion as the only type of pregnancy-related surgical care which requires parental consent." The state Supreme Court ruling explicitly recognized minors' rights to consent to abortion but stated that this right did not extent to contraception.⁸³

The California legislature passed Assembly Bill No. 2274 in 1987 to require parental consent for an abortion, but a preliminary injunction was issued before it could be implemented.⁸⁴ In June 1992, a trial court declared that the law violated the state constitution and issued a permanent injunction. The California Supreme Court affirmed on August 5, 1997.⁸⁵

⁷⁷ Roemer (1971).

⁷⁸ Hassard and Willett (1969); Goldsmith et al. (1970).

⁷⁹ Ballard (1972).

⁸⁰ Miller (1975).

⁸¹ *People v. Barksdale* 8 Cal. 3d 320 (November 22, 1972).

⁸² Hassard and Jefson (1970).

⁸³ *Ballard v. Anderson* 4 Cal. 3d 873 (1971).

⁸⁴ *American Academy of Pediatrics v. Van de Kamp* 214 Cal. App. 3d (1989); Merz, Jackson, and Klerman (1995).

⁸⁵ *American Academy of Pediatrics v. Lungren*. 16 Cal. 4th 307 (1997).

Colorado

Age of majority: Colorado lowered the age of majority from 21 to 18 for a person for the purpose of making "decisions in regard to his own body and the body of his issue" effective July 1, 1973.⁸⁶

Contraception: Colorado's Comstock law banning the sale of contraceptives contained a legitimate practice exemption; it was amended to remove the prohibition against the sale of contraceptives in 1961.⁸⁷ In 1971 Colorado adopted a law granting minors aged 18 or older capacity to consent to "hospital, medical, dental, and surgical care for himself or herself."⁸⁸ The same year, as part of the Family Planning Act of 1971 Colorado granted access to birth control to a minor who is "pregnant, or a parent, or married, or who has the consent of his parent or legal guardian, or has been referred for such services by another physician, a clergyman, a family planning clinic, a school or institution of higher education, or any agency of instrumentality of this state or any subdivision thereof, or who requests and is in need of birth control procedures, supplies, or information."⁸⁹

Abortion: Colorado was a reform state; it adopted the MPC standards on April 25, 1967. This law, Colo. Rev. Stat. § 18-6-101(1), included a parental consent requirement for women under the age of 18. The parental consent provision was challenged, and enforcement was enjoined on February 5, 1975.⁹⁰ The court ruling enjoining enforcement of the law states that the right to privacy in abortion extends to minors and that the state had not demonstrated any compelling interest to overcome that fundamental right.

Colorado passed a parental notification law scheduled to be effective on December 30, 1998.⁹¹ The law was challenged, and enforcement was enjoined before the law could go into effect.⁹² The legislature amended the parental notification act and it went into effect June 3, 2003.⁹³

Connecticut

Age of majority: Connecticut lowered the age of majority from 21 to 18 effective October 1, 1972.⁹⁴

Contraception: Connecticut was unique in banning the *use* of contraceptives by all women. This law was invalidated in the Supreme Court's landmark ruling in *Griswold v. Connecticut* on June 7, 1965.⁹⁵ Public Act No. 304, effective October 1, 1971, granted

⁸⁶ Colo. Rev. Stat. § 13-22-101 (2009).

⁸⁷ Bailey and Davido (2009).

⁸⁸ Colo. Rev. Stat. § 13-22-103 (2009); DHEW (1978).

⁸⁹ Colo. Rev. Stat. § 13-22-105, (2009); DHEW (1978).

⁹⁰ *Foe v. Vanderhoof* 389 F. Supp. 947 (1975).

⁹¹ Colo. Rev. Stat. § 12-37.5-101 (2009).

⁹² *Planned Parenthood v. Owens* 107 F. Supp. 2d 1271 (2000).

⁹³ Colorado General Assembly, *Digest of Bills* (2003).

⁹⁴ Conn. Gen. Stat. § 1-1d (2010).

⁹⁵ *Griswold v. Connecticut*, 381 U.S. 479 (June 7, 1965).

minors aged 18 and older capacity to consent to medical and health services, which presumably included contraception and abortion.⁹⁶ A physician and social worker at Yale published an article in *Family Planning Perspectives* in 1971 describing reproductive services offered on campus at that time. They describe comprehensive sexual health services including the provision of contraception, the “morning after pill” (50 mg of diethylstilbestrol), and referrals for abortion services in New York.⁹⁷

Abortion: Connecticut required parental consent for minors seeking abortion coverage under Medicaid, or, for minors who were wards of the state, the consent of the State Welfare Commissioner. In *Lady Jane v. Maher*, this requirement was held to be unconstitutional.⁹⁸ This ruling directly applied to minors who were wards of the state and who were seeking Medicaid coverage for abortions. How it might apply to minors’ ability to consent to abortions in general was not clear, so I do not treat the ruling as explicitly affirming the right of all minors to consent to abortion.⁹⁹

Connecticut enacted a law in 1990 requiring that prior to performing an abortion on a minor under the age of 16, a provider or counselor must “discuss the possibility of involving the minor’s parents, guardian or other adult family members in the minor’s decision-making.”¹⁰⁰ In a 1998 opinion, the Attorney General notes that under this law “minors have the right to obtain an abortion” and may “choose not to involve their parents in the decision.”¹⁰¹ Some secondary sources have treated this parental involvement law as restrictive, but because minors may choose not to involve their parents, I do not.¹⁰²

Delaware

Age of majority: Delaware lowered the age of majority from 21 to 18 effective June 16, 1972.¹⁰³

Contraception: At the time of the introduction of the birth control pill, Delaware had a Comstock law limiting the sale of contraception that contained a legitimate practice exemption.¹⁰⁴ In 1971, the legislature passed a law permitting minors aged 18 and older to consent to medical care.¹⁰⁵ Effective April 16, 1970, Delaware passed a consent law permitting pregnant minors aged 12 and over to consent to medical care. Effective June 26, 1972, the law was expanded to allow a minor age 12 or older “who professes to be exposed to the chance of becoming pregnant” capacity to consent to preventive care, which gave all minors the right to consent to birth control.¹⁰⁶

⁹⁶ DHEW (1974).

⁹⁷ Sarrel and Sarrel (1971)

⁹⁸ *Lady Jane v. Maher*, 420 F. Supp. 318 (September 21, 1976).

⁹⁹ See DHEW (1978) for a discussion of whether the ruling might be applied to all minors.

¹⁰⁰ Conn. Gen. Stat. § 19a-601.

¹⁰¹ Op. Att’y Gen. (November 16, 1998).

¹⁰² E.g., this is coded as a restrictive parental involvement law by Levine (2003), but not by the Guttmacher Institute (2017b).

¹⁰³ Del. Code Ann. tit. 1, ch. 7, § 701 (2010).

¹⁰⁴ Bailey and Davido (2009).

¹⁰⁵ Delaware House Bill No. 377, approved July 13, 1971 and codified as Del. Code Ann. Tit. 13, ch 7, §707.

¹⁰⁶ Del. Code Ann. tit. 13, ch 7, § 710 (2010). *In re Diane*, 318 A.2d 629 (1974). DHEW (1978).

Abortion: Delaware was a reform state; it adopted a variant of the MPC standards on June 17, 1969. This statute also required parental consent for women under 19. The law was amended effective July 12, 1972 to lower the age of consent to 18 in keeping with the new age of majority. An Attorney General opinion dated April 12, 1973 states that the parental consent provision section of the statute was still enforceable in the wake of *Roe v. Wade*.¹⁰⁷ On March 13, 1974 a court ruled that the 1970 law granting pregnant minors' capacity to consent to medical care superseded the parental consent provision and that women aged 12 and over could therefore consent to abortion.¹⁰⁸ In response to this ruling, the state legislature amended the law on July 11, 1974 to exclude abortion from the services to which pregnant minors could consent.¹⁰⁹ The constitutionality of the 1974 amendment was questionable post-*Danforth*. The Delaware Attorney General issued a statement of policy on March 24, 1977 stating that the state will not prosecute for failure of a young woman to obtain consent.¹¹⁰

Delaware passed a parental notification law effective October 15, 1995. The law applies to minors under the age of 16 and requires notification of at least one parent. In lieu of a parent, the provider can notify "a licensed mental health professional (who shall not be an employee or under contract to an abortion provider)" who must "explain to the minor the options available to her...and must agree that it is in the best interest of the minor that a waiver of the parental notice requirement be granted."¹¹¹

The District of Columbia

Age of majority: The District of Columbia lowered the age of majority from 21 to 18 effective July 22, 1976.¹¹²

Contraception: Effective August 13, 1971, the District of Columbia enacted Reg. No. 71-27, which stated that "birth control....shall be provided by the health facilities operated by the District of Columbia, and *may* [emphasis added] be provided by any qualified person or institution, without regard to the age of marital status of the patient or the consent of the patient's parent or guardian."¹¹³ This regulation required public clinics to provide confidential access to contraception to minors, and permitted—but did not require—all other providers to do the same. The city council passed a medical consent law effective August 30, 1974 that permitted minors of any age to consent to health services for the prevention of pregnancy, effectively requiring all providers to provide confidential services.¹¹⁴

¹⁰⁷ Op. Atty. Gen. No. 73-030 (April 12, 1973).

¹⁰⁸ *In re Diane*, 318 A.2d 629 (1974).

¹⁰⁹ Del. Code Ann. tit. 13, ch 7, § 710 (2010); DHEW (1978). Merz, Jackson, and Klerman (1995) indicate that the parental consent requirement was not enforced from 1973 until July 1974. However, the 1973 Attorney General opinion is explicit in stating that the parental consent requirement remained following *Roe* and *Doe*, and the 1974 court case regarding parental consent indicates that parental authorization was regarded as "necessary" at the time for a minor to obtain an abortion.

¹¹⁰ See *Delaware Women's Health v. Wier*, 441 F. Supp. 497 (1977).

¹¹¹ Del. Code Ann. tit. 24, ch. 17, §1780 - §1789B (2010).

¹¹² D.C. Code § 46-101 (2010).

¹¹³ CDCR § 22-B603 (2011), formerly Reg. No. 71-27.

¹¹⁴ CDCR § 22-B600 (2011), formerly Reg. No. 74-22.

Abortion: Under the District of Columbia Code of 1901 abortions were legal if performed to preserve the life or health of the woman.¹¹⁵ Milan Vuitch, a D.C. physician who had been indicted for violating the law by providing illegal abortions, challenged the law as being unconstitutionally vague with respect to “health.” A Federal District Court dismissed the indictment against Vuitch in November 1969, but the case was then appealed to the U.S. Supreme Court. On April 21, 1971 the U.S. Supreme Court found that “health” was not an unconstitutionally vague term, but could be interpreted in this statute to include both physical and emotional health and, moreover, that the burden would on the prosecution to prove that an abortion was not necessary to preserve the mother’s health.¹¹⁶ Though this ruling did not overturn D.C.’s abortion law in full, it seemed to have that effect *de facto*; outpatient abortion clinics opened in D.C. shortly after the decision. One of these, the Preterm Abortion Clinic, performed approximately 300 first term abortions per week following its opening in March 1971.¹¹⁷ Previous authors have argued that D.C. should be considered a repeal state given the presence of outpatient abortion clinics there prior to *Roe v. Wade* and evidence that at least one had a substantial caseload.¹¹⁸

The August 30, 1974 law regarding minors' capacity to consent to health services explicitly included abortion as a service for which minors could consent. Prior to the enactment of this law, a D.C. family court held in 1973 that parental consent was not necessary for a minor’s abortion because of the “great and immediate harm to her physical and mental health” if the pregnancy were allowed to continue and because she had a fundamental right to obtain an abortion under *Roe* and *Doe*.¹¹⁹

Florida

Age of majority: Florida lowered the age of majority from 21 to 18 effective July 1, 1973.¹²⁰

Contraception: Florida's Comprehensive Family Planning Act, enacted in 1972, permits providers to furnish contraception to a minor who is married, a parent, pregnant, has the consent of a parent, or if the minor may, in the opinion of the physician, suffer probable health hazards if such services are not provided.¹²¹

Abortion: Florida was a reform state; it adopted MPC standard effective April 12, 1972 with the Florida Therapeutic Abortion Act. Section § 458.22(3)b contained a parental consent requirement for women under the age of 18. This provision was challenged and

¹¹⁵ Merz, Jackson, and Klerman (1995).

¹¹⁶ *United States v. Vuitch*, 402 U.S. 62 (April 1, 1971).

¹¹⁷ Jane Hodgson, the director of the clinic, recalled that the clinic performed about 60 abortions per day (Joffe 1996). Margolis et al. (1974) report that between January 8 and January 31 of 1972 the clinic performed 664 first term abortions.

¹¹⁸ Joyce, Tan, and Zhang (2013).

¹¹⁹ *In re P.J.*, Super. Ct. Of D.C.-Fam. Div. (February 3, 1973) reported in DHEW (1978) and E.M. Mc. “The minor’s right to abortion and the requirement of parental consent.” 60 *Virginia Law Review* (1974).

¹²⁰ Fla. Ann. Stat. § 743.07 (2009).

¹²¹ Fla. Ann. Stat. § 381.0051 (2009).

declared unconstitutional by a three-judge federal court on August 14, 1973.¹²² The court did not grant injunctive relief against enforcement of the law, stating that it anticipated that the state would respect the declaratory judgment. In the ruling, the panel indicates that “parents cannot look to the state to prosecute and punish the physician (or other participants) who performs an abortion.” The state appealed the ruling to the U.S. Court of Appeals, which upheld the ruling on August 18, 1975.¹²³ The state attorney general appealed this ruling, but after the U.S. Supreme Court’s ruling in *Danforth*, he stated in a public interview that “it appears from everything we know now that it strikes that portion of the law regarding consent.”¹²⁴ On January 10, 1978 the Attorney General issued a formal opinion affirming that in accordance with these rulings minors were permitted to consent to abortion in the first trimester.¹²⁵

Florida’s regulatory environment regarding abortion appears to have been in doubt between 1973, when the initial injunction barring enforcement of the parental consent law was issued, and 1978, when the Attorney General confirmed that minors could consent. An account in the press from July of 1976 states that “Florida hospitals have adopted varying policies on abortion consent since the New Orleans [1975 Appeals Court] ruling. Miami’s Jackson Memorial Hospital dropped all requirements for parental or spousal agreement, but others have not, even in the wake of the new decision [Danforth].”¹²⁶ Another story stated that “some abortion clinics have continued to ask minors to have the consent or their parents or guardians because the law was still under appeal by Shevin.”¹²⁷

The Florida legislature repealed the unenforceable parental consent provision effective July 1, 1979. Effective the same day, the legislature enacted the Medical Practice Act, codified as § 458.505. Section (4)a contained a new parental consent requirement for women under the age of 18. Enforcement of the parental consent provision was preliminarily enjoined on July 13, 1979 and it was held to be unconstitutional in December of the same year.¹²⁸

Effective October 1, 1988, the legislature amended the unenforceable parental consent provision in § 458.22(3)b. Enforcement of the revised statute was temporarily enjoined on October 6, 1988 and it was subsequently held to be unconstitutional by the Florida Supreme Court.¹²⁹ The legislature passed a new involvement law, the Parental Notice Act, effective July 1, 1999. Enforcement was permanently enjoined on July 27, 1999; the Supreme Court upheld the trial court’s decision in 2003.¹³⁰ In 2004 Florida voters approved an amendment to the state constitution that paved the way for a new parental notification law. Effective July 1, 2005 the Florida legislature enacted the Parental

¹²² *Coe v. Gerstein*, 376 F. Supp. 695 (August 14, 1973).

¹²³ *Poe v. Gerstein*, 517 F.2d 787 (August 18, 1975).

¹²⁴ Florida Attorney General Robert Shevin as quote in Associated Press, “Court overturns abortion consent,” *The evening independent* (July 1, 1976).

¹²⁵ Op. Atty. Gen. 078-8 (January 10, 1978).

¹²⁶ Associated Press, “Parents have voice in abortions,” *Lakeland Ledger* (July 2, 1976).

¹²⁷ Associated Press, “Court overturns abortion consent,” *The evening independent* (July 1, 1976).

¹²⁸ *Scheinberg v. Smith*, 482 F. Supp. 529 (December 13, 1979). Aff’d *Scheinberg v. Smith*, 550 F. Supp. 1112, (November 4, 1982).

¹²⁹ Fla. Ann. Stat. § 390.001 (2010) ; *Jacksonville Clergy Consultation Service v. Martinez* 696 F. Supp. 1445 (1988) ; *In re. T.W.*, 551 So. 2d 1186 (1989).

¹³⁰ *North Florida Women's Health and Counseling Services v. State of Florida*, 866 So. 2d 612 (2003).

Notification of Abortion Act.¹³¹ This law permitted providers to notify parents by telephone. Asserting that the 2005 law was too easy for minors to circumvent,¹³² in 2011 the Florida legislature amended this law to clarify the notification provisions, requiring that notice given by telephone be confirmed in writing, signed by the physician, and mailed to the parent or legal guardian. The amendment also required a waiver of notice from a parent or guardian to be notarized, to reduce fraud, limited “court-shopping” by minors seeking judicial bypass, and clearly spelled out the grounds on which judicial waiver could be granted.¹³³

Georgia

Age of majority: Georgia lowered the age of majority from 21 to 18 effective July 1, 1972.¹³⁴

Contraception: A 1968 amendment to the Family Planning Services Act permitted state family clinics to offer services to “any person requesting” them. A 1971 Attorney General Opinion states that this may include minors.¹³⁵ A Medical Consent Law passed April 5, 1971 granted minors age 18 and over capacity to consent to medical care. It also granted “any female regardless of age or marital status” capacity to consent to care “in connection with pregnancy or childbirth, excluding sterilization and abortion.”¹³⁶ A 1971 Attorney General Opinion stated that it was “impossible” to give a concrete answer as to whether minors under the age of 18 could consent to family planning services under the medical consent statute.¹³⁷ The law was amended effective July 1, 1972 to clarify that minors could consent to services for the prevention of pregnancy.¹³⁸

Abortion: Georgia was a reform state; it adopted the MPC provisions effective July 1, 1969. This law was struck down in *Doe v. Bolton* on January 22, 1973.¹³⁹ The law did not have a parental consent provision. However, an August 31, 1972 Attorney General Opinion states that parental consent is required for an abortion for a woman under the age of majority.¹⁴⁰ It is unclear what the effect of this opinion on parental consent for minors might have been post *Danforth*.

The state legislature passed the Georgia Parental Notification of Abortion Act in on April 14, 1987. Suit was filed prior to the act's effective date of July 1, 1987, and a preliminary injunction was entered.¹⁴¹ While an appeal was pending, the legislature amended the act,

¹³¹ Fla. Stat. § 390.01114 (2009).

