

Opinion

California's deceptive Proposition 4

It says it's about parental notification, but it's really about attacking legalized abortion.
By Francesca Ratner

September 15, 2008

It's back! Proposition 4 on the November California ballot -- "Waiting Period and Parental Notification Before Termination of Minor's Pregnancy" -- is a repeat of Proposition 73 in 2005 and Proposition 85 in 2006, both of which were defeated. Passage would make it part of the state Constitution.

What usually happens on this issue is a majority of the "pro-life" camp votes "yes" and a majority of the "pro-choice" group votes "no." And then there are all those uninformed people in the middle, who are not even sure they can leave some entries on their ballots un-punched. As a responsible member of that third category, I studied the 2006 proposition and this year's initiative closely.

The propositions' defenders argue that parents have a right to be notified before an abortion is performed on a minor daughter. Opponents make the case that some teens face parental abuse, and even risk being kicked out of their homes, if they become pregnant. Critics add that it is difficult for teens to navigate the courts to obtain a parental notification waiver, as the 2008 initiative allows.

To appease the opposition, this year's initiative allows an adult family member other than a parent to be notified in the case of parental abuse. Opponents maintain that this still presents obstacles.

Arguments from both sides are weighty, so I did what every responsible, uninformed voter should -- took a deep breath and dove into the thicket of legal lingo. I was overwhelmed by sentences half a page long with verbs separated from their subjects by an array of subordinate clauses and assorted punctuation. Struggling to extract some meaning, I broke some sentences into manageable segments: "Physician ... has delivered written notice to her parent personally or by mail as provided in subdivision (c);

"The notice form shall be bilingual, in English and Spanish, and also available in English....

"Forms shall also indicate whether the abortion was performed pursuant to subdivision (c); or (d); or (e); or (f); or (h), (i), or (j)...."

"To ensure confidentiality of the unemancipated minors ... said reports to be publicly available unless the Judicial Council determines"

"Petitions granted under subdivisions (h)(1) or (h)(2), deemed granted under subdivision (i), denied under subdivision (h)(3), and granted or denied under subdivision (j)."

In rich detail, the proposition defines the red tape for physicians and minors before, during and after an abortion -- even as to what kinds of envelopes to use.

Toward the end of Proposition 4's text, hiding in Section 3 under point (r), are clauses that deal with the "minor's consent to abortion" and "court relief" from "coercion." The proposition shifts here from "parental notification" to "consent" and suggests challenging that consent in court.

What do those issues have to do with parental notification? Befuddled, as if I were a physician facing legal forms, I remembered the response I got in 2006 from an official spokesman of the Proposition 85 campaign. In regard to a similar "coercion" clause in Proposition 85, he explained, "Most parents in today's society want their kids to get abortions. Some parents force it on their children."

He then brought up an example in which a girl had been kidnapped by her parents in Maine to be forcibly taken to an abortion clinic. I found on the "Yes on 85" website that he was alluding to the case of Katelyn Kampf. A quick investigation revealed that Kampf was an adult, not a minor, when she was kidnapped. Her parents were arrested, and she got to keep her baby -- without the aid of a constitutional amendment such as the one under Proposition 4.

Somehow, the logic of the argument for consent and about coercion was still escaping me. Isn't a "minor's consent" obvious if she's at the abortion clinic without her parents' knowledge?

Still puzzled, I turned to professional help -- USC law professor Michael H. Shapiro. He pointed out: "There is no remedy specified in the proposition for coercion. What course of action should be taken if a young woman is forced into her decision?"

Although Shapiro believes that women should not be forced into or out of a decision to have an abortion, he noted that "any time legislators propose a law that has to do with abortion, they are generally trying to dress up an anti-abortion law." He added that in addition to the requirement of a parental waiver, most of the clauses in the proposition "create more obstacles for women, and are part of a plan to maximize the monkey-wrench effect on abortion."

After wandering the maze of legal terms, clauses and subsections, I emerged with a clear notion that a heap of physicians' forms, consent, coercion and court appeals do not belong under the title of "parental notification."

And if you're still not persuaded to read the full legal text of Proposition 4, here is my version of how an honest summary of Proposition 4 should read:

Proposition to Curtail Abortion for Teenage Girls:

- * Do not allow minors to obtain abortions behind their parents' backs.
- * Create an undue burden on physicians, with miles of red tape and severe repercussions for a misstep in filing notifications, reports, etc.
- * Make sure pregnant teens go through humiliation and exposure.
- * Create a pretext for taking the matter of abortion to court.
- * Add vague clauses regarding "court relief" and "coercion," which could warrant further litigation.

Abortion is an unfortunate occurrence for women, and even more so for underage girls. And performing one on a minor behind her parents' backs is often wrong. Nonetheless, selling Proposition 4 as just "parental notification" is dishonest. Those who use such ploys should not be allowed to rewrite the Constitution.

Francesca Ratner was a volunteer on the 2006 campaign against Proposition 85.

<http://www.latimes.com/news/printedition/opinion/la-oe-ratner15-2008sep15,0,4135852.story>