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| <b>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</b><br>Denver City & County Building<br>1437 Bannock Street<br>Denver, CO 80202   | DATE FILED<br>July 8, 2025 7:10 PM<br>FILING ID: 78E03DDAADC12<br>CASE NUMBER: 2025CV32424<br><br><input type="checkbox"/> <b>COURT USE ONLY</b> <input type="checkbox"/> |
| <b>REBECCA COHEN, M.D., M.P.H.,</b><br><br><i>Plaintiff,</i><br><br>v.<br><br><b>JARED POLIS</b> , in his official capacity as<br>Governor of Colorado;<br><br><b>COLORADO MEDICAL BOARD;</b> and<br><br><b>STATE OF COLORADO.</b><br><br><i>Defendants.</i> |   |
| <b>MORRISON FOERSTER</b><br>Elisabeth Hutchinson (CO # 46569)<br>4200 Republic Plaza<br>370 Seventeenth St.<br>Denver, CO 80202<br>Phone: (720) 956-5678<br>Fax: (303)592-1510<br><a href="mailto:EHutchinson@mofo.com">EHutchinson@mofo.com</a>             | Case Number:<br><br>Div:  |
| <b>COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF</b>   |   |

Plaintiff Dr. Rebecca Cohen (“Plaintiff”), by and through her undersigned attorneys, brings this Complaint against the above-named Defendants, their employees, agents, and successors in office (“Defendants”), and in support thereof alleges the following:

**I. PRELIMINARY STATEMENT**

1. This is a case about a Colorado law that is denying vulnerable young people their constitutional rights to obtain an abortion at the very time that abortion care is being eradicated across the country.<sup>1</sup>

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<sup>1</sup> This Complaint uses “young people” or “young females” as shorthand for the unemancipated minors under the age of eighteen covered by the Parental Notice Requirement. Although most people with the capacity to become pregnant are females, some transgender males and nonbinary people also have the capacity to become pregnant. *See, e.g., Heidi Moseson et al., Development*

2. Plaintiff brings this action challenging Colo. Rev. Stat. §§ 13-22-701–708 (collectively, the “Parental Notice Requirement”) on behalf of herself and her patients who are young people. A copy of the Parental Notice Requirement is attached to this Complaint as Exhibit A.

3. With few exceptions, the Parental Notice Requirement prohibits clinicians from providing an abortion to a young person until at least forty-eight hours after one of her parents has been notified of the abortion.<sup>2</sup> Colo. Rev. Stat. § 13-22-704. Young people who do not satisfy the Requirement cannot obtain an abortion in Colorado unless they secure a judicial ruling concluding that parental notice is not in their “best interest” or that they are “sufficiently mature to decide whether to have an abortion.” *Id.* § 13-22-707(1)(a). Violations of the Parental Notice Requirement subject abortion providers to civil liability and professional discipline. *See id.* §§ 13-22-706(1), 12-240-106(1)(b), 12-240-120(1)(b)-(c), 12-240-121(1)(j), 12-240-125(5)(c)(III).

4. The Parental Notice Requirement impedes and prevents young people from obtaining an abortion.

5. For young people who are able to notify a parent of their abortion, it delays their abortion care.

6. For young people who are unable or reasonably unwilling to notify a parent, it forces them to seek a judicial bypass of the Requirement. For young people who are able to undertake the judicial bypass process, the process delays their abortion care, which can deprive them of abortion options and saddle them with increased medical risks, expenses, and psychological distress. The judicial bypass process also coerces young people to divulge intimate information to a series of strangers, which can cause them psychological distress.

7. Some young people find the judicial bypass process so daunting that they do not even try to undertake it.

8. The Parental Notice Requirement compromises the doctor-patient relationship of all young people seeking an abortion.

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*of an Affirming and Customizable Electronic Survey of Sexual and Reproductive Health Experiences for Transgender and Gender Nonbinary People*, 15(5) PLOS ONE: e0232154, at 2–3 (2020), <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0232154&type=printable>; Juno Obedin-Maliver & Harvey J. Makadon, *Transgender Men and Pregnancy*, 9 OBSTETRIC MED. 4, 4–6 (2016).

<sup>2</sup> Although the Parental Notice Requirement refers only to physicians, Colorado allows qualified Advanced Practice Clinicians (“APCs”), including nurse practitioners, physician assistants, and certified nurse midwives, to provide abortions. *See, e.g.*, Colo. Rev. Stat. § 12-255-111 (describing licensing requirements for and practice of advanced practice registered nurses). Thus, the Parental Notification Requirement applies to APCs, in addition to physicians, who provide abortions in Colorado.

9. Colorado does not require parental or judicial involvement for *any other reproductive healthcare*. *See id.* § 13-22-103.5. This includes interventions involving life-altering consequences and posing far greater medical risks than abortion, such as amniocentesis, the administration of synthetic oxytocin during childbirth, and caesarean sections (“c-sections”). *See id.*

10. The Parental Notice Requirement also discriminates based on gender. This discrimination is rooted in the social stereotype that the proper and central role of females is to bear and raise children irrespective of their individual circumstances, needs, talents, and aspirations. Unlike young females who choose abortion, those who seemingly conform to this social stereotype by deciding to remain pregnant need not involve a parent in their decision regardless of family dysfunction or undergo a judicial bypass process. Colorado does not comparably punish or burden young males who cause a pregnancy.

11. The U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022), which has enabled states lacking Colorado’s constitutional protections to ban abortion care and caused an influx of out-of-state abortion patients in Colorado, has amplified the Parental Notice Requirement’s injuries.

12. On November 5, 2024, Coloradans voted to amend their Constitution to protect the right to abortion. Colo. Const. art. II, § 32 (“Section 32”). Section 32 prohibits the government from “deny[ing], imped[ing], or discriminat[ing]” against the exercise of the right to abortion. *Id.*

13. The Parental Notice Requirement denies, impedes and discriminates against young people’s exercise of their right to abortion in defiance of Section 32. It also violates young people’s right to equal protection of the laws under Colorado’s Equal Rights Amendment (“ERA”), Colo. Const. art. 2, § 29, and the Due Process Clause of the Colorado Constitution, Colo Const. art. 2, § 25.

14. The Parental Notice Requirement provides no countervailing benefits. It neither helps ensure that young people confide in a parent, nor offers them information or support relevant to the decision of whether to continue a pregnancy.

15. Colorado has largely protected abortion access since long before *Dobbs*, having been the first state in the country to allow abortions to protect the physical or mental health of a pregnant patient and in cases of rape, incest, or fetal abnormality.<sup>3</sup> And soon after *Dobbs*, Colorado reaffirmed its longstanding commitment to serving as a haven for abortion seekers in light of their “loss of freedom . . . around the country[.]”<sup>4</sup>

16. By punishing marginalized young people throughout the country for choosing to seek an abortion rather than carry a pregnancy to term, the Parental Notice Requirement subverts

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<sup>3</sup> 1967 Colo. Sess. Laws. 284; *see* Colo. Stat. Ann. Ch. 48, § 56 (1935).

<sup>4</sup> Executive Order D-2022-032, *Directing State Agencies to Protect Access to Reproductive Health Care in Colorado*, <https://ewscripps.brightspotcdn.com/ea/92/9ab8c1ad465d81a69889dd38faba/d-2022-032-reproductive-health-eo-3.pdf>.

both Colorado’s Constitution and its legal history and directives in support of people needing abortion care.

17. Without relief from this Court, Plaintiff Dr. Cohen’s patients are unable to exercise their constitutional rights to obtain an abortion and to equal protection of the laws. Likewise, Dr. Cohen faces civil penalties and professional discipline for providing constitutionally protected medical care.

18. Dr. Cohen therefore seeks declaratory and permanent injunctive relief prohibiting the Defendants from enforcing the Parental Notice Requirement to protect herself and her patients from constitutional injuries, and to help ensure Colorado honors its commitment to abortion access during a public health crisis for pregnant patients.<sup>5</sup>

## II. JURISDICTION AND VENUE

19. This Court has jurisdiction over this action under Colo. Const. art. VI, § 9.

20. Plaintiff’s claims for declaratory relief are authorized by Colorado’s Uniform Declaratory Judgments Law, Colo. Rev. Stat. § 13-51-101–106 and Colo. R. Civ. P. 57.

21. Plaintiff’s claims for injunctive relief are authorized by Colo. R. Civ. P. 65 and by the broad legal and equitable powers of this Court. *See, e.g., Colo. Springs Bd. of Realtors, Inc. v. State*, 780 P.2d 494, 498 (Colo. 1989) (“A trial court has broad discretion to formulate the terms of injunctive relief when equity so requires.”).

22. Venue is proper in Denver County under Colo. R. Civ. P. 98(b)(2) and (c)(1) because Denver County is the official residence of Defendants Governor Polis and the Colorado Medical Board, and they enforce the Parental Notice Requirement there. *See 7 Utes Corp. v. District Court In and For Eighth Judicial Dist. (Jackson Cnty.)*, 702 P.2d 262, 266–67 (Colo. 1985) (en banc).

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<sup>5</sup> Criminal abortion bans have *killed at least five women*. *See* Lizzie Presser & Kavitha Surana, *A Third Woman Died Under Texas’ Abortion Ban. Doctors Are Avoiding D&Cs and Reaching for Riskier Miscarriage Treatments.*, PROPUBLICA (November 25, 2024), <https://www.propublica.org/article/porsha-ngumezi-miscarriage-death-texas-abortion-ban>. Criminal abortion bans have also reduced the quality of healthcare in states that ban abortion. *See* Daniel Grossman, MD et al., *Care Post-Roe: Documenting cases of poor-quality care since the Dobbs decision* at 4, ADVANCING NEW STANDARDS IN REPROD. HEALTH (May 2023), <https://www.ansirh.org/sites/default/files/2023-05/Care%20Post-Roe%20Preliminary%20Findings.pdf> (“The post-*Dobbs* laws and their interpretations altered the standard of care . . . in ways that contributed to delays, worsened health outcomes, and increased the cost and logistic complexity of care. In several cases, patients experienced preventable complications . . . because clinicians reported their ‘hands were tied[.]’”).

### III. PARTIES

#### A. Plaintiff

23. Plaintiff Rebecca Cohen, M.D., M.P.H., is Board-certified in Obstetrics and Gynecology (OB/GYN) and Complex Family Planning. She is licensed by the Colorado Medical Board. Dr. Cohen provides abortion care to patients, including young people, from throughout Colorado and the country at a family planning and OB/GYN clinic in Denver, Colorado. Dr. Cohen brings this lawsuit on behalf of herself and her patients who are young people.

#### B. Defendants

24. Jared Polis is the Governor of Colorado. The Governor is the “supreme executive” of Colorado and must “take care that the laws be faithfully executed.” Colo. Const. art. IV, § 2; *see Ainscough v. Owens*, 90 P.3d 851, 858 (Colo. 2004) (holding that the Governor is a proper defendant in a suit challenging the constitutionality of a state statute “because he is the state’s chief executive” and the “embodiment of the state”). The Governor’s offices are in Denver County. Governor Polis is sued in his official capacity for declaratory and injunctive relief.