¹³² Kathleen Haughney. “Abortion bill tightens parental notification requirements.” *Orlando Sentinel*, March 21, 2011.

¹³³ Florida HB 1247 (2011)

¹³⁴ O.C.G.A. § 39-1-1 (2009).

¹³⁵ Op. Atty. Gen. 71-177 (November 3, 1971).

¹³⁶ O.C.G.A. §§ 31-9-2; 31-9-5 (2009).

¹³⁷ Op. Atty. Gen. 71-177 (November 3, 1971).

¹³⁸ O.C.G.A. § 31-9-2 (2009); DHEW (1978).

¹³⁹ *Doe v. Bolton* 410 U.S. 179 (January 22, 1973); Merz, Jackson, and Klerman (1995).

¹⁴⁰ Op. Atty. Gen. 72-118 (August 31, 1972).

¹⁴¹ O.C.G.A. § 15-11-112 (2009). *Planned Parenthood Association of the Atlanta Area v. Harris*, 670 F. Supp. 971 (1987).

Planned Parenthood again filed suit, and enforcement of the amended act also was enjoined before it could go into effect. The law was upheld in 1991 and went into effect in 9/16/1991.¹⁴²

Hawaii

Age of majority: Hawaii lowered the age of majority from 20 to 18 effective March 28, 1972.¹⁴³

Contraception: Hawaii enacted a law governing the capacity of minors to consent to medical care, codified as § 577A-1 through § 577A-4, effective May 9, 1968. Under the law, pregnant minors age 14 and up could consent to pregnancy related care excluding surgery or abortion except as permitted by the state's abortion law. Under this medical consent statute, physicians were required to notify parents of any patient younger than age 18 who was found to be pregnant. This law was amended again effective June 26, 1979 to add family planning services to the list of services to which a minor could consent and to give physicians discretion in notifying a minor's parents.¹⁴⁴

Hawaii is one of 8 states that made emergency contraception available over the counter prior to a national policy change in 2006. The statute, effective in 2003, makes no mention of age with respect to EC distribution.¹⁴⁵

Abortion: Hawaii was a repeal state; it substantially liberalized its abortion law effective March 11, 1970, making abortion legal under most circumstance.¹⁴⁶ Hawaii Rev. Stat. § 577A-1 through 4 stated that pregnant minors could consent to treatment, but that this "shall not include surgery or any treatment to induce abortion except as permitted under section 768-7."¹⁴⁷ Section 768-7, which had permitted abortions only to save the life of the pregnant woman, was repealed and replaced with Hawaii Rev. Stat. §453-16 in 1970. Neither of these statutes contained an age requirement, and secondary sources from the period interpret this as permitting minors aged 14 and older to consent to abortion in Hawaii.¹⁴⁸ However, section 577A-1 through 577A-4 also required physicians to notify the parents of any minor under age 18 found to be pregnant. This indicates that while minors could consent to abortion, parental notification was required.¹⁴⁹ Effective May 24, 1978, Hawaii revised its consent statute to exclude abortion from the list of services to

¹⁴² *Planned Parenthood Association of the Atlanta Area v. Miller*, 934 F.2d 1462 (1991). "Long in Coming, abortion-notification law short on effect." *The Atlanta Journal and Constitution* (September 15, 1991). Merz, Jackson, and Klerman (1995).

¹⁴³ Haw. Rev. Stat. § 577-1 (2009). Bailey (2006) reports that the age of majority was lowered in 1975 rather than 1972. This may be based on Paul, Pilpel, and Wechsler (1974) which indicated that the age of majority was still 20 as of June 1974. The date of legal change reported here is confirmed in *Hasse v. Board of Regents*, 363 F. Supp. 677 (1973) and by the Council of State Governments (1973).

¹⁴⁴ Haw. Rev. Stat. § 577A-1—577A-5 (2009).

¹⁴⁵ Haw. Rev. Stat. § 461-1 (2003).

¹⁴⁶ Haw. Rev. Stat. § 453-16 (2010) ; Merz, Jackson, and Klerman (1995).

¹⁴⁷ Haw. Rev. Stat. § 577A-1—577A-5 (2009); DHEW (1974).

¹⁴⁸ DHEW (1978); Paul, Pilpel, and Wechsler (1974).

¹⁴⁹ Paul, Pilpel, and Wechsler (1976) interpret the law similarly.

which minors were granted capacity to consent. Effective June 26, 1979, the legislature again amended the law to grant physicians discretion in notifying the parents of a minor's pregnancy. Hawaii has not enacted any other laws related to parental involvement in abortion.¹⁵⁰

Idaho

Age of majority: In 1960 the age of majority in Idaho was 18 for females and 21 for males. The age of majority for males was lowered from 21 to 18 in 1972.¹⁵¹

Contraception: In early 1974 Idaho amended an existing law regarding the advertisement of contraception to add an endorsement of the mature minor doctrine for the provision of contraceptive services.¹⁵²

Abortion: Idaho enacted a parental notification statute, codified as § 18-609(6), effective July 1, 1982.¹⁵³ It is unclear whether the 1982 parental notification law, which would appear to be unconstitutional under *Danforth* because it did not include a bypass provision, was ever enforced. Primary and secondary sources provide contradictory evidence. In a 1983 letter, the Attorney General states that the recent U.S. Supreme Court decision in *Akron v. Ohio* did not render the parental notification provision unenforceable because that decision regarded a parental consent law rather than a parental notification law.¹⁵⁴ Several newspaper articles from the mid-eighties indicate that the notification law was being enforced at that time.¹⁵⁵ However, other newspaper articles from the late eighties and early nineties indicate that the law was not being enforced during that period, and some indicate that it had never been enforced.¹⁵⁶ In January 1991 the Attorney General stated that recent U.S. Supreme Court decisions had rendered the law "valid and enforceable."¹⁵⁷ A 1993 opinion from the Attorney General states that although the law does not contain a judicial

¹⁵⁰ Haw. Rev. Stat. § 577A-1 – 577A-5 (2009); DHEW (1974); DHEW (1978); Merz, Jackson, and Klerman (1995).

¹⁵¹ Idaho Code § 32-101 (2009).

¹⁵² Idaho Code § 18-603 (2009).

¹⁵³ Merz, Jackson, and Klerman (1995) report that Idaho enacted a parental notification statute on March 17, 1973 as part of a broader set of legislation regulating abortion, and that this act was codified as Idaho Code 18-609(6). However, DHEW (1978) and Paul, Pilpel, and Wechsler (1974, 1976) do not mention such a law. Other sources describing the 1982 law do not mention an earlier law. See Bush (1983); Frances Huessy. "Abortion debate still fuzzy." *The Spokesman-Review*, (January 23, 1983); Ken Sands. "Will Idaho's new abortion law work?" *The Spokesman-Review* (April 11, 1982).

¹⁵⁴ Atty. Gen. Idaho, Letter to Rose Bowman dated August 2, 1983.

¹⁵⁵ E.g., Associated Press. "State-by-state laws on abortion," *Spokane Chronicle* (July 3, 1988) and Associated Press. "State-by-state review of abortion laws" (July 2, 1989).

¹⁵⁶ See, e.g., David Savage, "Ruling on Teens' abortion rights seen as major test," *Los Angeles Times* (November 26, 1989); Associated Press, "State laws on parental notification and consent for abortions by minor," *The Free Lance-Star* (June 28, 1990); Associated Press, "State abortion laws called 'enforceable,'" *The Spokesman-Review* (January 3, 1991); Associated Press. "Idaho abortion law enforced: 24-hour parental notification required before procedure," *Moscow-Pullman Daily News* (July 2, 1992). Merz, Jackson, and Klerman (1995) also conclude that the law was not enforced.

¹⁵⁷ The Attorney General's letter is referred to by Merz, Jackson, and Klerman (1995) and in Associated Press, "State abortion laws called 'enforceable,'" *The Spokesman-Review* (January 3, 1991). However, Merz, Jackson, and Klerman (1995) report that they are unable to find the original letter from the Attorney General, as am I.

bypass provision, it does require notification only "if possible," which seemingly provides a safety valve in the requirement. However, the Attorney General concludes that the law is vulnerable to a constitutional challenge.¹⁵⁸ Newspaper articles from later in the nineties indicate that the law was being enforced at that time.¹⁵⁹ In 2000, when the Senate was again considering a bill to replace the notification law with a consent law, a spokesman for Planned Parenthood noted that there had been a parental notification law "on the books" since the mid-1980s.¹⁶⁰ Annual reports published by the NARAL Foundation from 1989 to 2000 indicate that the parental notification law was unenforced from 1989-1995, but enforced from 1996-2000. The state profile for Idaho in all of the reports, however, described the 1982 notification law as "unenforceable" and does not explain why summary tables at the end of the later reports indicate that the law began being enforced in 1996.¹⁶¹ In a personal email to the author dated March 23, 2010, an employee of the Idaho Legislative Services Office reported to the author that he could find no written record with the Idaho State Police's Bureau of Criminal Investigation or the Supreme Court data repository showing that the law was ever enforced. In addition, he spoke with one of the authors of the 1993 Attorney General Opinion, and she could not find or remember a case pursuant to the law.¹⁶²

Idaho passed a parental consent statute in 2000 that replaced the parental notification provisions in § 18-609(6) with Idaho Code § 18-609A. The new law required parental consent which could be waived in cases of medical emergency. Suit was filed in June 2000, prior to the law taking effect on July 1, and a preliminary injunction was issued barring enforcement of three provisions of the law related to an identification requirement, felony prosecutions arising from abortions in response to medical emergency, and a venue provision in the judicial bypass option. The parental consent provision was not enjoined except for the judicial venue provision.¹⁶³ In response to the preliminary injunction, the legislature passed a second bill in 2001 that addressed the portions of the bill that had been enjoined. The entire parental consent provision was struck down on July 16, 2004 by a three-judge panel of the 9th U.S. Circuit Court of Appeals.¹⁶⁴ The ruling was finalized September 7, and the enforcement of the law was enjoined as of that date. In response, the legislature amended the parental consent provisions in § 18-609A. The new law was scheduled to go into effect July 1, 2005, but enforcement was enjoined before this date.¹⁶⁵ The legislature again amended the statute, and a parental consent provision went into effect on July 1, 2007.¹⁶⁶

¹⁵⁸ Op. Atty. Gen., No. 93-1 (February 10, 1993).

¹⁵⁹ Betsey Russell. "Politics muddy Idaho abortion debate." *The Spokesman-Review* (January 16, 1996); Betsy Russell. "Idaho Group seeks tighter limits on abortions." *The Spokesman-Review* (January 11, 1998); Susan Drumheller. "Keaough faces young challenger for senate." *The Spokesman-Review* (May 3, 2000).

¹⁶⁰ Beth Bow. "Views differ on abortion bill's effect." *The Spokesman Review* (February 13, 2000).

¹⁶¹ NARAL (1989, 1991, 1992, 1993, 1995, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010).

¹⁶² Email from Mark Robertson to Caitlin Myers dated March 23, 2009.

¹⁶³ *Planned Parenthood of Idaho v. Wasden*, 376 F.3d 908 (July 16, 2004).

¹⁶⁴ *Planned Parenthood of Idaho v. Wasden*, 376 F.3d 908 (July 16, 2004).

¹⁶⁵ *Planned Parenthood of Idaho v. Wasden*, 676 F. Supp. 2d 1012 (July 1, 2005).

¹⁶⁶ Idaho Code § 18-609A (2009).

Illinois

Age of majority: In 1960 the age of majority in Illinois was 18 for females and 21 for males. The age of majority for males was lowered to 18 on August 24, 1971.¹⁶⁷

Contraception: At the time of the introduction of the birth control pill, Illinois had a Comstock Law in place (Ill. Rev. Stat. ch. 38, § 468) prohibiting the distribution or sale of items of "immoral use." This had been interpreted by courts as including contraceptives.¹⁶⁸ The law was repealed in 1961, effective January 1, 1962.¹⁶⁹ Bailey and Davido code this law as a Comstock law preventing the distribution of contraceptives. However, the court ruling that they cite explicitly focuses on the distribution of non-prescription contraceptives, noting

*"There is present, therefore, a case where the subject matter of the contract was the invention, if possible, of a contraceptive that would do away with the necessity of women consulting physicians or clinics in respect to the use of contraceptives — of an article that could be sold through drug stores to any woman, married or single, who called for it. Neither the woman nor the druggist would be required to make any inquiries or statements in reference to the article or its proposed use. No direction or prescription from a physician showing that the article was to be used for the cure or prevention of disease would be required. Plaintiff's brief frankly states that the nature of the contraceptive and the manner in which it was to be sold would enable a woman to buy the article as she would 'medical and personal supplies, over the counter.' ...In view of the subject matter of the contract in the instant case and the manner in which the article was to be sold, it seems clear that if one were to use the mails to deliver the contraceptive in question to drug stores, to be sold in the manner planned by plaintiff, he would be guilty, under section 334; and, in our judgment, section 223 of the Criminal Code of Illinois is certainly broad enough to cover indiscriminate sales of contraceptives through drug stores."*¹⁷⁰

While this ruling seems to clearly apply to contraceptives sold without physician involvement, its applicability to prescription contraceptives seems less certain. Planned Parenthood of Illinois' self-published timeline indicates that Planned Parenthood of Illinois began a "The Big Push" to introduce birth control services into Cook County Hospital and Chicago Board of Health Clinics in 1958. The history additionally states that the board of the Champaign health center approved the use of the birth control pill for patients with a prescription in 1960, but that "Chicago experience[d] a battle over birth control. PPCA continue[d] The Big Push to get state supported birth control."¹⁷¹ A 1966 article in the Saturday Evening Post make several references to the battle over the distribution of birth control in Chicago. It cites the medical director of the Planned Parenthood Affiliate in Chicago, who says that many of their patients in 1961 do not "stay with" the diaphragm,

¹⁶⁷ 755 ILCS 5/11-1 (2010).

¹⁶⁸ *Lanteen Laboratories v. Clark*. 1938. 294 Ill. App. 81.

¹⁶⁹ DHEW (1978); Bailey and Davido (2009).

¹⁷⁰ *Lanteen Laboratories v. Clark*. 1938. 294 Ill. App. 81.

¹⁷¹ Planned Parenthood of Illinois. History of the Pill. Online document accessed 8/7/2019 at <https://www.plannedparenthood.org/planned-parenthood-illinois/who-we-are/our-history>.

seemingly implying that they do distribute birth control. It also quotes Richard Moy, the head of Student Health Services at the University of Chicago, who claimed “We have about five percent whom I would call sexually active. But that’s the same five percent we’ve always had. As for the pills, many girls have them when they come to school. Their family doctors at home have prescribed them. Or they borrow from each other or use the prescription of a married sister. Or they put on an engagement ring and get them as part of preparation for marriage. It’s not a very formidable task to obtain the pills.” And the article references a “long and bitter battle” over birth control in Chicago ending in June 1965 when the state legislature passed a resolution authorizing state agencies to provide birth control. Overall, the article gives the impression that it was legal for physicians to prescribe birth control, but that many—including Cook County Hospital—were not doing so.¹⁷²

The legislature passed the Birth Control Services to Minors Act on September 22, 1969. Under the law, a physician can provide birth control services to any minor who is (1) married; or (2) a parent; or (3) pregnant; or (4) has the consent of a parent or legal guardian; or (5) if the failure to provide contraception would present “a serious health hazard;” or (6) is referred by a physician, clergyman, or planned parenthood agency.¹⁷³

Abortion: The state legislature passed the Consent by Minors to Medical Procedures Act on August 17, 1961 explicitly granting pregnant minors capacity to consent to medical and surgical care.¹⁷⁴ In the absence of a parental involvement law, this law permits minors to consent to abortion.¹⁷⁵

Illinois passed parental involvement laws in 1975, 1977, 1979, and 1983. Enforcement of each law was immediately enjoined, and none was enforced for more than two weeks.¹⁷⁶ In 1995 the legislature passed the Parental Notice of Abortion Act, which repealed and replaced the unenforceable 1983 law. The law was challenged, and enforcement temporarily enjoined on June 7, 1995, six days after its effective date. Because the Illinois Supreme Court refused to promulgate rules to implement the act’s judicial bypass procedure, the district court permanently enjoined enforcement of the law in 1996. Ten years later, in 2006, the state Supreme Court adopted Rule 303A providing the necessary appeals procedure and on July 15, 2009, the court of appeals lifted the injunction barring enforcement of the law. The State Medical Disciplinary Board, the agency responsible for enforcement, was granted a 90-day moratorium to prepare to enforce the law. However, on November 4, 2009, when the moratorium was about to expire, a state court issued a restraining order against enforcing the law until arguments are heard.¹⁷⁷ In July 2013, the Illinois Supreme Court ruled that the law was valid, and the state began enforcing it on August 15, 2013.¹⁷⁸

¹⁷² Steven Spencer. 1966. “The Birth Control Revolution.” *The Saturday Evening Post*. January 15, 1966.

¹⁷³ 325 ILCS 10/1 (2010). The date of passage is in the annotated statutes, and that the 1969 statute included the health clause is confirmed by Pilpel and Wechsler (1971).

¹⁷⁴ 410 ILCS 210/1 (2010).

¹⁷⁵ Paul, Pilpel, and Wechsler (1974); DHEW (1978); Merz, Jackson, and Klerman (1995).

¹⁷⁶ Merz, Jackson, and Klerman (1995).

¹⁷⁷ *Zbaraz v. Hartigan*, 776 F. Supp. 375 (1991); Naral (2010).

¹⁷⁸ *Hope Clinic for Women, Ltd. V. Flores*, 112673 Illinois (2013).

Indiana

Age of majority: Indiana lowered the age of majority from 21 to 18 in 1973 by changing the age requirements for various statutory items.¹⁷⁹

Contraception: Indiana had a Comstock law that prohibited the sale of contraception. The law included a legitimate business exemption excepting "the practice of regular practitioners of medicine or druggists in their legitimate business." The law was repealed in 1963.¹⁸⁰ Indiana state law permits minors to consent to medical care only if they are emancipated.¹⁸¹ Minors have not been granted capacity to consent to contraception.

Abortion: Indiana passed comprehensive abortion legislation including a parental consent provision on April 24, 1973; enforcement of the parental consent provision was enjoined on January 31, 1975 and it was repealed in 1978.¹⁸² A new notification law went into place effective September 1, 1982; enforcement of this law was enjoined on August 26, 1983.¹⁸³ A new law requiring parental consent was enacted effective September 1984, and it has been enforced since.¹⁸⁴

Iowa

Age of majority: Iowa lowered the age of majority to 19 effective July 1, 1972. It then lowered the age of majority to 18 effective July 1, 1973.¹⁸⁵

Contraception: At the time of the introduction of the birth control pill, Iowa Code §725.5 limited the sale of contraception.¹⁸⁶ This statute contained an exemption clause for physicians and druggists practicing their "legitimate business," and in 1934 the Attorney General issued an opinion that the sale of contraceptives by pharmacists was therefore permissible.¹⁸⁷ The law was repealed in 1974.¹⁸⁸ I code the law as not restricting the distribution of prescription contraceptives, though it does appear to have continued to be enforced throughout the sixties with regards to the sale of prophylactics.¹⁸⁹

In 1965, the Iowa state legislature enacted a law authorizing the Social Welfare Department to provide family planning services to "every parent or married person who is a public assistance recipient."¹⁹⁰ In a letter from the Iowa State Health Department to

¹⁷⁹ Op. Atty. Gen. No. 23 (September 28, 1973).

