

No. 24-745

In the
Supreme Court of the United States

MONTANA, ET AL.,

Petitioners,

v.

PLANNED PARENTHOOD OF MONTANA, ET AL.,

Respondents.

**On Petition for a Writ of Certiorari
to the Supreme Court of Montana**

**BRIEF OF AMICI CURIAE ADVANCING AMERICAN
FREEDOM; SUSAN B. ANTHONY PRO-LIFE AMERICA;
CHARLOTTE LOZIER INSTITUTE; MONTANA FAMILY
FOUNDATION; AMERICAN ASSOCIATION OF SENIOR
CITIZENS; AMERICAN ENCORE; AMERICAN VALUES;**

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QUESTIONS PRESENTED

1. Whether a parent's fundamental right to direct the care and custody of his or her children includes a right to know and participate in decisions concerning his or her minor child's medical care, including a minor's decision to seek an abortion.

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STATEMENT OF INTEREST OF AMICI CURIAE

Advancing American Freedom (AAF) is a nonprofit organization that promotes and defends policies that elevate traditional American values, including equal treatment before the law.¹ AAF “will continue to serve as a beacon for conservative ideas, a reminder to all branches of government of their responsibilities to the nation,”² and believes that a person’s freedom of speech and the free exercise of a person’s faith are among the most fundamental of individual rights and must be secured, and that parental rights have been established beyond debate as an enduring American tradition.

Susan B. Anthony Pro-Life America (SBA) is a network of more than one million pro-life Americans nationwide, dedicated to ending abortion by advancing pro-life laws and health-saving regulatory measures for women, girls, and the unborn. The Charlotte Lozier Institute (CLI) is a nonprofit research and education organization committed to bringing modern science to bear on life-related policy and legal decision-making. SBA and CLI regularly weigh in on legislation and litigation that implicates parental involvement and informed consent, including

¹ All parties received timely notice of the filing of this amicus brief. No person other than Amicus Curiae and its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

² Edwin J. Feulner, Jr., *Conservatives Stalk the House: The Story of the Republican Study Committee*, 212 (Green Hill Publishers, Inc. 1983).

in *Food and Drug Admin. v. Alliance for Hippocratic Medicine*.³

Amici Montana Family Foundation; American Association of Senior Citizens; American Encore; American Values; Anglicans for Life; Association of Mature American Citizens; Center for Political Renewal; Canopy Global Foundation; Center for Urban Renewal and Education (CURE); Christian Medical & Dental Associations; Concerned Women for America; Eagle Forum; Family Council in Arkansas; Frontiers of Freedom; Frontline Policy Council; Charlie Gerow; International Conference of Evangelical Chaplain Endorsers; James Dobson Family Institute; Tim Jones, Former Speaker, Missouri House, Chairman, Missouri Center-Right Coalition; Lutheran Center for Religious Liberty; Maryland Family Institute; Men for Life; National Apostolic Christian Leadership Conference; National Association of Parents (d/b/a "ParentsUSA"); National Center for Public Policy Research; North Carolina Values Coalition; Orthodox Jewish Chamber Of Commerce; Melissa Ortiz, Principal & Founder, Capability Consulting; Pro-Life Wisconsin; Save The Storks; Ann Schockett, Past President, National Federation of Republican Women, CEO, Schockett Strategies; Setting Things Right; Paul Stam, Former Speaker Pro Tempore NC House; 60 Plus Association; Stand for Georgia Values Action; Students for Life of

³ Brief of Amici Curiae Susan B. Anthony Pro-Life America, et al., *Food and Drug Administration, et al., v. Alliance for Hippocratic Medicine, et al.*, 602 U.S. ___, No. 22-235 (2024) https://www.supremecourt.gov/DocketPDF/23/23-235/301908/20240229150056539_23-235%20%2023-236%20Amicus%20Brief.pdf.

America; The Family Foundation (Virginia); The Justice Foundation; Wisconsin Family Action, Inc.; Young America's Foundation; and Young Conservatives of Texas believe that parents have a fundamental right to raise their children according to their own values and that they accordingly have the right to represent their children's interest in court.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

This case concerns Montana's 2013 Consent Act which prohibits, with some exceptions, physicians from performing an abortion on a minor without notarized consent of one of the child's parents. Cert. Pet. at 5. The Montana Supreme Court held that the Consent Act violates a minor girl's state constitutional right to bodily autonomy. Cert. Pet. at 11. The State Supreme Court's ruling in this case contradicts the right of parents, long recognized by this Court as being protected by the Constitution, to direct the upbringing of their children.

