

TODAY: Jane Goes to the Doctor

Jane has a positive pregnancy test at the doctor's office.



She gets counseling on all her options, and is strongly encouraged to consult her parents. Jane talks it over with supportive adults and makes her decision.



If Jane decides to continue the pregnancy, she schedules prenatal care. After delivery, she decides to raise the child or relinquish the baby for adoption. No parental notice or consent required for pregnancy, childbirth or adoption.



Proposition 73 will not require parental involvement for those options.

If Jane decides to end her pregnancy, she makes an appointment for an abortion. She gets more counseling on the day of the abortion, focused on the nature of the procedure, and the doctor ensures that she is capable of giving informed consent and that this is what she wants. After the abortion, she gets follow-up care and counseling.



Proposition 73 will greatly complicate access to care and counseling.

IF PROP 73 PASSES AND WE AMEND THE CONSTITUTION: Jane Wanders in the Maze

Jane has a positive pregnancy test at the doctor's office. After counseling, Jane decides to end the pregnancy.



The doctor's staff asks Jane her age. Since she is under 18, she cannot obtain an abortion until she has completed the new teenager abortion maze, either:



A: her parents must be notified

OR



B: she can obtain a court order waiving notice

OPTION A: Jane's Parents Are Notified

The doctor obtains a stack of forms from The Department of Health Services in numerous languages advising that your daughter is pregnant and has requested an abortion.



The doctor's staff interviews Jane to find out which parent should be notified, what the name of the parent and address is, what the parent's primary language is.



The doctor either



OR



sends two envelopes with the identical notice to the parents. The first by certified mail, restricted delivery, return receipt requested, and the second by first-class mail ("Presumed Notice").



goes to Jane's house or sends a staff member to personally hand deliver the envelope to Jane's parents ("Actual Notice").



and then waits until noon of the second day after the certified mail envelope is postmarked, excluding postal holidays. For example, if the notice is postmarked on Saturday, it is complete on Tuesday noon.

Then, the waiting period starts. After either Actual Notice or Presumed Notice is completed, 48 hours must pass before the abortion



unless a parent gets a special form from Department of Health Services, fills it out, and either



Personally takes it to the doctor

OR

takes it to a notary and has the form notarized and sends it to a doctor



Within 30 days of abortion, doctor must send form to government detailing Jane's age, date of abortion, duration of pregnancy, type of abortion procedure, facility where abortion was performed, whether abortion was performed after 48 hours actual notice, medical emergency, or parental waiver.

OPTION B: Jane Goes to Court

Jane figures out where the juvenile court is and goes there.

Jane tells the court clerk that she is pregnant and needs an abortion waiver.

At this point
it is unclear what will happen

The clerk might give Jane legal forms to fill out herself

The clerk might tell Jane that she can get a lawyer appointed for her, and how to do that

The clerk might direct Jane to talk to a guardian ad litem

The clerk might tell Jane that she has no idea how to get a judge to approve an abortion and that Jane needs to hire a lawyer

At some point, if she is tenacious, Jane will have obtained forms that require her to set out detailed facts about her pregnancy and her reasons for wanting an abortion and why she cannot notify her parents of these facts. She will also have to make appointments to speak with a guardian ad litem and a lawyer.

She will have to explain all this to an appointed guardian at litem; some guardians have been hostile to teenagers seeking abortions in other states.

She will have to explain all this to a lawyer, whom she has met for the first time

After Jane's papers have been filed, the court sets a hearing date by 5 p.m. on the second court day. ("Court day" means a day when court is in session, so it excludes weekends and holidays. In practice the hearing may be 4-5 days later). The guardian may extend the hearing for one court day without Jane's consent.

Jane must appear personally in front of a judge. Also in the courtroom are her lawyer, the guardian ad litem, the clerk, the court reporter, and, if necessary, an interpreter. Once again, Jane must say that she is pregnant and explain her reasons for wanting an abortion and why she cannot safely notify her parents. The judge will ask Jane questions. Jane bears the burden of persuading the judge by clear and convincing evidence that she is sufficiently mature to make the decision to end her pregnancy or that an abortion without parental notification is in her best interest.

Judge issues a decision within one court day. Judge orders a record of Jane's petition kept, including written factual findings, evidence and legal conclusion maintained.

Court must report results of all teenage abortion petitions to Judicial Council. These reports are public information. Jane's name will not be public, but judges who grant petitions are publicized.

If judge denies petition, Jane may appeal.

Jane or her lawyer must obtain forms for appeal and fill them out.

Record from Juvenile Court is transmitted to Court of Appeal.

Three judges in Court of Appeal pore over evidence of Jane's situation, and must hold hearing within three court days of filing notice of appeal.

Court of Appeal must issue decision within one court day after hearing oral argument.

It is not clear whether or how Jane may appeal adverse decision to California Supreme Court.

Only after Option A maze (Compelled Notification) or Option B maze (Court Proceedings) are completed can Jane go back to the doctor for the counseling and care she needs.