25. The Colorado Medical Board has statutory authority to professionally discipline all physicians licensed by the Board, including Plaintiff Dr. Cohen. Colo. Rev. Stat. §§ 12-240-125(5)(c)(III); 12-240-113(5). Professional discipline includes “[m]ak[ing] investigations, hold[ing] hearings, and tak[ing] evidence . . . in all matters relating to the exercise and performance of the powers and duties vested in the board.” *Colo. Med. Bd. v. McLaughlin*, 451 P.3d 841, 846 (Colo. 2019) (citing Colo. Rev. Stat. §§ 12-240-105, 106(1)(b)). The Colorado Medical Board may professionally discipline a physician for “unprofessional conduct,” including “[a]ny act or omission that fails to meet generally accepted standards of medical practice[.]” Colo. Rev. Stat. §§ 12-240-121(1)(j); 12-240-125(5)(c); *see id.* § 12-20-404(1) (granting regulators the broad authority to discipline professional license holders for “conduct that constitutes grounds for discipline or unprofessional conduct”). The Colorado Medical Board’s offices are in Denver County.

26. The State of Colorado has an interest in establishing the constitutionality of a statute enacted by the General Assembly. *Lucchesi v. State*, 807 P.2d 1185, 1194 (Colo. App. 1990). The capitol of the State of Colorado is Denver.

27. Pursuant to Colo. Rev. Stat. § 13-51-115, all persons whose rights would be affected by the declarations sought in this lawsuit are named as Defendants.

### IV. FACTUAL ALLEGATIONS

#### A. Abortion is Much Safer and Less Burdensome Than Continuing a Pregnancy Through Childbirth, Especially for Young People

28. Even an uncomplicated pregnancy profoundly challenges a person’s physiology and major organs: it dramatically increases her blood volume, forcing her heart to work twice as hard; strains her lungs; compresses the organs in her abdomen; and elevates her risks for blood clots and infections. And every pregnancy-related complication, including severe nausea and

vomiting, gestational diabetes, and preeclampsia, is more common among patients giving birth than among those ending a pregnancy.<sup>6</sup>

29. Young people are at greater risk for certain pregnancy-related complications, such as preeclampsia. Yet, young people without parental support are less likely to obtain prenatal care.

30. Labor and delivery present their own medical risks and burdens. Labor can last anywhere from hours to days, be extremely painful, and involve tearing leading to incontinence and sexual dysfunction.<sup>7</sup> It can entail profuse bleeding and end in a c-section, a major abdominal surgery that carries serious medical risks.<sup>8</sup> And it can be mentally taxing and even traumatic.<sup>9</sup>

31. Notably, the risk of death associated with childbirth is more than twelve times higher than that associated with abortion.<sup>10</sup> The United States has a significantly higher rate of maternal mortality than other developed nations, which has only grown in recent years.<sup>11</sup> In 2022, 817 women died of maternal causes.<sup>12</sup>

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<sup>6</sup> Nat'l Acads. of Scis., Eng'g, and Med., *The Safety and Quality of Abortion Care in the United States* 1-16 (2018), <https://nap.nationalacademies.org/read/24950/chapter/1>.

<sup>7</sup> See Elizabeth G. Raymond & David A. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *OBSTETRICS & GYNECOLOGY* 215, 216-17 (2012); Laura Santhanam, *It's Time to Recognize the Damage of Childbirth, Doctors and Mothers Say*, PBS NEWS HOUR (May 7, 2021), <https://www.pbs.org/newshour/health/broken-tired-and-ashamed-how-health-care-fails-new-moms>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Nat'l Acads. of Scis., Eng'g, & Med., *The Safety and Quality of Abortion Care in the United States* 75 tbls. 2-4 (2018).

<sup>11</sup> Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2022*, CTR. DISEASE CONTROL PREVENTION (2024), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2022/maternal-mortality-rates-2022.pdf>. There is evidence that abortion bans have contributed to an increase in maternal mortality rates. In Texas, for example, the maternal mortality rate rose by 56% between 2019 and 2022, with a marked increase following Texas Senate Bill 8, which effectively banned abortion nearly a year before the Supreme Court overturned *Roe v. Wade*. See Erika Edwards et al., *A Dramatic Rise in Pregnant Women Dying in Texas After Abortion Ban*, NBC NEWS (updated Sept. 21, 2024), <https://www.nbcnews.com/health/womens-health/texas-abortion-ban-deaths-pregnant-women-sb8-analysis-rcna171631>. During that same time, the national maternal mortality rate rose by 11%. *Id.*

<sup>12</sup> Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2022*, CTR. DISEASE CONTROL PREVENTION (2024).

32. Discrimination and bias in the healthcare system have resulted in alarming racial disparities in the maternal mortality rate.<sup>13</sup> Black people die from maternal causes at a substantially higher rate than White people. In 2022, the maternal mortality rate for Black people was approximately 2.5 times the rate for White people.<sup>14</sup> This disparity is not due to inherent differences but is the result of structural racism, anti-Blackness, and medical violence embedded in the healthcare system. Research consistently demonstrates that the healthcare system devalues Black lives.

33. Young people who become pregnant face compounding barriers to affirming reproductive healthcare, which can prevent them from obtaining prenatal care and harm their postpartum health.<sup>15</sup> Adolescents are twice as likely as their adult counterparts to suffer from postpartum depression, which is often exacerbated by isolation, lack of support, and stigma. Unlike adults, adolescents who become parents must also contend with stigma for violating age norms for parenting.<sup>16</sup> Poor postpartum health may interfere with the mental health of the parent beyond the postpartum period and with early childhood development.<sup>17</sup>

34. Moreover, infants born to teenagers are more likely to die in their first year of life than infants born to women over twenty.<sup>18</sup> Compared with women over twenty, teenagers have higher rates of preterm birth, low birthweight, and neonatal mortality.<sup>19</sup> Mortality rates are highest for infants of Black teenagers.<sup>20</sup>

35. Abortion carries substantially fewer health risks for people of all ages than continuing a pregnancy through childbirth. Complications associated with abortion are exceedingly rare: nationwide, fewer than one-quarter of one percent (0.23%) of all abortion

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<sup>13</sup> See, e.g., Latoya Hill et al, *Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them*, KAISER FAMILY FOUND. (Oct. 25, 2024), <https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/>.

<sup>14</sup> *Id.*

<sup>15</sup> See Dena Javadi et al., *Factors that Influence the Uptake of Postnatal Care Among Adolescent Girls: A Qualitative Evidence Synthesis*, 8 *BMJ GLOBAL HEALTH* 1 (May 3, 2023), [https://gh.bmj.com/content/8/Suppl\\_2/e011560](https://gh.bmj.com/content/8/Suppl_2/e011560).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Ashley M. Woodall, M.P.H. and Anne K. Driscoll, Ph.D., *Racial and Ethnic Differences in Mortality Rate of Infants Born to Teen Mothers: United States, 2017–2018*, *CTR. DISEASE CONTROL PREVENTION* (JULY 2020), <https://www.cdc.gov/nchs/products/databriefs/db371.htm>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

patients experience a complication that requires hospitalization, surgery, or a blood transfusion.<sup>21</sup> In recent years, the abortion-related mortality rate has been 0.44 abortion-related deaths per 100,000 abortions.<sup>22</sup> This is lower than the mortality rate for colonoscopies, plastic surgery, dental procedures, and adult tonsillectomies.<sup>23</sup>

36. Three methods of abortion are commonly used in the United States: medication abortion, aspiration abortion, and D&E abortion. Medication abortion involves providing medications that end a pregnancy and cause the uterus to expel its contents. This method may be safely used from the start of a pregnancy through beyond ten weeks gestation, as measured from the first day of a patient’s last menstrual period (“lmp”).<sup>24</sup> Aspiration abortion involves using suction to empty the uterus’s contents. This method is typically used from six weeks lmp through fourteen to sixteen weeks lmp. D&E abortion involves using suction and medical instruments to empty the uterus’s contents. This method is generally used beginning at fourteen to sixteen weeks lmp.

37. Like other healthcare providers, abortion providers are extensively trained—and have ethical, professional, and legal obligations—to obtain informed consent for medical treatment.<sup>25</sup> *See, e.g.,* Colo. Code Regs. §§ 1011-1:2-7.1; 1011-1:2-1(1.33); 713-1.32 (explaining that the Colorado Board of Medicine expects healthcare providers to ensure “informed consent” when providing pregnancy-related medical care, which includes “information about the risks, benefits, likelihood of intended outcome of the proposed treatment, and likelihood of achieving the intended outcome without the proposed treatment”). These ethical, professional, and legal obligations apply regardless of the patient’s age.

38. The informed consent process entails collecting patients’ medical histories and ensuring they are well-informed about the treatment. In the case of an abortion, that includes

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<sup>21</sup> Ushma D. Upadhyay et al., *Incidence of Emergency Department Visits and Complications After Abortion*, 125(1) OBSTETRICS & GYNECOLOGY 175, 178 tbl. 3 (Jan. 2015), [https://journals.lww.com/greenjournal/fulltext/2015/01000/incidence\\_of\\_emergency\\_department\\_visits\\_and.29.aspx](https://journals.lww.com/greenjournal/fulltext/2015/01000/incidence_of_emergency_department_visits_and.29.aspx).

<sup>22</sup> Katherine Kortzmit et al., *MMWR Surveillance Summaries: Abortion Surveillance—United States, 2018*, CTR. DISEASE CONTROL PREVENTION, (Nov. 27, 2020), at 7, <https://www.cdc.gov/mmwr/volumes/69/ss/pdfs/ss6907a1-H.pdf>.

<sup>23</sup> Nat’l Acads. of Scis., Eng’g, & Med., *The Safety and Quality of Abortion Care in the United States* 74-75 (2018), <https://nap.nationalacademies.org/read/24950/chapter/1> (“NASEM Report”).

<sup>24</sup> 2022 *Clinical Policy Guidelines for Abortion Care* 19, NAT’L ABORTION FED’N, <https://prochoice.org/wp-content/uploads/2022-CPGs.pdf>.

<sup>25</sup> *See Informed Consent and Shared Decision Making in Obstetrics and Gynecology*, Committee Opinion No. 819, 137(2) OBSTETRICS & GYNECOLOGY E34 (Feb. 2021), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/02/informed-consent-and-shared-decision-making-in-obstetrics-and-gynecology>; 2022 *Clinical Policy Guidelines for Abortion Care*, NAT’L ABORTION FED’N, at 3-4, <https://prochoice.org/wp-content/uploads/2022-CPGs.pdf>.

providing information about what the abortion involves, its risks and benefits for the patient, the risks and benefits for them of carrying to term and giving birth, and detailed instructions for after care.<sup>26</sup>

39. Instructions for after care include a thorough description of a normal recovery and comprehensive, tailored directions for how to recognize a complication and seek care in the rare case that there is a complication.

40. The process of obtaining informed consent for an abortion entails screening not only for an inability to provide informed consent, but also for any coercion or abuse in the patient's life.<sup>27</sup> Colorado law requires healthcare providers to promptly report any suspected or actual abuse of a young person. Colo. Rev. Stat. § 19-3-304(2)(a), (i). Healthcare providers who fail to report such abuse are subject to criminal sanctions, including imprisonment; civil penalties; and professional discipline. *Id.* § 19-3-304(4); *Id.* § 18-1.3-501(1)(a) (specifying penalties for a Class 2 misdemeanor).