When a girl⁴ becomes pregnant unintentionally, she may naturally feel scared. It is unsurprising, then, that she may be susceptible to the claim that, if the problem is that she is pregnant, then the solution is to stop being pregnant, which means getting an abortion. That line of reasoning may be reinforced by the father of the child who may wish to avoid responsibility both for the child and for crimes he may have committed.

In reality, an abortion is not a solution. For women, and especially for girls, abortion causes a

⁴ This brief uses the word "girl" to refer to females who have not reached the age of majority and the word "woman" to refer to females who have reached the age of majority.

whole host of physical and psychological harms not associated with carrying a pregnancy to term.

Parents have the right and the authority to consent to medical decisions for their minor children because minors generally lack the life experience and maturity to make important decisions for themselves. State laws, like the one at issue here, recognize that abortion is not a magical “cure” to some disease but a decision that brings with it its own consequences, and that parents of a pregnant girl play an essential role in ensuring their daughter’s safety and well-being.

Governments exist to “secure” the “unalienable,” God-given rights of the people, including their rights to “life, liberty, and the pursuit of happiness.” Declaration of Independence para. 2 (U.S. 1776). Article III courts play a crucial “backstop role” in the Constitution’s design for protecting rights from government abuse. *Cf., Bush v. Vera*, 517 U.S. 952, 985 (1996). Parents have a fundamental right to direct the upbringing of their children, as recognized by this Court for decades. *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925) (finding that “parents and guardians” have a fundamental liberty “to direct the upbringing and education of children under their control.”).

The Court should grant the petition for certiorari and rule for Montana and for the right of Montana parents to protect their daughters from the dangers of abortion.

ARGUMENT

I. Parental Consent is Essential to Protecting the Well-being of Minors When They Become Pregnant.

Informed consent is an essential part of medical treatment, ensuring that patients have the information they need to make decisions for their health. In the case of minors, parents generally have that authority unless a court has revoked it, a step that can and should be taken only in extreme circumstances of parental abuse or neglect. For example, in Texas, “As a rule, minors are considered incompetent decision makers and cannot make health care decisions or give informed consent on their own behalf. Consent, therefore, falls to the parent or legal guardian in most situations.”⁵

A girl or woman who has an abortion is not in the same position as if she had never been pregnant. Once a girl becomes pregnant, a girl’s choice between abortion and carrying the pregnancy to term is a choice between two options with very real consequences. For example, one comprehensive review of the literature suggested that an abortion of a first pregnancy is associated with a statistically significant increase in the chance of developing breast cancer as compared to the general population⁶

⁵ *Treating Minors in Texas: Answers to Your Questions*, Texas Medical Liability Trust (last visited Mar. 28, 2025) <https://www.tmlt.org/risk-alerts/treating-minors-in-texas-answers-to-your-questions>.

⁶ Joel Brind et al., *Induced abortion as an independent risk factor for breast cancer: a comprehensive review and meta-analysis*, 50

whereas the “risk of breast cancer is about half” that of “women who have a first full-term pregnancy before age 20” compared to “women whose first full-term pregnancy occurs after the age of 30.”⁷ Similarly, teens who have abortions have an increased risk of pelvic inflammatory disease and endometritis which, in turn, increase the risk of several later problems including infertility and ectopic pregnancy.⁸

Girls who have an abortion are also at significant risk of psychological harm. For example, one study found that girls who had an abortion were more likely to pursue psychological counseling and reported having sleeping problems more frequently than girls who delivered.⁹ Studies have also suggested that parental involvement protects girls from suicide. In a study covering 1987-2003, suicide among girls aged 15-17 in states that passed parental notification and consent laws for abortion dropped by between 11 and 21 percent without any contemporaneous drop in

Journal of Epidemiology and Community Health 481, 494-95 (1996).

⁷ *Reproductive History and Cancer Risk*, National Cancer Institute (last visited Mar. 23, 2025) <https://www.cancer.gov/about-cancer/causes-prevention/risk/hormones/reproductive-history-fact-sheet>.

⁸ Dirk Avonts, Peter Piot, *Genital infections in women undergoing induced abortion*, 20 *European J. Obstet. & Gynecol. & Reproductive Biology* 53, 55 (1985); Willard Cates, *Teenagers and Sexual Risk-Taking: The Best of Times and the Worst of Times*, 12 *Journal of Adolescent Health* 84, 91 (1991).

⁹ Priscilla Coleman, *Resolution of Unwanted Pregnancy During Adolescence Through Abortion Versus Childbirth*, 35 *Journal of Youth and Adolescence* 903, 908 (2006).

suicides of women or boys between 15 and 17 years of age.¹⁰

Girls are also even more susceptible than women to coercion or pressure in their decision to have an abortion. Among all abortions, one study found that 24 percent were either unwanted or coerced.¹¹ One 15-year-old girl in Idaho, for example, was taken against her will to Oregon by her 18-year-old boyfriend and his mother to have an abortion without the girl's parents' knowledge or consent.¹² Because minors lack life experience and context, they are especially likely to give in to suggestions or pressure from others, including the child's father, that abortion is the best option. This is especially true in cases of abuse by an adult.

