IN THE ILLINOIS SUPREME COURT

THE HOPE CLINIC FOR WOMEN LTD.; and
ALLISON COWETT, M.D., M.P.H.,

Plaintiffs-Appellees,

v.

BRENT ADAMS, Acting Secretary of the Illinois Department of Financial and Professional Regulation, in his official capacity; **DANIEL BLUTHARDT**, Director of the Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation, in his official capacity; and **THE ILLINOIS STATE MEDICAL DISCIPLINARY BOARD**,

Defendants-Appellants.

On appeal from the Appellate Court, First District 1-10-1463, there heard on appeal from the Circuit Court of Cook County, The Hon. Daniel Riley, Judge Presiding

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AMICUS CURIAE BRIEF OF ILLINOIS LEGISLATORS IN SUPPORT OF DEFENDANTS-APPELLANTS

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POINTS AND AUTHORITIES

ARGUMENT

When the Illinois General Assembly enacted the Illinois Parental Notice of Abortion Act ("the Act") in 1995, it made the following findings of fact:

> The General Assembly finds that notification of a family member as defined in this Act is in the best interest of an unemancipated minor, and the General Assembly's purpose in enacting this parental notice law is to further and protect the best interests of an unemancipated minor.
>
> The medical, emotional, and psychological consequences of abortion are sometimes serious and long-lasting, and immature minors often lack the ability to make fully informed choices that consider both the immediate and long-range consequences.
>
> Parental consultation is usually in the best interest of the minor and is desirable since the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related.

750 Ill. Comp. Stat. 70/5.

In their Verified Complaint as well as in their Response to Defendants' Combined Motion for Judgment on the Pleadings or, in the alternative, to Dismiss, the Plaintiffs claim that there is "no justification" for the Act. *See* Plaintiffs' Verified Complaint, at 12; Plaintiffs' Response to Defendants' Combined Motion for Judgment, at 8-9. This assertion is false and shows a blatant disregard for the General Assembly's findings and the plethora of evidence supporting those findings.

As the United States Supreme Court has acknowledged, the "abortion decision has implications far broader than those associated with most other kinds of medical treatment." *Bellotti v. Baird*, 443 U.S. 622, 649 (1979). The Court has also stated that "immature minors often lack the ability to make fully informed choices that take account of both immediate and long-range consequences"—a finding explicitly enumerated in the Act. *Id*. at 640; 750 Ill. Comp. Stat. 70/5. As recently as 2007, the Court held that

"[s]evere depression and loss of esteem can follow" the abortion decision. *Gonzales v. Carhart*, 550 U.S. 124, 159 (2007).

In fact, in *H.L. v. Matheson*, the Court stated that the emotional and psychological effects of abortion are markedly more severe for girls under the age of 18—those women the Illinois General Assembly sought to protect when enacting the Act. 450 U.S. 398, 411 n.20 (1981). And in *Roper v. Simmons*, the Court took note of the unique vulnerability of minors when it enunciated the following three differences between minors and adults:

1. Minors possess a lack of maturity and an underdeveloped sense of responsibility, which result in impetuous and ill-considered actions and decisions;

2. Minors are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure; and

3. The character of a minor is not as well formed as that of an adult, with the personality traits of minors being more transitory and less fixed.

543 U.S. 551, 569-70 (2005).

As the documented studies below demonstrate, parental involvement laws (requiring either parental consent or parental notification) decrease both minor abortion and birth rates. In addition, parental involvement laws protect minors from the physical and psychological harms inherent in abortion, as well as sexual exploitation. Thus, these studies categorically refute the Plaintiffs' claims that there is "no justification" for the Act.

I. PARENTAL INVOLVEMENT LAWS SUCH AS THE ACT DECREASE ABORTION AND BIRTH RATES AMONG MINORS

A. Parental Involvement Laws Decrease the Abortion Rate

Studies indicate that parental involvement laws appear to decrease teenage demand for abortion. For example, a 1996 study revealed that "parental involvement laws appear to decrease minors' demands for abortion by 13 to 25 percent."[1] In a similar earlier study, the same researcher found a 16 percent decrease overall in the rate of minors' abortions in states where parental involvement laws are in effect.[2] When narrowed to only those minors aged 15 to 19, the abortion rate was 25 percent lower in states with parental involvement laws as compared to states without such laws.[3] A study analyzing the effects of parental involvement laws in Massachusetts and Minnesota found that the number of abortions obtained during the period the laws were in effect decreased by approximately one-third.[4]

These findings, as well those in other similar studies,[5] were echoed in 2007 by research published by Dr. Michael New in the peer reviewed journal *Catholic Social*

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[1] D. Haas-Wilson, *The Impact of State Abortion Restrictions on Minors' Demand for Abortions*, J. HUMAN RESOURCES 31(1):140, 155 (1996).

[2] D. Haas-Wilson, *The economic impact of state restrictions on abortion: Parental consent and notification laws and Medicaid funding restrictions*, J. POLICY ANALYSIS & MANAGEMENT 12(3):498, 509 (1993).

[3] *Id*.

[4] P. Donovan, *Judging teenagers: How minors fare when they seek court authorized abortions*, FAMILY PLANNING PERSPECTIVES 15(6): 259 (1983).

[5] *See, e.g*., R.M. Blank et al., *State Abortion Rates: The Impact of Policies, Providers, Politics, Demographics, and Economic Environment*, J. HEALTH ECON. 15:513 (1996); R.L. Ohsfeldt & S.F. Gohmann, *Do Parental Involvement Laws Reduce Adolescent Abortion Rates?*, CONTEMPORARY ECON. POL'Y 12(2):65 (1994).

