

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Changes California Constitution to prohibit abortion for unemancipated minor until 48 hours after physician notifies minor's parent or legal guardian.
- Permits notification to certain adult relatives if doctor reports parent to law enforcement or Child Protective Services.
- Provides notification exceptions for medical emergency or parental waiver.
- Permits courts to waive notice based on clear and convincing evidence of minor's maturity or best interests.
- Mandates reporting requirements, including reports from physicians regarding abortions on minors.
- Authorizes damages against physicians for violation.
- Requires minor's consent to abortion, with exceptions.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined.
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ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND**

In 1953, a state law was enacted that allowed minors to receive, without parental consent or notification, the same types of medical care for a pregnancy that are available to an adult. Based on this law and later legal developments related to abortion, minors were able to obtain abortions without parental consent or notification.

In 1987, the Legislature amended this law to require minors to obtain the consent of either a parent or a court before obtaining an abortion. However, due to legal challenges, the law was never implemented, and the California Supreme Court ultimately struck it down in 1997. Consequently, minors in the state currently receive abortion services to the same extent as adults. This includes minors in various state health care programs, such as the Medi-Cal health care program for low-income individuals.

PROPOSAL**Notification Requirements**

This measure amends the State Constitution to require, with certain exceptions, a physician (or his or her representative) to *notify* the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an "unemancipated" minor. The measure identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents' or guardians' custody and control under state law.

A physician would provide the required notification in either of the following two ways:

Personal Written Notification. Written notice could be provided to the parent or guardian personally—for example, when a parent accompanied the minor to an office examination.

Mail Notification. A parent or guardian could be sent a written notice by certified mail so long as a return receipt was requested by the physician and delivery of the notice was restricted to the parent or guardian who must be notified. An additional copy of the written notice would have to be sent at the same time to the parent or guardian by first-class mail. Under this method, notification would be presumed to have occurred as of noon on the second day after the written notice was postmarked.

Exceptions to Notification Requirements

The measure provides the following exceptions to the parental notification requirements:

Medical Emergencies. The notification requirements would not apply if the physician certifies in the minor's medical record that the abortion is necessary to prevent the mother's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."

Waivers Approved by Parent or Guardian. A minor's parent or guardian could waive the notification requirements and the waiting period by completing and signing a written waiver form for the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's 18th birthday. The form would need to be notarized unless the parent or guardian delivered it personally to the physician.

Notice to Adult Family Member and Report of Abuse. The physician could notify an adult family member instead of notifying the minor's parent based on the minor's written statement that (1) she fears physical, sexual, or severe emotional abuse from a parent who would otherwise be notified, and (2) that her fear is based on a pattern of such abuse of her by a parent. The measure defines an adult family member as a person at least 21 years of age who is the

grandparent, stepparent, foster parent, aunt, uncle, sibling, half-sibling, or first cousin of the minor. The manner of notice to an adult family member must be consistent with that required for parental notice. In addition, the measure requires the physician to make a written report of known or suspected child abuse to the appropriate law enforcement or public child protection agency. The physician would also be required to include with the notice a letter informing the adult family member about the report of abuse.

Waivers Approved by Courts. The pregnant minor could ask a juvenile court to waive the notification requirements. A court could do so if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interest. If the waiver request is denied, the minor could appeal that decision to an appellate court.

A minor seeking a waiver would not have to pay court fees, would be provided other assistance in the case by the court, and would be entitled to an attorney appointed by the court. The identity of the minor would be kept confidential. The court would generally have to hear and issue a ruling within three business days of receiving the waiver request. The appellate court would generally have to hear and decide any appeal within four business days.

The measure also requires that, in any case in which the court finds evidence of physical, sexual, or emotional abuse, the court must refer the evidence to the appropriate law enforcement or public child protection agency.

