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Inapplicability of Parental Involvement Laws to the Distribution of Mifepristone (RU-486) to Minors

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THE INAPPLICABILITY OF PARENTAL INVOLVEMENT LAWS TO THE DISTRIBUTION OF MIFEPRISTONE (RU-486) TO MINORS

AMANDA C. SCUDER

I. Introduction................................................................................................... 712
II. Background................................................................................................... 716
   A. From Eisenstadt to Roe ............................................................................. 716
   B. Planned Parenthood of Southeastern Pennsylvania v. Casey .................... 718
   C. Parental Involvement Laws ..................................................................... 720
      1. Parental Notification and Parental Consent Laws........................... 720
      2. The Judicial Bypass ........................................................................ 720
   D. Mifepristone ............................................................................................ 721
III. Legal Analysis............................................................................................... 722
   A. Parental Involvement Laws Cannot Apply to the Distribution of Mifepristone ........................................................................................... 722
      1. Mifepristone Is More Like Emergency Contraceptives Than Surgical Abortions ...................................................................................... 723
      2. Minors Can Consent to Other Medical Procedures Without Consent from or Notification of a Parent, Thus Parental Involvement For Mifepristone Is Unnecessary ........................................ 725
   B. Even if Casey Were to Apply to the Distribution of Mifepristone, Parental Involvement Laws Would Still be Found Unconstitutional .......... 726
      1. Parental Involvement Laws Prevent The Minor From Making The Ultimate Decision ...................................................................................... 727
           a. Parental Involvement Laws Increase the Cost of an Abortion .......... 727
           b. The Requirements Parental Involvement Laws Impose Make Compliance Almost Impossible .............................................................. 730
      2. The Judicial Bypass Places An Undue Burden On The Minor............ 731

J.D. Candidate, American University, Washington College of Law, 2002; B.A. Smith College, 1997. I would like to thank my parents for all of their love and support. I would also like to thank a friend of mine for telling me her story and inspiring me to write this piece.
I. INTRODUCTION

Approximately "forty-three percent" of all adult women in the United States have had an abortion. Many of the women who comprise this forty-three percent had their abortions while they were under the age of eighteen. Roughly one million teenagers become pregnant each year, and of those, "about forty percent . . . choose abortion." That so many women who have abortions are teenagers is significant because efforts to restrict a woman’s right to have an abortion led to the creation and implementation of parental involvement laws. These laws require a minor to notify or obtain consent from one or both of her parents before she can have an abortion. Alternatively, a minor can argue her case before a judge.

3. See THE ALAN GUTTMACHER INSTITUTE, FACTS IN BRIEF: INDUCED ABORTION (2000) [hereinafter INDUCED ABORTION] (showing that of the women seeking an abortion, 20% are minors).
4. See MARLENE GERBER FRIED, ABORTION WARS. A HALF CENTURY OF STRUGGLE, 1950-2000 215 (Rickie Solinger ed., 1998) [hereinafter ABORTION WARS] (emphasizing the significance of the fact that many of the women who become pregnant each year are teenagers).
5. Id.
6. See Abortion – Parental Notification Statutes, 104 HARV. L. REV. 247 (1990) (observing that the implementation of parental involvement laws “marks the most recent erosion of the fundamental right to terminate a pregnancy . . . “); see also MATTHEW E. WETSTEIN, ABORTION RATES IN THE UNITED STATES. THE INFLUENCE OF OPINION AND POLICY 57 (State University of New York Press 1996) (“A[na]lyses at the state level do demonstrate significant impacts of some state policy changes on abortion utilization, [which] . . . reinforces the notion that state legislatures are the key to abortion policy in the United States”).
2002] DYNAMIC OF RU-486 TO MINORS 713

who can then give her permission to have the abortion.\(^8\) In states that
enforce parental involvement laws, unless the minor comports with
the law or uses the judicial bypass, she is prohibited from having an
abortion.\(^9\) In addition, parental involvement laws are applicable, not
only to the women who live in that state, but to anyone seeking to
have an abortion in that state, regardless of her residential status.\(^10\)

Even though parental involvement laws actually prevent minors
from having safe, legal abortions,\(^11\) these laws are not illegal.\(^12\) Planned
Parenthood of Southeastern Pennsylvania v. Casey\(^13\) held that restrictions
on abortions are constitutional, so long as the restriction does not
place an "undue burden" on the woman.\(^14\) Even though many
disagree, according to the Supreme Court, parental involvement laws
do not constitute an undue burden because they do not keep the
minor from deciding whether to terminate her pregnancy.\(^15\) Thus,
any state may pass and enforce parental involvement laws without
violating the Constitution.\(^16\)

Connecticut, Hawaii, Maine, New Hampshire, New York, Oklahoma, Oregon,
Vermont and Washington, a minor is required to notify or obtain the consent of one
of her parents).

8. See Bellotti v. Baird, 443 U.S. 622, 643 (1979) ("[I]f the State decides to
require a pregnant minor to obtain one or both parents' consent to an abortion, it
also must provide an alternative procedure whereby authorization for the abortion
can be obtained"). This procedure is commonly known as a judicial bypass. See id.;
see also ABORTION WARS, supra note 4, at 215 (detailing how traumatic it is to obtain a
judicial bypass).

9. See THE ALAN GUTTMACHER INSTITUTE, ISSUES IN BRIEF: MINORS AND THE RIGHT
to CONSENT TO HEALTH CARE (2000) [hereinafter MINORS AND THE RIGHT] (stressing
that only Connecticut, Maine and the District of Columbia "have laws that affirm a
minor's ability to obtain an abortion on her own.").

10. See National Abortion and Reproductive Rights Action League, The “Child
 Custody Protection Act” Threatens Young Women’s Health, available at
http://www.naral.org/mediarelations/fact/ccpa_womenshealth.html (last visited
Jan. 21, 2002) (explaining how in 1999, trying to further curb a minor’s right to have
an abortion, opponents proposed The Child Custody Protection Act, which would
make it a felony for anyone to bring a minor across state lines to have an abortion):
see also Jan Erickson & Lisa Ensey, Reproductive Rights Gains and Losses in Last Congress,
available at http://www.now.org/nt/nt/winter-99/reprobr.html (last visited Mar. 24,
2002) (asserting that the Child Custody Act (S.1645) is also known as the
"Teen Endangerment Act" because of the dangers it will pose to minors seeking an
abortion).

11. See ABORTION WARS, supra note 4, at 215 ("these laws mainly create barriers
for young women seeking abortions").

parental consent laws are constitutional).


14. See id. at 877 (defining an undue burden as a regulation designed to prevent
a woman from exercising her right to choose).

15. See id. at 899 (stating that the parental consent requirement with the judicial
bypass was constitutional).

16. See id; see also Center for Reproductive Law and Policy, Restrictions on Young
At the time parental involvement legislation was drafted and enacted, the only type of abortion available to women in the United States was a surgical abortion. Because of all the restrictions on surgical abortions, the Food and Drug Administration’s approval of mifepristone, also known as RU-486, on September 28, 2000, was hailed as a victory for American women. Pro-Choice groups and health care providers believed that mifepristone would increase access to safe abortion services. Moreover, these groups also believed that mifepristone would increase a woman’s privacy because “it would take early abortions out of clinics, where women can be harassed and doctors threatened, and bring them to private doctor’s offices . . . [where] no one but a woman and her doctor would know that she had decided to terminate her pregnancy.” However, this feeling of victory was short lived, for even though the distribution of mifepristone did not begin until November 2000, anti-choice advocates began proposing restrictions on its circulation as early as days after the FDA’s ruling. In fact, some states are already


17. See Aaron Zitner, FDA Approves Use of Abortion Pill: The Drug Will Allow More Doctors to Provide the Service and May Alter the Dynamics of the Debate, L.A. TIMES, Sept. 29, 2000, at A1 [hereinafter FDA Approves Use of Abortion Pill] (stating after a twelve year fight, mifepristone, an alternative to surgical abortion, was finally approved by the Food and Drug Administration (FDA) for use in the United States on September 28, 2000). Mifepristone will allow women to have abortions earlier in their pregnancies and will also allow more doctors to provide abortion services. See id. See also National Abortion and Reproductive Rights Action League, The Fight For Mifepristone (RU-486), available at http://www.naral.org/mediaresources/fact/fight.html (last modified Jan. 11, 2002) [hereinafter The Fight] (noting that the fight against mifepristone as an alternative to surgical abortions began before the drug was even approved by the FDA). In 1998, for example, U.S. Rep. Tom Coburn (R-OK) offered an amendment to the fiscal year 1999 Agriculture Appropriations bill to bar the FDA from using funds to test, develop, or approve any drug for the chemical induction of abortion, including mifepristone.” Id.

18. See INDUCED ABORTION, supra note 3 (“the most common restrictions in effect are parental involvement requirements, mandatory counseling and waiting periods, and limitations on public funding” ).


20. See id. (pointing out that the approval will be worthless if anti-choice groups succeed in restricting access to the drug).