Science Review.[6] After reviewing the relevant literature and performing a multi-regression analysis on a dataset that included abortion data from nearly every state between 1985 and 1999, Dr. New determined that parental involvement laws accounted for a reduction in teenage abortion of approximately 16 percent.[7] By demonstrating that the parental involvement laws at issue decreased teenage abortion but not overall abortion rates, Dr. New established that the 16 percent decrease in abortion among minors was causally connected to parental involvement laws, as opposed to other factors (such as a state becoming more conservative).[8] He also showed that where parental involvement laws are in effect, teenage abortion decreases; but where parental involvement laws that have been in effect are nullified by a court decree, teenage abortion increases after such nullification.[9]

Dr. New acknowledged, however, that researchers are divided over whether parental involvement laws truly reduce the number of overall abortions, or whether minors circumvent abortion laws in their own states by traveling to states without

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[6] M.J. New, *Analyzing the Effect of State Legislation on the Incidence of Abortion Among Minors: A Report of the Heritage Center for Data Analysis*, CATHOLIC SOC. SCI. REV. (Fall 2007), available at http://www.heritage.org/research/reports/2007/02/analyzing-the-effect-of-state-legislation-on-the-incidence-of-abortion-among-minors (last visited Dec. 13, 2011).

[7] *Id*. at 3-4, 5.

[8] *Id*. at 6-7. If there was a swing in public opinion about abortion in general, then there would have been an overall decrease in both minor and adult abortions in those states.

[9] *Id*. at 7-8. In 2011, Dr. New published a study which shows that parental involvement laws cause the in-state abortion rate to decline by approximately 13 percent. *See* M. New, *Analyzing the Effect of Anti-Abortion U.S. Stat e Legislation in the Post-Casey Era*, STATE POLITICS & POLICY QUARTERLY 11(1):28 (2011).

restrictions. For example, researcher Charlotte Ellertson separately analyzed parental involvement laws in Indiana, Minnesota, and Missouri and found that the minor abortion rate declined anywhere from 17 to 26 percent after the enactment of these laws.[10] However, she also found that minors were more likely to travel to other states to obtain abortions when these laws were in effect, speculating that the increase in out-of-state abortions could offset the in-state declines.[11]

Yet there are ample studies demonstrating exactly the opposite. For example, a study by Virginia Cartoof and Lorraine Klerman found that both in- and out-of-state abortions of minors in Massachusetts declined by 15 percent following passage of the state's parental consent statute.[12]

In addition, several studies analyzing Minnesota's parental notification law have found little evidence that significant numbers of minors are obtaining out-of-state abortions. Rather, one study indicated that the law decreased the in-state minor abortion rate by about 28 percent,[13] with another study finding little evidence that minors are leaving the state to obtain abortions.[14] Another study stated, "[i]n practice, the majority

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[10] C. Ellertson, *Mandatory parental involvement in minors' abortions: Effects of the laws in Minnesota, Missouri, and Indiana*, AMER. J. PUB. HEALTH 87(8):1367 (1997).

[11] *Id.*

[12] V.G. Cartoof & L.V. Klerman, *Parental consent for abortion: Impact of the Massachusetts law*, AMER. J. PUB. HEALTH 76(4):397 (1986).

[13] J.L. Rogers et al., *Impact of the Minnesota Parental Notification Law on abortion and birth*, AMER. J. PUB. HEALTH 81(3):294 (1991).

[14] R.W Blum et al., *The impact of a parental notification law on adolescent abortion decision-making*, AMER. J. PUB. HEALTH 77(5):619, 620 (1987) ("there is little evidence indicating [that] large numbers of Minnesota youths are leaving the state for abortion").

of Minnesota minors do not have the option of going to another state, although some of those who live in the northwest section of the state can go to Fargo, North Dakota, and minors living along the southern border can go to Iowa; very few go to either state, however."[15]

Researchers obtained similar results when analyzing the impact of the parental notification law in Texas, which went into effect in 2000. In 2006, researchers reported in the *New England Journal of Medicine* the following statistically significant findings:

- Abortion rates fell by 11 percent among 15-year-olds
- Abortion rates fell by 20 percent among 16-year-olds
- Abortion rates fell by 16 percent among 17-year-olds.[16]

The researchers rigorously collected data from neighboring states and found little evidence that minors from Texas were obtaining abortions elsewhere.[17]

Thus, a significant body of research literature suggests that parental involvement laws reduce minor abortion rates while not necessarily increasing out-of-state abortion rates. And given the fact that every state bordering Illinois has an enforceable parental involvement statute, the chance of minors in Illinois circumventing the notification law and decreasing its effectiveness by traveling to other states is very slim. In fact, in order

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[15] Donovan, *supra*, at 262.

[16] T. Joyce et al., *Changes in Abortion and Births and the Texas Parental Notification Law*, N.E.J.M. 354(10):1031 (2006).

[17] *Id*. *See also* P.B. Levine, *Parental involvement laws and fertility behavior*, J. HEALTH ECON. 22(5):861 (2003) (taking into account state-of-residence, as opposed to state-of-occurrence, and finding that parental involvement laws do result in a significant reduction in abortions).

to circumvent the Illinois law, a minor would have to travel to Montana, New Jersey, or New York, the closest states without currently enforceable parental involvement laws.

To the contrary, by enforcing the law in Illinois, the state will actually prevent the migration of minors from other states into Illinois to obtain abortions. For example, it is well known that minors from the state of Missouri regularly travel to Granite City to visit Plaintiff Hope Clinic for Women.