State Reporting Requirements

Physicians are required by this measure to file a form reporting certain information to the state Department of Health Services (DHS)¹ within one month after performing an abortion on an unemancipated minor. The reporting form would include the date and facility where the abortion was performed, the minor's month and year of birth, and certain other information about the minor and the circumstances under which the abortion was performed. The forms that physicians

¹ Effective July 1, 2007, DHS was divided into two departments: the Department of Health Care Services and the Department of Public Health. The measure does not specify which of these departments would perform these activities and incur the related costs.

ANALYSIS BY THE LEGISLATIVE ANALYST

would file would not identify the minor or any parent or guardian by name. Based on these forms, the department would compile certain statistical information relating to abortions performed on minors in an annual report that would be available to the public.

The courts are required by the measure to report annually to the state Judicial Council the number of petitions filed and granted or denied. The reports would be publicly available. The measure also requires the Judicial Council to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

Penalties

Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. The measure would require such a legal action to commence within four years of the minor's 18th birthday or later, under specified circumstances. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

Relief From Coercion

The measure allows a minor to seek help from the juvenile court if anyone attempts to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it found necessary to prevent coercion.

FISCAL EFFECTS

The fiscal effects of this measure on state government would depend mainly upon how these new requirements affect the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of this measure on the birthrate for California minors would be limited, if any. If it were to increase the birthrate for California minors, the net cost to the state would probably not exceed several million dollars annually for health and social services programs, the courts, and state administration combined. We discuss the potential major fiscal effects of the measure below.

Savings and Costs for State Health Care Programs

Studies of other states with laws similar to the one proposed in this measure suggest that it could result in a reduction in the number of abortions obtained by minors within California. This reduction in abortions performed in California might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If, for either reason, this measure reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal Program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs.

This measure could also result in some unknown additional costs for state health care programs. If this measure results in a decrease in minors' abortions and an increase in the birthrate of children in low-income

families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and follow-up care.

The net fiscal effect, if any, of these or other related cost and savings factors would probably not exceed costs of a few million dollars annually to the state. These costs would not be significant compared to total state spending for programs that provide health care services. The Medi-Cal Program alone is estimated to cost the state \$14.1 billion in 2007–08.

State Health Agency Administrative Costs

The state would incur first-year costs of up to \$350,000 to develop the new forms needed to implement this measure, establish the physician reporting system, and prepare the initial annual report containing statistical information on abortions obtained by minors. The ongoing state costs to implement this measure could be as much as \$150,000 annually.

Juvenile and Appellate Court Administrative Costs

The measure would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the

notification requirements. The magnitude of these costs is unknown, but could reach several million dollars annually, depending primarily on the number of minors that sought waivers. These costs would not be significant compared to total state expenditures for the courts, which are estimated to be \$2.2 billion in 2007–08.

Social Services Program Costs

If this measure discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, but because all CalWORKs federal funds are capped, these additional costs would probably be borne by the state. These costs would not be significant compared to total state spending for CalWORKs, which is estimated to cost about \$5.3 billion in state and federal funds in 2007–08. Under these circumstances, there could also be a minor increase in child welfare and foster care costs for the state and counties.

PROP 4 WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT IN FAVOR OF PROPOSITION 4 ★

It's time to close the loophole in California law that allows minor girls to be taken for secret chemical or surgical abortions by anyone—even an adult male who impregnated her—**WITHOUT THE DOCTOR NOTIFYING ANY FAMILY MEMBER**. These predators can even take girls out of school to hide their crimes.

Sarah was only 15 when she had a secret abortion. Within days a high fever set in. No one knew why, or how seriously ill she was. By the time she was hospitalized and doctors determined she had a deadly infection from a torn cervix, it was too late. Sarah died. Had someone in her family known about the abortion, Sarah's life could have been saved.

Proposition 4—Sarah's Law—would require doctors to notify a parent or, in case of parental abuse, *another adult family member*, such as a grandparent, aunt, or sister, before performing an abortion on a girl under 18. Parental consent is not required, but an adult who cares about her can help her understand all options, ensure competent care, and provide her medical history.

