

Use of Judicial Bypass of Mandatory Parental Consent to Access Abortion and Judicial Bypass Denials, Florida and Texas, 2018–2021

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Objectives. To describe minors' use of judicial bypass to access abortion and the percentage of bypass petitions denied in Florida and Texas.

Methods. Data were derived from official state statistics on judicial bypasses and abortions by age in Texas and Florida; abortions in Texas among minor nonresidents were estimated. In addition, judicial bypass petitions as a percentage of abortions received by minors and judicial bypass denials as a percentage of petitions were calculated.

Results. Between 2018 and 2021, minors received 5527 abortions in Florida and an estimated 5220 abortions in Texas. Use of judicial bypass was stable at 14% to 15% in Florida and declined from 14% to 10% in Texas. Among petitions for judicial bypass, denials increased in Florida from 6% to a maximum of 13% and remained stable in Texas at 5% to 7%.

Conclusions. Minors' use of judicial bypass in Texas and Florida is substantial. The percentage of denials is higher and increasing in Florida.

Public Health Implications. Minors who need confidential abortion care may now be forced to seek judicial bypass far from home. Parental involvement laws in states that do not ban abortion will compound barriers to abortion care. (*Am J Public Health.* 2023;113(3):316–319. <https://doi.org/10.2105/AJPH.2022.307173>)

State-level abortion bans have expanded since the Supreme Court ended constitutional protection of abortion care in June 2022. For residents of states that ban abortion care, traveling to another state to obtain care may still be complicated by restrictive abortion laws in the state where care is sought. Here we call attention to one type of restriction, state parental involvement laws, which mandate that minors notify or secure consent from one or both parents before receiving abortion care unless they petition a judge for bypass of parental involvement.

For minors forced out of state, parental involvement laws will increase barriers to receiving timely abortion care. Once a state bans abortion, minors who would have sought bypasses there will need both care and bypasses out of state if they travel to a state with parental involvement laws.

Currently, 22 states that have not banned abortion still enforce parental involvement laws. Previous work demonstrates that parental involvement laws do not increase parental support¹ and jeopardize adolescents' health and well-being by restricting and delaying care,^{2,3}

increasing the likelihood of abuse from parents^{4,5} and sometimes forcing them to seek judicial bypass.

Obtaining judicial bypass involves overcoming numerous logistical hurdles^{3,6,7} to request a bypass of parental involvement in an often humiliating and sometimes traumatizing court hearing.⁶ Navigating and enduring this process far from home could prove an insurmountable barrier.

Texas and Florida are the 2 most populous states that enforce parental consent; Florida moved from parental notification to consent in 2020. Texas is

now enforcing a total abortion ban.⁸ Florida may follow soon, but until it does the state is regionally consequential for abortion access and the rate of denials is salient as adolescents choose where to travel for care.

The fraction of minors who use judicial bypass to access abortion and how often judges deny bypass petitions are not systematically reported. To generate evidence needed to develop clinical, legal, and practical support for adolescents in states that mandate parental involvement, we calculated annual numbers of bypass petitions, estimated annual percentages of abortions obtained by minor adolescents after bypass, and annual percentages of bypass petitions denied by judges in Texas and Florida between 2018 and 2021.

METHODS

Data on number of judicial bypass petitions filed, number of bypass petitions denied, and number of abortions provided to minors were obtained for Texas and Florida annually between 2018 and 2021. Annual counts of judicial bypass petitions filed and denied during that period were obtained by request from the Florida Office of State Courts Administration and from the Web site of the Texas Office of Court Administration.⁹

Because minors are subject to parental involvement laws in the state where they receive care, the best measure of the population potentially needing a judicial bypass of parental consent is abortion incidence among people younger than 18 years, including residents and nonresidents. Data on annual numbers of abortions obtained by minors in Florida were requested from the Florida Agency for Health Care Administration for 2018 to 2021. Annual

numbers of Texas resident abortions among minors are publicly available for 2018 to 2021, but nonresident Texas abortions are reported by age group, with 1 age group (15–19 years) comprising both minors and nonminors. Therefore, we estimated annual abortions in Texas for nonresident minors. Estimation procedures are described in the Appendix (available as a supplement to the online version of this article at <http://www.ajph.org>). For each state and year, we computed bypass petitions as a percentage of abortions among minors and bypass petitions denied as a percentage of all bypasses.