B. Parental Involvement Laws Decrease the Birth Rate

Furthermore, there is no evidence that parental involvement laws cause the birthrate to increase among minors.[18] "[T]here is no empirical support for the claim that recent restrictions on access to abortion [including parental consent statutes] have led to higher teen birth rates."[19] To the contrary, "teen birth rates f[a]ll, rather than r[i]se, following the implementation of parental consent laws."[20] For example, a study by Ohsfeldt and Gohmann concluded, "the results imply that a parental involvement law is associated with about an 18 percent reduction in the adolescent abortion rate and an 8 percent reduction in the adolescent pregnancy rate."[21]

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[18] *See, e.g.*, J. Rogers & A. Miller, *Inner-City Birth Rates Following Enactment of the Minnesota Parental Notification Law*, LAW & HUMAN BEHAVIOR 17(1):27 (1993); J.L. Rogers et al., *supra*.

[19] T.J. Kane & D. Staiger, *Teen Motherhood and Abortion Access*, QUARTERLY J. ECON. 111(2):467, 470 (1996).

[20] *Id*. at 476; *see also* C. Jackson & J. Klerman, *Welfare, Abortion and Teenage Fertility*, RAND Corporation working paper, August 1994 (supporting the conclusion that teen birth rates fall after passage and enforcement of parental notification laws).

[21] R.L. Ohsfeldt & S.F. Gohmann, *supra*, at 74.

Likewise, Joyce et al. found that, in the two years after the Texas parental notification law went into effect, there was a decrease in the birthrate among minors of 4.8 percent.[22] The researchers concluded that "minors increase the use of contraception or decrease sexual activity in response to a parental notification or consent law."[23]

II. PARENTAL INVOLVEMENT LAWS SUCH AS THE ACT PROTECT MINORS FROM THE PHYSICAL AND PSYCHOLOGICAL HARMS INHERENT IN ABORTION

Medical studies demonstrate that abortion carries immediate and long-term physical risks, as well as psychological consequences, that are harmful to women's health. Because minors are particularly susceptible to these risks, it cannot be argued that there is "no justification" for the Act.

A. Minors who abort face demonstrated physical risks

1. Short-term Physical Risks of Abortion

The undisputed[24] short-term physical risks of surgical abortion include blood clots; incomplete abortions, which occur when part of the unborn child or other products of pregnancy are not completely emptied from the uterus; infection, which includes pelvic inflammatory disease and infection caused by incomplete abortion; and injury to the cervix and other organs, which includes cervical lacerations and incompetent cervix—a condition that affects subsequent pregnancies.

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[22] Joyce et al., *supra*, at 1034.

[23] *Id*. at 1037.

[24] These risks are openly acknowledged by abortion providers. *See, e.g.*, Planned Parenthood, *In-Clinic Abortion Procedures* (2011), available at http://www.plannedparenthood.org/health-topics/abortion/abortion-procedures-4359.htm (last visited Dec. 15, 2011).

Minors are even more susceptible to these risks than are older women. For example, minors are up to twice as likely to experience cervical lacerations during abortion.[25] Researchers believe that smaller cervixes make it more difficult to dilate or grasp with instruments. Minors are also at greater risk for post-abortion infections, such as pelvic inflammatory disease and endometritis.[26] Again, researchers believe that minors are more susceptible because their bodies are not yet fully developed and do not yet produce the protective pathogens found in the cervical mucus of older women.

While these risks apply to surgical abortion, it is important to note that drugs producing a chemical abortion have never been tested on minors. For example, the common abortion drug RU-486 has only been tested on women aged 18 to 46.[27] We simply do not yet know how RU-486 has specifically impacted young women; but we do know that by April 30 of this year, the FDA knew of 2,207 adverse events in the U.S. related to the use of RU-486, including hemorrhaging, blood loss requiring transfusions,

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[25] *See, e.g.*, K.F. Schultz et al., *Measures to prevent cervical injury during suction curettage abortion*, LANCET 1(8335):1182 (1993); R.T. Burkman et al., *Morbidity risk among young adolescents undergoing elective abortion*, CONTRACEPTION 30(2):99 (1984).

[26] *See, e.g.*, R.T. Burkman et al., *Culture and treatment results in endometritis following elective abortion*, AM. J. OBSTET. GYNECOL. 128(5):556 (1997); W. Cates, Jr., *Teenagers and sexual risk-taking: The best of times and the worst of times*, J. ADOLESC. HEALTH 12(2):84 (1991); D. Avonts & P. Piot, *Genital infections in women undergoing therapeutic abortion*, EURO. J. OBSTET. GYNECOL. & REPROD. BIO. 20(1):53 (1985).

[27] *See* Mifeprex Label, available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2000/20687lbl.htm (last visited Dec. 13, 2011).

serious infections, and death.[28] Among the 2,207 adverse events were 14 deaths, 612 hospitalizations, 339 blood transfusions, and 256 infections.[29]

Currently, both surgical and chemical abortions are available to minors in the state of Illinois without any type of parental notification or involvement.[30]

2. Long-term Physical Risks of Abortion

Minors are also more susceptible to the long-term risks of abortion. In fact, the Guttmacher Institute—Planned Parenthood's research wing—has acknowledged that because minors are less likely than adults to take prescribed antibiotics or follow other regimens of treatment, they are at greater risk for subsequent miscarriage, infertility, hysterectomy, and other serious complications.[31]

Included in these long-term risks are the harmful effects on future pregnancies—yet most women who abort do so early in their reproductive lives while desiring to have children at a later time.[32] However, induced abortion increases the risk of pre-term birth (premature birth) and very low birth weight in subsequent pregnancies. Induced abortion

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[28] Food and Drug Administration, *Mifepristone U.S. Postmarketing Adverse Events Summary Through 04/30/2011*, (July 19, 2011), available at http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/UCM263353.pdf (last visited Oct. 11, 2011).