22. See Lawmakers Propose Higher Standards for Abortion Pill, L.A. TIMES, Oct. 5, 2000, at A15 (reporting that bills were already introduced that would effectively reduce the number of doctors who would be permitted to dispense the pill); see also National Abortion and Reproductive Rights Action League, What You Should Know About Mifepris®, available at http://www.naral.org/mediaresources/fact/
applying parental involvement legislation to the distribution of mifepristone.\[^{24}\]

Part II of this Comment gives the history of the right to have an abortion, as granted by *Roe v. Wade*,\[^{25}\] and through *Planned Parenthood of Southeastern Pennsylvania v. Casey*.\[^{26}\] This section also briefly describes parental involvement laws and mifepristone. Part III of this Comment argues that because mifepristone is similar to emergency contraceptives and different from surgical abortions, and because minors are able to consent to many other medical treatments without involving a parent, parental involvement laws cannot be applied to the distribution of mifepristone.\[^{27}\] However, abortion opponents believe mifepristone to be more like surgical abortions, thereby requiring the application of the undue burden standard adopted by *Planned Parenthood of Southeastern Pennsylvania v. Casey*.\[^{28}\] These opponents argue that based on the holding and the standard, parental involvement laws can be applied to all types of abortions, medical or surgical.\[^{29}\] In response, this Comment argues that even if

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\[^{27}\] See infra, Part III.

\[^{28}\] See Renee C. Wyser-Pratte, Protection of RU-486 as Contraception, Emergency Contraception and as an Abortifacient Under the Law of Contraception, 79 OR. L. REV. 1121, 1129 (2000) [hereinafter Protection of RU-486] (explaining that if mifepristone was categorized only as an abortifacient, all state regulations permissible under Casey would be applicable to its distribution).

\[^{29}\] See supra, note 23.
Casey were to apply to the distribution of mifepristone, parental involvement laws would fail the undue burden test and would be found unconstitutional. This Comment concludes with a recommendation of how mifepristone ought to be dispensed.

II. BACKGROUND

A. From Eisenstadt to Roe

While Roe v. Wade legalizing abortion, the holding would not have been possible had it not been for preceding privacy cases. The significance of these privacy cases cannot be understated, for they established the “zone of privacy.” Eisenstadt v. Baird was particularly important, for not only did it reaffirm the existence of the zone of privacy, but it specifically recognized the importance of “the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.” The Court’s holding in Eisenstadt became the foundation for the Court’s holding in Roe.

Roe v. Wade challenged the constitutionality of a Texas statute outlawing abortion, except as was necessary to save the life of the woman. Giving the history of abortion restrictions, the Court explained that abortion was made illegal to protect the mother, not the fetus, as abortion used to be a dangerous procedure. Because of

31. See id. at 163 (holding that women have the right to determine for themselves whether to terminate a pregnancy).
32. See Skinner v. Oklahoma, 316 U.S. 535, 543 (1942) (striking down as unconstitutional, a statute requiring the sterilization of certain convicted persons), Griswold v. Connecticut, 381 U.S. 479, 485 (1965) (deciding that distributing contraceptives to married people is not unconstitutional), Eisenstadt v. Baird, 405 U.S. 438, 443 (1972) (ruling that the law forbidding the sale of contraceptives only to married couples is unconstitutional, for the right to privacy extends to all people, be they married or single).
33. See Griswold, 381 U.S. at 485 (declaring that rights falling within this zone of privacy are protected by constitutional guarantees, and that the state cannot impair these fundamental rights without applying strict scrutiny); see also Roe, 410 U.S. at 135 (requiring a compelling state interest before allowing a restriction on a fundamental right).
34. 405 U.S. 438 (1972).
35. Eisenstadt, 405 U.S. at 453.
36. See Roe, 410 U.S. at 152-53 (citing to Eisenstadt when acknowledging that the Court has always recognized certain areas of personal privacy existing under the Constitution).
37. See id. at 139. Until this time, abortion was illegal in the United States. Id.
38. See id. at 148-149 (asserting that one of the reasons states established
the advances in medicine, the Court determined that these restrictions no longer served a valid purpose, because abortion became safer for the mother than childbirth. 59

Having established that the restrictions were unnecessary, the Court went on to discuss whether the right to have an abortion was included under personal privacy rights. 40 Using the holdings and analyses in the privacy cases precedent, the Court in Roe held that “this right of privacy . . . is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” 41 Moreover, the Court held that a woman’s right to decide whether to terminate her pregnancy is a “fundamental right.” 42 Because the Court deemed the right to choose to have an abortion to be a fundamental right, strict scrutiny would apply to any restriction the State would try to place on this right. 43

The Court heard several cases after Roe to decide issues relating to the regulation of a woman’s right to choose to have an abortion. 44 At first, the Court struck down the regulations, thereby reaffirming that restrictions on this fundamental right had to pass strict scrutiny in order to be held constitutional. 45 However, this action by the Court

regulations outlawing abortion was to protect the mother from subjecting herself to a life-threatening procedure. The Court also noted that the other reasons for making abortion illegal was to discourage premarital sex and to protect the life of the fetus. Id. See also Cheryl Brownstein-Santiago, Stories That Shaped the Century, L.A. TIMES, Dec. 8, 1999, at B4 (stressing “in the early and mid-1800s [abortion] was seen as a perfectly acceptable birth control method . . . ”).

39. See Roe, 410 U.S. at 149 (maintaining that because abortion had become such a safe procedure, the state’s interest in protecting the health of the mother during the first trimester no longer existed).

40. See id. at 152-53 (discussing previously established privacy rights and holding that these privacy rights include the right to have an abortion).

41. Id. at 153.

42. Id. at 155.

43. See id. (clarifying that strict scrutiny requires that only compelling state interests justify restricting a woman’s right to choose and that this restriction must be narrowly tailored to meet only that specific interest).


45. See Doe v. Bolton, 410 U.S. 179, 201 (1973) (holding the Georgia law prohibiting abortions except in cases of medical necessity, rape, incest, and fetal abnormality, unconstitutional because it violated a woman’s right to choose, as established by Roe); Danforth, 428 U.S. at 75 (declaring the restrictions on abortion unconstitutional).
was not always consistent.\textsuperscript{46} Through \textit{Bellotti v. Baird},\textsuperscript{47} the Court established that in order for parental involvement laws to be valid, they must have a bypass provision.\textsuperscript{48} However, the pro-choice community recognized that even with the bypass procedure, parental involvement laws significantly impaired a minor’s right to have an abortion, and therefore, the pro-choice community continued to challenge the parental involvement requirement.\textsuperscript{49} The battle over the constitutionality of parental involvement laws came to a head in \textit{Planned Parenthood of Southeastern Pennsylvania v. Casey}.\textsuperscript{50}

B. \textit{Planned Parenthood of Southeastern Pennsylvania v. Casey}

In \textit{Planned Parenthood of Southeastern Pennsylvania v. Casey},\textsuperscript{51} the Court had to decide whether certain provisions of the Pennsylvania Abortion Control Act of 1982, as amended in 1988 and 1989, were constitutional.\textsuperscript{52} One of the provisions required parental consent.\textsuperscript{53} The Court ultimately upheld all the provisions of the statute, except for the one requiring spousal notice.\textsuperscript{54} However, before discussing

\begin{itemize}
\item \textsuperscript{46} Compare \textit{H. L. v. Matheson}, 450 U.S. 398, 413 (1981) (upholding the Utah law requiring notification of one parent), \textit{with Hodgson}, 497 U.S. at 423 (rejecting, as unconstitutional, the Minnesota parental involvement law requiring the notification of both parents because the state’s interest is sufficiently protected by notifying one parent).
\item \textsuperscript{47} 443 U.S. 622 (1979).
\item \textsuperscript{48} See \textit{id.} at 643-44 (holding that a minor is entitled to prove to a judge either that she is mature enough to decide for herself whether to have an abortion, or that even if she is not mature enough to make the decision for herself, that having an abortion is in her best interest).
\item \textsuperscript{49} See \textit{Matheson}, 450 U.S. at 413 (finding the parental notification law constitutional); see also \textit{Ashcroft}, 462 U.S. at 493 (holding that the State’s interest in protecting immature minors is compelling enough to justify a parental consent requirement).
\item \textsuperscript{50} See \textit{Casey}, 505 U.S. at 889-900 (1992) (discussing the constitutionality of the parental consent requirement).
\item \textsuperscript{51} 505 U.S. 833 (1992).
\item \textsuperscript{52} See \textit{id.} at 902-12 (listing the provisions of the statute considered by the Court, which included an informed consent provision requiring a 24-hour waiting period, parental consent, spousal notice, record-keeping and reporting).
\item \textsuperscript{53} See \textit{id.} at 899 (acknowledging that the statute had a judicial bypass provision).
\item \textsuperscript{54} See \textit{id.} at 893-94. \textit{But see} \textit{Planned Parenthood v. Casey}, 744 F. Supp. 1323, 1396 (E.D. Pa. 1990) (declaring that all portions of the statute were unconstitutional, including the parental consent requirement). The district court explained that parental consent laws, even with the judicial bypass procedure, created an undue burden on the minor’s right to have an abortion. \textit{Id.} at 1384. More specifically, the court found fault with the fact that parental consent laws allowed a parent to “attempt to exercise an absolute veto over his or her daughter’s decision to obtain an abortion.” \textit{Id.} at 1383.
\end{itemize}
the merits of the case, the Court first discussed Roe v. Wade, finally stating that Roe's holding was comprised of three parts, all of which the Court claimed to reaffirm.\footnote{55}

To determine the constitutionality of the five provisions in the Pennsylvania Statute, the Court abolished the trimester policy created by Roe,\footnote{56} and established the "undue burden test."\footnote{57} As Justice O'Connor, writing for the Court, explained, "a finding of an undue burden is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."\footnote{58} However, "not all burdens on the right to decide whether to terminate a pregnancy will be undue."\footnote{59} In fact, regulations that make an abortion more expensive or more difficult to obtain will not be struck down if they serve a valid purpose.\footnote{60} Only those regulations that impose "an undue burden on a woman's ability to make this decision," will be considered to have "reach[ed] into the heart of the liberty protected by the Due Process Clause."\footnote{61} Justice O'Connor somehow found that parental involvement laws did not constitute this undue burden.\footnote{62}