¹⁸⁰ Bailey and Davido (2009).

¹⁸¹ Burns Ind. Code. Ann. § 16-36-1-3 (2009).

¹⁸² *Gary-Northwest Indiana Women's Services, Inc. v. Bowen*, Civ. No. H-74-289 (January 31, 1975); DHEW (1978); Merz, Jackson, and Klerman (1995).

¹⁸³ *Indiana Planned Parenthood v. Pearson*, 716 F.2d 1127 (August 26, 1983).

¹⁸⁴ Burns Ind. Code. Ann. § 16-34-4 (2009); Merz, Jackson, and Klerman (1995).

¹⁸⁵ Iowa Code § 599.1 (2008); Council of State Governments (1973); Merz, Jackson, and Klerman (1995).

¹⁸⁶ DHEW (1974).

¹⁸⁷ Bailey and Davido (2009).

¹⁸⁸ Bailey and Davido (2009).

¹⁸⁹ Bailey and Davido (2009).

¹⁹⁰ Iowa Code§234.21 et seq. (1966) as quoted in Pilpel and Wechsler (1969) and verified by DHEW (1974).

DHEW dated November 20, 1970, the Iowa State Health Department indicated that “requirements regarding minors is [sic] a policy decision of the board of directors of the agency operating the family planning clinic. In those few instances where contraceptive medicines or devices are purchased directly by the Iowa state department of Health and provided for use in family planning clinics, they are not dispensed to unmarried minors without written parental or guardian consent.”¹⁹¹ The legislature amended the family planning statute in 1973 to permit the Department of Social Services to provide contraceptives to any eligible applicant, which would presumably include unmarried teens who were eligible for the program.¹⁹² In 1975 the Iowa Department of Health issued new standards and regulations for state family planning programs stating that family planning services should be made available to all persons in Iowa, and that sexually active teens aged 15-19 should be actively recruited.

Effective July 1, 1999, Iowa enacted legislation related to HIV testing that also explicitly permitted minors to consent to contraceptive services.¹⁹³

Abortion: Iowa did not pass a parental involvement law in the wake of *Roe v. Wade*. A 1976 opinion of the state Attorney General indicated that it was legal to perform a first trimester abortion on a minor without parental consent.¹⁹⁴ Iowa passed a parental notification law effective July 1, 1997.¹⁹⁵

Kansas

Age of majority: Kansas lowered the age of majority from 21 to 18 effective July 1, 1972.

Contraception: Kansas had a Comstock law banning the sale of contraception until 1963. The law did not contain a physician exception.¹⁹⁶ Effective July 1, 1969, Kansas adopted a statute that permits a physician to provide prophylactic treatment for exposure to venereal disease to a minor whenever that minor is suspected of having a venereal disease or contact with anyone having a venereal disease.¹⁹⁷ Another statute, effective the same day, allows minors aged 16 and over to consent to medical treatment and surgical care when a parent is not “immediately available.”¹⁹⁸ A mature minor doctrine was recognized in Kansas with a judicial ruling on May 1, 1970 with regards to a hospital that treated a minor's injured finger without parental permission.¹⁹⁹ That this ruling recognizes the right of mature minors' to consent to contraception was reaffirmed in a June 1, 1992 opinion the Attorney General.²⁰⁰

¹⁹¹ DHEW (1974), page 190.

¹⁹² Iowa Code §234.21 (2009) ; Paul, Pilpel, and Wechsler (1974); DHEW (1978).

¹⁹³ Iowa Code § 141A.7 (2017). A 2015 memorandum from the Iowa Attorney General's office confirms this interpretation: Heather Adams. “Re: Minor Consent Laws.” Memorandum to the Iowa Department of Public Health, Division Directors dated April 3, 2015.

¹⁹⁴ Op. Atty. Gen. 76-1-14 (July 15, 1976).

¹⁹⁵ Iowa Code § 135L.1, L.8 (2010).

¹⁹⁶ Bailey and Davido (2009).

¹⁹⁷ K.S.A. § 65-2892 (2009).

¹⁹⁸ K.S.A. § 38-123b (2009).

¹⁹⁹ *Younts v. St. Francis Hospital*, 205 Kan. 292 (1970).

²⁰⁰ Op. Atty. Gen. 92-71 (1992).

Abortion: Kansas was a reform state; it adopted MPC provisions (without a parental consent requirement) effective July 1, 1970.²⁰¹ Statute § 38-123, effective July 1, 1967, allows pregnant minors to consent to medical care or surgical treatment related to her pregnancy when a parent is not available.²⁰² The Attorney General issued an opinion in December 1970 that Statute § 38-123b, allowing minors over age 16 to consent to surgical procedures if a parent is not available, could be interpreted to include therapeutic abortion.²⁰³ In addition, sources from the early seventies suggest that mature minors appeared to be able to consent to abortion under the mature minor doctrine from 1970.²⁰⁴

Kansas enacted a one-parent notification law effective July 1, 1992.²⁰⁵ Another provision of Kansas' abortion regulation statutes, effective the same day, requires that counseling be provided to a minor before she obtains an abortion, and that a parent or "a person 21 or more years of age who is not associated with the abortion provider and who has a personal interest in the minor's well-being" shall accompany the minor and be involved in the decision-making process.²⁰⁶ The Kansas legislature amended § 65-6705 to replace the parental notification requirement with a parental consent requirement effective July 1, 2011.²⁰⁷

Kentucky

Age of majority: Kentucky enacted a statute effective January 1, 1965 that lowered the age of majority from 21 to 18.²⁰⁸ Later that year, the Kentucky Court of Appeals ruled in *Commonwealth of Kentucky v. James Hallahan* that the statute only applied to specific rights explicitly mentioned in its subsections, which did not include the right to consent to medical treatment.²⁰⁹ Effective 1968 the Kentucky legislature acted to clarify the situation by amending the law to state that the age of majority is 18 for "all purposes in this Commonwealth except for the purchase of alcoholic beverages and for purposes of care and treatment of children with disabilities."²¹⁰

Contraception: The right of women aged 18 to 20 to consent to contraception was first affirmed in Kentucky with the lowering of the age of majority. It is unclear, however, whether one should demarcate that year with the initial 1965 law or with the 1968 amendment that clarified that the age of majority was lowered for most purposes.²¹¹ In 1972 the Kentucky legislature enacted a law stating that physicians may treat a minor regarding "contraception, pregnancy, or childbirth, all without the consent of or

²⁰¹ Merz, Jackson, and Klerman (1995).

²⁰² K.S.A. § 38-123 (2009).

²⁰³ Op. Atty. Gen. 70-38-7 (1970) cited in DHEW (1974).

²⁰⁴ Paul, Pilpel, and Wechsler (1974, 1976).

²⁰⁵ K.S.A. § 65-6705 (2009).

²⁰⁶ K.S.A. § 65-6704 (2009).

²⁰⁷ § 65-6705 (2011)

²⁰⁸ K.R.S. § 2.015 (2010).

²⁰⁹ *Commonwealth of Kentucky v. James Hallahan*, 391 S.W. 2d 378 (1965).

²¹⁰ K.R.S. § 2.015 (2010).

²¹¹ Secondary sources differ in their interpretations; Goldin and Katz (2002), Bailey (2006), and Guldi (2008) use 1968, while Hock (2007) uses 1965.

notification to the parent, parents, or guardian" but that "treatment under this section does not include inducing of an abortion."²¹² In a 1975 opinion piece in *The Advocate-Messenger*, a local newspaper in Danville, Kentucky, the clinical director of a medical center and counselor at a high school writes about the provision of reproductive care to Kentucky teenagers. She asserts "I am often asked if agencies such as the Family Planning Clinic can dispense birth control devices or deal with pregnancy issues for teenagers without parental consent. The answer is clearly 'yes' by state law. And, as in all professional relationships, what transpires is strictly confidential."²¹³

Abortion: As described above, Kentucky's 1972 medical consent statute explicitly excludes abortion from the list of services to which minors could consent. The Kentucky legislature enacted an abortion-regulation bill, codified as § 311.720, effective June 21, 1974 regulating abortions. The statute included a spousal consent requirement for married women and a parental consent requirement for women under 18. The law was challenged and these provisions were ruled unconstitutional on November 19, 1974, with the district court stating that injunctive relief was not necessary because the defendants presumably would "give full credence to this decision."²¹⁴ The defendants appealed, seeking a formal injunction, and the Sixth Circuit Court of Appeals declared the consent provisions unconstitutional on August 18, 1976 following *Danforth*.²¹⁵ In January 1978 a Kentucky state senator introduced a new bill to require parental consent, but an assistant attorney general issued an advisory opinion that it would be unconstitutional under *Danforth*.²¹⁶ This bill appears not to have come to a vote.

In 1980, two bills related to minors' access to abortion were introduced. One, which would have required a court order prior to a minor having abortion, was defeated.²¹⁷ A second, House Bill 90 requiring parental consent for minors seeking abortions, passed the Kentucky house late in the 1980 legislative session, reaching the Kentucky senate too late for legislative action. A similar bill was reintroduced in the 1982 legislative session, and passed.²¹⁸ This law was scheduled to take effect July 15, 1982, but a temporary restraining order was issued in advance of this date. On September 11, 1984 A U.S. District Court ruled that the parental consent requirement was unconstitutional because it did not specify a time period in which a decision must be made in the case of judicial bypass.²¹⁹ The Kentucky legislature amended the parental consent provision in 1986 to require a hearing within 48 hours, and it was scheduled to go into effect on July 15, 1986. A temporary restraining order was again issued before the law could go into effect, and on August 23, 1988 a district court judge struck the provision requiring the consent of "both parents if available" and applied new limiting language requiring the consent of both parents only if a minor lived at home with both parents. This ruling was appealed to the Sixth Circuit Court

²¹² K.R.S. § 214.185 (2009).

²¹³ R.J. Epstein. "Mental Health Answers." *The Advocate-Messenger*, December 14, 1975.

²¹⁴ *Wolfe v. Schroering* 388 F. Supp 631 (November 19, 1974).

²¹⁵ *Wolfe v. Schroering* 541 F. 2d 523 (August 18, 1976).

²¹⁶ Associated Press. "Constitutionality of abortion bill is questioned by attorney general." *The Courier-Journal* (Louisville), February 10, 1978.

²¹⁷ The Courier-Journal Bureau. "Requiring consent 24 hours before abortion is rejected." *The Courier-Journal* (Louisville), March 20, 1980.

²¹⁸ Anne Pardue. "Abortion bill wins approval of committee." *The Courier-Journal* (Louisville), January 10, 1982.

²¹⁹ *Eubanks v. Brown*, 604 F. Supp. 141 (September 11, 1984).

of Appeals, but the law was allowed to take effect April 7, 1989 pending a hearing and decision. A series of articles in the Louisville Courier-Journal from this period indicate that the law was enforced for the remainder of 1989 until January 3, 1991 when the Sixth Circuit Court of Appeals issues a three-paragraph order telling the state to temporarily cease enforcement of the law pending a U.S. Supreme Court ruling on parental involvement laws in Minnesota and Ohio.²²⁰ On July 3, 1991 the Sixth Circuit Court of Appeals held that the District Court had erred in drafting a new limiting condition rather than severing the unconstitutional parental consent provision and remanded the case to the district court.²²¹ Secondary sources suggest that the law was not enforced after this ruling.²²² A one parent consent law was again enacted effective July 15, 1994 and is still enforced.²²³

Louisiana

Age of majority: Louisiana lowered the age of majority to 18 effective July 26, 1972.²²⁴

Contraception: Louisiana enacted a law governing minors' consent to medical treatment in 1972 that states that any minor "who is or believes himself to be afflicted with an illness or disease" can consent to medical or surgical services and that providers may, but are not obligated to, inform the minor's parent.²²⁵ Effective July 29, 1975 Louisiana passed a more general medical consent law with a provision that also pertains to minors' reproductive control. The law grants permission to "any female, regardless of age or marital status" to consent to medical care for herself "when given in connection with pregnancy or childbirth" excluding abortion. This law was amended in 1990 to revoke the permission for pregnant minors to consent to medical care.²²⁶ Neither law has not been interpreted as granting minor's permission to consent to contraception.²²⁷

²²⁰ Robin Epstein. "Parental-consent abortion measure likely sending teens to other states." Louisville Courier-Journal, June 4, 1989. Gil Lawson. "Appeals court hears arguments on parental consent law." Louisville Courier-Journal, October 31, 1990. Larry Bleiberg. "Appeals court tells state not to enforce minors' abortion-consent law for now." Louisville Courier-Journal, January 5, 1990. Beth Campbell "Abortion consent law set to take effect Friday" Messenger-Inquirer April 3, 1989. Leslie Scanlon "Doubts voiced that consent law will cut number of teen abortions" The Courier-Journal April 7, 1989. Fran Ellers. "Court Invalidates Abortion-Consent Law." Louisville Courier-Journal, July 4, 1991.

²²¹ *Eubanks v. Wilkinson*, 937 F.2d 1118 (July 3, 1991).

²²² See NARAL (1991, 1992, 1993) and Merz, Jackson, and Klerman (1995).

²²³ K.R.S. § 311.732 (2010). For supporting evidence regarding when Kentucky's series of parental consent laws were enforced see Associated Press. "Abortion law struck down by judge," *Kentucky New Era* (September 13, 1984); Associated Press. "Judge halts state's law on abortion." *Kentucky New Era* (July 11, 1986). Associated Press. "Teen's abortion without consent blocked." *Bangor Daily News*, May 17, 1989. "Abortion Law Talley." Louisville Courier-Journal, July 27, 1989. Robin Epstein. "Parental-consent abortion measure likely sending teens to other states." Louisville Courier-Journal, June 4, 1989. Fran Ellers. "Court Invalidates Abortion-Consent Law." Louisville Courier-Journal, July 4, 1991.

²²⁴ La. C.C. Art. 29, 2010, formerly codified as La. Civil Code Art. 37. *State of Louisiana v. Clarence M. Jordan*, 283 So. 2d 223 (September 24, 1973).

²²⁵ La. R.S. 40:1095 (2010).

²²⁶ La. R.S. 40:1299.50-58 (2010) ; DHEW (1978); Merz, Jackson, and Klerman (1995).

²²⁷ See, e.g., several secondary sources that indicate that Louisiana has not and does not have a law permitting minors to consent: Paul, Pilpel, and Wechsler (1974, 1976); DHEW (1978); Reimer (1986); English and Kenney (2003); Guttmacher (2017a).

Abortion: Louisiana enacted a parental consent statute effective June 18, 1973.²²⁸ Enforcement of the statute was enjoined on January 26, 1976, and it subsequently was held to be unconstitutional by a three-judge Federal District Court in a group of cases decided in 1976.²²⁹ A second law, requiring parental notification for all minors and consent for minors under 15 was passed on July 10, 1978, but enjoined on September 7 of that year. A third law requiring notarized evidence of parental notification was passed a week after the second law and went into effect on September 8, 1978.²³⁰ It was declared unconstitutional on March 3, 1980 due to inadequate judicial bypass provisions.²³¹ In response, the legislature repealed the law on July 18, 1980 and replaced it with an amended version of the second law that required parental consent for all minors and provided for a judicial bypass procedure. Effective July 23, 1981 the law was again amended to require notarized consent. This law was upheld and has been enforced since November 18, 1981.²³²

Maine

Age of majority: Maine lowered the age of majority from 21 to 20 effective October 1, 1969 and again from 20 to 18 effective June 9, 1972.²³³

Contraception: Maine's 1973 Family Planning statute states "Family planning services may be furnished to any minor who is a parent or married or has the consent of his or her legal guardian or who may suffer in the professional judgment of a physician probable health hazards if such services are not provided."²³⁴

Maine is one of 8 states that made emergency contraception available over the counter prior to a national policy change in 2006. The statute makes no mention of age with respect to EC distribution.²³⁵

Abortion: Maine passed a parental notification law effective September 14, 1979 codified as 22 M.R.S. § 1597 that required parental notification of abortions for minors under age 17. A district court issued a preliminary injunction before the law went into effect.²³⁶ No appeal was taken from this decision, but in a 1982 unpublished order the district court declared that the statute was unconstitutional. The legislature did not formally repeal the act until 1993, but in 1990 the Attorney General issued an opinion stating that the 1989 enactment of a parental consent law repealed the earlier law by implication.²³⁷

Maine passed a statute regulation the provision of abortions to minors effective September 30, 1989. The statute prohibits performing an abortion on a minor unless consent is

²²⁸ Former La. R.S. 40:1299.33.

²²⁹ DHEW (1978); Merz, Jackson, and Klerman (1995).

²³⁰ La. R.S. 40:1299.35.5 (2010).

²³¹ *Margaret v. Edwards* 488 F. Supp. 181 (1980).

²³² *Margaret v. Treen*, 597 F. Supp. 636 (June 29, 1984); Merz, Jackson, and Klerman (1995).

²³³ 1 M.R.S. §§ 72 and 73 (2009). Effective dates obtained from Council of State Governments (1972) and *Baril v. Baril*, 354 A.2d 392 (March 19, 1976).

²³⁴ 22 M.R.S. § 1908 (2009).

²³⁵ 32 M.R.S. § 13822 (2017), effective July 30, 2004.

²³⁶ *Women's Community Health Center, Inc. v. Cohen*, 477 F. Supp. 542 (September 13, 1979).

²³⁷ Op. Att'y Gen. 90-2 (January 19, 1990).

provided under one of four alternatives: (a) a parent, guardian, or other adult family member provides written consent, (b) the physician judges that the minor meets a mature minor standard, (c) the minor obtains counseling, (d) a court approves the abortion.²³⁸

Maryland

Age of majority: Maryland lowered the age of majority from 21 to 18 effective July 1, 1973.²³⁹

Contraception: Pregnant minors were granted the right to consent to medical care related to their pregnancy effective June 1, 1967. The law was amended effective July 1, 1971 to provide that "a minor shall have the same capacity to consent to medical treatment as an adult" if (1) the minor has attained the age of eighteen years; or (2) the minor is married or a parent; or (3) the minor seeks treatment or advice concerning venereal disease, pregnancy, or contraception; or (4) In the judgment of a physician treating a minor, the obtaining of consent of any other person would result in such delay of treatment as would adversely affect the life or health of the minor.²⁴⁰ The physician may, but does not have to, inform the minor's parents.