41. As with adults, the vast majority of young people seeking an abortion are able to provide informed consent because they are capable of sharing their medical histories; understanding what pregnancy, abortion, and childbirth involve; weighing the risks and benefits for them of having an abortion instead of remaining pregnant and giving birth; asking appropriate questions; and following instructions for after care.<sup>28</sup> Abortion providers' ethical obligations direct them to encourage patients who are minors to consult a trusted adult about their decision if they have not done so already.<sup>29</sup>

42. Young people tend to discover they are pregnant and thus seek abortion care later in pregnancy than adults.<sup>30</sup> Although abortion is extremely safe throughout pregnancy, its

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<sup>26</sup> *Id.*

<sup>27</sup> See *Reproductive & Sexual Coercion, Committee Opinion No. 554*, AM. COLL. OBSTETRICS & GYNECOLOGISTS, 2 (Feb. 2013), <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2013/02/reproductive-and-sexual-coercion.pdf?rev=cb35918425934973879a32837750efba&hash=ED5340AF31AF29C40372D60F183B0538>.

<sup>28</sup> See Am. Acad. of Pediatrics Comm. on Adolescence, *The Adolescent's Right to Confidential Care When Considering Abortion*, 150(3) PEDIATRICS 1, 3 (Sept. 2022), <https://publications.aap.org/pediatrics/article/150/3/e2022058780/188339/The-Adolescent-s-Right-to-Confidential-Care-When?autologincheck=redirected>.

<sup>29</sup> See, e.g., 2.2.3(A) MANDATORY PARENTAL CONSENT TO ABORTION, AMA PRINCIPLES OF MEDICAL ETHICS, <https://code-medical-ethics.ama-assn.org/sites/default/files/2022-08/2.2.3%20Mandatory%20parental%20consent%20to%20abortion%20--%20background%20reports.pdf>.

<sup>30</sup> *One in three people learn they're pregnant past six weeks' gestation*, ADVANCING NEW STANDARDS IN REPRODUCTIVE HEALTH, (Nov. 10, 2021),

complexity, duration, medical risks, and costs increase with gestational age. Further, each day that someone remains pregnant against her will can be agonizing, particularly if the pregnancy resulted from abuse. Delaying abortion care therefore seriously harms patients.

## **B. A Growing Number of Out-of-State Residents are Seeking an Abortion in Colorado**

43. The number of abortions provided in Colorado has increased every year since 2016.<sup>31</sup> In 2023, the most recent year for which data estimates are available, approximately 26,560 abortions were provided in the state.<sup>32</sup>

44. Likewise, the number of abortions in Colorado provided to people living in other states has increased almost every year between 2020, when they comprised 13% of all abortions provided in Colorado, and 2024, when they made up 26%.<sup>33</sup>

45. Young people constitute a meaningful number of Colorado abortion patients.

46. On June 24, 2022, the U.S. Supreme Court overruled nearly fifty years of its precedent and held that the U.S. Constitution does not protect a right to abortion. *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022).

47. In the aftermath of the *Dobbs* decision, twelve states are enforcing criminal bans on abortion care in nearly all circumstances: Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia.<sup>34</sup> Four more states are enforcing criminal bans on abortion care around six weeks: Florida, Georgia, Iowa and South Carolina.<sup>35</sup>

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<https://www.ansirh.org/research/research/one-three-people-learn-theyre-pregnant-past-six-weeks-gestation> (“Almost two in three young people (ages 15-19) discover pregnancy at six weeks or later.”); see also Lauren Ralph et al., *Home pregnancy test use and timing of pregnancy confirmation among people seeking health care*, 107 *CONTRACEPTION* 10 (Mar. 2022).

<sup>31</sup> Blair Miller, *Abortion in Colorado By the Numbers*, DENVER 7 360 (June 24, 2022), <https://www.denver7.com/news/360/abortion-in-colorado-by-the-numbers> (citing data from the Colorado Department of Public Health & Environment).

<sup>32</sup> *#We Count Report*, SOCIETY OF FAMILY PLANNING (Oct. 22, 2024), at 34, .

<sup>33</sup> *Monthly Abortion Provision Study*, GUTTMACHER INST., <https://www.guttmacher.org/monthly-abortion-provision-study#the-estimates>.

<sup>34</sup> *Six Months Post-Roe, 24 US States Have Banned Abortion or Are Likely to Do So: A Roundup*, GUTTMACHER INST., <https://www.guttmacher.org/2023/01/six-months-post-roe-24-us-states-have-banned-abortion-or-are-likely-to-do-so-roundup>; *After Roe Fell, Abortion Laws by State*, CENTER FOR REPRODUCTIVE RIGHTS, <https://reproductiverights.org/maps/abortion-laws-by-state/>.

<sup>35</sup> *Id.*

48. Consequently, thousands of people must now travel vast distances to end a pregnancy.

49. Following the *Dobbs* decision, Colorado has seen the third-highest increase in abortions of any state in the country, with a nearly 38% rise in abortions between April 2022 and August 2022 alone.<sup>36</sup> In July 2022, immediately after the decision, out-of-state residents accounted for nearly 40 percent of the abortion patients in Colorado.<sup>37</sup>

50. In 2023, the greatest number of out-of-state abortion patients in Colorado hailed from Texas (2,846), Wyoming (248), Oklahoma (181), South Dakota (158), and Nebraska (131).<sup>38</sup>

51. Black, Hispanic, and Native American patients; those with relatively low incomes; and those lacking health insurance face the longest travel times.<sup>39</sup> In other words, some of the most vulnerable people seeking an abortion are also more likely than other abortion seekers to face significant transportation, lodging, and childcare-related costs.

52. Based on data collected between June 2021 and July 2022, approximately 41% of abortion patients in the United States had an income below the federal poverty level, and 30% had an income between 100% and 199% of the federal poverty level.<sup>40</sup> In 2021, the federal poverty level was an annual income of \$12,880 for one person and \$26,500 for a family of four.<sup>41</sup> In 2022, the federal poverty level was \$13,590 for one person and \$27,750 for a family of four.<sup>42</sup>

53. Because the cost of an abortion rises as a pregnancy advances, those having to travel long distances for abortion care can find themselves trapped in a frustrating cycle. They must delay

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<sup>36</sup> *#We Count Report*, SOCIETY OF FAMILY PLANNING (Oct. 22, 2024), at 32, <https://societyfp.org/wp-content/uploads/2024/10/WeCount-Report-8-June-2024-data.pdf>. This report is based on data collected from nearly 80 percent of abortion providers in the country.

<sup>37</sup> See Claire Cleveland, *Out-of-state Patients Seeking Abortions Arrive in Colorado in Record Numbers*, CPR News (Oct. 17, 2022), <https://www.cpr.org/2022/10/17/out-of-state-patients-seeking-abortions-arrive-in-colorado-in-record-numbers/> (reporting on provisional 2022 abortion data from the Colorado Department of Health).

<sup>38</sup> *Id.*

<sup>39</sup> Jenna Jerman et al., *Barriers to Abortion Care and Their Consequences for Patients Traveling for Services: Qualitative Findings from Two States*, 49(2) PERSPS. ON SEXUAL & REPROD. HEALTH 95-102 (April 10, 2017), <https://onlinelibrary.wiley.com/doi/10.1363/psrh.12024>.

<sup>40</sup> *Fact Sheet, Abortion in the United States*, GUTTMACHER INST. (April 2025), <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states#:~:text=Some%2041%25%20of%20people%20obtaining,and%20199%25%20of%20the%20FPL.>

<sup>41</sup> 86 Fed. Reg. 7732-01, 7733 (Feb. 1, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-02-01/pdf/2021-01969.pdf>.

<sup>42</sup> 87 Fed. Reg. 3315-01, 3316 (Jan. 21, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-21/pdf/2022-01166.pdf>.

their abortion appointment to gather the resources to travel, only to find the care more and more expensive and increasingly out-of-reach.

54. The influx of out-of-state patients in Colorado following the *Dobbs* decision has taxed the capacity of Colorado abortion facilities. This has led to wait times for appointments for Colorado and out-of-state residents alike even as facilities have hired additional staff and extended their hours to try to meet the increased demand. These wait times have exacerbated the delays suffered by the most vulnerable abortion seekers,<sup>43</sup> and young people overall, who tend to discover later in pregnancy than adults that they are pregnant.<sup>44</sup>

55. Studies have shown that those who seek, but are unable to obtain, an abortion tend to suffer diminished educational and job prospects, greater economic insecurity, and poorer health outcomes than those who successfully obtain an abortion.<sup>45</sup> At the same time, people who struggle to secure resources to obtain an abortion and only do so after substantial delays can sustain “catastrophic” costs with long-term repercussions for themselves and their families.<sup>46</sup>

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<sup>43</sup> See Daniel Grossman, MD et al., *Care Post-Roe: Documenting cases of poor-quality care since the Dobbs decision* at 15, ADVANCING NEW STANDARDS IN REPRODUCTIVE HEALTH (May 2023), <https://www.ansirh.org/sites/default/files/2023-05/Care%20Post-Roe%20Preliminary%20Findings.pdf> (“Several of the narratives involved cases of patients experiencing long delays obtaining abortion care because of bans in the state where they lived. Arranging care out of state was logistically complicated and expensive, and long wait times for appointments at out-of-state clinics created even longer delays.”).

<sup>44</sup> *One in three people learn they’re pregnant past six weeks’ gestation*, ADVANCING NEW STANDARDS IN REPRODUCTIVE HEALTH (Nov. 10, 2021) <https://www.ansirh.org/research/research/one-three-people-learn-theyre-pregnant-past-six-weeks-gestation> (“Almost two in three young people (ages 15-19) discover pregnancy at six weeks or later.”); see Lauren Ralph et al., *Home pregnancy test use and timing of pregnancy confirmation among people seeking health care*, 107 CONTRACEPTION 10-16 (Mar. 2022).

<sup>45</sup> Sarah Miller et al., *The Economic Consequences of Being Denied an Abortion*, NAT’L BUREAU OF ECON. RSCH. (revised Jan. 2022), <http://www.nber.org/papers/w26662.pdf>; Diana Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 108(3) AM J PUB. HEALTH, 407–13 (Mar. 2018); Caitlin Gerdtts et al., *Side Effects, Physical Health Consequences, and Mortality Associated with Abortion and Birth after an Unwanted Pregnancy*, 26(1) WOMEN’S HEALTH ISSUES, 55–59 (2016); Lauren J. Ralph et al., *Self-reported Physical Health of Women Who Did and Did Not Terminate Pregnancy After Seeking Abortion Services: A Cohort Study*, 171(4) ANNALS INTERN MED, 238–47 (Aug. 20, 2019).

<sup>46</sup> See, e.g., Ortal Wasser, MSW et al., *Catastrophic Health Expenditures for In-State and Out-of-State Abortion Care*, 7(11) JAMA NETWORK OPEN (Nov. 8, 2024), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2826000>.