\footnote{55. But see The Choices We Made, Twenty-Five Women and Men Speak Out About Abortion xxi (Angela Bonavoglia ed., 2001) [hereinafter The Choices We Made] (contending that the Court's decision in Casey to reaffirm Roe was an imaginary victory for the pro-choice movement, because Casey essentially "authorized states to institute abortion regulations throughout pregnancy in order to discourage the procedure").}

\footnote{56. See Casey, 505 U.S. at 873 (declaring the Court's decision not to use the trimester framework created in Roe). See Roe v. Wade, 410 U.S. 113, 163-64 (1973) (establishing the trimester framework). Under the trimester framework the State may not place any restrictions on a woman's right to have an abortion during the first trimester of pregnancy. Id. During the second trimester, the State's interest in potential life is stronger and it may "regulate the abortion procedure in ways that are reasonably related to maternal health." Id. During the third trimester, after viability, the State may prohibit all abortions, unless it is necessary to preserve the mother's life. Id.}

\footnote{57. See Casey, 505 U.S. at 877 (explaining the new standard upon which the finding of constitutionality or unconstitutionality would be based).}

\footnote{58. Id.}

\footnote{59. Id. at 876.}

\footnote{60. See id. at 877 (clarifying that an interest in protecting the "potential life" is valid).}

\footnote{61. Id. at 874.}

\footnote{62. See Casey, 505 U.S. at 899 (1992) (upholding the constitutionality of the parental consent requirement and judicial bypass procedure). According to the Court there is no undue burden "provided that there is an adequate judicial bypass procedure." Id.}
720 JOURNAL OF GENDER, SOCIAL POLICY & THE LAW [Vol. 10:3

C. Parental Involvement Laws

1. Parental Notification and Parental Consent Laws

Parental involvement laws refer generally to laws that prohibit minors from acting without consulting a parent. These laws exist in two forms: parental notification laws, which require "clinics to give advance notice to one or both parents," and parental consent laws, which require the minor to obtain the written consent of one of her parents before she can have an abortion. Parental involvement laws vary from state to state, thus the ability of a minor to exercise her constitutional right as a woman, to decide whether or not to terminate her pregnancy, depends upon where she lives.

2. The Judicial Bypass

If a minor cannot ask a parent for consent to have an abortion, she must go to court. In court, a judge will determine whether she is "mature enough and well enough informed to make her abortion decision, in consultation with her physician, independently of her parents' wishes." If the judge thinks that she is immature, the judge

63. See ABORTION WARS, supra note 4, at 215 (describing how certain involvement laws require physicians to notify at least one parent either in person, by phone, or in writing, and that health care providers face losing their licenses and sometimes criminal penalties for failure to comply).

64. FROM ABORTION TO REPRODUCTIVE FREEDOM: TRANSFORMING A MOVEMENT 168 (Marlene Gerber Fried ed., 1990) [hereinafter FROM ABORTION TO REPRODUCTIVE FREEDOM].


66. See Center for Reproductive Law and Policy, Restrictions on Young Women’s Access to Abortion Services, at http://www.crlp.org/pub_fac_restrictions.html (last visited Feb. 8, 2002) (noting that forty-three states have some sort of parental involvement requirement); see also FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168 (explaining that "the degree to which each state complies with the laws varies").

67. See Susan R. Estrich & Kathleen M. Sullivan, Colloquy: Webster v. Reproductive Health Services, Abortion Politics: Writing For An Audience at One, 138 U. PA. L. REV. 119, 122 (1989) (discussing how allowing the states to write legislation restricting abortion rights will mean that "the ability to choose will once again depend upon who you are and where you live and how much money you have; and young and poor women, for whom the burden of an unwanted pregnancy is most crushing, will have the fewest rights of all").

68. See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168 (relating that "in Massachusetts, about 5,000 teenage girls have gone to the Superior Adult Court since 1981 to seek a judicial bypass, and that "before 1986, when its law was struck down, Minnesota had the second largest record of experience – approximately 3,500 girls went through the courts over the course of five years").

2002] DISTRIBUTION OF RU-486 TO MINORS 721

will then decide whether having an abortion is in her best interest.\textsuperscript{70} However, the Court did not establish any criteria to guide the judges in making either of these determinations.\textsuperscript{71}

\textbf{D. Mifepristone}\textsuperscript{72}

One way to terminate a pregnancy medically, that is, without surgery, is by taking mifepristone.\textsuperscript{73} Mifepristone blocks progesterone,\textsuperscript{74} without which "the lining of the uterus softens, breaks down and bleeding begins."\textsuperscript{75} Although the window of time during which a woman can use mifepristone to terminate her pregnancy is small,\textsuperscript{76} mifepristone has been proven safe and effective, and satisfaction rates are high.\textsuperscript{77} Even though mifepristone was only recently made available in the United States,\textsuperscript{78} women in other countries\textsuperscript{79} were having medical abortions\textsuperscript{80} for years.\textsuperscript{81} The FDA

\begin{itemize}
\item \textsuperscript{70} See \textit{id.} at 644 (emphasizing that the bypass procedure exists to ensure that the parental involvement requirement is not a veto over the minor’s right to have an abortion).
\item \textsuperscript{71} See \textit{Abortion Wars}, supra note 4, at 215-16 (explaining that the judges are left to use their own discretion).
\item \textsuperscript{72} For purposes of this Comment, mifepristone refers to the entire regimen; that is, the first dosage of the pills actually called mifepristone, as well as the second set of pills called misoprostol.
\item \textsuperscript{73} See \textit{What You Should Know}, supra note 22 (clarifying that mifepristone will be distributed under the brand name Mifeprin\textsuperscript{TM}). Throughout this Comment, the pill will be referred to as mifepristone.
\item \textsuperscript{74} See Danco Laboratories, Mifeprin\textsuperscript{TM}, The Early Option, at http://www.earlyoptionpill.com/hcp_faq.php (last visited Feb. 8, 2002) (explaining that progesterone is "a naturally produced hormone that prepares the lining of the uterus for a fertilized egg and helps maintain pregnancy").
\item \textsuperscript{75} Id. Two days after taking mifepristone, women must also take misoprostol, a "prostaglandin that causes the uterus to contract, which helps to complete the process." Id.
\item \textsuperscript{76} See Helen O’Neill, \textit{Abortion Pill Means More, But Not Easier}, \textit{Choices}, L.A. Times, Oct. 22, 2000, at A1 [hereinafter \textit{Abortion Pill}] (commenting that mifepristone is only available to women during the first 49 days of pregnancy).
\item \textsuperscript{77} See \textit{What You Should Know}, supra note 22 (reporting a rate of effectiveness of 92.96\% and a recommendation rate of 98\%).
\item \textsuperscript{78} See National Abortion and Reproductive Rights Action League, RU-486/Mifepristone, available at http://www.naral.org/issues_r486.html (last visited Feb. 8, 2002) (suggesting that although mifepristone was proven safe and effective over a decade ago, the strength of the anti-choice movement is what kept it from being made available in the United States).
\item \textsuperscript{79} See American Civil Liberties Union, \textit{Mifepristone (RU-486): Myths and Facts}, at http://www.aclu.org/issues/reproduct/ru486_factsheet.html (last visited Feb. 8, 2002) [hereinafter \textit{Myths and Facts}] (reporting that mifepristone has been used in approximately nineteen countries, including France, China, the United Kingdom and Sweden).
\item \textsuperscript{80} See \textit{What You Should Know}, supra note 22 (distinguishing between medical abortions and emergency contraceptives). Emergency contraceptives prevent, rather than terminate, a pregnancy. Id.
\end{itemize}
engaged in very thorough testing of the drug, which accounts for part of the reason why mifepristone was just recently made available in the United States.\footnote{See id. (observing that mifepristone has been used since 1981); see also, Myths and Facts, supra note 79 (confirming that RU-486 was first approved in France and China in 1988).} However, another reason why women in this country had to wait so long was because anti-choice groups threatened potential manufacturers with physical violence.\footnote{See Planned Parenthood, Mifepristone: Expanding Women’s Options for Early Abortion, available at http://www.plannedparenthood.org/library/ABORTION/Mif_fact.html (last visited Feb. 8, 2002) (suggesting that lobbying efforts against FDA approval added to the delay).}

III. LEGAL ANALYSIS

A. Parental Involvement Laws Cannot Apply to the Distribution of Mifepristone

Anti-choice groups are succeeding in their efforts to apply existing abortion restrictions to the distribution of mifepristone.\footnote{See Eric Schaff, Redefining Violence Against Women: The Campaign of Violence and the Delay of RU 486, 8 TEMP. POL. & CIV. RTS. L. REV. 311, 322 (1999) (adding that these anti-choice groups also threatened to boycott whichever company decided to distribute mifepristone).} However, this existing legislation is inapplicable.\footnote{See Dennie Wolf & Mary Crowe, Our Bodies, Ourselves 402 (The Boston Women’s Health Book Collective ed., Simon & Schuster 1998) (recognizing the anti-abortion movement is working to outlaw all abortions, be they surgical or medical).} States have the authority to enact parental involvement laws because Planned Parenthood of Southeastern Pennsylvania v. Casey specifically granted them this right.\footnote{See Providing Medical Abortion, supra note 24 (arguing laws applicable to surgical abortions “do not make sense in the context of medical abortion” because the laws were drafted before medical abortions became available).} But, as surgical abortions were the only type of abortion available to women in the United States when Casey was decided,\footnote{See Casey, 505 U.S. at 899 (reaffirming that states can enact parental involvement laws).} the authority to enact these involvement laws applies only to surgical abortions and cannot automatically extend to mifepristone.\footnote{See Center for Reproductive Law and Policy, Medical Abortion: An Alternative for Women, available at http://www.crlp.org/pub_fac_medabor.html (last visited Mar. 20, 2002) (stating that the FDA approved the use of mifepristone on September 28, 2000, eight years after Casey was decided).} Rather, to determine

\footnote{See Gwendolyn Prothro, RU 486 Examined: Impact Of A New Technology On An}
what laws should apply to distribution, mifepristone should be
categorized as an emergency contraceptive, thereby prohibiting the
application of parental involvement laws.89

1. Mifepristone Is More Like Emergency Contraceptives Than Surgical
Abortions

Though clear differences exist between mifepristone and
emergency contraceptives,90 the two have similar characteristics as was
even recognized by state law.91 Most importantly, some women
actually use mifepristone as an emergency contraceptive.92
Additionally, both mifepristone and emergency contraception are in
pill form and do not require surgery.93 According to the FDA,94

Examined) (concluding that "legally, RU 486 blurs the line between contraception
and early abortion.").