Over the past twenty-five years, more than thirty states have enacted laws similar to Proposition 4. **THESE LAWS REDUCE TEEN PREGNANCIES AND SEXUALLY TRANSMITTED DISEASES, WITHOUT DANGER OR HARM TO MINORS.**

Medical professionals and lawmakers know *children are safer when a family member knows of their medical situation* and is informed about risks to their health and safety. New California law requires a parent to provide written consent in person before a minor can use a tanning salon . . .

Yet a young girl can get an abortion **WITHOUT A FAMILY MEMBER BEING NOTIFIED**—and this could endanger her safety, *even her life*.

WHEN ABORTIONS ARE KEPT SECRET, ADULT SEXUAL PREDATORS GO FREE. Sarah's Law will protect young victims of sexual crimes.

Planned Parenthood performed an abortion on a 14-year-old and then, at the request of the male predator who brought her in, gave her a shot of Depo-Provera so he could have sex with her again right away.

ABORTION PROVIDERS AREN'T REPORTING THESE CRIMES TO LAW ENFORCEMENT. Family members will!

Planned Parenthood failed to report the sexual abuse of a 13-year-old brought for an abortion by the 23-year-old who raped her. After the secret abortion, the same man impregnated her again, and she had a second abortion.

Sadly, the list of victims of secret abortions continues to grow. Without Sarah's Law, most parents won't know their minor daughter is seeking an abortion.

SECRECY ENABLES ABUSE TO CONTINUE, even abuse inside the home. Sarah's Law will protect vulnerable girls by ensuring abuse is reported and putting their health and safety first.

DON'T LET YOUNG GIRLS LIKE SARAH FACE THE PHYSICAL AND EMOTIONAL RISKS OF SECRET ABORTIONS ON THEIR OWN—or worse yet, **COERCED BY A SEXUAL PREDATOR!**

Join doctors, nurses, teachers, parents, and law enforcement officials who urge you to protect our daughters and stop child predators by **VOTING YES on PROPOSITION 4!**

www.YESon4.net

BARBARA ALBY, Author
California's "Megan's Law" Child Protection Legislation
JOSEPH R. ZANGA, M.D., FAAP, Past President
American Academy of Pediatrics
THE HONORABLE TONY RACKAUCKAS, J.D., District Attorney
Orange County

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 4 ★

PLANNED PARENTHOOD, California HAD NOTHING TO DO WITH THE TRAGEDIES DESCRIBED ABOVE.

In fact, **NONE** of these cases **HAPPENED IN CALIFORNIA.**

Proponents want you to believe absurd charges so you'll ignore 4's real dangers.

Don't be misled.

In the real world, **LAWS LIKE THIS CAN'T FORCE TEENS TO TALK TO THEIR PARENTS** but may cause them to seek illegal, unsafe abortions, go over the border, or even consider suicide.

PROP. 4:

- WON'T REDUCE TEEN PREGNANCY.
- PUTS TEENS IN DANGER.
- ENCOURAGES LAWSUITS AGAINST DOCTORS.

The facts:

- "SARAH" (whose real name was Jammie Garcia Yanez-Villegas) was a married mother, with a child, when she died in Texas in 1994. Nothing in Prop. 4 would have prevented her tragic death.
- PLANNED PARENTHOOD PROTECTS TEENS, NOT PREDATORS. Its staff complies with all child abuse reporting laws. 97% of what Planned Parenthood does

involves preventive care, comprehensive sex education, and cancer screenings.

- When pregnant teens need help, Planned Parenthood's caring counselors urge teens to talk to parents—and most do . . . and **IF THEY FIND EVIDENCE OF ABUSE, THEY REPORT IT.**

Backers are exploiting fears to advance their own political agenda: *The San Diego Union Tribune* reported that **THEIR REAL GOAL IS TO OUTLAW ABORTION.**

Parents rightfully want to be involved in their teenagers' lives, but extremists are making wild charges to divert voters from the real and dangerous consequences of 4. For the real facts about its danger to teens, visit www.NoOnProposition4.org.

THE MOST IMPORTANT THING IS KEEPING TEENS SAFE. VOTE NO.