[29] *Id*.

[30] *See, e.g.*, *Planned Parenthood to Offer Abortion Pills*, STATE JOURNAL-REGISTER (Sept. 23, 2009), available at http://www.sj-r.com/health/x576519774/Local-Planned-Parenthood-to-offer-abortion-drugs (last visited Dec. 13, 2011).

[31] Guttmacher Institute, *Teenage Pregnancy: Overall Trends and State-by-State Information* (Feb. 19, 2004).

[32] C. Moreau et al., *Previous Induced Abortions and the Risk of Very Preterm Delivery: Results of the EPIPAGE Study*, BRIT. J. OBSTET. & GYN. 112:430, 431 (2005).

has been associated with an increased risk of the premature rupture of membranes, hemorrhage, and cervical and uterine abnormalities, which are responsible for the increased risk of pre-term birth.[33]

Pre-term birth occurs prior to the 37th week of pregnancy and is very dangerous to the child. In 2006, the U.S. Centers for Disease Control announced that premature birth is the leading cause of infant mortality.[34] It is also a risk factor for later disabilities for the child, such as cerebral palsy and behavioral problems.[35] Additionally, pre-term birth poses risks to the mother's health. For example, studies demonstrate that delivering a child before 32 weeks gestation when it is the mother's first pregnancy (as is the case for most minors) may increase the mother's breast cancer risk.[36]

There are currently at least 114 studies showing a statistically significant association between induced abortion and subsequent pre-term birth.[37] In 2009 alone,

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[33] *Id.*

[34] J.M. Thorp et al., *Long-Term Physical and Psychological Health Consequences of Induced Abortion: Review of the Evidence*, OBSTET. & GYNECOL. SURVEY 58[1]:67, 75 (2003); W.M. Callaghan, *The Contribution of Preterm Birth to Infant Mortality Rates in the U.S.*, PEDIATRICS 118(4):1566 (Oct. 2006).

[35] B. Rooney & C. Calhoun, *Induced Abortion and Risk of Later Premature Births*, J. AM. PHYSICIANS & SURGEONS 8(2):46, 46-47 (2003).

[36] M. Melbye et al., *Preterm Delivery and Risk of Breast Cancer*, BRITISH J. CANCER 80(3-4):609 (1999); C.C. Hsieh et al., *Delivery of Premature Newborns and Maternal Breast-Cancer Risk*, LANCET 353:1239 (1999). The breast cancer risk arises because breast tissue does not mature into cancer-resistant tissue until the last eight weeks of pregnancy, after women have received great amounts of potentially cancer-causing estrogen during the first trimesters. A. Lanfranchi, *The Breast Physiology and the Epidemiology of the Abortion Breast Cancer Link*, IMAGO HOMINIS 12(3):228-36 (2005).

[37] *See, e.g.*, J.M. Thorp et al., *supra*; B. Rooney & C. Calhoun, *supra*; American Association of Pro-Life Obstetricians & Gynecologists, *Dr. Iams* (2010), available at

three different systematic studies demonstrated the risk of pre-term birth following abortion. P. Shah et al. reported that induced abortion increases the risk of pre-term birth in a subsequent pregnancy by 37 percent, with two or more abortions increasing the risk by 93 percent.[38] Similarly, R.H. van Oppenraaij et al. found that a single induced abortion raises the risk of subsequent pre-term birth by 20 percent, with two or more abortions increasing the risk by 90 percent.[39] Those researchers also found that a woman who has two or more abortions doubles her risk of subsequently having a "very" premature baby (before 34 weeks gestation).[40] Likewise, Swingle et al. reported an odds ratio of a statistically significant 64 percent higher risk of "very pre-term birth" (before 32 weeks gestation) for women with one prior induced abortion.[41]

The 2009 studies simply confirmed what was already in the medical literature. For example, a 2005 study demonstrated that a woman who has an abortion is 50 percent more likely to deliver before 33 weeks, and 70 percent more likely to deliver before 28 weeks in subsequent pregnancies.[42] A 2003 study demonstrated that a woman who has

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http://www.aaplog.org/get-involved/letters-to-members/dr-iams/ (last visited Dec. 13, 2011).

[38] P. Shah et al., *Induced termination of pregnancy and low birth weight and preterm birth: a systematic review and meta-analysis,* B.J.O.G. 116(11):1425 (2009).

[39] R.H. van Oppenraaij et al., *Predicting adverse obstetric outcome after early pregnancy events and complications: a review*, HUMAN REPROD. UPDATE ADVANCE ACCESS 1:1 (Mar. 7, 2009).

[40] *Id*.

[41] H.M. Swingle et al., *Abortion and the Risk of Subsequent Preterm Birth: A Systematic Review and Meta-Analysis*, J. REPROD. MED. 54:95 (2009).