89. See Center for Reproductive Law and Policy, Parental Consent and Notice for
Contraceptives Threatens Teen Health and Constitutional Rights, available at
http://www.crpl.org/pub_fac_parentalconsent.html (last visited Mar. 21, 2002
[hereinafter Parental Consent]) (indicating that minors are not required to involve,
or receive consent from, their parents before receiving contraceptives).

90. See Planned Parenthood of New York City, Inc., Issues and Trends in
Reproductive Health: Emergency Contraception (2000), available at
(reporting that emergency contraceptive pills are available in one of three basic
forms: either ordinary birth control pills taken in increased dosages, Preven, a hormonal
pill regimen, or Plan B, a progestin-only pill). Preven and Plan B are manufactured
exclusively for use as emergency contraceptives. Id.

(including RU-486 under the heading “FDA approved prescription contraceptive
drugs and devices” to determine whether it would be covered by insurance
companies).

92. See Protection of RU-486, supra note 28, at 1134 (“RU-486 can also be used as a
safe and highly effective form of emergency contraception.”); see also CHRISTIANE
NORTHROP, M.D., WOMEN’S BODIES, WOMEN’S WISDOM 386 (Bantam Books 1998)
[hereinafter WOMEN’S BODIES, WOMEN’S WISDOM] (calling mifepristone “the newest
morning-after pill”); RU 486 Examined, supra note 88, at 730-31 (noting that in
addition to its use as an emergency contraceptive and as a means to terminate
pregnancy, mifepristone has also proven to be an effective treatment for different
kinds of tumors, breast cancer, skin wounds, and Cushing’s Syndrome, and has also
proven helpful during difficult births).

93. See OUR BODIES, OURSELVES, supra note 84, at 325 (illustrating that emergency
contraceptives prevent pregnancy by changing hormone levels, which disrupts “the
process of ovulation, egg transport, fertilization, and implantation”).

94. See United States Food and Drug Administration; Center for Drug Evaluation
and Research, Mifepristone Questions and Answers, available at
http://www.fda.gov/cder/drug/infopage/mifepristone/mifepristone-qa.htm (last
visited Mar. 22, 2002) [hereinafter Mifepristone Questions and Answers] (providing that
those who dispense mifepristone must “have the ability to date pregnancies
accurately and to diagnose tubal pregnancies... be qualified to provide any
necessary surgery, or have made arrangements for any necessary surgery... [and]
doctors and health care providers may administer mifepristone. 96 Similarly, any health care provider can administer emergency contraceptives. 97 In neither case did the FDA specify that minors could not receive either of these pills. 97 Finally, both mifepristone and emergency contraceptives must be taken within a short period of time. 98

Because mifepristone is an abortifacient, opponents are trying to restrict women’s access to the drug, but the differences between mifepristone and surgical abortions 99 are significant. 100 As previously stated, although mifepristone is a drug, administered in a doctor’s office, the abortion itself actually occurs at home. 101 On the other hand, legal surgical abortions always take place in a doctor’s office or clinic. 102 Additionally, only certain doctors can perform surgical abortions, 103 whereas currently, as long as the doctors or health care workers meet the requirements set forth by the FDA, they can ensure that women have access to medical facilities for emergency care . . .”).

95. See id. (explaining that the provider must meet the requirements set forth, but that the FDA does not require that the provider be a doctor, rather that is left to state laws and regulations); see also WOMEN’S BODIES, WOMEN’S WISDOM, supra note 92, at 386 (affirming that mifepristone may be dispensed by a health care practitioner).


97. See Mifepristone Questions and Answers, (explaining that the FDA, itself, is not specifying that the woman be of a certain age in order to have access to mifepristone). Instead, the FDA decided to allow states to make that decision. Id.

98. See THE FACTS, supra note 96 (stating that emergency contraceptives, must be taken within seventy-two hours of having unprotected sex).

99. See OUR BODIES, OURSELVES, supra note 84, at 390 (mentioning that the surgical abortion procedure used during the first trimester is called a vacuum aspiration).

100. See Karen F. Richards, RU 486: A Promising Birth Control Device Entangled In The Abortion Debate, 6 J. PHARMACY & L. 117, 128 (1997) (proposing mifepristone should have been approved and made available as a contraceptive); see also Protection of RU-486, supra note 28, at 735 (discussing how medical abortions are different from surgical since medical abortions only involve taking a pill).

101. See Protection of RU-486, supra note 28, at 1133 (“One of the benefits of [mifepristone] is that it . . . ‘can be done within the privacy of one’s home.’”).

102. See OUR BODIES, OURSELVES supra note 84, at 393 (advising that surgical abortions must be performed in a clinic or doctor’s office); see also WOMEN, HEALTH, supra note 84, at 234 (noting that surgical abortions are performed in hospitals or clinics).

103. See WOMEN, HEALTH, supra note 84, at 234 (informing that today, physicians provide almost all legally performed surgical abortions). But cf. OUR BODIES, OURSELVES, supra note 84, at 396 (telling how the number of abortion providers, as well as those willing to be trained to perform abortions, has decreased significantly in recent years, making abortion providers significantly more difficult to find).
2002] DISTRIBUTION OF RU-486 TO MINORS 725
dispense mifepristone. Finally, mifepristone must be taken within
the first seven weeks of pregnancy, while a surgical abortion can be
performed as late as the second trimester. Thus, because of the
significant differences between mifepristone and surgical abortions,
existing parental involvement laws cannot apply to the distribution of
mifepristone.

2. Minors Can Consent to Other Medical Procedures Without Consent from
or Notification of a Parent, Thus Parental Involvement For Mifepristone
Is Unnecessary

The irony of parental involvement laws is that a minor can,
independent of her parents, make every other decision related to her
pregnancy and subsequent birth and child care arrangements, yet she
has no power to terminate her pregnancy. Perhaps one of the most
interesting examples is that no laws exist requiring parental
involvement if the minor wants to continue her pregnancy. Nor do
parental involvement laws exist regarding the minor’s right to
consent to delivery or to prenatal care. If the minor decides to have
and keep the baby, she is free to consent to medical care for the child
without involving her parents, and if the minor decides to put the
baby up for adoption, again, she may do so without involving her
parents.

Minors can consent to other medical procedures without parental

104. See OUR BODIES, OURSELVES, supra note 84, at 402 (suggesting that in the future "physician assistants, nurse-midwives, and nurse-practitioners will be able to provide the services [distribute mifepristone], which is primarily a matter of prescribing the medications").
105. See OUR BODIES, OURSELVES supra note 84, at 392 (advising that surgical abortions may be performed through the twenty-fifth week of pregnancy).
106. See Prothro, supra note 88, at 733 (arguing that mifepristone does not fit into the already established framework).
107. See MINORS AND THE RIGHT, supra note 9, at 1 (contending that minors are given the right to make other health care decisions without involving their parents).
108. See Abcarian, supra note 65 (indicating that a minor who decides to have a baby can do so without consent from a parent).
109. See MINORS AND THE RIGHT, supra note 9, at 5 (highlighting the illogicality of the fact that a minor must involve a parent if she wants to terminate her pregnancy, but that she need not obtain consent from a parent for any other decision she makes relating to prenatal care and delivery).
110. See Planned Parenthood v. Danforth, 428 U.S. 52, 73-77 (1976) (observing that in Missouri, a minor who became pregnant and wanted to have an abortion, if married, was free to do so without having to comply with the parental consent laws, while a minor of the same exact age, if single, was forced to comply with the parental consent laws).
consent or notification.\textsuperscript{111} For example, at the time that \textit{Planned Parenthood of Central Missouri v. Danforth} was decided, “no other Missouri statute specifically require[d] the additional consent of a minor’s parent for medical or surgical treatment, and that in Missouri a minor legally may consent to medical services for pregnancy (excluding abortion), venereal disease, and drug abuse.”\textsuperscript{112} Thus, because minors can consent to surgery without involving a parent,\textsuperscript{113} parental involvement laws are inapplicable to the distribution of mifepristone, which is not only proven safe, but which is also non-surgical.\textsuperscript{114}

\section*{B. Even if Casey Were to Apply to the Distribution of Mifepristone, Parental Involvement Laws Would Still be Found Unconstitutional}

\textit{Roe v. Wade} held, and \textit{Casey} reaffirmed, that “a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.”\textsuperscript{115} Relying on this concept, New Jersey’s Supreme Court found that parental involvement laws “can operate as a functional bar to a minor’s exercise of her constitutional right to make her own reproductive decisions,” and therefore held them to be illegal.\textsuperscript{116} While parental involvement laws, as applied to surgical abortions, already cause substantial problems, the application of parental involvement laws to medical abortions would exacerbate these problems, placing teenagers in even greater

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\textsuperscript{111} See Christine M. Hanisco, \textit{Acknowledging the Hypocrisy: Granting Minors The Right To Choose Their Medical Treatment}, 16 N.Y.L. SCH. J. HUM. RTS. 899, 900 (2000) (recognizing that some states, having abolished the parental consent requirement, allow ‘mature minors’ to make (their) own medical treatment decisions’). Also, “many states have enacted statutes that allow minors to obtain treatment for sexually transmitted diseases, and alcohol and substance abuse . . . without parental knowledge or consent.” \textit{Id}.