KATHY KNEER, President
Planned Parenthood Affiliates of California
DR. RAQUEL ARIAS, Associate Dean
Obstetrics and Gynecology (Keck School of Medicine)
University of Southern California
DR. JEANNIE CONRY, Chair
American College of Obstetricians and Gynecologists, District IX

PROP 4 WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT AGAINST PROPOSITION 4 ★

PROPOSITION 4 PUTS TEENS AT RISK.

The AMERICAN ACADEMY OF PEDIATRICS,
CALIFORNIA DISTRICT,

The CALIFORNIA MEDICAL ASSOCIATION,
The CALIFORNIA ASSOCIATION OF FAMILY
PHYSICIANS,

The AMERICAN COLLEGE OF OBSTETRICIANS AND
GYNECOLOGISTS, DISTRICT IX,

The CALIFORNIA TEACHERS ASSOCIATION,

And parents throughout California urge you to VOTE NO on 4.
MANDATORY NOTIFICATION LAWS MAY SOUND
GOOD, BUT, IN THE REAL WORLD THEY PUT
TEENAGERS IN REAL DANGER.

A SCARED, PREGNANT TEEN who can't go to her parents
can feel trapped and desperate. Instead of seeking the counseling
and safe medical care she needs, she MAY CHOOSE AN
UNSAFE, BACK ALLEY, ILLEGAL ABORTION, GO ACROSS
THE BORDER, OR EVEN CONTEMPLATE SUICIDE.

Proposition 4 is DANGEROUS.

PARENTS RIGHTFULLY WANT TO BE INVOLVED
IN THEIR TEENAGERS' LIVES. We want our daughters
to come to us if they become pregnant. BUT, IN THE REAL
WORLD, NOT ALL TEENS LIVE IN HOMES WHERE
COMMUNICATION IS POSSIBLE, and, even in the best
homes, many teens aren't able to talk about something as sensitive
as pregnancy.

IF OUR DAUGHTERS COULDN'T COME TO US,
for whatever reason, THE MOST IMPORTANT THING IS
KEEPING THEM SAFE. New laws cannot force our teens to talk
to us, but they may force them into the back alleys . . . or worse.

PROPOSITION 4 DOESN'T PROTECT TEENS IN
DANGEROUS HOMES. A scared pregnant teen is not going to
go to her doctor, claim mistreatment, and then stand by as law
enforcement comes to the door—the same door she has to return
to. She may not seek care at all.

Prop. 4 is not about "family involvement." Family notification
is no more than a state-scripted form letter sent to another relative

who may not live in the same town. Prop. 4 contains
NO REQUIREMENT FOR COUNSELING and no
requirement that the other adult help her when she is in crisis.
PROP. 4 PUTS OUR MOST VULNERABLE TEENAGERS IN
HARM'S WAY . . .

OR FORCES TEENS TO GO TO COURT.

Think about it: she's pregnant, she can't go to her parents, and
she's already desperate. She isn't going to go to court to reveal
the most intimate details of her life to an unfamiliar judge in an
impersonal courthouse. SHE DOESN'T NEED A JUDGE; SHE
NEEDS A CARING COUNSELOR AND SAFE, QUALITY
MEDICAL CARE, WITHOUT DELAY.

MANDATORY NOTIFICATION LAWS MAKE SCARED,
PREGNANT TEENS WHO CAN'T GO TO THEIR
PARENTS DO DANGEROUS THINGS.

And *if* in desperation, teenagers turn to illegal, self-induced,
or back-alley abortions, THEY WILL SUFFER SERIOUS
INJURIES AND SOME WILL DIE.

REAL FAMILY COMMUNICATION MUST START LONG
BEFORE A TEEN FACES AN UNPLANNED PREGNANCY.
The best way to protect our daughters is to begin talking with
them about responsible, appropriate sexual behavior—including
abstinence—from the time they are young and fostering an
atmosphere assuring they can come to us.

Because NO LAW CAN MANDATE FAMILY
COMMUNICATION and while mandatory laws like these
may *sound* good, IN THE REAL WORLD THEY JUST PUT
TEENAGERS IN REAL DANGER.