RESULTS

Between 2018 and 2021, judicial bypass as a percentage of minors who obtained abortions in Florida was stable at 14% to 15% (from 193 petitions per 1398 abortions to 216 per 1406). In Texas, use of judicial bypass declined over the study period from 14% to 10% (from 205 per 1437 to 107 per 1081; [Figure 1](#)).

Denials of judicial bypasses increased in Florida from 6% to 9% between 2018 and 2019. In 2020, when Florida's parental involvement law changed from notification to consent, denials of judicial bypass rose to 13% before declining slightly to 12% the next year. In Texas, the percentage of judicial bypasses denied remained relatively flat, ranging from 5% to 7% over the study period.

DISCUSSION

In this study, we found that substantial numbers of adolescents rely on judicial bypass and that bypasses are routinely denied in both Florida and Texas. About 15% of minors obtaining abortion care in Florida used judicial bypass annually between 2018 and 2021. In Texas, this

percentage declined from 14% to 10% during the study period, a trend that may be due to the increasing barriers to abortion in the state, which likely impact the most marginalized groups.⁸

Over our study period, denials as a percentage of judicial bypass petitions doubled in Florida. This increase was most marked after 2020, when Florida's law changed from parental notification to consent, a pattern also observed after Texas made its bypass process more burdensome in 2016.² Texas has coordinated support for bypass seekers, whereas Florida does not, which could partly explain the higher level of denials in Florida later in the period and the steady rate of denials in Texas. Coordinated support networks are poised to become even more important in states maintaining abortion access.

Reasons for denials are not released, but previous research has shown that some Texas judges deny bypasses on grounds not supported by law, such as gestational duration or family socioeconomic status.^{6,10}

Here we have described 2 basic statistics researchers and public health practitioners should construct as part of monitoring the effects of forced parental involvement laws: the extent of minors' reliance on judicial bypass to access abortion care (measured as bypasses as a percentage of abortions among minors) and the percentage of judicial bypasses denied.

Our study was limited by our inability to link judicial bypass petitions by petitioner. Individuals could have filed more than once and may not have received an abortion, resulting in overestimation of reliance on bypass to access abortion. In our estimates of nonresident Texas abortions, we assumed that the ratio of minor to nonminor Texas abortions was the same for residents and nonresidents,