\textsuperscript{112} \textit{Danforth}, 428 U.S. at 73.

\textsuperscript{113} \textit{See Minors and the Right}, supra note 9, at 4 (asserting that twenty-two states permit minors to consent to medical treatments, including surgery, without involving a parent).

\textsuperscript{114} \textit{See Myths and Facts}, supra note 79 (last visited Mar. 22, 2002) (rejecting the argument that mifepristone is not safe by explaining that because mifepristone is used earlier in a pregnancy, a medical abortion is actually safer than a surgical abortion).

\textsuperscript{115} \textit{Casey}, 505 U.S. at 879; \textit{see also Roe}, 410 U.S. at 163 (holding that during the first trimester, the state cannot restrict a woman’s right to have an abortion); \textit{Danforth}, 428 U.S. at 66 (reiterating that “\textit{Doe} [the Georgia companion case to \textit{Roe}] and \textit{Roe} clearly establish the State may not restrict the decision of the patient and her physician regarding abortion during the first stage of pregnancy”).

danger.\textsuperscript{117}

1. **Parental Involvement Laws Prevent The Minor From Making The Ultimate Decision**

The first part of *Roe* that *Casey* reaffirmed held that “before viability, the State’s interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman’s effective right to elect the procedure.”\textsuperscript{118} However, parental involvement laws create this substantial obstacle.\textsuperscript{119} Indeed, many judges agree that the only thing parental involvement laws actually do is to “make it as difficult as possible for these young ladies to have abortions.”\textsuperscript{120}

a. **Parental Involvement Laws Increase the Cost of an Abortion**

In *Casey*, Justice O’Connor said that cost cannot be a factor in determining whether a restriction creates an undue burden.\textsuperscript{121} However, O’Connor also said that when the state’s regulation imposes an undue burden on the woman’s right to decide for herself whether to terminate her pregnancy, that regulation is invalid.\textsuperscript{122} Parental involvement laws strike at one of the most vulnerable groups of citizens in the country, minors.\textsuperscript{123} Teenagers do not typically earn a

\textsuperscript{117} See id. (noting how difficult parental involvement laws already make having an abortion).

\textsuperscript{118} Casey, 505 U.S. at 846.

\textsuperscript{119} See A Celebration of Reproductive Rights, supra note 2, at 254 (attributing “the real purpose and effect of these infringements is to foreclose the right to abortion altogether to less powerful women”).

\textsuperscript{120} See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 167 (noting that the “six state court judges who heard at least ninety percent of the minors’ abortion petitions in Minnesota, and who testified at the 1986 trial challenging the constitutionality of Minnesota’s law” agree with Massachusetts Superior Court Judge Joseph Mitchell who said, “I believe the hearings don’t have any value at all”); see also Planned Parenthood, Teenagers, Abortion, and Government Intrusion Laws, available at http://www.plannedparenthood.org/library/ABORTION/laws.html (last visited Mar. 24, 2002) [hereinafter Teenagers] (emphasizing that for those minors who decide to get consent from one of their parents, obtaining an abortion is still difficult because some parental consent laws require that “teenagers either obtain notarized evidence that parents have been notified, or present a death certificate for a deceased parent, [which] may present impossible logistical barriers for a young teenager or cause serious delay.”) Additionally, other laws require the physician to “personally locate and notify the parents,” which also “delays the procedure and increases the cost.” Id.

\textsuperscript{121} See Casey, 505 U.S. at 874 (suggesting that a regulation that has “the incidental effect of making it... more expensive to procure an abortion cannot be enough to invalidate it”).

\textsuperscript{122} See id. at 877 (explaining when a regulation creates an undue burden).

\textsuperscript{123} See Estrich & Sullivan, supra note 67, at 137 (reiterating that minors are one
significant amount of money. Already, the cost of a first trimester surgical abortion ranges from $300 to $450, and the cost of a medical abortion using mifepristone is approximately $375. Parental involvement laws increase these costs to even higher amounts.

This increase in cost can be attributed to travel expenses. Not all counties in the United States have hospitals or clinics that perform abortions; similarly, not all doctors who can distribute mifepristone are doing so at present. Thus, if the minor does not live near the clinic, or if she decides to leave the state to avoid having to notify or obtain the consent of one or both of her parents, she must travel. Costs incurred include not only the price of the bus or train ticket, but also the cost of a hotel and meals, for if the clinic is a good distance from her home, she may have to stay overnight. An

of the most vulnerable groups in society, in part because of their economic standing).

124. See Farmer, 165 N.J. at 633 (reiterating that the minors’ lack of money is, in itself, an obstacle).


127. See National Women’s Health Organization, supra note 125 (noting that the price of the surgical abortion does not include a follow-up exam).

128. See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168 (emphasizing that traveling out of state for an abortion is very costly).

129. See Stanley K. Henshaw, Abortion Incidence and Services in the United States, 1995-1996, 30 Fam. Plan. Persp. 263 (Nov./Dec. 1998) (estimating the number of abortions in U.S. counties had no known abortion provider”); see also Silverman, supra note 126, at 247 (“[s]ome states have only one doctor willing to perform abortions . . . women in certain areas of Michigan have to travel eleven hours to the nearest abortion provider . . . [and] in many rural areas of Texas, the closest provider is often 300 miles away.”).

130. See Providing Medical Abortion, supra note 24 (suggesting that because doctors may be forced to publicize the fact that they dispense mifepristone, those doctors who once said they would distribute mifepristone are now reconsidering).

131. See, e.g., Stanley K. Henshaw, The Impact of Requirements for Parental Consent On Minors’ Abortions in Mississippi, 27 Fam. Plan. Persp. 121 (May/June 1995) (indicating that upon the enactment of parental consent laws in Mississippi, the number of minors who traveled to other states to obtain abortion procedures increased).

employed minor who has to travel may be deprived of income earned, but more importantly, she may lose her job.\textsuperscript{133} For minors who have to travel to receive mifepristone, the cost will increase dramatically, for recipients of mifepristone must make three separate trips to the doctor’s office.\textsuperscript{134}

Additionally, minors who attempt to obtain a judicial bypass are also often forced to travel, for not all counties have judges who are willing to hear bypass petitions.\textsuperscript{135} Therefore, the application of parental involvement laws to the distribution of mifepristone may increase the number of minors who will be forced to travel.\textsuperscript{136} Even more pertinent, the judicial bypass procedure is, itself, costly and time consuming.\textsuperscript{137} As discussed in more detail below, parental involvement laws also delay the abortion, which then increases the cost, for if the delay pushes the minor into her second trimester, at which point the abortion must be surgical, not medical, the abortion becomes much more expensive.\textsuperscript{138}

Thus, even though Justice O’Connor claims that cost cannot be a factor, parental involvement laws increase the cost of an abortion, both surgical and medical, so substantially that they do prevent women from even being able to consider abortion as an option.\textsuperscript{139} Therefore, these laws create the requisite undue burden to make them unconstitutional.\textsuperscript{140} On the other hand, if parental involvement

\begin{footnotes}
\footnote{Effect (stating that mifepristone will decrease the distance and number of times women will travel).}
\footnote{See Abortion Pill, supra note 76, at A1 (explaining that the woman receives the mifepristone pills during her first trip to her doctor, the misoprostol during her second trip, and that twelve days after that, she must return to her doctor’s office to make sure her pregnancy has been successfully terminated).}
\footnote{See Hodgson v. Minnesota, 497 U.S. 417. 440 (1990) (stating that in Minnesota, a number of judges refuse to hear bypass petitions). Therefore, minors must travel to other cities in order to find judges who are willing to hear their petitions. \textit{Id}.}
\footnote{See Henshaw, supra note 129, at 270 (noting that mifepristone has the potential to decrease the need for interstate travel).}
\footnote{See Farmer, 165 N.J. at 636 (recognizing that the minor may need assistance of counsel, and may need to travel to get to the courthouse).}
\footnote{See National Women’s Health Organization, supra note 125 (noting that the price of a second trimester abortion can be as much as $1000, or more). Some second trimester abortions may take two days. \textit{Id}.}
\footnote{See Farmer, 165 N.J. at 633 (acknowledging how burdensome finding the money for all these additional expenses, as well as for the actual abortion, can be on the woman).}
\footnote{See \textit{id.} at 613 (holding that the notification requirement violated New Jersey’s Constitution).}
\end{footnotes}
laws are not applied to mifepristone, thereby increasing accessibility, the burdens will be greatly reduced, and may even be eliminated entirely.  

b. The Requirements Parental Involvement Laws Impose Make Compliance Almost Impossible

The notification and consent requirements sound deceptively simple, when, in fact, they impose significant burdens. One example of how these laws create such hardships is that oral consent is not sufficient, as many states require the consent be notarized. In other instances, the parental consent laws essentially force the parent granting consent to accompany his/her daughter to the clinic, which may require the parent to take time off from work. In cases of notification, clinics are not permitted to take the word of the minor who tells them that she told her parent of her decision. All these requirements, in addition to burdening both the daughter and her parent, also delay the procedure, thereby increasing anxiety and health risks.