### C. Colorado Has Long Positioned Itself as a Haven for Abortion Access

56. Colorado was the first state in the country to expressly allow abortion to protect a patient’s physical or mental health and in cases of rape, incest, or fetal anomaly.<sup>47</sup> This was six years before the U.S. Supreme Court recognized a right to abortion under the U.S. Constitution in *Roe v. Wade*, 410 U.S. 113 (1973).

57. On April 4, 2022, Colorado enacted the Reproductive Health Equity Act (“RHEA”), which “codif[ie]d a person’s fundamental right to make reproductive health-care decisions,” including “hav[ing] an abortion,”<sup>48</sup> “free from government interference” “regardless of what happens federally[.]”<sup>49</sup>

58. On July 6, 2022, in direct response to the *Dobbs* decision, Governor Jared Polis issued an Executive Order establishing legal protections for abortion care provided in Colorado to out-of-state residents.<sup>50</sup> The Governor asserted that the “impending loss of freedom for people around the country pose[d] a threat to [Coloradans] to the extent that other states may seek to infringe on essential rights protected by Colorado law, and impose criminal penalties or civil liability for conduct that is now outlawed in other states, but remains legal in Colorado.”<sup>51</sup> Accordingly, “[n]o one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in our State.”<sup>52</sup>

59. In 2023, Colorado not only codified the Executive Order,<sup>53</sup> but also enacted prohibitions against falsely advertising abortions,<sup>54</sup> which can materially delay actual abortion care, and offering “abortion reversals,” which have been shown to be unsupported by research,

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<sup>47</sup> See Howard Holme & Craig A. Umbaugh, *Abortion in Colorado: If Roe v. Wade is Reversed*, 90 COLO. L. REV. 807, 807 (1990).

<sup>48</sup> Office of Governor Jared Polis, *HB22-1279, Reproductive Health Equity Act, Signing Statement*, <https://www.colorado.gov/governor/news/7636-governor-jared-polis-signs-bills-law>; *see also* COLO. REV. STAT. § 25-6-404(1)(a).

<sup>49</sup> Office of Governor Jared Polis, *HB22-1279, Reproductive Health Equity Act, Signing Statement*, <https://www.colorado.gov/governor/news/7636-governor-jared-polis-signs-bills-law>.

<sup>50</sup> Executive Order D-2022-032, *Directing State Agencies to Protect Access to Reproductive Health Care in Colorado* (July 6, 2022), <https://ewscripps.brightspotcdn.com/ea/92/9ab8c1ad465d81a69889dd38faba/d-2022-032-reproductive-health-eo-3.pdf>.

<sup>51</sup> *Id.* at 1.

<sup>52</sup> *Id.* at 2.

<sup>53</sup> 2023 Colo. Sess. Law 239.

<sup>54</sup> 2023 Colo. Sess. Law 264.

unethical, and dangerous for abortion patients.<sup>55</sup> Colorado also enacted a requirement that large private employers offer insurance coverage for the total cost of an abortion.<sup>56</sup>

**D. On November 5, 2024, Coloradans Amended the Colorado Constitution to Protect Abortion as a Fundamental Right**

60. On November 5, 2024, Colorado voters approved a constitutional amendment that protects abortion as a fundamental right in the Colorado Constitution. The amendment (“Amendment 79”), which has been codified in Section 32 of Article II of the Colorado Constitution, states:

The right to abortion is hereby recognized. Government shall not deny, impede, or discriminate against the exercise of that right, including prohibiting health insurance coverage for abortion.

61. Amendment 79 repealed Section 50 of Article V of the Colorado Constitution, which prohibited the “State of Colorado, its agencies or political subdivisions” from “pay[ing] or otherwise reimburs[ing], either directly or indirectly, any person, agency or facility for the performance of any induced abortion” using public funds. Colo Const. art. V, § 50 (2024).

62. Amendment 79 passed with 62% of the vote, well above the required threshold of 55%.<sup>57</sup>

63. On December 17, 2024, Governor Polis issued a proclamation declaring that Amendment 79 was approved by a majority of the votes cast.<sup>58</sup> Pursuant to Article V of the Colorado Constitution, all measures “initiated by or referred to the people of the state” take effect “from and after the date of the official declaration of the vote . . . by proclamation of the governor . . . .”<sup>59</sup> Colo. Const. art. V, § 1(4)(a).

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<sup>55</sup> *Id.*; *Facts are Important: Medication Abortion “Reversal” is Not Supported by Science*, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS, <https://www.acog.org/advocacy/facts-are-important/medication-abortion-reversal-is-not-supported-by-science>.

<sup>56</sup> 2023 Colo. Sess. Law 254.

<sup>57</sup> *See* Colo. Sec. of State, *Colorado Election Results: Amendment 79 (Constitutional)*, <https://results.enr.clarityelections.com/CO/122598/web.345435/#/summary>; *see also* COLO. CONST. art. V, § 1(4)(b).

<sup>58</sup> *See* Office of Governor Jared Polis, *Governor Polis Declares the Passage of Voter-Approved Ballot Measures* (Dec. 17, 2024), <https://www.colorado.gov/governor/news/governor-polis-declares-passage-voter-approved-ballot-measures>.

64. By making the right to abortion explicit in the Colorado Constitution, Amendment 79 affirmed a preexisting right to abortion under the Constitution’s Due Process Clause.<sup>60</sup>

**E. The Parental Notice Requirement Deviates from the General Rule in Colorado that Young People May Consent to Their Own Reproductive Healthcare**

65. Under Colorado law, “a pregnant minor may authorize prenatal, delivery, and post-delivery medical care for herself related to the intended live birth of a child.”<sup>61</sup> Colo. Rev. Stat. § 13-22-103.5. That includes medical care with potentially life altering consequences and health risks far exceeding or equivalent to the health risks associated with abortion care.

66. For example, amniocentesis, a procedure used to remove amniotic fluid and cells from the uterus for testing or treatment during pregnancy, carries risks of miscarriage, injury to the fetus, and uterine infection.<sup>62</sup> Synthetic oxytocin, an agent used to induce or hasten labor, can cause intense pain, uterine rupture, and postpartum hemorrhage.<sup>63</sup> And c-sections constitute major surgery, with risks of blood clots, infection, hemorrhage, and serious complications in future births.<sup>64</sup>

67. Colorado law also authorizes young people to obtain “contraceptive procedures, supplies, [and] information” without parental involvement. Colo. Rev. Statute § 13-22-105.

68. Likewise, the Colorado Supreme Court has held that parents may not consent to sterilization procedures on behalf of their incapacitated children. *See, e.g., In re A.W.*, 637 P.2d 366, 370 (Colo. 1981) (holding that parents “cannot be presumed to have an identity of interest with their children” involving matters of sterilization).

69. A young person who becomes a parent, regardless of his or her age, is authorized to consent to “organ or tissue donation of his or her child or the furnishing of hospital, medical, dental, emergency health, and surgical care to his or her child or ward.” Colo. Rev. Stat. § 13-22-103(3).

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<sup>60</sup> *See Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005, 1015 n.7 (Colo. 1982) (explaining that fundamental rights are those that “have been recognized as having a value essential to individual liberty in our society”); COLO. REV. STAT. § 25-6-403(1). The “[l]egislative declaration” of the initiative that led to Amendment 79 states that “Colorado has been a leader in affirming the right to abortion since 1967[.]” Colorado Sec. of State, 2023-2024 #89 – *Final Text*, § 1(a), <https://www.coloradosos.gov/pubs/elections/Initiatives/titleBoard/filings/2023-2024/89Final.pdf>.

<sup>62</sup> *Amniocentesis*, MAYO CLINIC, <https://www.mayoclinic.org/tests-procedures/amniocentesis/about/pac-20392914>.

<sup>63</sup> *Induced Labor*, CLEVELAND CLINIC, <https://my.clevelandclinic.org/health/treatments/17698-labor-induction#risks--benefits>.

<sup>64</sup> *Cesarean Birth*, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS, <https://www.acog.org/womens-health/faqs/cesarean-birth>.

70. Colorado law also authorizes a young person to relinquish all rights to his or her child and to consent to their adoption without parental involvement. *See id.* § 19-5-103 (providing process for “[a]ny parent desiring to relinquish his or her child”); *Batton v. Massar*, 369 P.2d 434 (Colo. 1962).

71. By allowing young people to make their own, weighty decisions in each of these contexts, Colorado acknowledges they are capable of understanding their medical options, weighing the risks and benefits of treatments, and providing informed consent.

72. The Parental Notice Requirement impermissibly excludes young people who seek an abortion from this acknowledgment. *See* Thomas Frank, *Abortion Foes Retool Parental-Notification Law*, DENVER POST (Nov. 8, 1997) (quoting the Requirement’s sponsor, Doug Campbell, as stating, “When parental notification is in place, it causes the child to have second thoughts about whether this is a procedure she wants to have done”).

73. The Parental Notice Requirement prohibits a clinician from providing an abortion to an unemancipated minor until at least forty-eight hours after written notice of the abortion has been delivered to the minor’s parents.<sup>65</sup> Colo. Rev. Stat. § 13-22-704(1)(a).

74. Under Colorado law, a minor can become emancipated only upon marriage, entering active military service, or by court order. *See id.* § 14-10-115(13).

75. A young person who “declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice” is exempt from the Parental Notice Requirement only if the abortion provider reports the abuse or neglect. *Id.* § 13-22-705(1)(c).

76. A young person is also exempt from the Parental Notice Requirement if the abortion provider “certifies in the pregnant minor’s medical record that a medical emergency exists and there is insufficient time to provide notice[.]” *Id.* § 13-22-705(1)(d). The Parental Notice Requirement defines “[m]edical emergency” narrowly as “a condition that, on the basis of the physician’s good-faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate a medical procedure necessary to prevent the pregnant minor’s death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.” *Id.* § 13-22-703(5).

77. The Parental Notice Requirement defines “[p]arent” as the natural or adoptive parent or the court-appointed guardian or foster parent of the young person. *Id.* § 13-22-703(2). If the young person lives “with a relative of a minor and not a parent, the written notice . . . shall be provided to either the relative . . . or a parent.” *Id.* § 13-22-704(2)(a). But the requirement limits the relatives who may be notified in place of a parent to a “grandparent, adult aunt, or adult uncle[.]” *Id.* § 13-22-703(6).

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<sup>65</sup> If the young person’s parents live together, “delivery to one . . . shall constitute delivery to both.” COLO. REV. STAT. § 13-22-704(1)(c). If the young person’s parents live separately, both parents must be notified unless the young person requests that only one parent be notified. *Id.*

78. Parental notice may be achieved by either postpaid certified mail or in-person delivery. *See id.* § 13-22-704(1).

79. In-person notice “shall be addressed to the parent at the dwelling house or usual place of abode of the parent.” *Id.* § 13-22-704(1)(a). It may be provided by the abortion provider or an adult member of the provider’s staff, the sheriff or sheriff’s deputy in the county where the notice is provided, an adult clergy member, or any other person over the age of eighteen who is not related to the young person. *Id.* § 13-22-704(1)(a).

80. If in-person parental notice is provided by someone other than the abortion provider, the provider must indefinitely maintain a written return of service, including a statement of the date, place, manner of service, and time of delivery. *Id.* § 13-22-704(1)(d)(III).