Abortion: Maryland was a reform state; it adopted MPC provisions effective July 1, 1968.²⁴¹ In March 1970 the legislature voted to repeal its anti-abortion laws, but the bill was vetoed by the governor. Although the Maryland legislature was not successful, there is substantial evidence that the 1968 reform law led to substantial liberalization in access to abortion prior to 1973. Based on state abortion surveillance data, the predominant indicator for abortions in Maryland was mental health; it accounted for 96.1 percent of abortions provided in 1971.²⁴² The ratio of abortions to live births in Maryland in 1971 was 145, approaching the rates in Alaska (160) and Washington (212), both repeal states.²⁴³

In 1972 *In re Smith*, a Maryland Court ruled on whether a parent could compel a 16-year-old minor to obtain an abortion. Reversing a Juvenile Court order, the Court of Appeals interpreted the state's medical consent law (Md. Code Art 43 § 135) as granting a minor capacity to decide regarding obtaining an abortion.²⁴⁴ Maryland enacted a parental

²³⁸ 22 M.R.S. § 1597-A (2009). Secondary sources differ in whether they treat this as a parental consent law. Guttmacher (2017b) does not, but Levine (2003) does.

²³⁹ Md. Ann. Code Art. 1, § 24 (2009).

²⁴⁰ Md. Health-General Code Ann. § 20-102 (2010), formerly codified as Art 43 § 135. Descriptions of the original law and amendments found in DHEW (1974, 1978) and *In re Smith*, 16 Md. App. 209 (1972).

²⁴¹ Merz, Jackson, and Klerman (1995).

²⁴² Melton, Seegar, and Pitts (1972).

²⁴³ Smith and Bourne (1973).

²⁴⁴ *In re Smith*, 16 Md. App. 209 (1972). Regarding the legality of abortion, the ruling states "We do not construe the order of the Juvenile Court as directing that an abortion be performed. Clearly here such mandate would be beyond the power of the Court; termination of a human pregnancy can be authorized only by the abortion review authority appointed by an accredited hospital...As we interpret the order, the court, satisfied that Cindy's mother desired her daughter to be aborted, commanded the daughter to obey her mother by submitting to such procedures as would ascertain the existence of a condition permitting a legal abortion so that the required authorization of a proper hospital abortion review authority could be obtained and the pregnancy terminated."

notification law on May 26, 1977.²⁴⁵ The law required the notification of at least one parent. The only exception was if in the physician's judgment, notice may lead to the physical or emotional abuse of the minor. Attorney General opinions from December 1985 and 1990 stated that the law is unconstitutional and unenforceable because of the lack of a judicial bypass procedure.²⁴⁶ The law was amended effective December 3, 1992. However, the new law allows bypass of parental notification if in the judgment of the physician (1) The minor is mature and capable of giving informed consent to an abortion, or (2) notification would not be in the best interest of the minor. Again no judicial bypass option is present.²⁴⁷

Massachusetts

Age of majority: Massachusetts lowered the age of majority to 18 effective January 1, 1974.²⁴⁸

Contraception: At the time that Enovid was introduced, Massachusetts had a law in place banning the sale of contraceptives. Following the U.S. Supreme Court ruling in *Griswold v. Connecticut*, Massachusetts revised its law to allow the sale of prescription contraceptives to married individuals only, which effectively prohibited their distribution to unmarried people.²⁴⁹ On March 22, 1972 the U.S. Supreme Court ruled in *Eisenstadt v. Baird* that the Massachusetts statute was unconstitutional, and that unmarried people could not be prohibited from obtaining contraceptives.

In 1975 the Massachusetts legislature amended its medical consent law to address the ability of minors to consent to medical care. The law permits a minor to consent to medical care excluding abortion if she has been married, is a parent, is pregnant or believes herself to be pregnant, or is emancipated.²⁵⁰ In 1977 the Massachusetts Supreme Court addressed the mature minor issue in a ruling regarding a recent parental consent law for abortions. The court stated "apart from statutory limitations which are constitutional, where the best interests of a minor will be served by not notifying his or her parents of intended medical treatment, and where the minor is capable of giving informed consent to that treatment, the mature minor rule applies in this Commonwealth."²⁵¹ Thus, unless limited by statute, mature minors can consent to contraception.²⁵² Massachusetts has not passed a law explicitly recognizing the right of minors to consent to contraceptive care. However, in

²⁴⁵ Md. Ann. Code § 20-103.

²⁴⁶ Op. Att'y Gen. 70-3 (December 31, 1985); Op. Att'y Gen. 75-14 (August 30, 1990); Merz, Jackson, and Klerman (1995). The 1985 Attorney General opinion states that the law is unenforceable under the 1983 U.S. Supreme Court ruling in *City of Akron v. Akron Center for Reproductive Health*. It seems that the statute also would have been unenforceable under *Bellotti*, which the 1990 Attorney General opinion notes, and possibly under *Danforth*.

²⁴⁷ Md. Ann. Code § 20-103 (2010).

²⁴⁸ Mass. Gen. Laws ch. 231 § 85P (2010).

²⁴⁹ Codified as Mass. Gen. Laws ch. 272, §§ 20, 21, 21A. See DHEW (1974, 1978) for history relative to *Griswold* case.

²⁵⁰ Mass. Gen. Laws ch. 112, § 12F (2010).

²⁵¹ *Baird v. Attorney General* 371 Mass. 741 (January 25, 1977).

²⁵² DHEW (1978).

1990 the Massachusetts legislature enacted a law requiring the Department of Public Health to provide confidential comprehensive family services without regard to age.²⁵³

Massachusetts is one of 8 states that made emergency contraception available over the counter prior to a national policy change in 2006. The statute makes no mention of age with respect to EC distribution.²⁵⁴

Abortion: In 1944 the Massachusetts Supreme Court interpreted the state's anti-abortion statute to exclude abortions performed to preserve the life or physical or mental health of the mother.²⁵⁵ Following *Roe*, the state passed a parental consent law on August 2, 1974.²⁵⁶ The law was challenged, and a restraining order barring enforcement was issued prior to the law's effective date. Subsequent stays of enforcement were issued during a complex course of litigation so that the law as originally enacted never went into effect. The case eventually reached the U.S. Supreme Court in *Bellotti v. Baird*, and the court ruled that the parental consent requirement was unconstitutional.²⁵⁷ The Massachusetts legislature then amended the parental consent law on June 5, 1980, and it went into effect April 23, 1981.²⁵⁸ The legal environment governing minor's confidential access to abortion in the seventies is quite ambiguous, but press accounts indicate that clinics began providing confidential abortion services to minors on July 1, 1976 when the U.S. Supreme Court enjoined enforcement of the parental consent law.²⁵⁹

Michigan

Age of majority: Michigan lowered the age of majority from 21 to 18 effective January 1, 1972.²⁶⁰

Contraception: Michigan courts appeared to have adopted a mature minor doctrine prior to 1960, but the rulings did not clearly grant mature minors the right to consent to contraception. The Michigan Supreme Court ruled in 1906 in *Bakker v. Welsh* that physicians were not negligent in failing to obtain a parent's permission prior to the surgical removal of a tumor from a 17-year-old's ear because the patient was accompanied by other adult relatives, talked to his father about the procedure, and the father gave no indication that he would protest.²⁶¹ In 1926 in *Zoski v. Gaines*, the court ruled that doctors erred in performing a tonsillectomy on a nine year-old without parental consent. The court noted that whereas in *Bakker* the minor was older, accompanied by adult relatives, and there was no indication that his parents would have objected to the surgery, in *Zoski* the child was much younger and his parents had repeatedly indicated that they did not want the surgery

²⁵³ Mass. Gen. Laws ch. 11, § 24E (2010).

²⁵⁴ Mass. Gen. Laws ch. 94C §19A (2017), effective December 14, 2005.

²⁵⁵ *Commonwealth v. Wheeler* 315 Mass. 394 (January 31, 1944).

²⁵⁶ Codified as Mass. Gen. Laws ch. 112 § 12P, re-lettered § 12S in 1977.

²⁵⁷ *Bellotti v. Baird* 443 U.S. 622 (July 22, 1979) provides a brief history of the enactment of the law and the stays of enforcement.

²⁵⁸ *Planned Parenthood League of Mass., Inc. v. Bellotti*, 868 F.2d 459 (1989).

²⁵⁹ Sue Bass, "Mass. Girls get abortions without parents Knowing," *Nashua Telegraph* (July 31, 1976); "Court sparks teen rush for abortions," *Chicago Tribune* (August 1, 1976).

²⁶⁰ Mich. Comp. Laws Ann. § 722.52 (2010).

²⁶¹ *Bakker v. Welsh*, 108 N.W. 94 (1906).

to be performed.²⁶² Contemporary sources indicate that minors could consent to contraception and abortion in Michigan under the mature minor doctrine,²⁶³ but other authors have not treated the legal rulings as clearly governing minors' access.²⁶⁴ I conclude that there was not a clear judicial precedent for permitting mature minors to consent to reproductive care and code early legal access beginning in 1972 when the age of majority was lowered.

In 1977, in *Doe v. Irwin* a Michigan Court ruled that a family planning center could not supply contraceptives to minors without parental consent.²⁶⁵ However, this order was stayed pending further appeals; it was struck down by the U.S. Court of Appeals on February 26, 1980.²⁶⁶ Michigan has not passed a law explicitly granting minors the right to access contraception.

Abortion: Prior to *Roe v. Wade*, abortion was legal in Michigan only to save the life of the mother.²⁶⁷ In 1974 Michigan enacted a licensing requirement for free-standing surgical facilities that included a parental consent requirement for minors.²⁶⁸ This requirement was challenged and in 1977 it was held to be invalid under *Danforth*, although the ruling notes that minors still could obtain abortions without parental consent in a physician's private office.²⁶⁹ This law does not appear to have been enforced prior to being struck down.²⁷⁰

Effective March 28, 1991 Michigan enacted "The Parental Rights Restoration Act," a parental consent law.²⁷¹ The law was struck down on August 5, 1992 on the grounds that it did not clearly identify the emergency conditions under which a physician could perform an abortion without parental consent.²⁷² The legislature amended the law to correct this, and it has been enforced since March 31, 1993.²⁷³

Minnesota

Age of majority: Minnesota lowered the age of majority from 21 to 18 effective June 1, 1973.²⁷⁴

²⁶² *Zoski v. Gaines*, 260 N.W. 99 (1935).

²⁶³ DHEW (1974, 1978); Paul, Pilpel, and Wechsler (1974, 1976).

²⁶⁴ Goldin and Katz (2002); Bailey (2006); Guldi (2008); Hock (2007); Bailey et al. (2011).

²⁶⁵ *Doe v. Irwin*, 428 F. Supp. 1198 (1977).

²⁶⁶ *Doe v. Irwin*, 615 F. 2d 1162 (1980).

²⁶⁷ Merz, Jackson, and Klerman (1995).

²⁶⁸ Public Act 274 of 1974 codified as Mich. Comp. Laws § 331.471 et seq.

²⁶⁹ *Abortion Coalition of Michigan, Inc. v. Michigan Department of Public Health*, 426 F. Supp. 471 (February 3, 1977).

²⁷⁰ The opinion in *Abortion Coalition of Michigan, Inc. v. Michigan Department of Public Health* notes that at a prior hearing in April 1976 the Court denied plaintiffs' request for a restraining order because the state had not begun enforcing the law that there was no evidence that harm was likely to ensue from denying relief.

²⁷¹ Mich. Comp. Laws Ann. §§ 722.901-722.909 (2010).

²⁷² *Planned Parenthood of Mid-Michigan v. Attorney General of Michigan*, No. D 91-0571 (August 5, 1992). See also "Judge Strikes down Michigan parental consent law," *Chicago Tribune*, August 6, 1992 and Merz, Jackson, and Klerman (1995).

²⁷³ Mich. Comp. Laws Ann. § 722.905 (2010).

²⁷⁴ Minn. Stat. § 645.451 (2009); "Minnesota Majority Age Law in Effect," *The Milwaukee Sentinel* (June 5, 1973).

Contraception: Prior to 1965 Minnesota had a Comstock law prohibiting the sale of contraception with a physician exemption.²⁷⁵ Effective May 27, 1971 Minnesota enacted a comprehensive medical consent law codified as Minn. Stat. §§ 144.341-144.347.²⁷⁶ Sections 1 and 2 of the law permit minors who are emancipated, married, or who have given birth to consent to any medical care. Section 3 states that all minors also may consent to the diagnosis and treatment of "pregnancy and conditions associated therewith." Section 4 state that medical services may be rendered without parental consent if "the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment." Section 6 states permits physicians to notify parents of the treatment if "failures to inform the parent or guardian would seriously jeopardize the health of the minor patient."

The Minnesota Attorney General issued an opinion on August 25, 1972 addressing the legality of providing contraceptive services to minors without parental consent. The Attorney General states that the primary purpose of §§144.341-144.347 is to "relieve physicians from civil liability for furnishing medical services to minors without parental consent in the situations enumerated...Nothing in this law, however, makes any conduct a crime."²⁷⁷ The Attorney General concludes "It might be argued that providing contraceptives to minors without parental consent constitutes civil assault and battery unless authorized by sections 144.341-144.347" but "the described practice does not constitute criminal conduct." In *Maley v. Planned Parenthood of Minnesota Inc.*, a Minnesota court ruled on January 5, 1976 that under 144.343 and 144.344, contraceptives could be provided to minors without parental consent unless a minor's parents previously notified the provider of their objection.²⁷⁸

Abortion: Prior to *Roe v. Wade*, abortions were legal only to preserve the life of the mother.²⁷⁹ Minn. Stat. §144.343 (effective May 27, 1971) granting pregnant minors the right to consent to diagnosis and treatment of pregnancy does not specifically exclude abortion, and secondary sources interpret the law as granting pregnant minors capacity to consent to abortion.²⁸⁰ The law was amended in 1981. As amended, subdivision (2) of § 144.343 required two-parent notification prior to a minor's abortion with no judicial bypass option. Subdivision 6 provided that if subdivision 2 was ever enjoined by judicial order, the same notice requirement would be in effect with a judicial bypass option. Prior to the statute's August 1, 1981 effective date, a judicial order restrained enforcement of Subdivision 2, but Subdivision 6 was allowed to go into effect. After a lengthy trial, the entire statute was enjoined November 6, 1986.²⁸¹ A panel of the Eighth Circuit Court of Appeals affirmed the District Court's judgment on appeal, but the panel opinion was later vacated and the Court of Appeals reheard the entire case. In an opinion released August 8, 1988 the Court of Appeals held that Subdivision 2 was unconstitutional, but that

²⁷⁵ Bailey and Davido (2009).

²⁷⁶ Minn. Stat. §§ 144.341-144.347 (2009).

²⁷⁷ Op. Atty. Gen. 494-b-39 (August 25, 1972).

²⁷⁸ *Maley v. Planned Parenthood of Minnesota Inc.*, Cir. Case No. 37769 (January 5, 1976); DHEW (1978); English and Kenney (2003).

²⁷⁹ Merz, Jackson, and Klerman (1995).

²⁸⁰ Paul, Pilpel, and Wechsler (1974, 1976); DHEW (1978); Merz, Jackson, and Klerman (1995).

²⁸¹ *Hodgson v. Minnesota*, 648 F. Supp. 756 (November 6, 1986).

Subdivision 6 was valid.²⁸² The case was appealed the U.S. Supreme Court, which affirmed the Court of Appeal's ruling that Subdivision 6 was valid.²⁸³ The law went back into effect on August 27, 1990.²⁸⁴

Mississippi

Age of majority: Mississippi has not lowered the age of majority; it remains 21.²⁸⁵ The state has lowered the age of majority for certain specific purposes such as for the ability to enter into contracts, but it does not specify an age of majority for medical treatment.

Contraception: Mississippi had an advertising and sales ban in place for contraception that was not repealed until 1970. It is unclear whether enforcement of the ban ceased in 1965 with the *Griswold* decision or in 1970 with the repeal of the law.²⁸⁶

Mississippi courts recognized a mature minor doctrine for minors seeking medical treatment in 1928. The court ruled that a 17 year old boy could consent to a smallpox vaccine because he "was of sufficient intelligence to understand and appreciate the consequences of the vaccination, usually a very simple operation, resulting in no harm other than a temporary inconvenience."²⁸⁷ The Mississippi legislature codified this mature minor doctrine in 1966 when it enacted a comprehensive medical consent statute governing the provision of medical services to minors.²⁸⁸ The law permits "any unemancipated minor of sufficient intelligence to understand and appreciate the consequences of the proposed surgical or medical treatment or procedures" to consent for himself. The law further permits any female, regardless of age, to consent to care related to pregnancy or childbirth.²⁸⁹ The Attorney General of Mississippi stated in a private letter to legal scholars 1971 that there were no laws at that time prohibiting the provision of family planning services to minors.²⁹⁰

In 1972, the state enacted a second law related to minors' consent to contraceptive care, The Family Planning Act of 1972. This law, which was effective July 1, 1972, permits contraception to be provided to a minor who is married, a parent, has parental consent, or has been referred by another physician, clergyman, family planning clinic, school, or agency of the state.²⁹¹ When the medical consent statute of 1966 and the family planning law of 1972 are in conflict, it is not clear which governed.²⁹²

²⁸² *Hodgson v. Minnesota*, 853 F.2d 1452 (August 8, 1988).

²⁸³ *Hodgson v. Minnesota*, 497 U.S. 417 (June 25, 1990); Merz, Jackson, and Klerman (1995). indicate that the law was enforced again beginning in October of that year.

²⁸⁴ Kurt Chandler "Parental notification requirement reinstated" Star Tribune (Minneapolis, Minnesota) August 28, 1990.

²⁸⁵ Miss. Code Ann. § 1-3-27 (2009).

²⁸⁶ DHEW (1974, 1978); Bailey and Davido (2009).

²⁸⁷ *Gulf Ship and Island R.R. v. Sullivan*, 155 Miss. 1 (1928) as cited and described in DHEW (1974).

²⁸⁸ Miss. Code § 7129-81 et seq., The law has since been amended and renumbered; the relevant statute is now Miss. Code § 41-41-3.

²⁸⁹ Miss. Code Ann. § 41-41-3 (2009).

²⁹⁰ DHEW (1974).

²⁹¹ Miss. Code Ann. § 41-42-7 (2009).