In addition to creating substantial obstacles, these requirements also significantly delay the abortion. Moreover, if the minor tries to avoid the parental involvement law, the abortion will be delayed while she attempts to either go through the court system to obtain a

141. See National Abortion and Reproductive Rights Action League, Mifepristone and the Impact of Abortion Politics on Scientific Research, available at http://www.naral.org/mediaresources/fact/research.html (last visited Feb. 2, 2002) (emphasizing that mifepristone has the potential to greatly increase access to abortion services, for many of those doctors and health care workers who refuse to perform surgical abortions now, said they would be willing to distribute mifepristone).

142. See Farmer, 165 N.J. at 634 (stressing that the requirements are complicated because of the financial and procedural difficulties).

143. See Teenagers, supra note 120 (evaluating the notarization requirement and deducing that it “may present impossible logistical barriers for a young teenager or cause serious delay”). If a parent is deceased, some laws require the minor to provide a death certificate. Id.

144. See Farmer, 165 N.J. at 634 (emphasizing that forcing minors to tell parents they are pregnant puts strains on their relationship).

145. See Teenagers, supra note 120 (indicating that clinics or physicians are often required to notify the parent themselves).


2002] DISTRIBUTION OF RU-486 TO MINORS 731

judicial bypass, or to travel out of state. One of the most important benefits of mifepristone is that it will increase access to abortion services, because fewer and fewer doctors are willing to perform surgical abortions. Yet many doctors who now refuse to perform abortions have said they would be willing to distribute mifepristone. However, by applying parental involvement laws to the distribution of mifepristone, mifepristone may become completely inaccessible to minors. Moreover, once the minor realizes she will not be able to get mifepristone, she will have to begin the process of finding out how to have a surgical abortion, but by then, she may find herself facing the health risks of a second trimester abortion.

2. The Judicial Bypass Places An Undue Burden On The Minor

Proponents of parental involvement laws claim that the judicial bypass prevents the restrictions from placing an undue burden on the minor, because through the bypass procedure she can avoid the parental consent or notification requirement. However, this statement is not accurate. In fact, instead of eliminating any burden parental involvement laws may create, the judicial bypass acts to increase this already existing burden.

148. See Henshaw, supra note 131, at 122 (documenting that once parental consent laws were implemented in Massachusetts there was “a significant increase in the number of Massachusetts minors who traveled to neighboring states for abortion services”); see also FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 171 (suggesting that minors who have abortions out of state to avoid parental involvement laws are less likely to receive follow-up care, thereby further endangering their own health).

149. See Dr. Eric Schaff, Symposium, Redefining Violence Against Women: The Campaign of Violence and The Delay of RU 486, 8 TEMP. POL. & CIV. RTS. L. REV. 311, 311 (1999) (recognizing that because anti-choice groups threaten physical violence upon, terrorize and kill those who provide abortions, the number of providers is continually decreasing, thereby increasing the difficulty of finding a doctor who performs the service).

150. See A Promise, supra note 19 (reiterating that mifepristone will increase access to abortion services to those who do not live near a provider).

151. See Silverman, supra note 126, at 290 (“In order to make the accessibility of medical abortion a reality it will be necessary to prevent state legislatures from enacting laws that effectively act as outright bans . . .”).

152. See WILLARD GATES, JR. & DAVID GRIMES, MORBIDITY AND MORTALITY OF ABORTION IN THE UNITED STATES 158 (1981) (stressing that even though abortion is safer than childbirth, health risks, including death, increase dramatically every week after the eighth week).

153. See Casey, 505 U.S. at 899 (arguing that the judicial bypass procedure is sufficient).

154. See Defending the Rights of Young Women, supra note 133 (stressing that the judicial bypass procedure is complicated).

155. See National Abortion and Reproductive Rights Action League, The “Child
As previously noted, the judicial bypass procedure delays the abortion, and can push the surgery into the second trimester. For instance, some courts require “medical affidavits and legal counsel.” Again, not all judges are willing to hear bypass petitions, which may force the minors to travel. Additionally, even those judges who are willing to hear the petitions must have the time to do so. Assuming a minor finds a judge who is even willing to hear her case, she is then subject to the biases of that judge. While many judges are able to separate their own beliefs from the case at hand, it is not a rare occurrence for a minor to find herself before a judge who is not pro-choice, and who, therefore, bases the decision on personal beliefs, rather than on the particulars of the situation. For example, a Missouri judge said that

[depend upon what ruling I make, I hold in my hands the


136. See SUSAN FAULUDE, BACKLASH, THE UNDECLARED WAR AGAINST AMERICAN WOMEN 419 (1991) [hereinafter BACKLASH] (describing how the bypass hearings can be postponed for as long as a month, which is problematic for those teens who were already close to the end of the first trimester). "One judge waited a month to issue a ruling; another judge ordered the court stenographer not to type out the transcript, in an attempt to hold up a girl’s appeal of his decision denying her an abortion." _Id._ at 420.

137. _Id._ at 419.

138. See _id._ (noting that in Massachusetts, for example, “twelve of the sixty Superior Court judges routinely refused to hear teenage girls’ appeals for abortions [and] in Minnesota, bypass hearings were available at only two locations”). In Indiana, only about six to eight bypasses were granted each year. _Id._

139. See _Farmer_, 165 N.J. at 636 (disapproving of the bypass procedure, in part because it can delay the abortion).

140. See _Abortion Wars_, supra note 4, at 215 (revealing that judges who decide whether to grant the minor permission to have the abortion “have a great deal of leeway”).

141. See Center for Reproductive Law and Policy, Mandatory Parental Consent and Notification Laws, available at http://www.crlp.org/pub_fac_mandconsent.html (last visited Mar. 24, 2002) (pointing out that judges deny minors’ bypass petitions because of their own opinions about abortion); see also National Abortion and Reproductive Rights Action League (NARRAL), Mandatory Parental Consent and Notice Laws and the Freedom to Choose, available at http://www.naral.org/mediasources/fact/consent.html (last visited Feb. 2, 2002) [hereinafter NARRAL, Mandatory Parental Consent] (agreeing that those minors who “manage to arrange a hearing face judges who are vehemently anti-choice and who routinely deny petitions, despite rulings by the U.S. Supreme Court that a minor must be granted a bypass if she is mature or if an abortion is in her best interests”).

142. See National Organization for Women (NOW), Young Women and Abortion, available at http://www.now.org/issues/abortion/ywabort.html (last visited Mar. 24, 2002) [hereinafter Young Women and Abortion] (stating that minors are subject to the whim of the judge). “Many times a judge will refuse to even hear a young woman’s request.” _Id._
power to kill an unborn child. In our society it’s a lot easier to kill
an unborn child than the most vicious murderer . . . I don’t believe
that this particular juvenile has sufficient intellectual capacity to
make a determination that she is willing to kill her own child.163

In addition, the judges who hear these cases are not trained to
handle judicial bypass procedures, nor does a special court exist for
these cases.164 When a minor is seeking access to mifepristone, she
will not have an additional two weeks to spare for the bypass
procedure, thus the time required to go through the process will
effectively prevent her from obtaining the pills.165

The lack of confidentiality is another problem facing minors going
through the judicial bypass procedure.166 Teenagers try to obtain
judicial bypasses in order to hide unwanted pregnancies from their
parents; therefore, confidentiality is essential.167 One reason why
mifepristone is so appealing is because of the increased privacy it
provides.168 However, some courts forced minors to argue their cases

163. Excerpt, St. Charles County Juvenile Court, reprinted in T.L.J. v. Webster, 792
F.2d 734, 738-739 n.4 (1986); see also Tamar Lewin, Parental Consent to Abortion: How
Enforcement Can Vary, N.Y. TIMES, May 28, 1992, at A1; (giving an example of a judge
in Ohio who refused to grant the petition of a seventeen-year old, “A” student who
planned to attend college, but who “testified she was not financially or emotionally
prepared for college and motherhood at the same time, stating that the girl had ‘not
had enough hard knocks in her life’”); In re Jane Doe 1, 586 N.E.2d 1181, 1185
(Ohio 1991) (upholding the denial of a bypass petition of a seventeen-year-old who
testified that her father beat her in the past and was afraid he would do so again if he
found out she was pregnant). She was a high school senior with a 3.0 grade point
average who was active in team sports, worked 20-25 hours a week, and paid for her
automobile expenses and medical care. Id. at 1182. See also FROM ABORTION TO
REPRODUCTIVE FREEDOM, supra note 64, at 167 (citing an example of a judge who
based his decision that the minor before him was not mature enough to decide for
herself whether to terminate her pregnancy and that having the abortion would not
be in her best interest, on ‘her looks,’ despite the fact that she wanted to keep her
pregnancy a secret because she was afraid that if her stepfather found out that he
would beat her mother).

164. See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168
(commenting that the judges who hear these cases are the same ones who “hear
cases of fraud, blackmail, armed robbery, felony assault, rape, and murder” ).

165. See Farmer, 165 N.J. at 633 (pointing out that the time requirement is much
more stressful for minors because as they often have irregular menstrual cycles, it
takes them longer to realize they are pregnant).

166. See ABORTION WARS, supra note 4, at 215 (recounting the experience of one
minor who “seeking the court’s permission to have a confidential abortion had to
threaten legal action to prevent the judge from bringing her parents into the
proceedings” ).