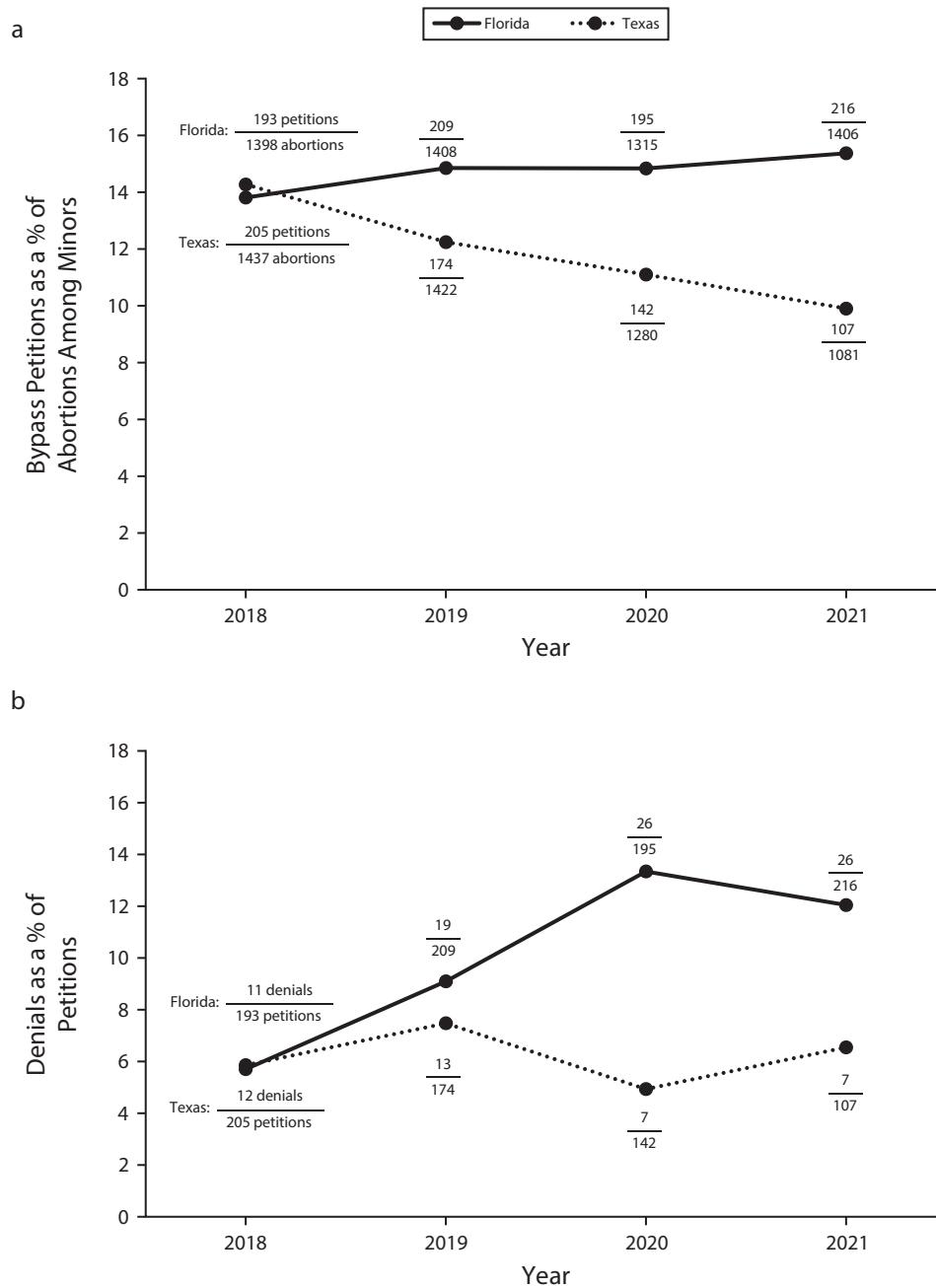


FIGURE 1— Judicial Bypass Petitions and Petition Denials in Florida and Texas: 2018–2021

which is conservative because it likely led us to overestimate denominators.

PUBLIC HEALTH IMPLICATIONS

By estimating the percentages of young people who rely on judicial bypass in states that totally ban or are expected

to totally ban abortion, we have demonstrated that hundreds of minors who may be forced to travel for care could need judicial bypasses if their best option is a state with a parental involvement law. Minors from states that ban abortion must either strategically travel to states without parental involvement laws or face forced parental involvement

or judicial bypass in a state that is not their home, further delaying care and possibly resulting in abortion denial. To develop clinical, legal, and practical support for minors, states that allow abortion access but mandate parental involvement, such as Colorado and Maryland, should routinely report the percentage of minors using judicial

bypass and the percentage of denials as basic abortion surveillance data. *AJPH*

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CONTRIBUTORS

A.J. Stevenson conceptualized the study, compiled the statistical data, and drafted the article. K. Coleman-Minahan contributed to study design, data interpretation, and the writing of the article.

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CONFLICTS OF INTEREST

The authors have no conflicts of interest to disclose.

HUMAN PARTICIPANT PROTECTION

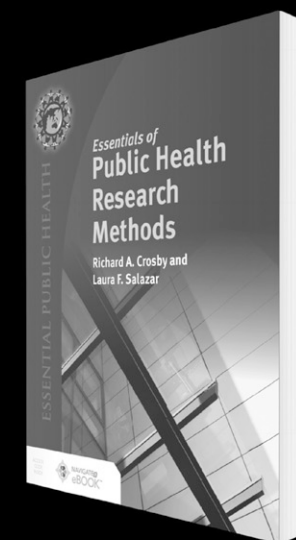
As an analysis of aggregate public data, this study was exempt from human participant review.

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