²⁹² Paul, Pilpel, and Wechsler (1974, 1976) indicate that mature minors could consent to contraception in

Abortion: Mississippi's 1966 medical consent statute permitted any female, regardless of age, to consent to medical care related to pregnancy. Contemporary sources from the 1970s interpret this as granting minors the right to consent to abortion at that time.²⁹³ The state enacted a parental consent law effective July 1, 1986 governing consent for minors, defined in the law as persons under age 18.²⁹⁴ Enforcement of the statute was preliminarily enjoined before this date, and the District Court extended the stay for four years pending U.S. Supreme Court rulings on abortion. In March 1992 the District Court denied the state's motion to lift the injunction. On appeal, the Fifth Circuit Court of Appeals upheld the law in May 1993.²⁹⁵ The state instructed doctors to begin enforcing the law in July 1993.²⁹⁶

Missouri

Age of majority: Missouri passed Act 70, Senate Bill 438 amending § 475.010 to lower the age of majority from 21 to 18 effective August 13, 1974. The amended law stated that "whenever the term 'twenty-one years of age' is used as a limiting or qualifying factor it shall be deemed to mean 'eighteen years of age.'" However, the state Supreme Court ruled on November 12, 1974 that this act was unconstitutional because the state constitution prohibits amendment of an act by striking or inserting words; rather the amended portions have to be identified as such in order to avoid confusion.²⁹⁷ The state subsequently passed acts lowering the age of majority for specific purposes in the state code.

Contraception: At the time of the introduction of the birth control pill, Missouri had a Comstock law limiting the sale of contraception that contained a legitimate practice exemption.²⁹⁸ The statute was revised in 1967 to remove the prohibition on the sale of contraceptives.²⁹⁹

Under § 431.065, enacted in 1961, married minors or minors who are parents may consent to medical care.³⁰⁰ Statute § 431.061, enacted in 1971, guaranteed the right of "any adult twenty-one years of age or older" to consent to medical care and also stipulated that pregnant minors may to consent to medical care excluding abortions.³⁰¹ The statute was amended on July 27, 1977 to reduce the age of consent for medical care to eighteen. An opinion of the Attorney General on March 9, 1973 stated that no law prohibited physicians from prescribing contraceptives to minors without parental consent.³⁰² Secondary sources,

Mississippi in 1974 and 1976, suggesting that the mature minor doctrine from § 41-41-3 applies. DHEW (1978) indicates that the Family Planning Act governs because it was enacted at a later time. English and Kenney (2003) cite only the Family Planning Act as governing minors' access to contraception.

²⁹³ Paul, Pilpel, and Wechsler (1974, 1976); DHEW (1978).

²⁹⁴ Miss. Code Ann. §41-41-51 et seq. (2009); Merz, Jackson, and Klerman (1995).

²⁹⁵ *Barnes v. Mississippi*, 992 F.2d 1335 (May 26, 1993).

²⁹⁶ Associated Press. "Mississippi abortion law goes into effect." *Sun Journal* (July 8, 1993).

²⁹⁷ *State of Missouri v. Stussie*, 518 S.W. 2d (November 12, 1974).

²⁹⁸ Bailey and Davido (2009).

²⁹⁹ DHEW (1974); Bailey and Davido (2009).

³⁰⁰ Mo. Rev. Stat. § 431.065 (2009).

³⁰¹ Mo. Rev. Stat. § 431.061 (2009); Merz, Jackson, and Klerman (1995).

³⁰² Op. Atty. Gen. (March 9, 1973).

however, indicate that minors were not permitted to consent to contraception in Missouri in 1974 and 1976.³⁰³

Two bills have been introduced in the past decade to amend Mo. Rev. Stat. §431.061 to explicitly require parental notification or consent for minors to obtain contraceptives, but neither passed.³⁰⁴

Abortion: Missouri's pre-*Roe* abortion statute prohibited abortion except to save the life of the mother or that of the unborn child.³⁰⁵ After *Roe v. Wade*, the U.S. Supreme Court remanded a pending Missouri federal case challenging Missouri's pre-*Roe* abortion law.

A three-judge panel for the Western District of Missouri declared the statute unconstitutional and it was enjoined in 1973.³⁰⁶ Effective June 14, 1974, Missouri enacted a new statute regulating the conditions under which an abortion could be performed, including a requirement for spousal consent for married women and parental consent for women under 18. Enforcement was enjoined on February 18, 1975, and the law was held to be unconstitutional by the U.S. Supreme Court in *Planned Parenthood of Central Missouri v. Danforth* on July 1, 1976.³⁰⁷ Effective June 29, 1979 Missouri enacted a second parental consent law, § 188.028, containing a judicial bypass option. Enforcement was immediately enjoined, but the law ultimately was upheld by the Supreme Court on June 15, 1983 although the court did emphasize the necessity of an expedited appeal process for initial judicial decisions.³⁰⁸ The law went into effect for a brief period in 1983 before a federal court granted a temporary restraining order in November of that year barring enforcement until the Missouri Supreme Court promulgated rules for expediting appeals. The law was upheld on August 7, 1985 and allowed to go into effect on that date.³⁰⁹

Montana

Age of majority: In 1960 the age of majority in Montana was 18 for women and 21 for males. In 1971 the legislature amended the statute to equalize the age of majority as 19 for everyone, which increased it by a year for women and decreased it by a year for men.³¹⁰ The age of majority was lowered to 18 for men and women effective July 1, 1973.³¹¹

Contraception: Montana's Comstock law prohibiting the display and sale of contraceptives contained a physician exemption.³¹² Montana enacted a medical consent law effective March 3, 1969 stating that a minor may consent to medical treatment under certain conditions including if s/he is emancipated, married, pregnant, has a child, or has graduated

³⁰³ Paul, Pilpel, and Wechsler (1974, 1976).

³⁰⁴ Missouri House Bill No. 1383 (2002); Missouri House Bill No. 2112 (2006).

³⁰⁵ Merz, Jackson, and Klerman (1995).

³⁰⁶ *Danforth v. Rodgers*, 414 U.S. 1035 (November 19, 1973).

³⁰⁷ *Planned Parenthood of Central Missouri v. Danforth* 428 U.S. 52 (July 1, 1976).

³⁰⁸ *Planned Parenthood of Kansas City v. Ashcroft*, 462 U.S. 476 (June 15, 1983).

³⁰⁹ *C.L.G. v. Webster*, 616 F. Supp. 1182 (August 7, 1985).

³¹⁰ Mont. Rev. Codes § 64-101 (1971); *In Re Hall's Estate*, 124 M 355 (1950); Council of State Governments (1972); DHEW (1974).

³¹¹ Mont. Code Anno. § 41-1-101 (2009).

³¹² DHEW (1974); Bailey and Davido (2009).

from high school. The treating physician may, but is not required to, release information to the minor's parent.³¹³

Abortion: Prior to *Roe v. Wade*, Montana had a law in place prohibiting abortion except to save the life of the woman. This law was ruled unconstitutional on May 29, 1973 and subsequently repealed.³¹⁴ Montana's 1969 medical consent law permits a pregnant minor to consent to medical care related to her pregnancy, though physicians had discretion to notify a minor's parents.³¹⁵ On March 25, 1974 The Abortion Control Act, which included a parental notification requirement, was passed and the medical consent statute was amended a day later to exclude abortion from the services to which a pregnant minor could consent.³¹⁶ This law was presumably invalidated by *Danforth*. Several secondary sources indicate that the law was not enforced between November 5, 1976 and December 21, 1993 when an enforcement effort resulted in an immediate lawsuit and the issuance of a permanent injunction barring enforcement.³¹⁷ In response, in 1995 the Montana legislature repealed the previous Abortion Control Act and replaced it with The Parental Notice of Abortion Act.³¹⁸ The new law required 48 hours advance notice to a minors' parents and included a judicial bypass provision. This law was challenged, a District Court enjoined its enforcement prior to its effective date, and the Court of Appeals affirmed.³¹⁹ The U.S. Supreme court reversed and upheld the law under the federal Constitution on March 31, 1997.³²⁰ The plaintiffs then filed suit again on October 14, 1997 challenging the law under the state constitution. The law was enforced from October 12, 1997 through November 5, <http://www.plannedparenthood.org/teens1997> when a judge in that case issued a temporary restraining order barring enforcement.³²¹ Enforcement was enjoined February 13, 1998.³²² Enforcement was permanently enjoined February 25, 1999.³²³ The state did not appeal this decision.

In 2011 the Montana legislature drafted a legislative referendum (LR-120) which voters adopted via ballot initiative. The resulting Parental Notice of Abortion Act of 2011 went into effect January 1, 2013 and required parental notification for minors under age 16. The state legislature then passed a bill that repealed the parental notification law and replaced it with the Parental Consent for Abortion Act of 2013, which required parental consent for all minors under age 18. The Parental Consent for Abortion law was scheduled to take effect July 1, 2013. Planned Parenthood of Montana filed a lawsuit in May 2013 challenging both laws. The State enjoined enforcement of the consent law while the notification law

³¹³ Mont. Code Anno. §§ 41-1-402 through 41-1-403 (2009); DHEW (1974).

³¹⁴ *Doe v. Woodahl*, 360 F. Supp. 20 (May 29, 1973).

³¹⁵ Mont. Code Anno. § 41-1-402 (2009).

³¹⁶ Mont. Code Anno. § 50-20-107 (2009); Merz, Jackson, and Klerman (1995).

³¹⁷ Merz, Jackson, and Klerman (1995); "State-by-state laws on abortion," *The Spokane Chronicle* (July 3, 1989); "Abortion notification law illegal, lawyer says," *The Spokesman-Review* (April 5, 1990); "Abortion: States face likelihood of flurry of parental consent bills," *The Free Lance-Star* (June 26, 1990); "Montana abortion law unconstitutional," *The Spokesman Review* (August 17, 1996).

³¹⁸ Mont. Code Anno. §§ 50-20-201 through 50-20-215 (2009).

³¹⁹ *Wickland v. Salvagni*, 93 F.3d (August 16, 1996).

³²⁰ *Lambert v. Wicklund*, 520 U.S. 292 (March 31, 1997).

³²¹ AP "Federal judge upholds state abortion law" *The Billings Gazette* October 11, 1997; AP "Opponents continue attack on parental-notice abortion law" *Great Falls Tribune* October 23, 1997; AP "Judge suspends parental notification law pending hearing" *Great Falls Tribune* November 5, 1997.

³²² *Wicklund v. State*, Cause No. ADV 97-671 (February 13, 1998).

³²³ *Wicklund v. State*, Cause No. ADV 97-671 (February 11, 1999).

remained in effect. On January 31, 2014, the District Court ruled that the state could not defend either law on the grounds of preclusion, and that neither law could be enforced.³²⁴

The state appealed the District Court ruling to the Montana Supreme Court, which reversed the District Court ruling on February 5, 2015, ruling that the state could defend the laws.³²⁵ I have been unable to find evidence of subsequent judicial challenges. Guttmacher indicated that the policies were not in effect as of September 2017 (2017b), and on the basis of this information I coded Montana as not enforcing a parental involvement law after February 5, 2014 in my own earlier research.³²⁶ However, on subsequent review of secondary sources conducted in August 2021, I see that Guttmacher's most up-to-date policy fact sheet codes Montana's parental notification law as enforced and parental consent law as not enforced. Law Atlas indicates that the state is currently enforcing the 2013 parental notification requirement for minors under age 16, but not the parental consent requirement. Planned Parenthood indicates the same. Their website, accessed January 30, 2022, informs minors that "if you are under 16, [Montana] requires that one of your parents be told of your decision." On this basis I infer that the state began enforcing the requirement again after the February 5, 2015 ruling.

Nebraska

Age of majority: Nebraska lowered the age of majority from 21 to 20 effective March 13, 1969, and from 20 to 19 effective July 6, 1972.³²⁷ The age of majority is currently 19. Additionally, if a person marries before the age of 19, his or her minority ends.³²⁸

Contraception: Nebraska original Comstock law, passed in 1885, prohibited the sale of any "secret" drug or nostrum to prevent contraception and did not contain a physician exemption.³²⁹ In 1965 the State Supreme Court ruled that the law did not apply to drugs that are not "secret."³³⁰ Nebraska does not have any statutes governing access to contraception for minors and I find no evidence of a mature minor doctrine.

Abortion: Prior to *Roe v. Wade*, Nebraska had a law prohibiting abortion except to save the life of the woman.³³¹ In the wake of *Roe v. Wade* this law was declared unconstitutional on February 21, 1973.³³²

Nebraska passed a parental consent law shortly after *Roe*. The law was enforced from May 24, 1973 to November 3, 1975 when a preliminary injunction was issued; the law was

³²⁴ NARAL (2014).

³²⁵ *Planned Parenthood of Montana v. State of Montana* DA 14-0110 (February 3, 2015).

³²⁶ Planned Parenthood. Parental notification and consent laws. Website accessed January 30, 2022. <https://www.plannedparenthood.org/learn/teens/stds-birth-control-pregnancy/parental-consent-and-notification-laws>

³²⁷ Council of State Governments (1972, 1973); DHEW (1974, 1978).

³²⁸ R.R.S. Neb. § 43-2101 (2010).

³²⁹ DHEW (1974); Bailey and Davido (2009).

³³⁰ *State v. Lauritsen*, 178 Neb. 230 (January 22, 1965).

³³¹ Merz, Jackson, and Klerman (1995).

³³² *Doe v. Exon*, 71-L-199 (February 21, 1973).

ruled unconstitutional following *Danforth*.³³³ The legislature then enacted a second statute requiring parental consent for minors under age 17 and certification by the minor that she consulted her parents that was in effect from July 1, 1977 until December 28, 1978 when it was preliminarily enjoined.³³⁴ A third law requiring parental notification for minors (defined as under age 19) was passed effective May 28, 1981.³³⁵ This law was challenged and enforcement permanently enjoined September 19, 1983.³³⁶ In a 1989 opinion, the state Attorney General indicated that the constitutionality of the law remained in limbo pending the U.S. Supreme Court's decision in *Hodgson v. Minnesota*.³³⁷ After that decision in 1990, the legislature drafted and passed a fourth statute requiring parental notification for minors less than 18 years of age, effective September 6, 1991.³³⁸ The legislature subsequently amended this law to replace the notification requirement with a consent requirement, effective August 27, 2011.³³⁹

Nevada

Age of majority: Nevada lowered the age of majority for males from 21 to 18 effective July 1, 1973. The age of majority for females had been 18 since at least 1950.³⁴⁰

Contraception: Nevada had a Comstock law limiting the advertisement of contraceptives with a legitimate business exemption that was in place until 1963.³⁴¹ Bailey (2010) appears to treat this as a sale ban, but Bailey and Davido (2009) and Bailey et al. (2011) do not describe a sales ban. Nevada's Health Service Act relates to the ability of minors to consent to medical care. As enacted May 26, 1975 the law permits mature minors to consent to medical care excluding abortions.³⁴²

Abortion: The attorney general issued an opinion on February 2, 1973 declaring the state's abortion statute, which prohibited abortion except to save the life of the mother, to be unconstitutional under *Roe*.³⁴³ Effective May 3, 1973 Nevada enacted a comprehensive abortion control statute codified as § 442.240 et seq. The law included a parental consent provision. The attorney general stated letter dated October 15, 1976 (not a formal opinion) that the law was unconstitutional after *Danforth*.³⁴⁴

³³³ *Doe v. Exon*, 416 F. Supp. 716 (November 3, 1975); Merz, Jackson, and Klerman (1995).

³³⁴ Merz, Jackson, and Klerman (1995).

³³⁵ *Orr v. Knowles*, 337 N.W. 2d 699 (1983); Merz, Jackson, and Klerman (1995).

³³⁶ Neb. Att'y Gen. Op. 89059 (August 30, 1989); Neb. Att'y Gen. Op. 90024 (March 26, 1990); Merz, Jackson, and Klerman (1995).

³³⁷ Neb. Att'y Gen. Op. 89059 (August 30, 1989).

³³⁸ Merz, Jackson, and Klerman (1995); Neb. Rev. Stat. §§71-6901-71-6902 (2009).

³³⁹ Neb. Rev. Stat. §§71-6901-71-6902 (2019).

³⁴⁰ Nev. Rev. Stat. §129.010 (2009); Nev. Att'y Gen. Op. 852 (January 19, 1950); *Smith v. United States* 321 F.2d 427 (1963); *Norris v. Norris* 93 Nev. 65 (1977).

³⁴¹ Bailey and Davido (2009).

³⁴² Nev. Rev. Stat. §129.030 (2009); DHEW (1978); Merz, Jackson, and Klerman (1995).

³⁴³ Op. Att'y Gen. 1973-13 (February 2, 1973).

³⁴⁴ DHEW (1978).

The legislature amended the statute in 1981 to require parental notification. The law was challenged, and enforcement was enjoined July 1, 1981.³⁴⁵ The legislature amended the law on June 14, 1985. The amended law was again challenged, a temporary restraining order was issued on June 28, 1985 before it could go into effect, and it was temporarily enjoined on July 17, 1985.³⁴⁶ The law was ruled unconstitutional and enforcement was permanently enjoined on June 21, 1991.³⁴⁷

New Hampshire

Age of majority: New Hampshire reduced the age of majority from 21 to 18 effective June 3, 1973.³⁴⁸

Contraception: In 1971 the New Hampshire legislature effectively recognized a mature minor doctrine in a statute related to the treatment of minors for drug abuse. The statute states "nothing contained herein shall be construed to mean that any minor of sound mind is legally incapable of consenting to medical treatment provided that such minor is of sufficient maturity to understand the nature of such treatment and the consequences thereof."³⁴⁹

New Hampshire is one of 8 states that made emergency contraception available over the counter prior to a national policy change in 2006. The statute makes no mention of age with respect to EC distribution.³⁵⁰

Abortion: In June 2003 the New Hampshire legislature passed a parental notification act scheduled to go into effect December 31 of that year. The law was challenged and eventually struck down on the grounds that it did not contain an exception to protect the health of the minor.³⁵¹ This law was never enforced, and was repealed in 2007. New Hampshire enacted a parental notification law requiring 48 hours advanced notice to a parent. The law was effective January 1, 2012.³⁵²

New Jersey

Age of majority: New Jersey lowered the age of majority from 21 to 18 effective January 1, 1973.³⁵³

³⁴⁵ *Glick v. List*, CVR 81-150 (July 7, 1981); *Glick v. Bryan*, CVR 81-150 (August 29, 1984).

³⁴⁶ *Glick v. McKay* 616 F. Supp. 322 (July 17, 1985).

³⁴⁷ *Glick v. McKay* 937 F.2d 434 (June 21, 1991).

³⁴⁸ N.H. Rev. Stat. § 21:44 (2010).

³⁴⁹ N.H. Rev. Stat. § 318-B: 12-a (2010); DHEW (1974, 1978).

³⁵⁰ N.H. Rev. Stat. § 318:47-e (2017), effective August 15, 2005.

³⁵¹ *Planned Parenthood of Northern New England, et al. vs. Peter Heed, Attorney General of New Hampshire* 390 F.3d 53 (November 24, 2004).

³⁵² N.H. Rev. Stat. § 132:33 (2014).

³⁵³ N.J. Stat. § 9:17B-1 (2009).