Parental consent plays an essential role in protecting against these harms caused by abortion. Minors lack the maturity and experience to make well-informed decisions for their future as the law recognizes in other cases. In the case of abortion,

¹⁰ Joseph J. Sabia, Daniel I. Rees, *The Effect of Parental Involvement Laws on Youth Suicide*, 51 *Economic Inquiry* 620, 633 (2013).

¹¹ David C. Reardon, Katherine Rafferty, Tessa Longbons, *The Effects of Abortion Decision Rightness and Decision Type on Women's Satisfaction and Mental Health*, *Cureus* 15(5) (May 11, 2023) <https://www.cureus.com/articles/146123-the-effects-of-abortion-decision-rightness-and-decision-type-on-womens-satisfaction-and-mental-health#!/>.

¹² Nicole Blanchard, *Idaho girl went out of state for an abortion. Why her boyfriend faces a criminal charge*, *Idaho Statesman* (Nov. 24, 2024, 2:55 AM) <https://www.idahostatesman.com/news/northwest/idaho/article281850838.html>.

where the dangers are so significant, that is particularly important.

II. Planned Parenthood’s Mission is to End Unborn Life, Not Protect the Interests of Girls and Their Parents.

Through a series of actions, Planned Parenthood has demonstrated its intent to undermine parental authority. According to one woman, Planned Parenthood fostered the idea that she (a pregnant girl) should not tell her parents about the pregnancy or abortion. Planned Parenthood then facilitated concealing the situation by asking for a fake name so that when they called the girl’s house to confirm the abortion appointment, if her parents answered, they would not know it was a call for their daughter.¹³

Protecting the health of girls is a lower priority for Planned Parenthood. In a lawsuit in State court, Missouri alleges that Planned Parenthood locations in that State violated the law in several ways. First, it alleges that in 2018, the Planned Parenthood location in Columbia, Missouri “was shut down after staff admitted to having used moldy abortion equipment on women for months.”¹⁴ It also alleges that Planned Parenthood doctors acknowledged in court that “for more than 15 years, the organization failed to file reports when women experience medical

¹³ *Why Are Minority Communities Targeted for Abortion?—Under Pressure: Pushed to Abort*, SBA Pro-Life America (Nov. 22, 2024) <https://www.youtube.com/watch?v=1C5Wf8fg9qw&list=PLK3R1wLTxzarrlJZhHSZ4MP8Bjp8Ldh4d&index=4>.

¹⁴ Petition for Declaratory Judgment and Injunctive Relief, *Missouri ex rel. Bailey v. Planned Parenthood Great Plains*, at 1, <https://ago.mo.gov/wp-content/uploads/2024-2-29-Missouri-v.-Planned-Parenthood-Petition-for-Injunctive-Relief.pdf>.

complications from abortion.”¹⁵ The State also reports that a 2020 Administrative Hearing Commission found that one Planned Parenthood doctor continued to violate this reporting law despite having claimed to comply with it starting in 2017.¹⁶ That same commission found that Planned Parenthood was failing to inform women of the dangers of abortion despite State law requiring them to do so.

It is thus unsurprising that a Planned Parenthood in Missouri appears to have been willing to instruct a man on how to get his niece an abortion without the knowledge or consent of her parents, saying that they facilitate such abortions “every day.”¹⁷

Planned Parenthood has used its institutional resources in other states to fight against parental notification and consent laws as well. In *Planned Parenthood of the Great Northwest v. Alaska*, Planned Parenthood prevailed in state court in having a parental notification and consent law struck down. 375 P. 3d 1122 (Alaska 2016).

Planned Parenthood also sued Indiana, challenging its parental consent law because it

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.* This is based on reporting that purports to show a man posing as a girl’s uncle and going into Planned Parenthood asking for advice on how to help his niece get an abortion. The interaction was recorded without the Planned Parenthood employee’s knowledge. *Breaking: Missouri Sues Planned Parenthood after Veritas Investigation Reveals a Conspiracy to Traffic Minors Across State Lines for Secret Abortions*, Project Veritas (Feb. 29, 2024) <https://www.projectveritas.com/news/missouri-sues-planned-parenthood-after-veritas-investigation>.