[42] J.M. Thorp et al., *supra*, at 75.

two abortions doubles her future risk of pre-term birth, and a woman who has four or more abortions increases the risk of pre-term birth by 800 percent.[43]

The Institute of Medicine, which is part of the National Academy of Science, lists first-trimester abortion as a risk factor associated with subsequent pre-term birth.[44] Likewise, a renowned pregnancy resource book states, "if you have had one or more induced abortions, your risk of prematurity with this pregnancy increases by about 30 percent."[45] The resource also states that birth before 32 weeks is ten times more likely when a woman has an incompetent cervix—which has already been discussed as a common risk following abortion.[46]

Abortion is also a risk factor for placenta previa in subsequent pregnancies.[47] Placenta previa increases the risk of fetal malformation and excessive bleeding during labor.[48] Placenta previa also increases the risk that the baby will die during the perinatal period, which begins after 28 weeks gestation and ends 28 days after birth.[49]

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[43] B. Rooney & C. Calhoun, *supra*, at 46-47.

[44] R.E. Behrman, PRETERM BIRTH: CAUSES, CONSEQUENCES, AND PREVENTION 519 (2006).

[45] B. Luke, EVERY PREGNANT WOMAN'S GUIDE TO PREVENTING PREMATURE BIRTH 32 (1995).

[46] *Id*.

[47] D.C. Reardon et al., *Deaths Associated with Abortion Compared to Childbirth: A Review of New and Old Data and the Medical and Legal Implications*, J. CONTEMP. HEALTH LAW & POL'Y 20(2):279 (2004).

[48] J.M. Barrett, *Induced Abortion: A Risk Factor for Placenta Previa*, AM. J. OBSTET. & GYNECOL. 141:7 (1981).

[49] *Id*.; TABER'S CYCLOPEDIC MEDICAL DICTIONARY 1630 (20th ed. 2001).

Finally, it is undisputed that a first full-term pregnancy offers a protective effect against subsequent breast cancer development.[50] A woman who aborts her first pregnancy loses this protection. Thus, not only does abortion pose an increased risk for future pregnancies, it also strips a woman of the protective effects of a first full-term pregnancy. Furthermore, while it is debated whether abortion is a direct cause of breast cancer, a study by pro-choice researcher Dr. Janet Daling in the *Journal of the National Cancer Institute* sheds light on the risk to minors. In her study, *every woman* with a family history of breast cancer who was under the age of 18 at the time of her abortion developed breast cancer before age 45.[51] In other words, the risk to minors was incalculable.

B. Minors who abort face demonstrated psychological risks

Numerous studies have examined the effect abortion has on the mental state of women and confirm that abortion poses drastic risks—risks that inflict minors with particular force. These risks include depression, anxiety, and even suicide. Significantly, a new meta-analysis of studies examining the mental health of women following induced abortions, examining and combining results of 22 studies published between 1995 and 2009, affirms that these women face an 81 percent increased risk of mental health problems.[52]

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[50] D.C. Reardon et al., *supra*. The woman also loses the protective effect against cancers of the cervix, colon and rectum, ovaries, endometrium, and liver. *Id*.

[51] J.R. Daling et al., *Risk of Breast Cancer Among Young Women: Relationship of Induced Abortion*, J. NAT'L CANCER INST. 86(21):1584 (1994).

[52] P.K. Coleman, *Abortion and Mental Health: Quantitative Synthesis and Analysis of Research Published 1995-2009*, BRIT. J. OF PSYCHIATRY 199:180-86 (2011).

One of the leading studies examined a sample group of over 500 women from birth to age 25.[53] That study, led by pro-abortion researcher D.M. Fergusson, was controlled for all relevant factors, including prior history of depression and anxiety and prior history of suicide ideation.[54] The Fergusson study found that 42 percent of young women experience major depression after abortion.[55] Moreover, minors were found to be particularly at risk for depression. In studying teens aged 15 to 18, researchers found that minors who became pregnant and carried to term had a 35.7 percent chance of experiencing major depression, but minors who aborted had an astonishing 78.6 percent chance of experiencing major depression.[56]

The study also found that women who abort are twice as likely to experience anxiety disorders.[57] In teens, the chance of experiencing anxiety after abortion was 64.3 percent, and the chance of suicidal ideation was 50 percent.[58] Importantly, the study showed that abortion led to depression and anxiety, and that it was not depression and anxiety that led to the abortion. Likewise, a 2003 study showed that women who abort

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[53] D.M. Fergusson et al., *Abortion in Young Women and Subsequent Mental Health,* J. CHILD PSYCHOL. & PSYCHIAT. 41(1):16 (2006).

[54] *Id.*

[55] *Id.*

[56] *Id.* at 19.

[57] *Id.* at 16.

[58] *Id.* at 19.

their first pregnancies were 65 percent more likely to be at "high risk" for depression than women who did not abort.[59]

Yet another study stated that "anxiety and depression have long been associated with induced abortion," and that anxiety is the most common adverse mental effect of abortion.[60] Up to 30 percent of women experience extremely high levels of anxiety and stress one month after abortion.[61]

Consider also the findings of the following studies:

- P.K. Coleman et al.: Across the four years studied, women who aborted had 40 percent more claims for neurotic depression than women who gave birth.[62]
- W.B. Miller et al.: Six to eight weeks post-abortion, 35.9 percent of women experienced some depression.[63]
- G. Congleton & L. Calhoun: Depression was reported in 20 percent of women who aborted.[64]

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[59] J.R. Cougle et al., *Depression Associated with Abortion and Childbirth: A Long-Term Analysis of the NLSY Cohort*, MED. SCI. MONITOR 9(4):CR157, CR 162 (2003).

[60] V.M. Rue et al., *Induced Abortion and Traumatic Stress: A Preliminary Comparison of American and Russian Women*, MED. SCI. MONITOR 10(10):SR5, SR6 (2004).