81. If parental notice is provided by postpaid certified mail, the 48-hour waiting period begins at 12:00 P.M. “on the next day on which regular mail delivery takes place.” *Id.* § 13-22-704(e)(I). Consequently, a young person must wait at least three days after parental notice is mailed to obtain an abortion. The abortion provider must indefinitely maintain proof of mailing and delivery or attempted delivery. *Id.* § 13-22-704(e)(III).

82. Anyone harmed by a violation of the Parental Notice Requirement may sue the offending abortion provider and seek proximate damages caused by the violation. *Id.* § 13-22-706(1). The following are affirmative defenses to such a proceeding: (1) the abortion provider “relied upon facts or information sufficient to convince a reasonable, careful and prudent person that the representations of the pregnant minor . . . were bona fide and true,” *id.* § 13-22-706(2)(a), or (2) “[t]he abortion was performed to prevent the imminent death of the minor child and there was insufficient time to provide the required notice,” *id.* § 13-22-706(2)(b).

83. The Parental Notice Requirement also imposes criminal liability on anyone “who counsels, advises, encourages or conspires to induce or persuade any pregnant minor to furnish any physician with false information . . . concerning the minor’s age, marital status, or any other fact or circumstance to induce or attempt to induce the physician to perform an abortion” in violation of the Requirement. *Id.* § 13-22-706(3). This is a Class 5 felony punishable by one to two years in prison plus one year of parole. *See id.*; *see also* Colo. Rev. Stat. § 18-1.3-401(1)(a)(I).

84. As discussed, (*supra* ¶ 25), abortion providers who violate the Parental Notice Requirement are also subject to professional discipline.

85. Young people who do not satisfy the Parental Notice Requirement cannot obtain an abortion in Colorado unless they secure a bypass order from a “court of competent jurisdiction[.]” Colo. Rev. Stat. § 13-22-707(1)(a).

86. A young person can obtain a judicial bypass in one of two ways. First, a judge can find by a preponderance of the evidence that parental notice is not in the young person’s best interest. *Id.*; *see also In re Doe 2*, 166 P.3d 293, 294 (Colo. App. 2007) (defining the standards of proof under the judicial bypass provision of the Parental Notice Requirement). Second, a judge can find by clear and convincing evidence that the young person is “sufficiently mature to decide whether to have an abortion.” Colo. Rev. Stat. § 13-22-707(1)(a).

87. Young people are not entitled to a lawyer for a judicial bypass proceeding. But if a young person is unrepresented, the court has the discretion to appoint a lawyer or guardian ad litem. *Id.* § 13-22-707(1)(b).

88. The Parental Notice Requirement does not require judges considering bypass petitions to offer young people any information or resources related to continuing a pregnancy or having an abortion.

89. The Parental Notice Requirement provides no guidance to judges for gauging a young person's best interest or level of maturity.

90. On information and belief, judicial bypass petitions are typically granted on the ground that parental notice is not in the young person's best interest.

91. If a judge issues a bypass order, a certified copy must be provided to the young person's abortion provider. *Id.* § 13-22-707(1)(a).

92. A judicial bypass matter must be heard and decided no later than four days after the petition is filed. *Id.* § 13-22-707(1)(c). A young person may appeal an adverse decision to the court of appeals. *Id.* § 13-22-707(1)(d). Appeals must be decided no later than five days after the appeal is filed. *Id.* If either the district court or the court of appeals "fails to act within the time periods required" by statute, the young person is exempt from the Parental Notice Requirement. Colo. Rev. Stat. § 13-22-707(1)(f).

93. Colorado does not require young people who choose to carry a pregnancy to term or obtain other forms of reproductive healthcare to involve a parent in their decision or undergo a judicial bypass. (*See supra* ¶ 9.) Thus, the Parental Notice Requirement discriminates against people who choose to obtain an abortion.

94. The Parental Notice Requirement also discriminates based on gender. This discrimination is rooted in the social stereotype that the proper and central role of females is to bear and raise children irrespective of their individual circumstances, needs, talents, and aspirations.<sup>66</sup>

95. Young females who seemingly conform to this social stereotype by deciding to remain pregnant need not involve a parent in their decision regardless of family dysfunction or undergo a judicial bypass process.<sup>67</sup>

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<sup>66</sup> According to social scientists, abortion stigma derives from the violation of three "archetypal constructs": "female sexuality solely for procreation, the inevitability of motherhood, and instinctual nurturance of the vulnerable." Anuradha Kumar et al., *Conceptualising Abortion Stigma*, 11(6) CULTURE, HEALTH & SEXUALITY 625, 628 (Aug. 2009), <https://repository.law.umich.edu/mjgl/vol17/iss2/3/>.

<sup>67</sup> See Nicole Phillis, *When Sixteen Ain't So Sweet: Rethinking the Regulation of Adolescent Sexuality*, 17(2) MICH. J. GENDER & L. 271, 291 (2011) ("Where the consenting minor rejects

96. Young females who choose abortion are threatened with compulsory motherhood by 1) being forced to involve an unsupportive parent in their abortion decision, or 2) being subjected to judicial scrutiny of that decision to atone for their violation of traditional gender roles.<sup>68</sup>

97. The Parental Notification Requirement devalues the decision-making capabilities of young females who choose an abortion instead of carrying a pregnancy to term. (*See supra* ¶ 72.)

98. Colorado does not comparably punish or burden young males who cause a pregnancy. *See Michael M. v. Super. Ct. of Sonoma Cnty.*, 450 U.S. 464, 473 (1981) (“[V]irtually all of the harmful and inescapably identifiable consequences of teenage pregnancy fall on the young female[.]”).

#### **F. The Parental Notice Requirement Impedes and Prevents Young People from Obtaining an Abortion**

99. The Parental Notice Requirement delays the abortion care of young people who are able to notify a parent.

100. For young people who are unable or reasonably unwilling to notify a parent, it forces them to seek a judicial bypass of the Requirement. For those who are able to undertake the judicial bypass process, the process delays their abortion care, which can deprive them of abortion options and saddle them with increased medical risks, expenses, and psychological distress. The judicial bypass process also coerces young people to divulge intimate information to a series of strangers, which can cause them psychological distress.

101. Some young people find the judicial bypass process so daunting that they do not even try to undertake it.

102. The Parental Notice Requirement compromises the doctor-patient relationship of all young people seeking an abortion.

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motherhood, she forfeits her claim to maturity and is required to involve her parents in her abortion decision.”).

<sup>68</sup> *See* Legis. Council Colo. Gen. Assembly, *Analysis of the 1998 Statewide Ballot Proposals* (1998), at 5, <https://hermes.cde.state.co.us/islandora/object/co:2764/datastream/OBJ/view> (“This proposal may encourage minors to recognize the consequences and responsibilities of their sexual behavior. Knowledge of this law may persuade minors to take necessary steps to avoid an unwanted pregnancy.”).

103. “[R]esearch suggests that the process of medical decision making for adolescents often does not differ from that of adults.”<sup>69</sup> Studies show that most young people not only fully research and carefully consider their options before making a decision about their pregnancy,<sup>70</sup> but also confide in a parent about their options regardless of parental involvement requirements.<sup>71</sup> The younger a person is, the more likely she is to involve a parent in her pregnancy decision.<sup>72</sup>

104. Because it is far more practicable for busy clinicians to notify a parent of an abortion by mail rather than in person, the Parental Notice Requirement delays some young people’s abortions by at least three days. This delay compounds the delays caused by long travel distances, (*supra* ¶ 53), wait times for abortion appointments, (*supra* ¶ 54), and young people’s tendency to discover they are pregnant later than adults, (*supra* ¶ 42).

105. A 2025 qualitative study of the Parental Notice Requirement (“Parental Notice Requirement Study”), which involved thirty-three adolescents and young adults, found that “[n]avigating the notification law was stressful, even for adolescents who willingly involved a parent[.]”<sup>73</sup>

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<sup>69</sup> AMA PRINCIPLES OF MED. ETHICS, 2.2.3 *Mandatory Parental Consent to Abortion, Background Report: CEJA Report H – A-92*, at 3, <https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3%20Mandatory%20parental%20consent%20to%20abortion%20--%20background%20reports.pdf> (“Among the women who considered abortion, the researchers found no age-related differences for the three measures of cognitive competence studied (thoroughness of consideration of consequences, number of reasons considered, and content of the reasoning about pregnancy).”).

<sup>70</sup> J. Shoshanna Ehrlich, *Choosing abortion: Teens who make the decision without parental involvement*, 21 GENDER ISSUES 3–39 (2003), <https://link.springer.com/article/10.1007/s12147-003-0014-z>.

<sup>71</sup> Lauren Ralph, MPH et al., *The Role of Parents and Partners in Minors’ Decisions to Have an Abortion and Anticipated Coping after Abortion*, 54 J. ADOLESCENT HEALTH 428, 428–434 (2014), [https://www.jahonline.org/article/S1054-139X\(13\)00520-X/pdf](https://www.jahonline.org/article/S1054-139X(13)00520-X/pdf); Lee A. Hasselbacher et al., *Factors Influencing Parental Involvement Among Minors Seeking an Abortion: A Qualitative Study*, 104(11) AM. J. PUB. HEALTH 2207–2211 (2014), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2014.302116>.

<sup>72</sup> Stanley K. Henshaw & Kathryn Kost, *Parental involvement in minors’ abortion decisions*, 24(5) FAM. PLAN. PERSPECTIVE 196, 200 (1992), <https://pubmed.ncbi.nlm.nih.gov/1426181/>.

<sup>73</sup> Kate Coleman-Minahan et al., *Exploring Adolescents’ and Young Adults’ Abortion Disclosure and Adolescents’ Experiences Navigating Colorado’s Parental Notification Law*, 76 J. ADOLESCENT HEALTH 665, 665 (2025), <https://www.jahonline.org/action/showPdf?pii=S1054-139X%2824%2900835-8>.

106. The small proportion of young people who do not confide in a parent typically have unavailable, incapacitated, abusive, or unsupportive parents.<sup>74</sup>

107. That includes parents who are incarcerated, hospitalized, overwhelmed with their own hardships, or whose whereabouts are unknown.

108. It also includes parents who are likely to physically harm or emotionally alienate the young person, kick her out of her home, or coerce her into carrying to term upon learning that she intends to obtain an abortion.<sup>75</sup>

109. In a recent large-scale study of why young people chose not to inform their parents of their pregnancy, 41% feared being thrown out of their home or cut off from their family, 27% feared damage to family relationships, and 13% feared physical or emotional abuse.<sup>76</sup> Studies show that young people correctly predict these responses based on their experience with their parents and their parents' responses to siblings and other family members.<sup>77</sup> In fact, in the Parental Notice Requirement Study, “[a]ll adolescent and young adult participants whose parents learned about the pregnancy accurately anticipated parent reactions.”<sup>78</sup>

110. Legally requiring a young person to involve a parent in her decision to end a pregnancy does not erase or improve strained family dynamics. In fact, it threatens to exacerbate

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<sup>74</sup> See Kate Coleman-Minahan et al., *Adolescents Obtaining Abortion Without Parental Consent: Their Reasons and Experiences of Social Support*, 52(1) PERSP. ON SEXUAL & REPROD. HEALTH 15–22 (March 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7155056/pdf/PSRH-52-15.pdf>; Lauren J. Ralph, Ph.D. et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, 68 J. OF ADOLESCENT HEALTH, 71–78 (Jan. 2021), [https://www.jahonline.org/article/S1054-139X\(20\)30508-5/fulltext](https://www.jahonline.org/article/S1054-139X(20)30508-5/fulltext).