TO PROTECT TEENS, please vote No on 4.

DR. MYLES B. ABBOTT, Chair

American Academy of Pediatrics, California District

DONNA GERBER

California Nurses Association

NANCY SCHUBB, President

California Association of School Counselors

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 4 ★

NOTIFICATION LAWS ARE PROTECTING GIRLS IN
OVER 30 STATES, and have been for up to 25 years.

THAT'S WHY LAW ENFORCEMENT SUPPORTS
PROPOSITION 4!

Read the opposing argument carefully. Notice it says "may" and
"if." There are NO REAL STORIES. Not a single example of a
"real" teenager harmed by a notification law. THAT'S BECAUSE
IT HAS NEVER HAPPENED.

Out of millions of girls, the opposition couldn't find ONE
REAL GIRL harmed by a notification law.

Meanwhile, the list of victims of secret abortions keeps growing.

*A 12-year-old was given alcohol by an adult male who raped
her when she passed out. Weeks later, the rapist's mother took
her to an abortion clinic and afterwards dumped her 30 miles
from home. The police finally located her after the girl's frantic
mother reported her missing. She was suffering severe abortion
complications that could have led to her death had she not
received immediate medical treatment.*

*Adam Gault, 41, lured a 14-year-old from her home with
promises of drugs and a job. Instead, she became his sex slave*

*for a year, captive in his house. When she became pregnant,
Gault arranged an abortion for her at Planned Parenthood.
PLANNED PARENTHOOD didn't report the girl's
victimization.*

Secret abortions leave girls vulnerable to further sexual abuse,
pregnancies, abortions, and sexually transmitted diseases.
Predators are free to prey on new victims.

VOTE YES ON 4 to protect REAL GIRLS in the REAL
WORLD, victimized by secret abortions and sexual predators.
www.YESon4.net

MARY L. DAVENPORT, M.D., Fellow

American College of Obstetricians and Gynecologists

THOMAS MURPHY GOODWIN, M.D., FAAP, FACOG

Professor of Obstetrics & Gynecology and Pediatrics
Keck School of Medicine, University of Southern California

THE HONORABLE ROD PACHECO, J.D., District Attorney
Riverside County

pursuant to the State General Obligation Bond Law of the bonds authorized by this part, the Children's Hospital Bond Act Finance Committee is hereby created. For purposes of this part, the Children's Hospital Bond Act Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) The authority is designated the "board" for purposes of the State General Obligation Bond Law, and shall administer the program pursuant to this part.

1179.62. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Section 1179.54 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

1179.63. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

1179.64. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated continuously from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 1179.65, appropriated without regard to fiscal years.

1179.65. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this part.

1179.66. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

1179.67. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each children's hospital funded through this bond act.

1179.68. The authority may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this part. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this part. The authority shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this part.

1179.69. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this part includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this part or any previously issued refunding bonds.

1179.70. Notwithstanding any other provision of this part, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this part that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment of earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or

earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

1179.71. The people hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that part.

1179.72. Notwithstanding any other provision of this part, the provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 4

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as the Child and Teen Safety and Stop Predators Act: Sarah's Law.

SEC. 2. Declaration of Findings and Purposes

The people of California have a compelling interest in protecting minors from the known risks of secret abortions, including the danger of not obtaining prompt care for health- and life-threatening complications when a minor's parent or responsible family member is unaware that she has undergone a secret abortion. The people also have a compelling interest in preventing sexual predators from using secret abortions to conceal sexual exploitation of minors.

SEC. 3. Parental Notification

Section 32 is added to Article I of the California Constitution, to read:

SEC. 32. (a) *For purposes of this section, the following terms shall be defined to mean:*

(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant except for the purpose of producing a live birth. "Abortion" shall not include the use of any contraceptive drug or device.

(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(3) "Parent" means a person who, at the time notice or waiver is required under this section, is either a parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.

(4) "Adult family member" means a person at least 21 years of age who is the grandparent, stepparent, foster parent, aunt, uncle, sibling, half-sibling, or first cousin of an unemancipated minor.