Contraception: New Jersey's Comstock law prohibited the sale of contraceptives.³⁵⁴ In 1963 the state Supreme Court interpreted this law as allowing dispensation of contraception by physicians or pharmacists.³⁵⁵ New Jersey passed a medical consent law in 1965 granting capacity to consent to medical and surgical treatment to married or pregnant minors.³⁵⁶ The legislature has not enacted a law explicitly granting unmarried minors the right to consent to contraception. A May 15, 1972 opinion of the Attorney General stated that parental consent is required to provide family planning services to minors.³⁵⁷

Abortion: New Jersey's pre-Roe abortion statute made it illegal to perform an abortion except to preserve the life of the mother. A three-judge District Court panel heard arguments in December 1970 in a suit filed by nine New Jersey physicians, two of whom had had their licenses revoked for performing abortions. Following a lengthy delay, the panel ruled on February 29, 1972 that New Jersey's abortion law was unconstitutional on the grounds that it was both vague and that it violated physicians' and patients' rights to privacy. The Court denied injunctive relief, however, indicating that the state should postpone any pending prosecution.³⁵⁸ On March 7 New Jersey Attorney General George Kugler announced in a statement to the New York Times that he would appeal the decision, and that he recommended that the state's 21 county prosecutors continue to arrest physicians caught performing abortions but then hold "in abeyance" any pending prosecutions. The Attorney General is quoted as stating that it "would appear that the court desires that the status quo prevail pending a final decision by the Appellate Courts."³⁵⁹ Stephen Nagler, executive director of the A.C.L.U. called Kugler's order "absurd," and on March 30 Robert Livingston, an Englewood Cliffs physician, announced to the press that he had performed two abortions in defiance of the Attorney General's directive and planned to continue to do so.³⁶⁰ In response, county prosecutors began a grand jury investigation.³⁶¹ On June 14, the Third Circuit Court of Appeals ruled on appeal by the state that the judgment in the February ruling was binding only between the physician plaintiffs and the state and that "between the State of New Jersey and any other persons the opinion of the three judge district court has only *stare decisis* effect to be weighed against conflicting opinions in the New Jersey Courts." The opinion goes on to say that "The State remains free to take whatever steps against others than the individual plaintiffs it deems appropriate to enforce the statute by criminal sanctions" and that if the plaintiffs violate the statute during the pendency of the appeal "they will be acting at their peril" should the judgment be reversed.³⁶² Physician Robert Livingston continued to perform at least some abortions, and on August 4 five employees at his office were arrested.³⁶³ In a 1972 article describing the operations of an abortion referral service in New Jersey, the New York

³⁵⁴ Bailey and Davido (2009).

³⁵⁵ *Sanitary Vendors, Inc. v. Byrne*, 40 N.J. 157 (May 6, 1963).

³⁵⁶ N.J. Stat. § 9:17A-1 (2009).

³⁵⁷ DHEW (1978).

³⁵⁸ *YWCA v. Kugler*, 342 F. Supp. 1048 (February 29, 1972).

³⁵⁹ "Jersey to appeal abortion decision." *The New York Times* (March 8, 1972).

³⁶⁰ Garrow, 1994: p 540; Sullivan, Ronald. "Jersey doctor defies state by performing abortions." *The New York Times*. (March 31, 1972).

³⁶¹ Richard Phalon, "Jersey test seen on abortion law," *The New York Times* (August 11, 1972); Garrow, 1994: p 540 and 562.

³⁶² *YWCA v. Kugler*, 463 F. 2d 203 (June 14, 1972).

³⁶³ Saul, Louise. "Abortion unit acts amid legality dispute." *The New York Times* (August 13, 1972).

Times states that Livingston was the only physician in New Jersey who had begun publicly performing abortions following the February 1972 ruling. Beryl Cameron, who organized an abortion referral service in New Jersey and attempted to seek out cooperating New Jersey physicians following the February 1972 ruling, is quoted as stating that most physicians adopted a “wait and see attitude” and had “all the social conscience of jet setters.”³⁶⁴ Because the status of New Jersey’s abortion laws remained unclear until the January 1973 decision in *Roe v. Wade*, I do not consider it a repeal state in the coding in this paper.

Under New Jersey's statute § 9:17A-1, enacted in 1965 and described above, minors may consent to abortion in New Jersey.³⁶⁵ New Jersey passed a parental notification that went into effect September 26, 1999.³⁶⁶ However, the Supreme Court stayed enforcement on the following day. The law was declared constitutional on December 10, 1999, but was not enforceable pending appeal to the New Jersey Supreme Court. On appeal, the Court ruled that the act was unconstitutional on August 15, 2000.³⁶⁷

New Mexico

Age of majority: New Mexico lowered the age of majority from 21 to 18 effective June 18, 1971.³⁶⁸

Contraception: New Mexico's Family Planning Act, enacted in 1973, permits contraceptive services to be provided to minors without parental consent.³⁶⁹

New Mexico is one of 8 states that made emergency contraception available over the counter prior to a national policy change in 2006. The statute makes no mention of age with respect to EC distribution.³⁷⁰

Abortion: New Mexico was a reform state; it adopted MPC provisions effective June 20, 1969.³⁷¹ This statute included a parental consent provision that was held to be severable on February 9, 1973.³⁷² The provision was presumably invalidated by *Danforth*, although it was not challenged. In an opinion dated Oct. 3, 1990, the New Mexico Attorney General

³⁶⁴ Saul, Louise. “Abortion unit acts amid legality dispute.” *The New York Times* (August 13, 1972).

³⁶⁵ DHEW (1974, 1978) supports this interpretation.

³⁶⁶ N.J. Stat. § 9:17A-1.2 (2009).

³⁶⁷ *Casenote: Planned Parenthood of Central New Jersey v. Farmer*, 762 A.2d 620 (2000).

³⁶⁸ N.M. Stat. Ann. § 28-6-1, 2009. Effective date reported in *Mason v. Mason* 84 N.M. 720 507 P.2d 781 (1973).

³⁶⁹ N.M. Stat. Ann. § 24-8-5 (2009). That minors may consent to contraceptives services is implied. The act prohibits any health facility furnishing family planning services from subjecting any person to a standard or prerequisite to the receipt of requested services with a few exceptions not related to age. Secondary sources confirm that this law permits minors to consent in practice; see Paul, Pilpel, and Wechsler (1974, 1976); Guttmacher (2017a).

³⁷⁰ N.M. Stat. Ann. § 16-19-26-10 (2017) effective 2003.

³⁷¹ Merz, Jackson, and Klerman (1995).

³⁷² *State v. Strance*, 84 N.M. 670 (February 9, 1973).

confirms that the parental consent provision is unenforceable because it lacks a judicial bypass provision.³⁷³

New York

Age of majority: New York lowered the age of majority from 21 to 18 effective September 1, 1974.³⁷⁴

Contraception: New York's had a Comstock law prohibiting the sale of contraceptives with a physician exemption; the law was repealed in 1965.³⁷⁵

Effective September 1, 1971, the state legislature amended New York Education Law § 6811(8) to make it a crime for "any person to sell or distribute any instrument or article, or any recipe, drug or medicine for the prevention of conception to a minor under the age of sixteen years; the sale or distribution of such to a person other than a minor under the age of sixteen years is authorized only by a licensed pharmacist."³⁷⁶ Population Services International, a manufacturer of non-prescription contraceptives, filed suit seeking enjoinder of all provisions of the law. A District Court enjoined enforcement of the law on July 2, 1975.³⁷⁷ The Supreme Court upheld on June 9, 1977.³⁷⁸

New York enacted a medical consent law effective June 2, 1972 reducing the age of consent for medical care from 21 (then the age of majority) to 18.³⁷⁹ Under the law, a physician also may provide services to a minor without parental consent if the minor is the parent of a child or if "an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health."

Even before the enactment of a medical consent law in 1972, New York courts had issued rulings suggesting that minors could consent to medical treatment under certain circumstances. In *Sullivan v. Montgomery*, a New York court held in 1935 that a physician could administer an aesthetic to a 20-year-old minor in an emergency without parental consent.³⁸⁰ In *Bach v. Long Island Jewish Hospital*, a New York Court held in 1966 that a 19-year-old married woman could consent to a medical treatment for a skin disorder because the guardianship of a minor with respect to her person was terminated upon

³⁷³ Op. Att'y Gen. 17-1990 (October 3, 1990). Newspaper accounts suggest that the law was not enforced as of the late 1980's. See, e.g., "The abortion landscape across the USA," *USA Today* (April 25, 1989); "Ruling on teens' abortion rights seen as major test," *L.A. Times* (November 26, 1989).

³⁷⁴ New York Domestic Relations Law, Article 1 § 2 (2010).

³⁷⁵ Bailey and Davido (2009).

³⁷⁶ The preamble of the law exempted physicians, which created confusion as to whether a physician could distribute contraceptives to a minor under the age of 16 even when a pharmacist could not. The District Court ruling in *Population Services International v. Wilson* (see Footnote 318) suggests that a physician could provide contraceptives to minors under age 16.

³⁷⁷ *Population Services International v. Wilson*, 398 F Supp 321 (July 2, 1975). In the ruling, the court noted that in 1973 the legislature had amended the law governing implementation of AFDC to provide that family planning services should be offered and furnished to eligible persons of childbearing age, including sexually active children, which presumably is in conflict with § 6811(8).

³⁷⁸ *Carey v. Population Services International* 431 U.S. 678 (June 9, 1977).

³⁷⁹ New York Public Health Law, § 2504 (2009).

³⁸⁰ *Sullivan v. Montgomery*, 155 Misc. 448 (1935)

marriage.³⁸¹ Neither *Sullivan* nor *Bach* was decided solely based on the maturity of the minors in question, and hence do not provide clear recognition of a mature minor doctrine. Still, the language of the rulings suggested that maturity was an important consideration. In *Sullivan*, the court held that the physician was not liable because he was confronted with an emergency and had obtained the consent to the (minor) patient. In *Bach*, the court held that “in this case there is nothing to suggest that the plaintiff, at the time of executing the consent, had not reached the age of discretion, or that the plaintiff was under any physical or mental disability. Plaintiff’s consent to the surgical procedure involved was an act of volition, and was a personal right which was validly exercised.”

Abortion: New York was a repeal state; it legalized abortion effective July 1, 1970.³⁸² Any effect of the state’s ambiguous judicial mature minor doctrines is unclear. However, shortly before the repeal law went into effect, officials of New York City hospitals announced that they would perform abortions without parental consent on minors aged 17 and older.³⁸³ I have not found evidence on the policies of providers elsewhere in the state. The 1972 medical consent law referenced above permitted all women aged 18 and older to consent to medical care, including abortions.³⁸⁴

North Carolina

Age of majority: North Carolina lowered the age of majority from 21 to 18 effective July 5, 1971.³⁸⁵

Contraception: North Carolina passed a medical consent law in 1971 to permit minors aged 18+ to consent to any medical treatment. It amended the law effective July 1, 1977 to expand access to “any minor...for medical health services for the prevention, diagnosis, and treatment.... of pregnancy” excluding abortion.³⁸⁶ The Attorney General issued an opinion stating that under this law physicians could provide family planning services to minors without parental consent.³⁸⁷

Abortion: North Carolina was a reform state; it adopted MPC provisions effective May 9, 1967. This law included a parental consent provision that was removed effective May 23, 1973 when the law was substantially amended in the wake of *Roe v. Wade*.³⁸⁸ The State Attorney General issued an opinion in 1975 stating that under *Roe* and *Doe* it is impossible to “engraft any age requirement on the decisional ability of a pregnant female” to have a first trimester abortion.³⁸⁹ Contemporary sources differ on whether this opinion was used in practice to affirm minors’ rights to consent to abortion.³⁹⁰ North Carolina amended its

³⁸¹ *Bach v. Long Island Jewish Hospital*, 267 N.Y.S.2d 289 (1966).

³⁸² New York Penal Law, § 125.058 (2014); Merz, Jackson, and Klerman (1995).

³⁸³ DHEW (1974); Paul, Pilpel, and Wechsler (1974; 1976); “Abortions on minors approved” *The Palm Beach Post*, June 27, 1970.

³⁸⁴ New York Public Health Law, § 2504 (2009).

³⁸⁵ N.C. Gen. Stat. § 48A-1 (2009); *Crouch v. Crouch*, 187 S.E. 2d 348 (1972).

³⁸⁶ N.C. Gen. Stat. § 90-21.5 (2009).

³⁸⁷ Op. Att’y. Gen. N.C. 55 (August 31, 1977).

³⁸⁸ Merz, Jackson, and Klerman (1995).

³⁸⁹ Op. Att’y. Gen. N.C. (January 28, 1975) as quoted in DHEW (1978).

³⁹⁰ DHEW (1978) concludes that no age requirement would be imposed on minors seeking abortions, but

medical consent law in 1977 to permit minors to consent to medical treatment related to pregnancy, specifically excluding abortion. This law would presumably have been unenforceable under the *Danforth* decision.³⁹¹

North Carolina enacted a parental consent law effective October 1, 1995.³⁹² The law has survived a court challenge and continues to be enforced.³⁹³

North Dakota

Age of majority: In 1960 the age of majority in North Dakota was 18 for females and 21 for males. North Dakota lowered the age of majority for males to 18 in effective July 1, 1971.³⁹⁴

Contraception: No statutory or case law, Attorney General's opinions, or secondary sources were found regarding minors' ability to consent to contraception in North Dakota.

Abortion: North Dakota's pre-Roe abortion law, which prohibited abortion unless performed to save the life of the woman, was held to be unconstitutional after *Roe*.³⁹⁵ In ruling the North Dakota's abortion statute illegal, the court noted that the Attorney General "has advised the State's Attorney to prosecute abortion cases" which suggests that abortion may not have been clearly legal in North Dakota before November 1974.

After the pre-Roe law was struck down, North Dakota enacted a new law effective July 1, 1975 that required parental consent for minors.³⁹⁶ Enforcement of the law, which did not provide a bypass option, was enjoined on July 9, 1979 and the parental consent provision was struck down in 1980.³⁹⁷ The North Dakota legislature amended the parental consent law effective July 1, 1981; that law remains in effect.³⁹⁸

Ohio

Paul, Pilpel, and Wechsler (1974, 1976) indicate that the age of consent for abortion in North Carolina was 18.

³⁹¹ In *Wilkie v. Hoke* 609 F. Supp. 241 (May 21, 1985), a District Court noted that the law "appears to be unconstitutional" because it lacks a judicial bypass option" in a case in which a minor was permitted to consent to abortion, but also states that "no ruling on this question is required by this motion." Newspaper articles describing North Carolina's history of abortion legislation indicate that the 1977 law was not enforced by the early 1980's. See, "State-by-state laws on abortion," *The Spokane Chronicle* (July 3, 1988); "N.C. joins 14 states in curbing some teens' access to abortion," *Charlotte Observer* (July 20, 1995).

³⁹² N.C. Gen. Stat. §§ 90-21.6 through 90-21.10 (2009); "Teens' abortion access limited, new consent requirement to involve family or judge," *Charlotte Observer* (October 1, 1995).

³⁹³ *Manning v. Hunt* 199 F.3d 254 (July 11, 1997).

³⁹⁴ N.D. Cent. Code § 14-10-01 (2009); Effective date reported in *Tang v. Ping* 209 N.W. 2d 624 (July 13, 1973).

³⁹⁵ *Leigh v. Olson* 385 F. Supp. 255 (November 26, 1974).

³⁹⁶ N.D. Cent. Code § 14-02.1-03 (2009); Merz, Jackson, and Klerman (1995).

³⁹⁷ *Leigh v. Olson* 497 F. Supp. 1340 (September 26, 1980).

³⁹⁸ N.D. Cent. Code § 14-02.1-03.1 (2009); Merz, Jackson, and Klerman (1995); Bob Jansen "Newly effective laws bring change" *The Bismarck Tribune* July 1, 1981.

Age of majority: Ohio lowered the age of majority from 21 to 18 effective January 1, 1974.³⁹⁹

Contraception: Ohio had a Comstock law in place in 1960 that contained a legitimate business exemption.⁴⁰⁰ The Ohio Supreme Court adopted a mature minor doctrine for medical treatment in *Lacey v. Laird* on December 12, 1956.⁴⁰¹ Effective July 28, 1975, Ohio passed a law requiring that consent for surgical or medical procedures be obtained for patients who lack legal capacity to consent.⁴⁰² This law does not overrule the pre-existing judicial mature minor doctrine; rather, it only applies to minors who are not sufficiently mature to understand the nature and consequences of a treatment.⁴⁰³

Abortion: Ohio enacted parental consent legislation effective September 16, 1974. The law was challenged and preliminary enjoined on March 11, 1976 and held to be unconstitutional on August 25, 1976 because it was inconsistent with the standards enunciated in *Danforth*.⁴⁰⁴

A parental notification law was enacted in November 1985. The law was challenged and a permanent injunction barring its enforcement was issued before its March 1986 effective date. The U.S. Supreme Court reversed on June 25, 1990 in *Ohio v. Akron Center for Reproductive Health*, and the law went into effect on October 5, 1990.⁴⁰⁵ Subsequently, the Ohio General Assembly passed H.B. 421 on January 14, 1998, amending the law to require the consent of at least one parent. Following a judicial challenge, the state Supreme Court held that the parental consent provision of the law could be enforced in a ruling issued September 8, 2005.⁴⁰⁶

Oklahoma

Age of majority: In 1960 the age of majority in Oklahoma was 18 for females and 21 for males. The legislature lowered the age of majority for males from 21 to 18 effective August 1, 1972.⁴⁰⁷

Contraception: Oklahoma passed a family planning services law in 1967 establishing state family planning centers and stating that the State Board of Health could promulgate rules as to the eligibility of persons for the service. DHEW reports indicate that the Oklahoma

³⁹⁹ Ohio Rev. Code Ann. § 3109.01 (2009).

⁴⁰⁰ Bailey and Davido (2009).

⁴⁰¹ *Lacey v. Laird* 166 Ohio St. 12, 139 N.E. 2d 25 (1956). See, however, James Pohlman, "Developments in the Law: the Physician and the Minor Patient," *The Ohio State Medical Journal*, 70(1): 4-8 (1974). The author advises caution in applying the mature minor doctrine to minors under the age of 18.

⁴⁰² Ohio Rev. Code Ann. § 2317.54 (2009).

⁴⁰³ Paul, Pilpel, and Wechsler (1976); DHEW (1978).

⁴⁰⁴ Merz, Jackson, and Klerman (1995). *Hoe v. Brown* 446 F. Supp. 329 (1976).

⁴⁰⁵ *Ohio v. Akron Center for Reproductive Health* 497 U.S. 502 (1990); "Court's decision stalls at least one abortion," *Dayton Daily News* (June 26, 1990); "Ohio abortion law pushes teens to court," *Pittsburgh Post-Gazette* (November 19, 1990); Merz, Jackson, and Klerman (1995).

⁴⁰⁶ *Cincinnati Women's Services v. Taft*, 466 F. Sup. 2d 934 (2005).