<sup>75</sup> Lee A. Hasselbacher et al., *Factors Influencing Parental Involvement Among Minors Seeking an Abortion: A Qualitative Study*, 104(11) AM. J. PUB. HEALTH 2207, 2207 (Nov. 2014); Kate Coleman-Minahan et al., *Young women’s experiences obtaining judicial bypass for abortion in Texas*, 64(1) J. ADOLESCENT HEALTH, 20–25 (Jan. 2019), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7274206/pdf/nihms-1588813.pdf>.

<sup>76</sup> Lauren J. Ralph, Ph.D et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, 68(1) J. ADOLESCENT HEALTH 71, 74, Table 2 (2021), [https://www.jahonline.org/article/S1054-139X\(20\)30508-5/fulltext](https://www.jahonline.org/article/S1054-139X(20)30508-5/fulltext).

<sup>77</sup> See Kate Coleman-Minahan et al., *Adolescents Obtaining Abortion Without Parental Consent: Their Reasons and Experiences of Social Support*, 52(1) PERSP. ON SEXUAL & REPROD. HEALTH 15, 21 (March 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7155056/pdf/PSRH-52-15.pdf>.

<sup>78</sup> Kate Coleman-Minahan et al., *Exploring Adolescents’ and Young Adults’ Abortion Disclosure and Adolescents’ Experiences Navigating Colorado’s Parental Notification Law*, 76 J. ADOLESCENT HEALTH 665, 665 (2025), <https://www.jahonline.org/action/showPdf?pii=S1054-139X%2824%2900835-8>.

them.<sup>79</sup> *Planned Parenthood of Cent. N.J. v. Farmer*, 762 A.2d 620, 640 (N.J. 2000) (“A recurring theme in the record is that a law mandating parental notification prior to an abortion can neither mend nor create lines of communication between parent and child.”); *Am. Acad. of Pediatrics v. Lungren*, 940 P.2d 797, 835 (Cal. 1997) (Kennard, J., concurring) (“[I]f a trusting and supportive relationship between a parent and child has not already been established, it is unlikely that the State can create in a moment of crisis what the parents were unable to develop over the course of the preceding years.”); Parental Notice Requirement Study (“Refuting one of the purported benefits of parental involvement laws, participant narratives highlighted how the [Parental Notice Requirement] did not improve already unhealthy or unsupportive parent-child relationships, and forcing unwanted disclosure was harmful to the adolescent.”).<sup>80</sup> As the American Medical Association has recognized, parental notification “often precipitates a family crisis, characterized by severe parental anger and rejection of the minor.” *Farmer*, 762 A.2d at 640.

111. Requiring parental notice for an abortion allows a parent to force a young person to remain pregnant without requiring the parent to offer the young person any information, support, or care. *See Planned Parenthood of Mont. v. State*, 554 P.3d 153, 169 (Mont. 2024); Parental Notice Requirement Study (“Ultimately, both legal guardians affirmed the decision, but did not provide emotional or logistic support.”).<sup>81</sup>

112. The minority of young people who do not confide in a parent about a pregnancy do confide in a trusted adult, such as another relative, teacher, or faith leader who can offer guidance that accounts for the young person’s unique circumstances, needs, and goals.<sup>82</sup> But only a grandparent, adult aunt, or adult uncle who lives with the young person can satisfy the Parental Notice Requirement.

113. The Parental Notice Requirement leaves young people who are unable or reasonably unwilling to confide in a parent about wanting an abortion no option but to seek a judicial bypass.

114. Some young people find the judicial bypass process so daunting—in particular, obtaining an attorney, preparing a detailed petition, and testifying at a hearing—that they do not even try to undertake it.<sup>83</sup>

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<sup>79</sup> *See id.* at 669–70.

<sup>80</sup> *Id.* at 669.

<sup>81</sup> *Id.* at 668.

<sup>82</sup> *See* Am. Acad. of Pediatrics Comm. on Adolescence, *The Adolescent’s Right to Confidential Care When Considering Abortion*, 139(2) PEDIATRICS, 4 (Feb. 2017); Lauren J. Ralph et al., *Reasons for and Logistical Burdens of Judicial Bypass for Abortion in Illinois*, 68(1) J. OF ADOLESCENT HEALTH 71, 74 (Jan. 2021).

<sup>83</sup> The same realities that make some young people feel it is too burdensome, if not impossible, to obtain a judicial bypass also hinder young people from challenging the Parental Notice Requirement in court themselves.

115. In the Parental Notice Requirement Study, one adolescent, “fearing judicial bypass would take months, turned to self-managed options[,] taking large doses of Vitamin C and considering large doses of ibuprofen to avoid the judicial bypass process which was required if she had an in-clinic abortion[.]”<sup>84</sup>

116. The daunting nature of the judicial bypass process forces some young people to remain pregnant, give birth, and become a parent. Others are forced to travel outside Colorado for abortion care. Young people who want to remain pregnant do not face such state coercion regarding their choice.

117. The judicial bypass process delays young people’s abortion care, with the attendant loss of abortion options, added medical risks, added expenses, and psychological distress. (*Supra* ¶ 42.) By requiring young people to obtain an attorney, file a petition, participate in a judicial hearing, and potentially appeal a denial, the judicial bypass process adds weeks to existing delays caused by long travel distances, wait times for abortion appointments, and young people’s tendency to discover they are pregnant later in a pregnancy than adults. (*See supra* ¶¶ 42, 53–54.)

118. Of the four adolescents in the Parental Notice Requirement Study who sought a judicial bypass, three suffered a 2–3-week delay and one suffered an 8–9-day delay.<sup>85</sup> After the 2–3-week delay, one adolescent was 25–28 weeks pregnant and past the gestational age limit at the clinic where she had made her abortion appointment.<sup>86</sup> The 2–3-week delay inflicted by the judicial bypass process and misinformation that she would have to leave Colorado for abortion care forced her to carry to term, give birth, and become a parent.<sup>87</sup>

119. The judicial bypass process exacerbates the stress and anxiety for out-of-state residents of having to secure transportation, lodging, and other logistical support to obtain an abortion in Colorado. (*See supra* ¶ 51.) Young people seeking a judicial bypass must navigate an unfamiliar process and contend with the uncertainty of whether they will ultimately be able to obtain an abortion.

120. “Among the 4 adolescents [in the Parental Notice Requirement Study] who sought judicial bypass, descriptions of stress and fear were pervasive and amplified. Hannah mentioned her fear of being denied, noting: ‘It was so nerve-wrecking because I was in my head, the entire time in my head, I was saying he [judge] was going to say no, he wouldn’t approve of anything like that, so I was so like nervous about it.’”<sup>88</sup>

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<sup>84</sup> Kate Coleman-Minahan et al., *Exploring Adolescents’ and Young Adults’ Abortion Disclosure and Adolescents’ Experiences Navigating Colorado’s Parental Notification Law*, 76 J. ADOLESCENT HEALTH 665, 669, (2025), <https://www.jahonline.org/action/showPdf?pii=S1054-139X%2824%2900835-8>.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

121. The judicial bypass process also coerces young people seeking an abortion to divulge intimate information to a series of strangers, including the attorney needed to navigate the process, the judge responsible for deciding the young person’s petition, and any court personnel processing the petition.

122. The young person must testify in court and sustain judicial scrutiny about deeply personal matters, such as her sexual and reproductive history, gender identity and sexual orientation, family dynamics, socioeconomic background, and academic standing. *See, e.g.*, Parental Notice Requirement Study at 669 (“Grace was asked during the hearing if she planned to use birth control after the abortion . . .”).

123. Recent scholarship on judicial bypass proceedings indicates that such invasions of privacy—and testifying in court in particular—breed humiliation, shame, stigma, and trauma among young people seeking an abortion that can further isolate and psychologically distress them.<sup>89</sup> *See, e.g., id.* (“Kaya said: ‘going to the courthouse just felt really cold and it didn’t feel comfortable to be there cause when you go to a courthouse you just automatically feel like you’re in trouble and you’re doing something bad.’”).

124. The Parental Notice Requirement undermines the doctor-patient relationship of all young people in Colorado who choose to seek an abortion rather than continue a pregnancy. It requires doctors to disclose otherwise legally and ethically protected medical information to parents or strangers, sometimes against their patients’ wishes and inimical to the patients’ safety.<sup>90</sup>

125. As the American Medical Association has “long recognized,” “like adults, minors have a profound need for privacy in matters of their health care.”<sup>91</sup> Indeed, “[p]rivacy may be especially important for minors. Adolescence is a critical period for minors to develop their independent sense of self; the ability to maintain spheres of privacy from parents in areas of personal intimacy is an essential part of that development.”<sup>92</sup>

126. Compromising a patient’s privacy and thereby damaging the doctor-patient relationship can stymie a doctor and patient from exchanging critical information. And it can endanger the patient if the recipient of her personal information is abusive—particularly when the patient is a young person.

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<sup>89</sup> Kate Coleman-Minahan et al., *Young women’s experiences obtaining judicial bypass for abortion in Texas*, 64(1) J. ADOLESCENT HEALTH, 20–25 (Jan. 2019), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7274206/pdf/nihms-1588813.pdf>.

<sup>90</sup> Notably, HIPAA protects minors from parental notification when notification may endanger them and expressly preempts contrary state laws. 45 C.F.R. § 164.502(g)(5).

<sup>91</sup> AMA PRINCIPLES OF MED. ETHICS, 2.2.3 *Mandatory Parental Consent to Abortion, Background Report: CEJA Report H – A-92*, at 2, [https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3 Mandatory parental consent to abortion -- background reports.pdf](https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3_Mandatory_parental_consent_to_abortion_-_background_reports.pdf).

<sup>92</sup> *Id.*

127. “The harm of Colorado’s parental involvement law is now more impactful, given the increase in residents and adolescents from surrounding states seeking abortion care.”<sup>93</sup>

### **G. The Parental Notice Requirement Provides No Countervailing Benefits**

128. Laws requiring parental notice of an abortion do not improve communication within families or make it more likely that a young person will confide in her parents about her pregnancy. (*Supra* ¶¶ 103, 106–110.) Rather, most young people choose to confide in at least one parent independently of such laws. (*Supra* ¶ 103.)

129. Nor does the Parental Notification Requirement require parents to provide information, guidance, or support to young people who confide in them.

130. And those who choose not to notify a parent are not swayed by legal requirements. The young people who do not confide in a parent about a pregnancy are either unable or reasonably unwilling to do so. (*Supra* ¶¶ 106–109, 113.)

131. These young people may resort to seeking a judicial bypass of the Parental Notice Requirement—a process that offers them no information or support relevant to the decision of whether to continue a pregnancy. (*Supra* ¶ 88.)