(5) "Notice" means a written notification, signed and dated by a physician or his or her agent, informing the parent or adult family member of an unemancipated minor that she is pregnant and has requested an abortion.

(6) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this section, pregnancy does not emancipate a female under the age of 18 years.

(7) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.

(b) Notwithstanding Section 1 of Article I, or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until at least 48 hours has elapsed after the physician or the physician's agent has delivered written notice to her parent

personally or by mail as provided in subdivision (c); or until the physician or the physician's agent has received a valid written waiver of notice as provided in subdivision (d); or until 48 hours after the physician has delivered written notice to an adult family member and has made a report of known or suspected child abuse, as provided in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h), (i), or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent may receive notice as provided for in this section.

(c) The written notice shall be delivered by the physician or the physician's agent to the parent, either personally or by certified mail addressed to the parent at the parent's last known address with return receipt requested and restricted delivery to the addressee. If notice is provided by certified mail, a copy of the written notice shall also be sent at the same time by first class mail to the parent. Notice by mail may be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place. A form for the notice shall be prescribed by the State Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.

(d) Notice of an unemancipated minor's intent to obtain an abortion may be waived by her parent. The waiver must be in writing, on a form prescribed by the State Department of Health Services, signed by a parent, dated, and notarized. The parent shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent personally delivers it to the physician or the physician's agent. The form shall include the following statement: **"WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian."** The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.

(e) Notice to a parent shall not be required under this section if, at least 48 hours prior to performing the abortion, the attending physician has delivered notice in the manner prescribed and on the form prescribed in subdivision (c) to an adult family member designated by the unemancipated minor and has made a written report of known or suspected child abuse concerning the unemancipated minor to the appropriate law enforcement or public child protective agency. Such report shall be based on a minor's written statement that she fears physical, sexual, or severe emotional abuse from a parent who would otherwise be notified and that her fear is based on a pattern of physical, sexual, or severe emotional abuse of her exhibited by a parent. The physician shall include the minor's statement with his or her report and shall also retain a copy of the statement and the report in the minor's medical records. The physician shall also include with the notice a letter informing the adult family member that a report of known or suspected child abuse has been made concerning the minor and identifying the agency to which the report was made. The minor shall be informed that the notice and the letter will be delivered to the adult family member she has designated.

(f) Notice shall not be required under this section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency.

(g) Notice shall not be required under this section if waived pursuant to this subdivision and subdivision (h), (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent, she may file a petition with the juvenile court. No filing fee shall be required for filing a petition. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the minor or person designated by the minor in preparing the documents required pursuant to this section. The petition shall set forth with specificity the minor's reasons for the request. The unemancipated minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon

request. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed.

(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is both sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent.

(2) If the judge finds, by clear and convincing evidence, that notice to a parent is not in the best interests of the unemancipated minor, the judge shall authorize a waiver of notice. If the finding that notice to a parent is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse, the court shall ensure that such evidence is brought to the attention of the appropriate law enforcement or public child protective agency.

(3) If the judge does not make a finding specified in paragraph (1) or (2), the judge shall deny the petition.

(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.

(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.

(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings, and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report of the number of petitions filed, the number of petitions granted under paragraph (1) or (2) of subdivision (h), deemed granted under subdivision (i), denied under paragraph (3) of subdivision (h), and granted or denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.

(l) The State Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms shall not identify the unemancipated minor or her parent(s) by name or request other information by which the unemancipated minor or her parent(s) might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed pursuant to subdivision (c), (d), (e), (f), (h), (i), or (j).

(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning that abortion with the State Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.

(n) The State Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the numbers of prior abortions or deliveries where known, and the numbers of abortions performed pursuant to each of subdivision (c), (d), (e), (f), (h), (i), or (j). The annual statistical report shall be made

available to county public health officials, Members of the Legislature, the Governor, and the public.