⁴⁰⁷ Okla. Stat. Ann. tit. 15, § 13 (2009); *Rives v. Cheshewalla* 203 Okla. 555; 224 P.2d 264 (1950); DHEW (1978); *Taylor v. Taylor*, 46 Okla. B.J. 1374 (1975).

Health Department did not require parental consent for contraception for minors referred by a recognized agency, clergyman, or physician.⁴⁰⁸

Oklahoma enacted a statute in effective May 29, 1975 granting a minor under the age of 18 the right to consent to health care if she is emancipated, married, or has a child. Minors who are or have been pregnant also may consent to care related to the prevention, diagnosis, and treatment of pregnancy.⁴⁰⁹ Under this statute, an unmarried minor who had not previously had a child would not be permitted to consent to contraception. In 1986 the Attorney General issued an opinion that the statute violated Title X of the federal Public Health Services Act and that an entity receiving funds under this act would be precluded from requiring parental consent.⁴¹⁰

Abortion: Oklahoma's pre-Roe statute banning abortion except to save the life of the woman was held to be unconstitutional on January 31, 1973.⁴¹¹ Okla. Stat. Ann. tit. 63, § 2602, effective May 29, 1975, explicitly excludes abortion from services to which a minor can consent. This is presumably unconstitutional following *Danforth*.

In June 4, 2001 the signed a law providing that "Any person who performs an abortion on a minor without parental consent or knowledge shall be liable for the cost of any subsequent medical treatment such minor might require because of the abortion."⁴¹² Shortly after the law took effect in July, Nova Health Systems filed suit seeking declaratory and injunctive relief. This lawsuit indicates that Nova Health Systems (aka Reproductive Services in Tulsa, OK) had begun requiring parental consent in response to the law, and had turned away 31 minors seeking abortions between June 2001 and January 2002 as a result of the law. On June 14, 2002 a lower court issued a permanent injunction barring enforcement, but in 2004 an appellate court reversed and allowed the law to again take effect.⁴¹³ The legislature passed a broad parental notification law with clear bypass provisions effective May 20, 2005.⁴¹⁴ The legislature amended the law to require notification and consent effective November 1, 2006.⁴¹⁵

Oregon

Age of majority: Oregon lowered the age of majority from 21 to 18 effective October 5, 1973.⁴¹⁶

⁴⁰⁸ DHEW (1974, 1978).

⁴⁰⁹ Okla. Stat. Ann. tit. 63 ch. 53, §§ 2601 through 2605 (2009).

⁴¹⁰ Okla. Op. Atty Gen. No. 85-73 (January 24, 1986).

⁴¹¹ *Jobe v. State* OK CR 51; 509 P.2d 481 (1973).

⁴¹² Okla. Stat. tit. 63, § 1-740 (2009).

⁴¹³ *Nova Health Systems v. Fogarty*, Case No. 01-CV-0419-EA (June 14, 2002). Reversed 388 F.3d 744 (November 3, 2004).

⁴¹⁴ Okla. Stat. Ann. tit. 63, § 1-740.1 through 1-740.5 (2005); AP "Delay sought in enforcement of abortion law, pending appeal" The Daily Oklahoman June 1, 2005.

⁴¹⁵ Okla. Stat. Ann. tit. 63, § 1-740.1 through 1-740.5 (2006).

⁴¹⁶ Ore. Rev. Stat. § 109.510 (2007). Effective date reported in *Lekas v. Lekas*, 23 Ore. App. 601 (1975).

Contraception: Oregon passed a law effective September 9, 1971 that permitted all minors to consent to receiving birth control services and minors aged 15 and older to consent to medical care.⁴¹⁷ Physicians may, but are not required to, notify parents.⁴¹⁸

Abortion: Oregon was a reform state; it adopted MPC provisions effective August 22, 1969. The statute included a parental consent provision. The entire law, including the parental consent provision, was struck down after *Roe* on February 28, 1973.⁴¹⁹ Since this date Oregon has not replaced the parental involvement provision.

Pennsylvania

Age of majority: Unless the context of a law indicates otherwise, the legal age of majority in Pennsylvania has been 21 since September 1, 1937.⁴²⁰

Contraception: Pennsylvania adopted The Minors' Consent Act effective February 13, 1970 that gave minors age 18 and over or minors who were married, pregnant, or graduated from high school the right to consent to medical care.⁴²¹ The act additionally stipulated that "any minor may give effective consent for medical and health services to determine the presence of or to treat pregnancy, and venereal disease." A district court decision on September 11, 1997 interpreted this law as allowing minors to obtain contraception without parental consent.⁴²²

Abortion: The Pennsylvania legislature passed the "Abortion Control Act," which included a parental consent provision, on September 10, 1974. Enforcement was enjoined before the law went into effect and the law was subsequently held to be unconstitutional on December 3, 1975.⁴²³ The legislature subsequently passed a new "Abortion Control Act" in 1982. The law included five provisions that were immediately challenged as unconstitutional: (1) informed consent (2) spousal notification (3) parental consent (4) 24 hour waiting period (5) reporting requirements. Enforcement of these five provisions was permanently enjoined by the District Court before the law could go into effect. The Court of Appeals affirmed the decision related to spousal notification, but reversed the decision related to the remaining four provisions. The Supreme Court affirmed the Court of Appeals' decision but remanded the case for further proceedings. The law went into effect on March 20, 1994.⁴²⁴

⁴¹⁷ Oreg. Rev. Stat. § 109.640 (2007); Merz, Jackson, and Klerman (1995).

⁴¹⁸ Oreg. Rev. Stat. § 109.650 (2007).

⁴¹⁹ DHEW (1978); Merz, Jackson, and Klerman (1995).

⁴²⁰ 1 Pa.C.S. § 1991 (2009).

⁴²¹ 35 P.S. § 10101 (2009); DHEW (1974); Merz, Jackson, and Klerman (1995).

⁴²² *Parents United for Better Sch., Inc. v. Sch. Dist. of Philadelphia Bd. of Educ.*, 978 F.Supp 197 (1997); Lourdes M. Rosado, "Consent to treatment and confidentiality provisions affecting minors in Pennsylvania, Juvenile Law Center (2006).

⁴²³ *Doe v. Zimmerman* 405 F. Supp. 534 (1975); Merz, Jackson, and Klerman (1995). Dolores Frederick, "State Abortion Code Same As New Ruling," *Pittsburgh Press* (July 2, 1976) confirms that minors could obtain abortions in Pennsylvania hospitals under the rulings on the 1974 law. The article quotes the director of Women's Health Services as saying they "have never required spousal or parental consent for abortions" and a legal assistant for the state welfare department as saying that the state had never required parental consent for abortions on minors but had left the decision up to physicians.

⁴²⁴ *Planned Parenthood of Southeastern Pennsylvania v. Casey* 200 U.S. 321 (June 29, 1992); Merz, Jackson, and Klerman (1995); Tamar Lewin, "Pennsylvanians await abortion law," *The New York Times* (March 19,

Rhode Island

Age of majority: Rhode Island lowered the age of majority to 18 effective March 29, 1972.⁴²⁵

Contraception: No statutory or case law, Attorney General's opinions, or secondary sources were found regarding minors' ability to consent to contraception in Rhode Island.

Abortion: Rhode Island's pre-Roe statutes forbid abortion except to save the life of the woman. In 1980 the Rhode Island legislature passed the Informed Consent for Abortion Act, which governed the manner and time in which informed consent for abortions must be given. This act was challenged, and enforcement enjoined before it went into effect. While that suit was pending, the legislature amended the act in 1981 to add a parental notification requirement. This was also unenforced, and the entire law was struck down on January 15, 1982.⁴²⁶ The law was then repealed and replaced with a parental consent law that went into effect September 1, 1982.⁴²⁷

South Carolina

Age of majority: South Carolina lowered the age of majority from 21 to 18 effective February 6, 1975.⁴²⁸

Contraception: South Carolina enacted a law effective June 2, 1972 that permits minors aged 16 or older to consent to health services "unless such involves an operation which shall be performed only if such is essential to the health or life of such child in the opinion of the performing physician."⁴²⁹ The Attorney General stated in 1972 that contraception fell under the category of "health services," and that this law, therefore, permitted minors age 16 and older to consent to birth control.⁴³⁰

The act also allows "health services of any kind may be rendered to minors of any age without the consent of a parent or legal guardian where, in the judgment of a person authorized by law to render a particular health service, such services are deemed necessary unless such involves an operation which shall be performed only if such is essential to the health or life of the child." In 1976 the Attorney General stated that according to this statute a provider could provide family planning services to minors under age 16 if "in the

1994).

⁴²⁵ R.I. Gen. Laws Ann. § 15-12-1 (2009). Effective date reported in *Calcagno v. Calcagno* 121 R.I. 723 (1978).

⁴²⁶ *Women's Medical Ctr. of Providence, Inc. v. Roberts*, 530 F. Supp. 1136 (1982); Merz, Jackson, and Klerman (1995).

⁴²⁷ R.I. Gen. Laws Ann. § 23-4.7-6 (2009).

⁴²⁸ S.C. Const. Ann. Art. XVII, § 14 (2009). Effective date reported in *Cason v. Cason* 247 S.E.2d 673 (1978).

⁴²⁹ S.C. Code Ann. § 63-5-330 through § 63-5-360 (2009). Formerly numbered § 32-565 et seq.

⁴³⁰ Op. Atty. Gen. No. 3364 (August 23, 1972).

judgment of the provider, the services are necessary to maintain the well-being of that child."⁴³¹

Abortion: South Carolina was a reform state; it adopted MPC provisions effective January 29, 1970.⁴³² This statute required parental consent for minors. The statute was declared unconstitutional on July 16, 1973 with no comment on the parental consent requirement.⁴³³ The Attorney General previously stated that no minor in South Carolina could consent to an operation since the state's medical consent law explicitly excludes surgery from the list of services to which minors may consent.⁴³⁴ South Carolina repealed its pre-Roe abortion law in 1974 and replaced it with a new law that required parental consent for abortion for minors under 16. The law did not include a bypass provision and was ruled unconstitutional under *Danforth* on November 4, 1977.⁴³⁵

South Carolina enacted a new parental consent law in 1990 that states "no person may perform an abortion on a minor unless consent is obtained..." where minor is defined as a woman under the age of 17. This law has been enforced since May 26, 1990.⁴³⁶

South Dakota

Age of majority: South Dakota recognized an age of majority of 18 for women and 21 for men since at least 1939.⁴³⁷ The state recodified lowered the age of majority for males to 18 in 1972.⁴³⁸ The differential age of majority is not mentioned in secondary sources, but is confirmed in the statutory language and judicial rulings referencing the age of majority.⁴³⁹

Contraception: No statutory or case law, Attorney General's opinions, or secondary sources were found regarding minors' ability to consent to contraception in South Dakota.

Abortion: South Dakota enacted a parental consent law effective March 28, 1973 as part of a broader abortion control act codified as §§22-16-18, 22-17-1, and 22-17-2. The law did not include a bypass provision and was presumably unconstitutional after *Danforth*, but it remained unchallenged.⁴⁴⁰ South Dakota amended its abortion statutes in 1993 and added a parental notification requirement. Enforcement of the law, which did not have a judicial bypass provision, was enjoined before it went into effect and it was eventually struck down.⁴⁴¹ The act was amended effective July 1, 1997 to include a judicial bypass

⁴³¹ Op. Atty. Gen. No. 596 (March 11, 1976).

⁴³² Merz, Jackson, and Klerman (1995).

⁴³³ *State v. Kenneth* 198 S.E.2d 253 (July 16, 1973).

⁴³⁴ Op. Atty. Gen. No. 3364 (1972).

⁴³⁵ *Floyd v. Anders*, 440 F. Supp. 535 (1977).

⁴³⁶ S.C. Code Ann. §§ 41-41-10 through 41-41-31 (2009).

⁴³⁷ S.D. Codified Laws § 43-1-1 (1939), subsequently renumbered § 26-1-1.

⁴³⁸ S.D. Codified Laws § 26-1-1 (2009).

⁴³⁹ See, e.g., *Gruba v. Chapman*. 1915. 36 S.D. 119, describing the differential age in a case involving a mortgage contract. *Comstock v. Comstock*. 1981. 116 Cal. App. 3d 481, which describes the application of the differential age of majority to a child support order.

⁴⁴⁰ DHEW (1978); Merz, Jackson, and Klerman (1995).

⁴⁴¹ *Planned Parenthood v. Miller* 63 F.3d 1452 (1995).

provision and again effective July 1, 2005 to require parental notification of emergency abortions.⁴⁴²

Tennessee

Age of majority: Tennessee lowered the age of majority from 21 to 18 effective May 11, 1971.⁴⁴³

Contraception: The Family Planning Act of 1971 provides that contraceptive services can be provided to any minor who "requests and is in need of birth control procedures, supplies, or information."⁴⁴⁴ In a letter dated July 23, 1971 the state Attorney General indicated that under this act physicians could provide contraceptives to minors without parental consent.⁴⁴⁵

Abortion: Tennessee enacted a parental notification statute effective July 1, 1979.⁴⁴⁶ The state's Attorney General issued a letter on September 5, 1979 declining to enforce the law, and the law was found to be unconstitutional on October 24, 1979.⁴⁴⁷

In 1982 the General Assembly re-codified the state's abortion statutes without substantial changes. In 1988 the General Assembly repealed the unenforceable parental notification law and enacted a parental consent law codified as § 37-10-301 et seq.⁴⁴⁸ The parental consent requirement was held to be unconstitutional on June 30, 1989, one day before its scheduled effective date.⁴⁴⁹ This ruling was appealed, but in the meantime the General Assembly passed a parental notification codified as Tenn. Code Ann. § 39-15-202(f), that was substantially identical to the 1979 parental notification law. The notification requirement became effective November 1, 1989, but the Attorney General stated that the law was substantially identical to the 1979 law that had been found unconstitutional and therefore could not be enforced.⁴⁵⁰ Naral reports from this period indicate that the law was "unenforceable."⁴⁵¹ In 1991, The Tennessee Supreme Court determined that the parental consent statute (Tenn. Code Ann. §§ 37-10-301 et seq.) had been repealed by implication when the legislature enacted the parental notification statute (§ 39-15-202(f)), but would not deliver an opinion on the constitutionality of either statute. The Court addressed the Attorney General's argument that the notification law was not enforceable, concluding "The fact that a prior notification statute was determined to be unconstitutional by a trial-level court some 12 years ago does not overcome the presumption that the law

⁴⁴² S.D. House Bill 1087; S.D. Codified Laws § 34-23A-7 (2009); Naral (2010).

⁴⁴³ Tenn. Code Ann. § 1-3-105 (2009).

⁴⁴⁴ Tenn. Code Ann. § 68-34-107 (2009).

⁴⁴⁵ Letter from Lance D. Evans, Attorney General, to Thurman T. McLean, Jr., Staff Attorney, Department of Public Health (July 23, 1971).

⁴⁴⁶ Tenn. Pub. Acts 762, codified as Tenn. Code Ann. § 39-302(f).

⁴⁴⁷ *Planned Parenthood of Nashville v. Alexander*, No. 79-843-II (October 24, 1979); Op. Att'y Gen. No. 88-35 (February 22, 1988) describes that office's refusal to defend the 1979 law.

⁴⁴⁸ Tenn. Pub. Acts 868, codified as Tenn. Code Ann. § 37-10-301 et seq.

⁴⁴⁹ *Planned Parenthood v. McWherter*, 716 F. Supp. 1064 (June 30, 1989).

⁴⁵⁰ See Merz, Jackson, and Klerman (1995) and *Planned Parenthood of Nashville v. McWherter*, 817 S.W.2d 13 (September 9, 1991).

⁴⁵¹ NARAL (1991).

reenacted in 1989 is constitutionally valid...in the absence of a proper court challenge, the issue is currently nonjusticiable."⁴⁵² The following year Planned Parenthood of Nashville and Memphis Planned Parenthood challenged the parental notification requirement. The parental notification provision was upheld and allowed to go into effect on November 19, 1992, the first time it was enforced since the seventies.⁴⁵³

While an appeal of this ruling was pending, the General Assembly repealed the parental notification law (§ 39-15-202(f)) and revived the parental consent law (§§ 37-10-301 et seq.) on May 26, 1995. Despite this legislative change, the plaintiffs declined to amend their complaint to challenge the parental consent law rather than the now repealed notification law. The trial court, however, ruled on the constitutionality of the newly reenacted parental consent law, upholding its constitutionality in August 1995. This ruling was challenged, and enforcement of the consent law was enjoined on July 9, 1996.⁴⁵⁴ In 1998 the Court of Appeals ruled that the trial court erred in ruling on the constitutionality of the parental consent law when neither party had the opportunity to present evidence or legal arguments regarding that law.⁴⁵⁵ The injunction was reversed on May 5, 1999 and the law became effective January 14, 2000.⁴⁵⁶ Naral reports from 1989 to present indicate that a parental consent law was being enforced in Tennessee in 1993-1995

Texas

Age of majority: Texas lowered the age of majority from 21 to 18 effective August 27, 1973.⁴⁵⁷

Contraception: A Texas law passed in 1973 governing minor's access to medical care allows minors to consent to medical care if they are married, legally emancipated, over age 16 and living independently, or pregnant and consenting to pregnancy-related care excluding abortion.⁴⁵⁸ No law specifically grants minors the ability to consent to contraception. However, Texas places other restrictions on minors' access to contraception. In 1997 the legislature passed a budget bill with a rider requiring that clinics receiving state funds (but not Title X funds) must obtain parental consent to provide minors with contraception. The requirement went into effect with a February 4, 1998 Supreme Court ruling.⁴⁵⁹

Abortion: Texas passed a parental notification statute in 1999 effective January 1, 2000.⁴⁶⁰ In addition, in 2005 Texas enacted a parental notification and consent statute effective

⁴⁵² *Planned Parenthood of Nashville v. McWherter*, 817 S.W.2d 13 (September 9, 1991).

⁴⁵³ Naral (1993, 1995).

⁴⁵⁴ *Memphis Planned Parenthood v. Sundquist* 2 F. Supp. 2d 997 (August 27, 1997); NARAL (2000).

⁴⁵⁵ *Planned Parenthood of Middle Tennessee v. Sundquist*, Appeal No. 01A01-9601-CV-00052 (August 12, 1998).

⁴⁵⁶ *Memphis Planned Parenthood v. Sundquist*, 175 F.3d 456 (May 5, 1999).

⁴⁵⁷ Tex. Civ. Prac. and Rem. Code § 129.001 (2010); DHEW (1978); Merz, Jackson, and Klerman (1995).

⁴⁵⁸ Tex. Fam. Code § 32.003 (2010); DHEW (1978).

⁴⁵⁹ *Patterson v. Planned Parenthood of Houston*, 971 S.W.2d 439 (February 4, 1998).

⁴⁶⁰ Tex. Fam. Code § 33.001 et seq. (2010).