132. According to the American Medical Association, “[t]he key to successful counseling of the minor is the minor’s ability to seek guidance from individuals with whom she feels most comfortable discussing her pregnancy and her reproductive options.”<sup>94</sup> But young people hardly ever feel comfortable discussing the most intimate aspects of their lives with total strangers, including a judge. (*See, e.g., supra* ¶ 123.)

133. And judges are less equipped than abortion providers—who are extensively trained to obtain informed consent—to ensure that any particular young person is making a careful and informed decision about her pregnancy. (*See supra* ¶ 37.)

134. Every major medical organization whose members provide adolescent or reproductive healthcare opposes parental involvement requirements such as Colorado’s Parental

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<sup>93</sup> Kate Coleman-Minahan et al., *Exploring Adolescents’ and Young Adults’ Abortion Disclosure and Adolescents’ Experiences Navigating Colorado’s Parental Notification Law*, 76 J. ADOLESCENT HEALTH 665, 670 (2025), <https://www.jahonline.org/action/showPdf?pii=S1054-139X%2824%2900835-8>.

<sup>94</sup> AMA Principles of Med. Ethics, 2.2.3 *Mandatory Parental Consent to Abortion, Background Report: CEJA Report H – A-92*, at 4, [https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3\\_Mandatory\\_parental\\_consent\\_to\\_abortion\\_-\\_background\\_reports.pdf](https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3_Mandatory_parental_consent_to_abortion_-_background_reports.pdf).

Notice Requirement because they impede and prevent abortion care without offering any benefits.<sup>95</sup>

135. The American College of Obstetricians and Gynecologists has concluded that “parental involvement laws create additional barriers to accessing abortion care. Minors have the ability to go through a judicial bypass process, but it is onerous and delays needed care.”<sup>96</sup>

136. The American Medical Association notes that “[t]he expert opinion to date, and the available scientific evidence, support the view that physicians should not require minors to involve their parents before deciding whether to undergo an abortion.”<sup>97</sup>

137. The American Public Health Association (“APHA”) “[u]rges that federal, state, and local policymakers and courts cease to mandate parental involvement in minors’ abortion decision making.”<sup>98</sup> The APHA cites evidence that “parental involvement laws do not promote family communication as intended,” but “may displace abortions to other states, delay abortions, or discourage adolescents from seeking professional reproductive health care or advice.”<sup>99</sup> The APHA also cites evidence that “the judicial bypass option” “results in unnecessary negative emotional consequences for adolescent women.”<sup>100</sup>

138. The American Academy of Pediatrics explains that “there is no supporting evidence” that “mandatory parental involvement laws . . . enhance family communication and parental responsibility[.]”<sup>101</sup> Although health care professionals “should encourage adolescents to

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<sup>95</sup> *Ensuring Minors’ Access to Confidential Abortion Services Policy*, AM. PUB. HEALTH ASS’N (Nov. 1, 2011), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/03/11/14/ensuring-minors-access-to-confidential-abortion-services>.

<sup>96</sup> *Committee Statement No. 16, Increasing Access to Abortion*, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS (Feb. 2025), <https://www.acog.org/clinical/clinical-guidance/committee-statement/articles/2025/02/increasing-access-to-abortion>.

<sup>97</sup> AMA Principles of Med. Ethics, 2.2.3 *Mandatory Parental Consent to Abortion, Background Report: CEJA Report H – A-92*, at 3, [https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3\\_Mandatory\\_parental\\_consent\\_to\\_abortion\\_-\\_background\\_reports.pdf](https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/2.2.3_Mandatory_parental_consent_to_abortion_-_background_reports.pdf).

<sup>98</sup> *Ensuring Minors’ Access to Confidential Abortion Services*, APHA (Nov. 1, 2011), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/03/11/14/ensuring-minors-access-to-confidential-abortion-services>.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> Am. Acad. of Pediatrics Comm. on Adolescence, *The Adolescent’s Right to Confidential Care When Considering Abortion*, 150(3) PEDIATRICS 1, 5 (Sept. 2022), <https://publications.aap.org/pediatrics/article/150/3/e2022058780/188339/The-Adolescent-s-Right-to-Confidential-Care-When?autologincheck=redirected>.

seek adult guidance and support when considering their pregnancy options,” it is “[u]ltimately, the pregnant adolescent’s right to decide whom to involve in the decision to seek abortion care[.]”<sup>102</sup>

139. Likewise, many state supreme courts have held parental involvement requirements unconstitutional because they impede and prevent abortions, and discriminate against young people who choose to have one, without providing any advantages. *See, e.g., Planned Parenthood of Mont.*, 554 P.3d at 172 (holding that Montana’s parental consent law violates the rights to equal protection and privacy under Montana’s Constitution and noting that “[t]he necessary process to obtain a judicial waiver forces delay in care which can increase stress and cost—especially if delay takes a more affordable option, such as medication assisted abortion, off the table”); *Planned Parenthood of the Great Nw. v. State*, 375 P.3d 1122, 1128, 1143 (Alaska 2016) (invalidating a voter-enacted parental notice requirement because “the State’s asserted interests” in “aiding parents to help their minor children make informed and mature pregnancy-related decisions” “do not justify a distinction between pregnant minors seeking to terminate and those seeking to carry to term”); *Farmer*, 762 A.2d at 640 (“The reality is that the Act applies to many young women who are justified in not notifying a parent about their abortion decisions.”); *Lungren*, 940 P.2d at 832 (Kennard, J., concurring) (“[E]vidence received at the trial of this case, much of it based on the experience of other states with similar laws, shows that the benevolent appearance of parental involvement laws is deceiving; the laws have serious adverse effects and yield few benefits for children or society.”); *Planned Parenthood League of Mass., Inc. v. Att’y Gen.*, 677 N.E.2d 101, 107 (Mass. 1997) (invalidating a parental consent requirement because it “lacks sufficient justification to overcome the burden [it] places on the minor’s constitutional right to choose”); *see also Doe v. State*, No. 62-CV-19-3868 (Minn. 2d Jud. Dist. July 11, 2022) (invalidating a parental notice requirement because it frustrates rather than serves Minnesota’s interests in ensuring young people fully consider their decision and receive parental support).

## V. CLAIMS FOR RELIEF

### CLAIM I

#### **(Fundamental Right to Abortion, Colo. Const. art. II, § 32)**

140. The allegations in paragraphs 1 through 139 above are incorporated as if fully set forth herein.

141. Section 32 of Article II of the Colorado Constitution provides:

The right to abortion is hereby recognized. Government shall not deny, impede, or discriminate against the exercise of that right, including prohibiting health insurance coverage for abortion.

142. The Parental Notice Requirement denies, impedes, and discriminates against young people’s exercise of their fundamental right to abortion without sufficient justification.

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<sup>102</sup> *Id.*

143. The Parental Notice Requirement therefore violates the fundamental right to abortion under Section 32, Article II of the Colorado Constitution.

### **CLAIM II**

#### **(Due Process Clause, Equal Protection of the Laws, Colo. Const. art. II, § 25)**

144. The allegations in paragraphs 1 through 143 above are incorporated as if fully set forth herein.

145. The Due Process Clause of the Colorado Constitution “guarantee[s]” equal protection of the law, *Sigman v. Seafood Ltd. Partnership I*, 817 P.2d 527, 532 (Colo. 1991), which requires the government to treat similarly situated persons in a like manner, *see Rodriguez v. Schutt*, 914 P.2d 921, 926 (Colo. 1996).

146. The Parental Notice Requirement draws a gender-based classification that impinges on young females’ fundamental right to abortion under the Colorado Constitution without sufficient justification.

147. Accordingly, the Parental Notice Requirement violates the right to equal protection of the law.

### **CLAIM III**

#### **(Equal Rights Amendment, Colo. Const. art. II, § 29)**

148. The allegations in paragraphs 1 through 147 above are incorporated as if fully set forth herein.

149. The Equal Rights Amendment provides:

Equality of the sexes. Equality of rights under the law shall not be denied or abridged by the state of Colorado or any of its political subdivisions on account of sex.

150. The Equal Rights Amendment “prohibits unequal treatment based exclusively on the circumstance of sex, social stereotypes connected with gender, and culturally induced dissimilarities.” *People v. Salinas*, 551 P.2d 703, 706 (Colo. 1976).

151. The Parental Notice Requirement discriminates against females based exclusively on their sex, social stereotypes connected with gender, and culturally induced dissimilarities without sufficient justification.

152. Accordingly, the Parental Notice Requirement violates the Equal Rights Amendment.

#### CLAIM IV

#### (Declaratory Judgment, Colo. Rev. Stat. § 13-51-106 & Colo. R. Civ. P. 57)

153. Under Colorado’s Uniform Declaratory Judgment Act, “[a]ny person . . . whose rights, status, or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the . . . statute. . . and obtain a declaration of rights, status, or other legal relations thereunder.” Colo. Rev. Stat. § 13-51-106; *see also* Colo. R. Civ. P. 57.

154. “[D]eclaratory judgments may be rendered in cases seeking to invalidate statutes on constitutional grounds.” *Rinn v. Bedford*, 84 P.2d 827, 828 (Colo. 1938).

155. The provisions authorizing declaratory relief are “remedial in nature and should be liberally construed[.]” *Toncray v. Dolan*, 593 P.2d 956, 957 (Colo. 1979).

156. Plaintiff Dr. Cohen is entitled to declaratory relief because she and her patients who are young people are suffering injuries to their legally protected interests, and there is an actual, current controversy regarding the constitutionality of the Defendants’ actions.

#### PLEA FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Enter a declaratory judgment that the Parental Notice Requirement, Colo. Rev. Stat. §§ 13-22-701–708, violates the Colorado Constitution and is therefore unenforceable;
- B. Permanently enjoin the Defendants and their employees, agents, and successors in office from enforcing the Parental Notice Requirement, Colo. Rev. Stat. §§ 13-22-701–708; or
- C. Alternatively, enter a declaratory judgment that the Parental Notice Requirement, Colo. Rev. Stat. §§ 13-22-701–708, violates the Colorado Constitution as applied to young people who are at least sixteen years old; and
- D. Alternatively, permanently enjoin the Defendants and their employees, agents, and successors in office from enforcing the Parental Notice Requirement, Colo. Rev. Stat. §§ 13-22-701–708, in cases where the young person is at least sixteen years old; and
- E. Grant such other and further relief as the Court may deem just, proper, and equitable.

Dated: July 8, 2025

Respectfully submitted,

/s/ Elisabeth Hutchinson

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forthcoming*

# EXHIBIT A

West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Contracts and Agreements  
Article 22. Age of Competence--Arbitration--Mediation (Refs & Annos)  
Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-701  
Formerly cited as CO ST § 12-37.5-101

§ 13-22-701. Short title

[Currentness](#)

The short title of this part 7 is the “Colorado Parental Notification Act”.