“desire[d] to continue providing” information about, and assistance in obtaining out-of-state abortions “to unemancipated minors who seek” abortions but “have not obtained the consent of their parents, guardians, or custodians to an abortion and who have not obtained a judicial bypass pursuant to Indiana Code § 16-34-2-4.” Order on Cross Motions for Summary Judgement at 6, *Planned Parenthood of the Great Northwest, Hawaii, Alaska, Indiana, Kentucky, Inc. v. Commissioner, Indiana State Department of Health, et al.*, No. 1:17-cv-01636-SEB-MG (S.D. Ind. May 1, 2024).

Planned Parenthood also has a pattern of failing to report potential sexual abuse and trafficking. One trafficking survivor said, “At least one of my abortions was from Planned Parenthood because they didn’t ask any questions.”¹⁸ This is not an isolated incident. As Americans United for Life documented in its report, *Unsafe*, there are numerous instances of this occurring. In Arizona, a 15-year Planned Parenthood employee who was once named employee of the year, was later fired after she made complaints against doctors and questioned clinic policies.¹⁹ Specifically, she pointed out that a manager had

¹⁸ Laura J. Lederer, Christopher A. Wetzel, *The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities*, 23 *Annals of Health Law* 61, 79 (2014).

¹⁹ *Unsafe: Americas Abortion Industry Endangers Women*, Americans United for Life, 179 (2nd ed. 2018) available at <https://aul.org/wp-content/uploads/2021/02/AUL-Unsafe-2021.pdf>. See, generally, *Planned Parenthood Whistleblower Speaks Out on Abortion Industry Coverup*, Abortion in America, Susan B. Anthony Pro-Life America (Mar. 25, 2025) <https://rss.com/podcasts/exposed-abortion-in-america/1957420/>.

broken state law by failing to report that an adult had brought in a minor for an abortion.²⁰

Planned Parenthood has thus demonstrated a policy of intentional opposition to girls' health and parental rights.

III. Parents Have the Fundamental Right to Direct the Upbringing of Their Children.

Parental rights have been “established beyond debate as an enduring American tradition.” *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972). As this Court explained in *Troxel v. Granville*, “the interest of parents in the care, custody, and control of their children,” “is perhaps the oldest of the fundamental liberty interests recognized by this Court.” 530 U.S. 57, 65-66 (2000). These parental rights, including “[t]he liberty interest in family privacy,” have their source “in intrinsic human rights as they have been understood in ‘this Nation’s history and tradition.’” *Smith v. Organization of Foster Families*, 431 U.S. 816, 845 (1977) (quoting *Moore v. East Cleveland*, 431 U.S. 494, 503 (1977)).

Further, “[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction . . . The child is not the mere creature of the State.” *Pierce*, 268 U.S. 510, 535 (1925).

In a speech at Hillsdale College, then-Secretary of Education Betsy DeVos said that “the family” is a “sovereign sphere” “that predates government altogether. It’s been said, after all, that the family is

²⁰ *Id.*

not only an institution; it's also the foundation for all other institutions. The nuclear family cultivates art, athletics, business, education, faith, music, film – in a word, culture.”²¹

Undermining fundamental parental rights undermines our culture. Secretary DeVos was echoing this Court when it wrote, “that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder” and that the Court’s “decisions have respected the private realm of family life which the state cannot enter.” *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944).

The Court has found that parental rights, rooted in fundamental rights that pre-exist government, are recognized in the Free Exercise Clause of the First Amendment and the Due Process Clause of the Fourteenth Amendment.²² *Yoder*, 406 U.S. at 214 (citing *Pierce*, 286 U.S. at 535) (“[A] State’s interest in universal education . . . is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of

²¹ Reverend Ben Johnson, *Redemption, not retreat: Betsy Devos’ vision for redeeming U.S. education*, Akton Institute (Oct. 20, 2020) available at <https://rlo.acton.org/archives/117383-redemption-not-retreat-betsy-devos-vision-for-redeeming-u-s-education.html>.

²² That the rights of parents “are, objectively, deeply rooted in this Nation’s history and tradition,” *Washington v. Glucksberg*, 521 U.S. 702 (1997) (quoting *Moore v. East Cleveland*, 431 U.S. 494, 530 (1977) (plurality opinion)), is an essential element of judicial analysis of parental rights to guard against the danger of judicial invention of novel constitutional rights.

the First Amendment, and the traditional interests of parents with respect to the religious upbringing of their children.”); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923) (“While this court has not attempted to define with exactness the [due process] liberty . . . Without doubt, it denotes . . . the right of the individual to . . . marry, establish a home and bring up children.”); *Troxel*, 530 U.S. at 66 (“In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.”).

The fundamental rights of parents pre-exist government. Protecting them is in the best interests of parents and children.

CONCLUSION

The Court should grant certiorari and rule for Petitioners.

Respectfully submitted,

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