(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this section shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent wrongfully denied notification. The time for commencement of the action shall be within four years of the date the minor attains majority or four years of the date a parent wrongfully denied notification discovers or reasonably should have discovered the failure to comply with this section, whichever period expires later. A person shall not be liable under this section if the person establishes by written or documentary evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this section were *bona fide* and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the plaintiff may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of ten thousand dollars (\$10,000). In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this section shall abrogate, limit, or restrict the common law rights of parents, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.

(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this section notice has been or will be delivered to a parent or adult family member, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to two thousand dollars (\$2,000).

(q) Notwithstanding any notice or waivers of notice, except where the particular circumstances of a medical emergency or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.

(r) Notwithstanding any notice or waivers of notice, an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

(s) This section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The State Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (d), and (l).

(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.

(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this section, nothing in this section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.

PROPOSITION 5

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, and adds sections to various codes, and repeals a section of uncodified law; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be

added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the "Nonviolent Offender Rehabilitation Act of 2008."

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

I. Failure to Provide Effective Rehabilitation is a Costly Mistake

(a) California's prison system has failed in its mission to rehabilitate criminals and protect public safety.

(b) State prisons are severely overcrowded and highly unsafe, currently with 175,000 inmates squeezed into facilities designed for about 100,000. Many of these inmates entered prison for nonviolent crimes and for nonviolent parole violations.

(c) Drug addiction is a leading cause of crime in California, with high prevalence among arrestees, prisoners and parolees. Moreover, untreated addiction is deadly: drug overdose is the second leading cause of accidental death in the United States and disproportionately impacts persons recently released from jail and prison.

(d) Punishment alone largely fails to change nonviolent criminal behavior, particularly when such behavior is driven by addiction and lack of basic education and skills.

(e) California's corrections system does not provide meaningful rehabilitation services to most inmates and parolees. Nonviolent offenders can languish for years behind bars without education, vocational training, or rehabilitation programs of any kind. These inmates are then released into our communities without access to meaningful services, and with no skills or opportunities to help them safely and successfully be reintegrated into society.

(f) California's criminal justice system fails to offer effective drug treatment to tens of thousands of nonviolent offenders each year whose drug offenses and other criminal activity are driven by substance abuse and addiction. Moreover, courts are required to spend scarce resources on processing routine cases of adult marijuana possession, a waste of resources that can be curtailed by penalizing small amounts of marijuana possession as an infraction.

(g) California now offers virtually no publicly funded drug treatment options for youth under the age of 18, a tragic and short-sighted failure, in that young people with drug problems are at the highest risk to lead lives of addiction and criminality as adults. New sources of funding must be found for youth programs. At the same time, youth under the age of 18 who are arrested for possession of marijuana should receive appropriate, science-based drug education programs.

(h) California spends excessive time and resources monitoring nonviolent former inmates. Many states require much less supervision for low-risk offenders and have lower recidivism rates. Parole supervision should be targeted to more dangerous offenders, with serious or violent criminals given heightened parole supervision.

(i) High rates of incarceration and re-incarceration result, in part, from lack of appropriate treatment and rehabilitation options for youth and nonviolent offenders. Moreover, prison overcrowding makes rehabilitation almost impossible, and the lack of rehabilitation for nonviolent prisoners and parolees contributes directly to recidivism and re-incarceration of recently released inmates.

(j) Studies show that providing drug treatment and rehabilitation services to youth, to nonviolent offenders, and to nonviolent prisoners and parolees is an effective strategy to reduce future criminality and recidivism.

(k) In light of the crisis in California's prison system, Californians need and demand a major reorientation of state policies to provide greater rehabilitation, accountability and treatment options for youth, nonviolent offenders and nonviolent prisoners and parolees.

II. Treatment and Rehabilitation Enhance Public Safety

(a) Public safety is enhanced when young people are offered drug education and treatment, including family counseling, upon the first signs of a substance abuse problem.

(b) Public safety is enhanced when nonviolent, addicted offenders receive effective drug treatment and mental health services, instead of incarceration.

(c) Public safety is enhanced when nonviolent prisoners and parolees participate in effective rehabilitation programs designed to assist them in a successful reintegration into society.