[61] P. Coleman, *Induced Abortion and Increased Risk of Substance Abuse: A Review of the Evidence*, CURRENT WOMEN'S HEALTH ISSUES 1:21, 23 (2005); Z. Bradshaw & P. Slade, *The Effects of Induced Abortion on Emotional Experiences and Relationships: A Critical Review of the Literature*, CLINICAL PSYCHOL. REV. 23:929-58 (2003).

[62] *State-funded abortions vs. deliveries: A comparison of outpatient mental health claims over four years*, AMER. J. ORTHOPSYCHIATRY 72:141 (2002).

[63] *Testing a model of the psychological consequences of abortion*, in L.J. Beckman & S.M. Harvey, THE NEW CIVIL WAR: THE PSYCHOLOGY, CULTURE, AND POLITICS OF ABORTION (American Psychological Association 1998).

[64] *Post-abortion perceptions: A comparison of self-identified distressed and non-distressed populations*, INT'L J. SOC. PSYCHIATRY 39:255 (1993).

- P.K. Coleman & E.S. Nelson: Depression increased after abortion to a rate of 56.7 percent.[65]

- H. Soderberg et al.: 50 to 60 percent of aborting women experienced emotional distress of some form, with 30 percent of cases classified as severe.[66]

- L.M. Pope et al.: 19 percent of women experienced moderate to severe levels of depression 4 weeks post-abortion.[67]

- W. Pedersen: Women with an abortion history were nearly 3 times as likely as their peers without an abortion to report significant depression.[68]

- D.I. Rees & J.J. Sabia: After adjusting for controls, abortion was associated with more than a two-fold increase in the likelihood of having depressive symptoms at a second follow-up.[69]

- F.O. Fayote et al.: Previous abortion was significantly associated with depression and anxiety among pregnant women.[70]

Thus, abortion increases stress and decreases the ability to deal with stress.[71]

These findings are significant, because depression is a known risk factor for suicide.[72]

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[65] *The quality of abortion decisions and college students' reports of post-abortion emotional sequelae and abortion attitudes*, J. SOC. & CLINICAL PSYCHOLOGY 17:425 (1998).

[66] *Emotional distress following induced abortion: A study of its incidence and determinants among abortees in Malmo, Sweden*, EUROPEAN J. OBSTET. & GYNECOL. & REPROD. BIOLOGY 79:173 (1998).

[67] *Post-abortion psychological adjustment: Are minors at increased risk?*, J. ADOLESCENT HEALTH 29:2 (2001).

[68] *Abortion and depression: A population-based longitudinal study of young women*, SCANDINAVIAN J. PUB. HEALTH 36(4):424 (2008).

[69] *The relationship between abortion and depression: New evidence from the Fragile Families and Child Wellbeing Study*, MED. SCI. MONITOR 13(10):430 (2007).

[70] *Emotional distress and its correlates*, J. OBSTET. & GYNECOL. 5:504 (2004).

[71] V.M. Rue et al., *supra*, at SR5-SR16.

[72] J.R. Cougle et al., *supra*, at CR 162.

For example, the Fergusson study found that 27 percent of women who aborted reported experiencing suicide ideation, with as many as 50 percent of minors experiencing suicide or suicide ideation.[73] The risk of suicide was three times greater for women who aborted than for women who delivered. The researchers concluded that their findings raised the possibility that, for some young women, exposure to abortion is a traumatic life event which increases longer-term susceptibility to common mental disorders.[74]

The Fergusson study is not the first (nor the last) to demonstrate a connection between induced abortion and suicide. Ten years prior to the 2006 Fergusson Study, a team led by M. Gissler found that the suicide rate was nearly 6 times greater among women who aborted compared to women who gave birth.[75] In 2005, Gissler et al. once again found that abortion was associated with a 6 times higher risk for suicide compared to birth.[76]

Other studies have found an even higher risk following abortion. In 1995, Gilchrist et al. reported that, among women with no history of psychiatric illness, the rate of deliberate self-harm was 70 percent higher after abortion than childbirth.[77] In a comparison study of American women and Russian women, V.M. Rue et al. reported that

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[73] D.M. Fergusson et al., *supra,* at 19, Table 1.

[74] *Id*. at 22.

[75] M. Gissler et al., *Suicides after pregnancy in Finland, 1987-94: Register linkage study*, BRIT. MED. J. 313:1431 (1996).

[76] M. Gissler et al., *Injury deaths, suicides and homicides associated with pregnancy, Finland 1987-2000*, EURO. J. PUBLIC HEALTH 15:459 (2005).

[77] A.C. Gilchrist et al., *Termination of pregnancy and psychiatric morbidity*, BRIT. J. PSYCHIATRY 167:243 (1995).

36.4 percent of the American women and 2.8 percent of the Russian women reported suicidal ideation.[78] While abortion has a "deleterious effect," childbirth appears to have a protective effect against suicide—contrary to erroneous claims made by the Plaintiffs.[79]

Other studies have linked a history of abortion to sleeping disorders, eating disorders, and promiscuity, all of which are destructive to women's health.[80] In 2006, researchers in a federally-funded study found that adolescents who abort their unintended pregnancies are fives times more likely to seek help for psychological and emotional problems afterward than those adolescents who carried their pregnancies to term.[81] The study also revealed that adolescents who had abortions were three times more likely to experience trouble sleeping.[82]

Abortion also appears to fuel other destructive behaviors, such as subsequent drug and alcohol abuse. Women who abort are twice as likely to drink alcohol at dangerous levels and three times as likely to become addicted to illegal drugs.[83] Women who never

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[78] V.M. Rue et al., *supra*.