167. See NARRAL, Mandatory Parental Consent, supra note 161 (arguing that the
judicial bypass procedure does not protect minors because of the risk of a breach of
confidentiality).

168. See Planned Parenthood, Mifepristone: A Brief History, available at
http://www.plannedparenthood.org/library/ABORTION/Mifepristone/html (last
visited Mar. 24, 2002) (explaining that mifepristone gives women more privacy); see
also What You Should Know, supra note 22 (indicating that satisfaction rates were so
in open court, in front of as many as two dozen strangers, while other courts, in violation of the involvement laws, enter the minor’s name and address into record. 169

3. Parental Involvement Laws Put Minors In Danger

In theory, parental involvement laws do not seem to be harmful. 170 In fact, parental involvement law proponents have even found support among pro-choice Americans. 171 Those who believe parental consent laws should be upheld claim the laws help “foster better parent-daughter communication.” 172 They also stress the “importance of parental rights” 173 in deciding “what medical services their minor children receive.” 174 Finally, they argue that minors are often not mature enough to make such an important decision without the guidance of a parent. 175 While these arguments are not without merit, they ignore the fact that not all minors can tell a parent about their unplanned pregnancies. 176

high in part because mifepristone gives women more control over their bodies, as well as over the process itself).

169. See BACKLASH, supra note 156, at 419 (reiterating that confidentiality is often violated).


171. See Margaret Carlson, Abortion’s Hardest Cases, TIME, July 9, 1990 [hereinafter Abortion’s Hardest Cases] (recognizing that those who are undoubtedly pro-choice, but who support parental involvement laws do so because they are bothered by “the notion of a girl’s right to choose”).

172. ABORTION WARS, supra note 4, at 215; see also FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168 (revealing that according to a parental involvement proponent, a benefit of the parental involvement laws is that they force “children to deal with the consequences of their sexual activity”); NARRAL, Mandatory Parental Consent, supra note 160 (arguing that in situations where a teenage daughter is unable to go to a parent for help when facing an unplanned pregnancy, forcing dialogue where one never existed before is unlikely to improve the relationship, and may even damage their relationship, as well as relations with other family members).

173. ABORTION WARS, supra note 4, at 215; see also FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 169 (adding “a belief that parents should be involved in the medical treatment of their children, a desire to increase parent-child communication about sex, and a desire to maximize the role of the family in the teenager’s life,” to reasons why people support parental involvement laws).

174. See Teenagers, supra note 120.

175. See Bellotti v. Baird, 443 U.S. 622, 640 (1979) (weighing the argument that minors may not be mature enough to make the decision without advice from a parent).

176. See Melissa Healy, Abortion Consent Bill Passes in House, L.A. TIMES, July 1, 1999, at A13 (stressing that not all teenagers can turn to a parent when faced with an
a. Violence

While the majority of teenagers do tell a parent of the pregnancy, those who decide to keep the pregnancy private often do so out of fear. As even the Supreme Court has recognized, "many minors... 'live in fear of violence by family members' and 'are, in fact, victims of rape, incest, neglect and violence.'" In fact, in one study, approximately 14% of the minors having an abortion did not tell a parent because they thought they would be physically abused. Being forced to discuss an unplanned pregnancy in such a volatile situation, in which the teenager is subjected to the wrath of a parent, is likely to make the situation worse, and will further endanger the minor.

The Supreme Court in Casey recognized and placed great value upon the fact that the fear of family violence could prevent married women from choosing whether to terminate a pregnancy. In fact, the Supreme Court in Casey struck down the spousal notification requirement because of this fear. As in both situations, it is the reaction to the unplanned pregnancy that causes this violence, not the ultimate decision of what to do, requiring a minor to involve a parent before she can have access to mifepristone will result in the same fear and violence the Supreme Court already found so

unplanned pregnancy): Young Women and Abortion, supra note 162 (concluding that fear of abuse, either physical or emotional, is the main reason why many minors want to keep their pregnancies a secret).

177. See Henshaw & Kost, supra note 146, at 199 (commenting that approximately 61% of the teenagers having an abortion told at least one parent of the pregnancy). Moreover, the younger the teen, the more likely she is to talk to a parent. Id.

178. See American Civil Liberties Union, Parental Involvement Laws, available at http://www.aclu.org/library/parent.html (last visited Mar. 24, 2002) (listing the common fears, including "fac[ing] physical abuse, violence between their parents...[and] exacerbating a parent’s drug or alcohol problem"); see also THE CHOICES WE MADE, supra note 55, at xxxi (observing minors also seek to keep pregnancies a secret "to spare their parents stress, worry, or shame").

179. Hodgson v. Minnesota, 497 U.S. 417, 439 (1990) (reiterating the findings of the District Court); see also NARRAL, Mandatory Parental Consent, supra note 160 (recognizing that other teens do not want to involve a parent because "their pregnancies are the result of incest").

180. See Hodgson, 497 U.S. at 438 (emphasizing that the announcement of an unwanted pregnancy will result in abuse; either physical, sexual or psychological).

181. See id. (stressing that "notification of the minor’s pregnancy and abortion decision can provoke violence").

182. See Casey, 505 U.S. at 897 (using this fear of family violence, the Supreme Court struck down the spousal notification requirement).

183. See id. at 894 (noting that the State argued that the spousal notification requirement only affected 1% of the women seeking abortions). But see INDUCED ABORTION, supra note 3, at 1 (reiterating that 20% of women obtaining abortions are minors).
abhorrent. 184

b. Illegal and Self-Induced Abortions

The harms these parental involvement laws cause are not only inflicted by parents. 185 Another way in which parental involvement laws place these young women in danger is that to avoid telling a parent of an unplanned pregnancy, many teens will resort to having illegal abortions. 186 While mifepristone was proven safe, 187 illegal abortions are quite dangerous. 188 Indeed, "America does not face a choice between legal abortion and no abortion. It faces a choice between legal abortion, which is usually safe, and illegal abortion, which often maims or kills." 189 Complications caused by these illegal and unsafe abortions include death, infertility and chronic illness. 190

Nothing will stop a teenager who wants to terminate her pregnancy from doing so. 191 If she cannot find someone to perform an abortion, she will do it herself. 192 These desperate teens will use anything

184. See Henshaw & Kost, supra note 146, at 203 (stressing that minors also fear being forced to leave home).

185. See LESLIE J. REAGAN, WHEN ABORTION WAS A CRIME; WOMEN, MEDICINE, AND LAW IN THE UNITED STATES, 1867-1973 252 (1997) (recognizing that many of the women dying from illegal abortions, which are reemerging, are minors who are trying to avoid parental involvement laws).

186. See BACKLASH, supra note 156, at 419 (discussing the case of Becky Bell, a 17-year old, who was the first girl to die from an illegal abortion in an attempt to avoid parental involvement laws). Even though Becky came from a loving and supportive family, she did not want to tell her parents she needed an abortion because she did not want them to be disappointed in her. Id.


188. See Farmer, 165 N.J. at 634 (stressing that illegal abortions are performed by unlicensed doctors); SUSAN BROWNMBILLER, IN OUR TIME, MEMOIR OF A REVOLUTION 103 (1999) [hereinafter IN OUR TIME] (relating how illegal abortions killed approximately five thousand women every year before abortion was legalized); Estrich & Sullivan, supra note 67, at (concluding that “mishandled criminal abortions were the leading cause of maternal deaths in the 1960s”).


190. See also IN OUR TIME, supra note 188, at 103 (relating other possible complications arising from illegal abortions, including puncturing the uterus and septic infections).

191. See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 171 (concluding that “parental involvement laws put such girls in ‘a terrible position . . . that’s when kids get desperate and may try to abort themselves’”); see also OUR BODIES, OURSELVES, supra note 84, at 408 (remarking that women who are determined to abort have “resorted to dangerous, sometimes deadly methods, such as inserting knitting needles or coat hangers into the vagina and uterus, douching with dangerous solutions like lye, or swallowing strong drugs or chemicals”).

192. See Hodgson, 497 U.S. at 466 (Marshall, J., dissenting) (noting that “9% of
available on themselves to try to induce abortion, with drastic results.193

By having illegal and self-induced abortions, minors are literally dying in order to avoid telling a parent about an unplanned pregnancy.194 These acts of desperation will continue, and may increase, if parental involvement laws are applied to the distribution of mifepristone; for once a minor is denied legal access to mifepristone and she realizes that she must then begin to research how to have a surgical abortion, feelings of helplessness will take over.195 The fact that minors are left with no option but to have illegal and self-induced abortions, and that they are willing to risk their own lives demonstrates that parental involvement laws do place an undue burden on minors.196

4. Forcing The Mother To Carry To Term Harms Both The Mother And the Child

Another way in which parental involvement laws197 burden the minors is that by preventing access to safe, legal abortions, many teenagers are forced to carry their pregnancies to term.198 Childbirth is much more dangerous for teenagers than is having an abortion.199 In addition to the physical health risks, forcing minors to have a baby

minors attending family planning clinics said they would have a self-induced abortion rather than tell a parent”).

193. See id. at 466-67 (recounting the story of one minor who, to avoid telling a parent of her pregnancy, “tried to induce an abortion with the help of her friends by inserting a metallic object into her vagina, thereby tearing her body, scarring her cervix and causing bleeding...because of the damage to the patient’s cervix, doctors had to perform a hysterectomy”). Thus, the dangers and health risks of self-induced abortions are just as serious as are those of illegal abortions. Id.

194. See NARRAL, Mandatory Parental Consent, supra note 161 (recognizing that “laws mandating parental notice or consent actually harm the young women they purport to protect by increasing illegal and self-induced abortion, family violence, suicide, later abortions, and unwanted childbirth”).