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

[Notes of Decisions \(7\)](#)

C. R. S. A. § 13-22-701, CO ST § 13-22-701

Current through legislation effective July 1, 2025 of the First Regular Session, 75th General Assembly (2025). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Contracts and Agreements  
Article 22. Age of Competence--Arbitration--Mediation (Refs & Annos)  
Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-702  
Formerly cited as CO ST § 12-37.5-102

§ 13-22-702. Legislative declaration

#### Currentness

(1) The people of the state of Colorado, pursuant to the powers reserved to them in Article V of the Constitution of the state of Colorado, declare that family life and the preservation of the traditional family unit are of vital importance to the continuation of an orderly society; that the rights of parents to rear and nurture their children during their formative years and to be involved in all decisions of importance affecting such minor children should be protected and encouraged, especially as such parental involvement relates to the pregnancy of an unemancipated minor, recognizing that the decision by any such minor to submit to an abortion may have adverse long-term consequences for her.

(2) The people of the state of Colorado, being mindful of the limitations imposed upon them at the present time by the federal judiciary in the preservation of the parent-child relationship, hereby enact into law the following provisions.

#### Credits

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

#### Notes of Decisions (1)

C. R. S. A. § 13-22-702, CO ST § 13-22-702

Current through legislation effective July 1, 2025 of the First Regular Session, 75th General Assembly (2025). Some statute sections may be more current. See credits for details.

West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Contracts and Agreements  
Article 22. Age of Competence--Arbitration--Mediation (Refs & Annos)  
Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-703  
Formerly cited as CO ST § 12-37.5-103

§ 13-22-703. Definitions

**Currentness**

As used in this part 7, unless the context otherwise requires:

- (1) “Minor” means a person under eighteen years of age.
- (2) “Parent” means the natural or adoptive mother and father of the minor who is pregnant, if they are both living; one parent of the minor if only one is living, or if the other parent cannot be served with notice, as hereinafter provided; or the court-appointed guardian of such minor if she has one or any foster parent to whom the care and custody of such minor shall have been assigned by any agency of the state or county making such placement.
- (3) “Abortion” for purposes of this part 7 means the use of any means to terminate the pregnancy of a minor with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the minor's unborn offspring.
- (4) “Clergy member” means a priest; a rabbi; a duly ordained, commissioned, or licensed minister of a church; a member of a religious order; or a recognized leader of any religious body.
- (5) “Medical emergency” means a condition that, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate a medical procedure necessary to prevent the pregnant minor's death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.
- (6) “Relative of the minor” means a minor's grandparent, adult aunt, or adult uncle, if the minor is not residing with a parent and resides with the grandparent, adult aunt, or adult uncle.

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

C. R. S. A. § 13-22-703, CO ST § 13-22-703

Current through legislation effective July 1, 2025 of the First Regular Session, 75th General Assembly (2025). Some statute sections may be more current. See credits for details.

West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Contracts and Agreements  
Article 22. Age of Competence--Arbitration--Mediation (Refs & Annos)  
Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-704

Formerly cited as CO ST § 12-37.5-104

§ 13-22-704. Notification concerning abortion

**Currentness**

(1) No abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered in the following manner:

(a) The notice shall be addressed to the parent at the dwelling house or usual place of abode of the parent. Such notice shall be delivered to the parent by:

(I) The attending physician or member of the physician's immediate staff who is over the age of eighteen; or

(II) The sheriff of the county where the service of notice is made, or by his deputy; or

(III) Any other person over the age of eighteen years who is not related to the minor; or

(IV) A clergy member who is over the age of eighteen.

(b) Notice delivered by any person other than the attending physician shall be furnished to and delivered by such person in a sealed envelope marked "Personal and Confidential", and its content shall not in any manner be revealed to the person making such delivery.

(c) Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, delivery to one such person shall constitute delivery to both, and the 48-hour period shall commence when delivery is made. Should such persons not reside together and delivery of notice can be made to each of them, notice shall be delivered to both parents, unless the minor shall request that only one parent be notified, which request shall be honored and shall be noted by the physician in the minor's medical record. Whenever the parties are separately served with notice, the 48-hour period shall commence upon delivery of the first notice.

(d) The person delivering such notice, if other than the physician, shall provide to the physician a written return of service at the earliest practical time, as follows:

(I) If served by the sheriff or his deputy, by his certificate with a statement as to date, place, and manner of service and the time such delivery was made.

(II) If by any other person, by his affidavit thereof with the same statement.

(III) Return of service shall be maintained by the physician.

(e)(I) In lieu of personal delivery of the notice, the same may be sent by postpaid certified mail, addressed to the parent at the usual place of abode of the parent, with return receipt requested and delivery restricted to the addressee. Delivery shall be conclusively presumed to occur, and the 48-hour time period as provided in this part 7 shall commence to run at 12:00 o'clock noon on the next day on which regular mail delivery takes place.

(II) Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, notice addressed to one parent and mailed as provided in the foregoing subparagraph shall be deemed to be delivery of notice to both such persons. Should such persons not reside together and notice can be mailed to each of them, such notice shall be separately mailed to both parents unless the minor shall request that only one parent shall be notified, which request shall be honored and shall be noted by the physician in the minor's medical record.

(III) Proof of mailing and the delivery or attempted delivery shall be maintained by the physician.

(2)(a) Notwithstanding the provisions of subsection (1) of this section, if the minor is residing with a relative of the minor and not a parent, the written notice of the pending abortion shall be provided to either the relative of the minor or a parent.

(b) If a minor elects to provide notice to a person specified in subsection (2)(a) of this section, the notice shall be provided in accordance with the provisions of subsection (1) of this section.

(3) At the time the physician, licensed health-care professional, or staff of the physician or licensed health-care professional informs the minor that notice must be provided to the minor's parents prior to performing an abortion, the physician, licensed health-care professional, or the staff of the physician or licensed health-care professional must inform the minor under what circumstances the minor has the right to have only one parent notified.

#### **Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

#### [Notes of Decisions \(2\)](#)

C. R. S. A. § 13-22-704, CO ST § 13-22-704

Current through legislation effective July 1, 2025 of the First Regular Session, 75th General Assembly (2025). Some statute sections may be more current. See credits for details.

West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Contracts and Agreements  
Article 22. Age of Competence--Arbitration--Mediation (Refs & Annos)  
Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-705  
Formerly cited as CO ST § 12-37.5-105

§ 13-22-705. No notice required--when

[Currentness](#)

(1) No notice shall be required pursuant to this part 7 if:

(a) The person or persons who may receive notice pursuant to [section 13-22-704\(1\)](#) certify in writing that they have been notified; or

(b) The person whom the minor elects to notify pursuant to [section 13-22-704\(2\)](#) certifies in writing that he or she has been notified; or

(c) The pregnant minor declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice, as such acts or omissions are defined in “The Child Protection Act of 1987”, as set forth in article 3 of title 19, and any amendments thereto, and the attending physician has reported such child abuse or neglect as required by the said act. When reporting such child abuse or neglect, the physician shall not reveal that he or she learned of the abuse or neglect as the result of the minor seeking an abortion.

(d) The attending physician certifies in the pregnant minor's medical record that a medical emergency exists and there is insufficient time to provide notice pursuant to [section 13-22-704](#); or

(e) A valid court order is issued pursuant to [section 13-22-707](#).

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

C. R. S. A. § 13-22-705, CO ST § 13-22-705

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C.R.S.A. § 13-22-706

Formerly cited as CO ST § 12-37.5-106

§ 13-22-706. Penalties--damages--defenses

**Currentness**

(1) Any person who performs or attempts to perform an abortion in willful violation of this part 7 shall be liable for damages proximately caused thereby.

(2) It shall be an affirmative defense to any civil proceedings if the person establishes that:

(a) The person relied upon facts or information sufficient to convince a reasonable, careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this part 7 were bona fide and true; or

(b) The abortion was performed to prevent the imminent death of the minor child and there was insufficient time to provide the required notice.

(3) Any person who counsels, advises, encourages or conspires to induce or persuade any pregnant minor to furnish any physician with false information, whether oral or written, concerning the minor's age, marital status, or any other fact or circumstance to induce or attempt to induce the physician to perform an abortion upon such minor without providing written notice as required by this part 7 commits a class 5 felony and shall be punished as provided in [section 18-1.3-401](#).

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

C. R. S. A. § 13-22-706, CO ST § 13-22-706

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Part 7. Colorado Parental Notification Act (Refs & Annos)

C.R.S.A. § 13-22-707

Formerly cited as CO ST § 12-37.5-107

§ 13-22-707. Judicial bypass--rules

[Currentness](#)

(1)(a) If any pregnant minor elects not to allow the notification required pursuant to [section 13-22-704](#), any judge of a court of competent jurisdiction shall, upon petition filed by or on behalf of such minor, enter an order dispensing with the notice requirements of this part 7 if the judge determines that the giving of such notice will not be in the best interest of the minor, or if the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to have an abortion. Any such order shall include specific factual findings and legal conclusions in support thereof and a certified copy of such order shall be provided to the attending physician of said minor and the provisions of [section 13-22-704\(1\)](#) and [section 13-22-706](#) shall not apply to the physician with respect to such minor.

(b) The court, in its discretion, may appoint a guardian ad litem for the minor and also an attorney if said minor is not represented by counsel.

(c) Court proceedings under this subsection (1) shall be confidential and shall be given precedence over other pending matters so that the court may reach a decision promptly without delay in order to serve the best interests of the minor. Court proceedings under this subsection (1) shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

(d) Notwithstanding any other provision of law, an expedited confidential appeal to the court of appeals shall be available to a minor for whom the court denies an order dispensing with the notice requirements of this part 7. Any such appeal shall be heard and decided no later than five days after the appeal is filed. An order dispensing with the notice requirements of this part 7 shall not be subject to appeal.

(e) Notwithstanding any provision of law to the contrary, the minor is not required to pay a filing fee related to an action or appeal filed pursuant to this subsection (1).

(f) If either the district court or the court of appeals fails to act within the time periods required by this subsection (1), the court in which the proceeding is pending shall immediately issue an order dispensing with the notice requirements of this part 7.

(g) The Colorado supreme court shall issue rules governing the judicial bypass procedure, including rules that ensure that the confidentiality of minors filing bypass petitions will be protected. The Colorado supreme court shall also promulgate a form petition that may be used to initiate a bypass proceeding. The Colorado supreme court shall promulgate the rules and form

governing the judicial bypass procedure by August 1, 2003. Physicians shall not be required to comply with this part 7 until forty-five days after the Colorado supreme court publishes final rules and a final form.

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

[Notes of Decisions \(8\)](#)

C. R. S. A. § 13-22-707, CO ST § 13-22-707

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C.R.S.A. § 13-22-708  
Formerly cited as CO ST § 12-37.5-108

§ 13-22-708. Limitations

[Currentness](#)

(1) This part 7 shall in no way be construed so as to:

(a) Require any minor to submit to an abortion; or

(b) Prevent any minor from withdrawing her consent previously given to have an abortion; or

(c) Permit anything less than fully informed consent before submitting to an abortion.

(2) This part 7 shall in no way be construed as either ratifying, granting or otherwise establishing an abortion right for minors independently of any other regulation, statute or court decision which may now or hereafter limit or abridge access to abortion by minors.

**Credits**

Relocated and amended by [Laws 2018, Ch. 8, § 1, eff. Oct. 1, 2018](#).

C. R. S. A. § 13-22-708, CO ST § 13-22-708

Current through legislation effective July 1, 2025 of the First Regular Session, 75th General Assembly (2025). Some statute sections may be more current. See credits for details.