[79] J.R. Cougle et. al., *supra*, at CR162. *See also* M. Gissler et al., *Pregnancy-associated deaths in Finland 1987-1994: Definition problems and benefits of record linkage,* ACTA OBSTETRICA ET GYNECOLOGICA SCANDINAVICA 76:651 (1997).

[80] D.C. Reardon & P.C. Coleman, *Relative Treatment Rates for Sleep Disorders and Sleep Disturbances Following Abortion and Childbirth: A Prospective Record-Based Study*, J. SLEEP 29:105-06 (2006); D.C. Reardon et al., *supra*.

[81] P.J. Smith, *Study Shows Abortion Takes Toll on Adolescent Mental Health* (Aug. 18, 2006), available at http://www.lifesitenews.com/ldn/2006/aug/06081805.html (last visited May 2, 2008) (discussing the federally-funded P. Coleman research in *Journal of Youth and Adolescents*).

[82] *Id*.

[83] D.M. Fergusson et al., *supra*.

abused drugs before abortion are 4.5 times more likely to abuse drugs after abortion.[84] Another study found that the use of drugs other than marijuana was 6.1 times higher among women who had abortions than woman who did not have abortions.[85] Regarding minors, one study found that minors who abort their pregnancies are nine times more likely to report marijuana use after their abortions than are minors who carry their pregnancies to term.[86]

There are over 1 million induced abortions performed in the United States each year.[87] Minors aged 15 to 17 account for six percent of all abortions—thus an estimated 60,000 abortions per year.[88] Contrary to Plaintiffs' claims, the Guttmacher Institute—again, the research arm of Planned Parenthood, the nation's leading abortion provider—has estimated that 40 percent of teenage abortions occur without parental involvement.[89] Those teens are left without the protective oversight of their parents following abortion—oversight that might alert parents to psychological effects before it is too late.

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[84] P.G. Ney, *Abortion and Subsequent Substance Abuse*, AM. J. DRUG & ALCOHOL ABUSE 26:61-75 (2000).

[85] K. Yamaguchi & D. Kandel, *Drug Use and Other Determinants of Premarital Pregnancy and its Outcome: A Dynamic Analysis of Competing Life Events*, J. MARRIAGE & FAMILY 49:257-70 (1987).

[86] P.J. Smith, *supra* (discussing P. Coleman research in *Journal of Youth & Adolescents*).

[87] Guttmacher Institute, *Facts on Induced Abortion in the United States* (August 2011), available at http://www.guttmacher.org/pubs/fb_induced_abortion.html (last visited Dec. 13, 2011).

[88] *Id.*

[89] Guttmacher Institute, *Teenage Pregnancy*, *supra*.

III. PARENTAL INVOLVEMENT LAWS PROTECT MINORS FROM SEXUAL EXPLOITATION

Finally, parental involvement laws protect weak and vulnerable teens from sexual exploitation. It is obviously easier for child predators to use abortion to cover up criminal behavior in states without parental involvement laws. Parental involvement laws help protect vulnerable minors by alerting a parent of potential abuse.

Evidence suggests there is widespread confusion and ignorance among young girls about their sexual encounters and that a "considerable proportion" of minors experience their first sexual intercourse under coercive conditions.[90] In one study, 60 percent of women who had sexual intercourse before the age of 15 reported having had a forced sexual experience.[91] Of those with a first sexual experience before the age of 14, 74 percent reported a forced sexual experience.[92]

Simply put, because of their inexperience and the sexual culture surrounding them, minors are inherently vulnerable to exploitation and coercion in their sexual interactions.[93] Unfortunately, sexual abuse is "vastly underreported."[94] In fact, nearly 88

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[90] M. Oberman ["Oberman I"], *Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape*, 48 BUFFALO L. REV. 703, 708 (2000); M. Oberman ["Oberman II'], *Girls in the Master's House: Of Protection, Patriarchy and the Potential for Using the Master's Tools to Reconfigure Statutory Rape Law*, 50 DEPAUL L. REV. 799, 820 (2001) (citing J. Abma et al., *Young Women's Degree of Control Over First Intercourse: An Exploratory Analysis*, FAM. PLAN. PERSP. 30(1):12, 12-18 (Jan./Feb. 1998)).

[91] Lewin Group, *Statutory Rape: A Guide to State Laws and Reporting Requirements* 1 (2004) (citing Guttmacher Institute, *Sex and America's Teenagers* (1994)); *see also* Oberman I, *supra*, at 717; P. Donovan ["Donovan II"], *Can Statutory Rape Laws be Effective in Preventing Adolescent Pregnancy?*, FAM. PLAN. PERSP. 29(1):30 (Jan./Feb. 1997).

[92] Oberman I, *supra*, at 717; Donovan II, *supra*, at 30.

[93] Oberman I, *supra*, at 704-05, 709-10, 778 (citing numerous studies and resources).

percent of sexual abuse is never reported—let alone prosecuted.[95] Many experts refer to sexual violence and date/acquaintance rape as a "hidden" or "silent" epidemic because of the high rates of occurrence and its infrequent disclosure.[96] Yet studies reveal that *at least* one in five girls is sexually abused before the age of 18.[97] Some researchers estimate even higher numbers.[98]

Numerous studies document the consequences of sexual abuse, ranging from psychological to physical to behavioral effects. Psychologically, sexual assault leads to severe emotional and traumatic reactions.[99] Such effects include post-traumatic stress disorder; difficulty regulating reactions to disturbing events; a detrimental effect on "adolescent intrapsychic development and interpersonal relationships"; a poorly-developed sense of self; an inability to trust that directly impacts the potential for intimate

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[94] National Association of Children's Hospitals and Related Institutions ["NACHRI"], *Child Sexual Abuse Fact Sheet* (2004); E.M. Saewyc et al., *Teenage Pregnancy and Associated Risk Behaviors Among Sexually Abused Adolescents*, PERSP. ON SEXUAL & REPROD. HEALTH 936(3):8, 99 (May/June 2004).