195. See Farmer, 165 N.J. at 635 (maintaining that when minors believe time is running out, they will seek alternate ways of terminating their pregnancies).

196. See ABORTION WARS, supra note 4, at 86 (pointing out that parental consent laws “are placing onerous and sometimes dangerous restrictions on abortion”).

197. See FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 168 (emphasizing that certain anti-choice groups have guides to writing bills so that they will survive a legal attack).

198. See Abortion’s Hardest Cases, supra note 171 (indicating that many teenagers end up having to go through with an unwanted pregnancy).

199. See id. at 22 (reporting that “teenage girls are twenty-four times as likely to die of childbirth as of a first-trimester abortion”); see also FROM ABORTION TO REPRODUCTIVE FREEDOM, supra note 64, at 174 (outlining health problems pregnant teenagers face, and concluding that teenage mothers have “higher rates of...toxemia, and anemia”). “Teenage mothers also have higher instances of “complications at birth.” Id.
has significant psychological effects on the teenage mother as well.\textsuperscript{200} Having a baby at a young age has other significant effects on the mother, as well on her child.\textsuperscript{201} For example, teenage mothers are more likely to drop out of school.\textsuperscript{202} Also, teenagers with babies are much more likely to be poor, not only in their teenage years, but throughout their entire lives.\textsuperscript{203} The mother’s financial position has a great effect on her baby, for children who grow up in poverty tend to be undernourished, “undereducated and poorly housed.”\textsuperscript{204}

Finally, babies born of teenage mothers are 30% more likely to die during their first year of life than are babies born to women in their twenties,\textsuperscript{205} and they tend to have lower birthweights.\textsuperscript{206} Babies born to teenage mothers are also much less likely to be raised in a loving and supportive family.\textsuperscript{207} Studies show that “children of teenage parents are more likely to become teenage parents themselves, thus perpetuating the cycle of poverty.”\textsuperscript{208} The harmful effects of forcing teenagers to have babies demonstrate that parental involvement laws,\textsuperscript{209} which effectively codify the continuation of a pregnancy, burden the minor. The instances of forced teenage pregnancy could increase if parental involvement laws are applied to mifepristone, as the laws will delay access to the drug.\textsuperscript{210}

\begin{enumerate}
\item See Roe, 410 U.S. at 153 (commenting that being forced to have a child can cause psychological and physical harm to the mother, as well as ”the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it . . . the difficulties and continuing stigma of unwed motherhood . . .”): see also Casey, 505 U.S. at 852 (evaluating the State’s argument and concluding that the State should not be able to completely ban abortion because of the harmful effects involved in carrying a child to term).
\item See Abortion’s Hardest Cases, supra note 171 (discussing additional complications arising from forcing teenagers to have babies).
\item See id. at 22 (reporting that ”eight out of ten girls who have babies at seventeen or younger drop out of high school”).
\item See NARRAL, Mandatory Parental Consent, supra note 161 (arguing that teenage mothers and their children will be economically underprivileged).
\item Abortion’s Hardest Cases, supra note 171.
\item See id. at 22 (affirming that the infant mortality rate is higher for babies born to teenagers).
\item See From Abortion to Reproductive Freedom, supra note 64, at 175 (reporting that these babies are also ”more likely to be premature, and have higher rates of birth injury . . . and neurological problems”).
\item See Abortion’s Hardest Cases, supra note 171, at 22 (remarking that babies born to teenage mothers tend to be ”raised in resentment and rage”).
\item NARRAL, Mandatory Parental Consent, supra note 161.
\item See From Abortion to Reproductive Freedom, supra note 64, at 197 (pointing out that anti-choice groups are the largest supporter of parental involvement laws).
\item But see, Myths and Facts, supra note 79 (dispelling the notion that the number of abortions will increase because of mifepristone).
\end{enumerate}
This Comment was argued within the framework of *Casey*, as it is currently governing law. Under the restrictions permitted by *Casey*, permitting mifepristone to be categorized as an abortifacient will subject it to all existing regulations, including parental involvement laws.\(^{211}\) Therefore, the only way to prevent the application of parental involvement laws, and to ensure that minors have timely access to mifepristone is to categorize the drug only as an emergency contraceptive.\(^{212}\)

However, another argument is that the distribution of mifepristone should be afforded all the protections granted by *Roe*, because *Casey* cannot apply.\(^{213}\) As the differences between mifepristone and surgical abortions are so substantial, the analysis the Court applied to decide *Casey* cannot automatically be transferred to mifepristone merely because it, too, has the potential to terminate a pregnancy.\(^{214}\) Rather, the distribution of mifepristone needs to be studied and decided independently of *Casey*.\(^{215}\) That the distribution of mifepristone needs to be reevaluated without *Casey* is especially true because by severely restricting what the Supreme Court already determined was a fundamental right, *Casey* does not reaffirm the central holding of *Roe*, as it purports.\(^{216}\) and was, therefore, wrongly decided.\(^{217}\)

Because the Court in *Roe* expressly stated that the right to have an abortion was not absolute, the Court established a trimester framework to help decide when a state may impose regulations on

211. See Protection of RU-486, supra note 28, at 1129 ("Classifying [mifepristone] solely as an abortifacient, regardless of its safe and practical use as contraception and emergency contraception, will result in abortion opponents pushing the current Casey timeline back to nine weeks. Therefore . . . state regulation of all uses of [mifepristone] would be allowed . . ."). Moreover, "the use of [mifepristone] governed by abortion law would require a woman to know whether or not a fertilized egg in her womb had achieved implantation . . . [which] is an incredibly invasive and unworkable process." Id. at 1131.

212. See id. at 1121 (explaining "[t]he law needs to embrace this new technology and protect women’s access to it under the law of contraception.").

213. See A Promise, supra note 19 (arguing that access to mifepristone needs to be protected because anti-choice groups are proposing legislation that would place more restrictions on the pill than those required by the FDA).

214. See Richards, supra note 100, at 127 (contending that despite the controversy, women know about and want access to mifepristone).

215. See Prothro, supra note 88, at 741 (agreeing that a reevaluation is necessary).

216. See Casey, 505 U.S. at 853 (concluding that *Roe* should not be overruled due to concerns of stare decisis and individual liberties).

this fundamental right. The Court explained that the time at which the interest in protecting the health of the mother becomes compelling is at the end of the first trimester and that before that time, a woman and her doctor are "free to determine, without regulation by the state... that the... pregnancy should be terminated."

Casey abolished the trimester framework and replaced it with the undue burden test. In so doing, the Court declared that Roe "reconstrued" the right of the woman to choose to have an abortion before viability and to obtain it without undue interference from the State. However, the Roe Court never said "undue interference;" rather, the Court in Roe specifically stated that until the end of the first trimester, the State is not justified in imposing any restrictions on a woman’s right to choose to have an abortion. This means that any restriction is unconstitutional, not that, as Justice O’Connor read Roe to mean, only restrictions that prevent a woman from being able to decide for herself, are unconstitutional.

Even though Roe v. Wade was decided before mifepristone was even in existence, the decision can be applied and should be applied to the distribution of mifepristone. Roe gave women the right to decide for themselves whether or not to terminate a pregnancy. The Court saw the issue to be one of privacy, which is equally as applicable to the distribution of mifepristone as it is to a surgical

218. See Roe, 410 U.S. at 155 (explaining that at some point the State’s interest in the prenatal life prevails).

219. See id. at 155 (reiterating that a fundamental right may only be limited by a compelling state interest).

220. Id. at 163. The determinations regarding restrictions on the right to have an abortion later in the pregnancy, though important when applied to surgical abortions, are not necessary for this analysis because mifepristone must be taken during the first trimester. See supra note 76.

221. See Casey, 505 U.S. at 872 (rejecting the trimester framework claiming it was too rigid).

222. Id. at 846.

223. See id. at 872 (reiterating that Roe held that during the first trimester a state cannot regulate a woman’s right to choose).

224. See Roe, 410 U.S. at 164 (restating that during this time, the decision is to be left to the woman and her doctor).

225. See The Right, supra note 17 (emphasizing that in 1992 mifepristone was still banned in the United States).

226. See Roe 410 U.S. at 153 (declaring the right to choose whether or not to terminate a pregnancy to be legal); see also Protection of RU-486, supra note 28, at 1142-43 ("Choice is unavoidably central to women’s bodily integrity. [Mifepristone] offers women an opportunity to privately claim full control over their bodies and their lives... ")
IV. CONCLUSION

Mifepristone has the potential to liberate millions of American women who, because of the laws of the states in which they live, are essentially without access to safe, legal abortion services. The women who would benefit most from this pill are those the anti-choice groups are successfully keeping it from: minors. Because of parental involvement laws, minors already face often insurmountable obstacles in their searches to obtain safe, legal abortions. As the application of existing laws to mifepristone will make this already bad situation even worse, mifepristone should be available to minors without parental involvement, for only then will minors truly be protected.

227. See The Fight, supra note 17 (recounting the story of Leona Benten, who brought mifepristone to the United States from Europe, for her own personal use, but because of the ban, it was seized by customs agents).

228. See Zitner, supra note 132, at A1 (indicating that mifepristone will greatly increase access to millions of women).

229. See Farmer, 165 N.J. at 632 (pointing out that parental involvement laws burden minors).

230. See Defending the Rights, supra note 170 (asserting that minors face harsh restrictions, which harm, instead of help, these young women).

231. See Myths and Facts, supra note 79 (affirming that mifepristone allowed women to have safer abortions).