

# Values Action Team

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## Key Points on the Child Custody Protection Act (H.R. 476)

For further information, see

[www.nrlc.org/Federal/CCPA/why\\_we\\_need\\_CCPA.htm](http://www.nrlc.org/Federal/CCPA/why_we_need_CCPA.htm)

The Child Custody Protection Act (H.R. 476) would make it a federal offense to transport a minor across a state line for an abortion if this action circumvents a state law requiring parental involvement in that minor's abortion (or judicial waiver of such a requirement). Parental notification/consent laws are often circumvented by adults who transport minors to neighboring states which do not require parental notification or consent. Indeed, many abortion clinics in states without parental involvement laws actually encourage such interstate activity (and profit by it) by using "No Parental Consent Required" as a prominent "selling point" in ads run in neighboring states that enforce parental involvement laws.

In a widely publicized 1995 case, a 12-year-old Pennsylvania girl became pregnant after sexual involvement with an 18-year-old man. Pennsylvania law requires parental consent (or judicial bypass) for an abortion to be performed on a minor. However, the man's mother took the pregnant girl for an abortion in New York, which has no parental involvement law. (The girl's mother did not even know that she was pregnant.) When Pennsylvania authorities prosecuted the woman for interfering with the custody of a child, she was defended by attorneys for the Center for Reproductive Law and Policy, the major national pro-abortion litigating organization. They argued that the woman's actions were like those of "thousands of adults who each year aid young women in exercising their constitutional right to an abortion," and that such "aid" is protected by *Roe v. Wade*.

The Child Custody Protection Act does *not* supersede, override, or in any way interfere with existing state laws regarding minors' abortions. Nor does the bill impose any parental notice or consent requirement on any state. The bill deals *only* with interstate transportation of minors to circumvent existing state laws. Nevertheless, opponents of the bill have urged that "exceptions" be added to allow interstate transportation for abortions to be conducted by "grandmothers" or other persons, without the authorizations required by state law. But NRLC believes that Congress should *not* override state laws by empowering mothers-in-law or other persons who do not hold parental authority under the pertinent state laws.

The majority of today's teenage mothers are being impregnated by adult men. [See Mike A. Males, "Adult Involvement in Teenage Childbearing and STD," *Lancet*, vol. 346 (July 1995)]. One study of 46,500 school-age mothers in California found that **two-thirds** of the girls were impregnated by adult, postschool fathers, with the median age

of the father being **22 years**. [Mike Males and Kenneth S.Y. Chew, "The Ages of Fathers in California Adolescent Births, 1993," *American Journal of Public Health*, vol. 86, no. 4 (April 1996)]. Obviously, many of these males are vulnerable to statutory rape charges, a strong incentive to pressure the much younger girl to agree to obtain an abortion without revealing the pregnancy to the parents. Currently, such a male often can evade parental consent requirements by transporting his victim across state lines, but under the Child Custody Protection Act, this would compound rather than reduce the male's legal risk.! While we are unaware of statistical data on the incidence of *interstate* transportation by the impregnating males, it is noteworthy that 58 percent of the time it is the girl's boyfriend who accompanies a girl for an abortion, when her parents have not been told about her pregnancy. [Stanley Henshaw and Kathryn Kost, "Parental Involvement in Minors' Abortion Decisions," *Family Planning Perspectives*, vol. 24, no. 5 (September/October 1992)].

The bill would help protect the compelling interests that state legislatures recognized in enacting parental involvement laws, including the need for parents to be aware that their minor daughter may be subjected to surgery and/or the administration of drugs that could be dangerous in light of medical history unknown to the minor herself. As the Supreme Court observed, "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature." *H.L. v. Matheson*, 450 U.S. 398, 411 (1981).

Some opponents argue that the bill is unconstitutional because it applies even if someone believes that an abortion is advisable for a girl's "health." This argument is without merit. The bill merely prohibits circumvention of the state parental involvement laws that are already in effect, which have been written to comply with detailed Supreme Court doctrine regarding medical exceptions and judicial bypass procedures. Moreover, it is the parents or legal guardians -- not boyfriends, strangers, or meddling in-laws -- who are generally best able to weigh the risks of various courses of action in light of their often-unique knowledge of the girl's medical history, psychological makeup, and other crucial factors.

By passing the Child Custody Protection Act, Congress would take a clear stand against the bizarre notion that the U.S. Constitution confers a "right" upon strangers to take one's minor daughter across state lines for a secret abortion, even when a state law specifically requires the involvement of a parent or judge in the daughter's abortion decision.

Posted: April 17, 2002

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