[95] Stop It Now, *Commonly Asked Questions: Answers to Commonly Asked Questions About Child Sexual Abuse* (2005) (citing R.F. Hanson et al., *Factors Related to the Reporting of Childhood Sexual Assault*, CHILD ABUSE & NEGLECT 23:559, 559-69 (1999)).

[96] C.E. Irwin & V.I. Rickert, Editorial: Coercive Sexual Experiences During Adolescence and Young Adulthood: A Public Health Problem, 36 J. ADOLES. HEALTH 359 (2005); V.I. Rickert et al., *Disclosure of Date/Acquaintance Rape: Who Reports and When*, 18 J. PED. ADOLES. GYN. 17 (2005).

[97] NACHRI, *supra.*

[98] G. Murphy, BEYOND SURVIVING: TOWARD A MOVEMENT TO PREVENT CHILD SEXUAL ABUSE 3 (2002).

[99] P.T. Clements et al., *Issues and Dynamics of Sexually Assaulted Adolescents and Their Families*, J. MENTAL HEALTH NURSING 13:267, 273 (2004).

relationships; eating and sleep disorders; intense, negative self-evaluations; depression; and increased incidences or attempts of suicide.[100]

From a physical standpoint, minors enduring sexual abuse have an increased incidence of soft tissue injury, pelvic pain syndromes, and gastrointestinal illness.[101] Some of the most drastic physical consequences occur as a result of the behavioral effects common in sexual abuse victims. Evidence demonstrates a strong correlation between sexual abuse and compulsive, addictive, high-risk behavior.[102]

For example, sexually abused minors are more likely not to use contraception and to have multiple partners.[103] One study found that minors who have been sexually abused are twice as likely not to use birth control and are more likely to have had more than one sexual partner.[104] Another study found that previously abused minors were three times more likely to have had three or more partners in the last year, with currently abused minors seven times more likely than never-abused minors to have had three or more partners in the last year.[105]

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[100] *Id*. at 267, 271, 273; J.L. Stock et al., *Adolescent Pregnancy and Sexual Risk-Taking Among Sexually Abused Girls*, FAM. PLAN. PERSP. 29(5):200, 201 (Sept./Oct. 1997); V.I. Rickert et al., *supra*, at 23 (2005); G. Murphy, *supra*, at 3.

[101] P.T. Clements et al., *supra*, at 271.

[102] J.L. Stock et al., *supra*, at 202; Oberman I, *supra*, at 729-30; Saewyc et al., *supra*, at 102.

[103] *See, e.g.*, Saewyc et al., *supra*, at 98; Clements et al., *supra*, at 271.

[104] J.L. Stock et al., *supra*, at 202; *see also* Saewyc et al., *supra* (reporting that sexually abused adolescents are less likely than their non-abused peers to use condoms or other birth control methods).

[105] T. Luster & S.A. Small, *Sexual Abuse History and Number of Sex Partners Among Female Adolescents*, FAM. PLAN. PERSP. 29(5):204, 207 (Sept./Oct. 1997).

These actions bring higher rates of pregnancy and sexually transmitted diseases, as well as an increased risk of sexual violence in relationships.[106] One study found that sexually abused teens are three times more likely to become pregnant before the age of 18.[107]

In addition, sexually abused minors have higher rates of substance abuse and addictions, including the use of alcohol, cigarettes, and illegal substances.[108] Often these substances are used as coping devices.[109]

Finally, repeated victimization is a major concern. Studies show a link between sexual abuse and the repetition of assaults and prostitution.[110] In fact, one study claims that previous victimization is the "most highly correlated predictor of subsequent victimization."[111] Forty-four percent of women who were sexually abused before the age of 18 are victimized again at least once later in life.[112] Between 38 and 48 percent of

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[106] J.L. Stock et al., *supra*, at 202; National Campaign to Prevent Teen Pregnancy ["NCPTP"], *14 and Younger: The Sexual Behavior of Young Adolescents* 18 (Summary 2003); Clements et al., *supra*, at 267, 271; Saewyc et al., *supra*, at 98, 102.

[107] J.L. Stock et al., *supra*, at 200.

[108] NCPTP, *supra*, at 13; Clements et al., *supra*, at 267; K. Moore & J. Manlove, *A Demographic Portrait of Statutory Rape*, presentation to *Conference on Sexual Exploitation of Teens* (2005), available at http://www.childtrends.org/Files//Child_Trends-2005_03_23_SP_StatRapePres.pdf (last visited Dec. 13, 2011).

[109] *See* Saewyc et al., *supra*, at 98.

[110] Clements et al., *supra*, at 267, 271.

[111] *Id*.

[112] Oberman I, *supra*, at 730.

survivors later have physically abusive husbands.[113] One report documented that 65 percent of prostitutes were forced into sexual activity before the age of 16.[114]

[113] *Id*. at 729.

[114] *Id*. at 730.

CONCLUSION

Ample evidence demonstrates that parental involvement laws protect the health and welfare of minors. Thus, contrary to the Plaintiffs' claims, there is significant "justification" for the Illinois Parental Notice of Abortion Act. As such, the lower court holding must be upheld, and the Act must be allowed to go into effect.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, certificate of service, and those matters to be appended to the brief under rule 342(a), is 26 pages.

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