September 1, 2005 via its licensing statutes for doctors.⁴⁶¹ Neither law has not been challenged in court.

Utah

Age of majority: The age of majority in 1960 in Utah was 18 for females and 21 for males. In 1975 Utah lowered the age of majority from 21 to 18 for males in response to a U.S. Supreme Court ruling that the different standard for men and women was discriminatory.⁴⁶²

Contraception: On July 21, 1971 the state Attorney General issued an opinion advising the Utah Division of Family Services against providing contraceptives to minors without parental consent "until such time as the state legislature may adopt appropriate legislation."⁴⁶³ In 1973 the Utah Supreme Court reversed a lower court decision and upheld the right of a Utah Planned Parenthood agency to require parental consent to distribute contraceptives to minors on the grounds that it did not violate any federal or state law.⁴⁶⁴ Two years later, a Federal District Court ruled it was unconstitutional to require parental consent for minors at clinics receiving federal aid both because this conflicted with federal regulations and because it violated a minors' right to privacy.⁴⁶⁵

In 1983 Utah enacted a law requiring that "any person before providing contraceptives to a minor...shall notify the minor's parents or guardians of the service requested."⁴⁶⁶ Before the law took effect it was ruled unconstitutional, and enforcement was enjoined.⁴⁶⁷ In 1985 Utah enacted a law prohibiting the use of public funds to provide contraception or abortion to minors without parental consent. A U.S. District Court held that this violated Title XIX of the Social Security Act.⁴⁶⁸ The law was amended in 1988 to apply only to state or political subdivision of funds.⁴⁶⁹

Abortion: Effective March 20, 1973, Utah repealed its pre-Roe abortion legislation prohibiting abortion except to save the life of the mother and replaced it with a comprehensive abortion control law (codified as §§ 76-302 to 76-319) that included a parental consent provision. The statutes were ruled unconstitutional on September 7, 1973.⁴⁷⁰ The state repealed this law and enacted a replacement effective April 4, 1974 that required parental notification "if possible."⁴⁷¹ The law was upheld by Utah state courts in 1980 and by the U.S. Supreme Court on March 23, 1981 in the case of immature and unemancipated minors.⁴⁷² The law appeared to be enforced in the case of unemancipated,

⁴⁶¹ Tex. Occ. Code § 164.052 (2010).

⁴⁶² Utah Code Ann. § 15-2-1 (2009); *Stanton v. Stanton*, 421 U.S. 7 (1975).

⁴⁶³ Op. Atty. Gen. No. FO71-017 (July 21, 1971).

⁴⁶⁴ *Doe v. Planned Parenthood Ass'n. of Utah*, 29 Utah 2d 356 (1973).

⁴⁶⁵ *In T.H. v. Jones*, No. C 74-276 (July 23, 1975).

⁴⁶⁶ Utah Code Ann. § 76-7-325 (2009).

⁴⁶⁷ *Planned Parenthood Ass'n v. Matheson*, 582 F. Supp. 1001 (1983).

⁴⁶⁸ *Planned Parenthood Ass'n v. Dandoy*, 635 F. Supp. 184 (1986).

⁴⁶⁹ Utah Code Ann. § 76-7-321 – 324 (2009).

⁴⁷⁰ *Doe v. Rampton*, 366 F. Supp. 189 (1973).

⁴⁷¹ Utah Code Ann. § 76-7-304 (2009).

⁴⁷² *H.L. v. Matheson*, 450 U.S. 398 (1981).

immature minors.⁴⁷³ The status of the law with respect to mature minors is somewhat unclear. In 1986, the Utah Supreme Court heard a case related to a 17-year-old seeking permission to forgo parental notification on the grounds that she was mature. The Court denied this request, but the opinion suggests that the law was being enforced.⁴⁷⁴ Effective May 1, 2006 Utah enacted a parental consent statute.⁴⁷⁵

Vermont

Age of majority: Vermont lowered the age of majority from 21 to 18 effective July 1, 1971.⁴⁷⁶ The law was amended effective March 29, 1972 to clarify that "The statutory revision commission shall delete any other reference to 'twenty-one years of age' or any similar phrase wherever it may appear in the Vermont statutes annotated in a context prescribing age of majority and insert in lieu thereof the words 'age of majority' or other language as may be required by the context to effect the same purpose."⁴⁷⁷

Contraception: No statutory or case law, Attorney General's opinions, or secondary sources were found regarding minors' ability to consent to contraception in Vermont.

In 2005 Vermont enacted legislation making Plan B emergency contraception available over the counter, making it one of 8 states to do so prior to a 2006 change in federal policy. The Vermont statute made no mention of minors.⁴⁷⁸

Abortion: Vermont's pre-Roe statute making it illegal for a physician to perform an abortion except to save the life of the mother was held to be unconstitutional by the state Supreme Court on January 14, 1972.⁴⁷⁹ The court held that the law was inconsistent because it allowed a woman to abort her child but did not permit a physician to aid her in doing so. Attorney General James Jeffords issued an advisory following the ruling stating that physicians and women should not be prosecuted for abortions as long as they were performed in the first trimester and to preserve the physical and mental health of the woman. Despite these rulings, there seems to have been little immediate change in the number of abortions performed in Vermont. A newspaper article from April 1972 states that "a check of Vermont Hospitals showed that they have not been inundated with abortion requests and that administrators and trustees have been reluctant to change their policies, which were based on the strict statute."⁴⁸⁰ According to the article, the Medical Center Hospital in Burlington maintained the same policy as under the older law, the Central Vermont Medical Center in Berlin had made no decision because a physician had not requested permission to perform an abortion, and Planned Parenthood Vermont stated that it was still referring Vermont women to New York state for abortions and would not

⁴⁷³ Merz, Jackson, and Klerman (1995); English and Kenney (2003).

⁴⁷⁴ *H.B. v. Wilkinson*, 639 F. Supp 952 (1986).

⁴⁷⁵ Utah Code Ann. § 76-7-304.5 (2009).

⁴⁷⁶ 1 V.S.A. § 173 (2010); Council of State Governments (1972, 1973); Agis Salpukas, "Youths see little effect from newly won rights." *New York Times* (January 1, 1972).

⁴⁷⁷ 1 V.S.A. § 173 (2010).

⁴⁷⁸ 26 V.S.A. (2017) added in 2005 by House Bill 237.

⁴⁷⁹ *Beecham v. Leahy*, 287 A.2d 836 (January 14, 1972).

⁴⁸⁰ "Little change in Vermont abortion situation." *Nashua Telegraph* (April 12, 1972).

change this procedure until Vermont hospitals changed their positions. A subsequent article from October of 1972 stated that there had been no change in hospital positions at that time.⁴⁸¹

Statistics on abortions and abortion referrals further suggest that abortion did not become available in Vermont following the court ruling in January of 1972. From January through September of 1972, the state of Vermont reported that 16 legal abortions were performed in the state.⁴⁸² Of those, 10 were at the Vermont Women's Health Center during its first two weeks of operation after opening in September of 1972.⁴⁸³ This center provided abortions, but was characterized by a member of its board of trustees in October of 1972 as "a small clinic with four part-time physicians and no possibility or desire to handle a large number of patients."⁴⁸⁴ By the end of 1972, CDC surveillance figures indicate that 193 legal abortions had been performed in Vermont, up from 9 the year before.⁴⁸⁵ In 1973, the number of legal abortions performed in Vermont rose to 1,401 following the legalization of abortion nationwide with *Roe v. Wade*.⁴⁸⁶ This corresponds to about 117 abortions per month in 1973 versus about 1 abortion per month during the first nine months of 1972 and 59 per month in the last 3 months of 1972. These rough calculations combined with reports that no providers routinely performed abortions until a small clinic opened in October suggest that despite the Vermont State Supreme Court ruling legalizing abortion in January 1972, abortion did not begin to become available in the state until late in that year and even then it was available at only one small provider. For this reason, I do not treat Vermont as a repeal state.

No statutory or case law, Attorney General's opinions, or secondary sources were found regarding minors' ability to consent to abortion in Vermont.

Virginia

Age of majority: Virginia lowered the age of majority to 18 effective July 1, 1972.⁴⁸⁷

Contraception: Virginia law grants minors the ability to consent to "medical or health services required in case of birth control, pregnancy, or family planning" excepting sterilization and abortion. The portion of the law relevant to the ability to consent to birth control was effective November 1, 1971.⁴⁸⁸

Abortion: Virginia was a reform state; it adopted MPC provisions effective July 1, 1970. This statute included a parental consent provision for minors under age 19 which was subsequently lowered to 18 when the age of majority was lowered

⁴⁸¹ "Emotional and legal storm descends on health center." *Nashua Telegraph* (October 11, 1972).

⁴⁸² "Emotional and legal storm descends on health center." *Nashua Telegraph* (October 11, 1972).

⁴⁸³ "Emotional and legal storm descends on health center." *Nashua Telegraph* (October 11, 1972).

⁴⁸⁴ "Emotional and legal storm descends on health center." *Nashua Telegraph* (October 11, 1972)..

⁴⁸⁵ Smith and Bourne (1973).

⁴⁸⁶ Joyce et al. (2013).

⁴⁸⁷ Va. Code Ann. § 1-204 (2009). Effective date reported in *Hurdle v. Prinz*, 218 Va. 134 (1977).

⁴⁸⁸ Codified as § 32-423, since renumbered; see Va. Code Ann. § 54.1-2969 (2009). Effective date reported in Op. Atty Gen. Va. 354 (June 9, 1971).

on July 1, 1972.⁴⁸⁹ This parental consent provision presumably was invalidated by Danforth. A December 6, 1976 letter from the Assistant Attorney General stated that the "at present, Virginia does not require any consent from minors for an abortion."⁴⁹⁰ The parental consent provision was formally repealed on July 1, 1979.⁴⁹¹

In 1997 Virginia passed the Parental Notice Act requiring 24 hours advance notice to parents before a minor's abortion. The law was slated to go into effect on July 1, 1997, but the day before a U.S. district judge issued a preliminary injunction barring enforcement. Later that same day, on appeal from the state, the enjoinder order was stayed and the law was able to go into effect on scheduled.⁴⁹² Effective July 1, 2003, the law was amended to require parental consent.⁴⁹³

Washington

Age of majority: The Washington state legislature set the age of majority at 21 in 1923.⁴⁹⁴ In 1970 the Washington state legislature acted to expand the rights of young persons for specific enumerated purposes including permitting persons aged 18 and older to "make decisions in regard to their own body and the body of their lawful issue."⁴⁹⁵ The following year the legislature lowered the age of majority from 21 to 18 effective August 9, 1971.⁴⁹⁶

Contraception: The Washington State Board of Health adopted a policy on August 3, 1967 for the state health department regarding family planning programs funded by the state and operated by local health departments. The policy was codified as WAC § 248-128-01 on July 1, 1968. The regulation directed that all categories of minors were eligible for family planning services including contraception.⁴⁹⁷ It is not clear whether this regulation affected private physicians and other non-profits not governed by the board of health.⁴⁹⁸ The state legislature enacted a reproductive privacy statute on November 5, 1991 stating that "every individual has the fundamental right to choose or refuse birth control."⁴⁹⁹

Abortion: Washington was a repeal state; it passed a law effective December 3, 1970 legalizing abortion within four months of conception.⁵⁰⁰ This law contained a parental consent provision for minors under the age of 18 that was challenged and ruled

⁴⁸⁹ Merz, Jackson, and Klerman (1995).

⁴⁹⁰ Unpublished letter cited by DHEW (1978).

⁴⁹¹ Described in Op. Atty Gen. Va. 3 (March 26, 1979); Merz, Jackson, and Klerman (1995)..

⁴⁹² *Planned Parenthood of the Blue Ridge v. Camblos*, 155 F.3d 352 (1998).

⁴⁹³ Va. Code Ann. § 16.1-241 (2009).

⁴⁹⁴ 1923 Ex. Sess., ch. 72, codified as Code Wash. § 26.28.010. The act included a saving clause stating that it did not apply to females who had attained the age of 18 prior to its effective date.

⁴⁹⁵ 1970 Ex. Sess., ch. 17, codified as Code Wash. § 26.28.015.

⁴⁹⁶ Rev. Code Wash. § 26.28.010 (2009).

⁴⁹⁷ WAC §248-128-001 adopted effective July 1, 1968. This statute is described in DHEW (1974).

⁴⁹⁸ WAC §248-128-001 adopted effective July 1, 1968.

⁴⁹⁹ Rev. Code Wash. § 9.02.100 (2009).

⁵⁰⁰ Merz, Jackson, and Klerman (1995).

unconstitutional on January 7, 1975.⁵⁰¹ The state has enacted no other parental involvement laws. Moreover, Washington's reproductive privacy statute cited above states that "every woman has the fundamental right to choose or refuse to have an abortion."⁵⁰²

West Virginia

Age of majority: West Virginia lowered the age of majority from 21 to 18 effective June 9, 1972.⁵⁰³

Contraception: A July 15, 1992 ruling of the Supreme Court of Appeals of West Virginia recognized a mature minor doctrine.⁵⁰⁴

Abortion: West Virginia enacted a parental notification statute effective May 23, 1984. The statute include a physician bypass option that states "parental notification...may be waived by a physician, other than the physician who is to perform the abortion, if such other physician finds that the minor is mature enough to make the abortion decision independently or that notification would not be in the minor's best interest."⁵⁰⁵ The physician granting the bypass must in no way be associated professionally or financially with the physician performing the abortion.

Wisconsin

Age of majority: Wisconsin lowered the age of majority from 21 to 18 effective March 23, 1972.⁵⁰⁶

Contraception: Wisconsin had a Comstock law that prohibited the sale of contraception to unmarried people. The law was declared unconstitutional in *Baird v. Lynch* in 1974, and the case history indicates that the law was being enforced as of late 1974.⁵⁰⁷

Abortion: Wisconsin had a pre-Roe statute prohibiting abortions except to save the life of the pregnant woman. This statute was challenged, and on March 5, 1970 a U.S. District Court held that the prohibition of abortions prior to quickening was unconstitutional, but refused to grant injunctive relief at that time.⁵⁰⁸ On November 18, 1970, in response to the continued prosecution of the plaintiff, the District Court ordered that enforcement be enjoined to "protect and effectuate" the previous judgment.⁵⁰⁹ Early the following year the state Attorney General noted that pending decision of the appeal in the case, "both doctors

⁵⁰¹ *State v. Koome*, 530 P.2d 260 (1975).

⁵⁰² Rev. Code Wash. § 9.02.100 (2009).

⁵⁰³ W. Va. Code § 2-3-1 (2009).

⁵⁰⁴ *Belcher v. Charleston*, 422 S.E.2d 827 (1992).

⁵⁰⁵ W. Va. Code § 16-2F-3 (2009).

⁵⁰⁶ Wis. Stat. § 990.01 (2009). Effective date reported in 61 Op. Atty Gen. Wis. 245 (May 24, 1972).

⁵⁰⁷ *Baird v. Lynch*, 390 F. Supp. 740 (November 26, 1974).

⁵⁰⁸ *Babbitz v. McCann* 310 F. Supp. 293 (March 5, 1970).

⁵⁰⁹ *Babbitz v. McCann* 320 F. Supp. 219 (November 18, 1970).

and prosecutors are uncertain of their rights and liabilities."⁵¹⁰ The decision was appealed to the U.S. Supreme Court, which vacated the injunctive judgment (but not the earlier declarative judgment) and remanded it back to the district court on April 19, 1971.⁵¹¹

Inspired by the initial judgment in the Babbitz case, Dr. Alfred Kennan opened an abortion clinic in Madison in January 1971. On April 19, 1971, the day of the Supreme Court Decision vacating the injunction against prosecuting Babbitz, the Kennan abortion clinic was raided and Kennan was arrested. On April 27, 1971 enforcement against Kennan was enjoined in light of the earlier declarative judgment in Babbitz.⁵¹² Kennan re-opened his clinic on May 17 and resumed performing abortions.⁵¹³ In January of 1972, the U.S. Supreme Court refused to allow the prosecution to go forward. Wisconsin's abortion law remained in limbo until the *Roe v. Wade* decision.⁵¹⁴

Wisconsin did not pass significant abortion legislation affecting minors until 1985 when, effective November 20, 1985, it enacted the "Abortion Prevention and Family Responsibility Act." This act, codified as Wis. Stat. § 46.24, stated that abortion providers must "strongly encourage the minor patient to consult her parents or guardian regarding the abortion unless the minor has a valid reason for not doing so."⁵¹⁵ Effective July 1, 1992 Wisconsin passed a statute requiring the consent of a parent or, in lieu of a parent, a grandparent, aunt, uncle, or sibling who is over 25 years of age.⁵¹⁶

Wyoming

Age of majority: Wyoming lowered the age of majority from 21 to 19 effective January 1, 1973, and again from 19 to 18 effective July 1, 1993.⁵¹⁷

Contraception: Wyoming's age of majority statute also enumerates the conditions under which a minor may consent to health care treatment. These include marriage, active military service, and emancipation.⁵¹⁸ In 1969 Wyoming passed a law authorizing the state department of health to provide family planning services to "any person who may benefit from this information and these services."⁵¹⁹

Abortion: Wyoming passed a parental notification statute requiring 48 hours advance notice and written consent of at least one parent effective June 8, 1989.⁵²⁰

⁵¹⁰ 60 Op. Atty Gen. Wis. 26 (January 22, 1971).

⁵¹¹ *McCann v. Babbitz*, 402 U.S. 903 (April 17, 1971).

⁵¹² *Kennan v. Nichol*, 326 F. Supp. 613 (April 27, 1971).

⁵¹³ David Garrow, *Liberty and Sexuality*. New York: MacMillan (1995): 487-488.

⁵¹⁴ Press coverage from the period illustrates the uncertainty. See, e.g., "State Abortion Law Still in Legal Woods," *The Milwaukee Journal* (April 20, 1971); "Abortion Clinic Stirs Up Madison; Threat Delays Its Reopening after raid by police," *The New York Times* (May 2, 1971); "High Court Denies State Abortion Bid," *The Milwaukee Journal* (January 18, 1972); "Hospital Staff Urges Clinic for Abortions," *The Milwaukee Journal* (January 22, 1973); "Who gets an abortion?," *The Modesto Bee* (February 11, 1973).

⁵¹⁵ 85 Wis. Laws ch. 56; Merz, Jackson, and Klerman (1995).

⁵¹⁶ Wis. Stat. § 48.375 (2009).

⁵¹⁷ Wyo. Stat. § 14-1-101 (2010). See also DHEW (1978); *Thomas v. Thomas*, 913 P.2d 854 (1996).

⁵¹⁸ Wyo. Stat. § 14-1-101 (2010).

⁵¹⁹ Wyo. Stat. § 42-5-101 (2010); DHEW (1974, 1978).

⁵²⁰ Wyo. Stat. § 35-6-118 (2010).

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