



Advancing Life, Liberty and Justice

Dear School Guidance Counselors, Mental Health Professionals, and Social Workers,

This letter contains critical legal information—of which you may not be aware—that can help you in your practice. Have you ever had a minor come to you for advice about her pregnancy? It is important for you to know the legal rights of the minor.

It is unlawful for anyone (including parents, guardians, other relatives, boyfriends, or even counselors) to force, coerce, or unduly pressure a pregnant young woman into having an abortion.

Because *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022), has overturned *Roe v. Wade*, abortion is now illegal in many states. However, even in states which allow voluntary abortion, all decisions about her pregnancy belong to the pregnant woman—even if she is a minor. For example, see N.M. Stat. § 24-1-13.1 (giving the mother the right to consent to an abortion); Miss. Code § 41-41-3 (giving the mother the right to consent to pregnancy-related care).

In addition, 38 states have fetal homicide laws which protect unborn babies. See e.g. La. Child. Code § art.603(2)(d) (criminalizing a forced abortion); California Pen. Code § 187 (definition of murder includes “fetus”). Courts have upheld these laws. For example, *Lawrence v. State*, 211 S.W.3d 883 (Tex. App. – Dallas 2006); *Ex parte Phillips*, 287 So. 3d 1179 (Ala. 2018). The decision to have an abortion can only be voluntary and fully informed in any State.

If you are a public employee and you participate in forcing, coercing, or unduly pressuring a minor to get an abortion against her will, you are violating her constitutional rights. See *Arnold v. Bd. of Educ.*, 880 F.2d 305 (11th Cir. 1989). You and your employer may be held liable for such action under 42 U.S.C. § 1983.

An involuntary abortion is an illegal abortion. Parents cannot force their daughter against her will to abort the child. Many mental health professionals who work with teens are not aware of the law in this circumstance. Some counselors assume that parents have the right to make this decision for their daughter as they do in other medical situations. We have seen instances where guidance counselors told a pregnant girl that her parents have the right to force her to have an abortion. That is not the law. Once pregnant, she is a mother with the right to direct the upbringing and education of her child. *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

The Justice Foundation has created tools, including this letter, to help you deal with this situation. On our website, you can find the “Dear Parent” letter that explains to parents that their daughter has the right to decide whether or not to have an abortion. We know that this can be a very stressful time for the young woman and her parents. There are many organizations that can help them, including pregnancy resource centers where they can get free pregnancy tests, ultrasounds, and counseling regarding their legal alternatives.

The Justice Foundation is a non-profit, 501(c)(3) organization.

The Justice Foundation | 8023 Vantage Dr., Suite 1275 | San Antonio, Texas 78230 | 210-614-7157 | 210-614-6656 fax

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The “Dear Parent” letter also informs the parents that they may not force, coerce, or unduly pressure their daughter to have an abortion. It is unlawful.

The “Dear Parent” letter cites such typical family examples as:

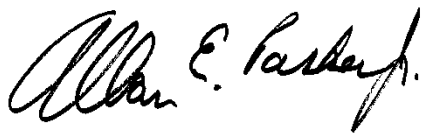
1. **“If you don’t get an abortion, I’m kicking you out of the house.”** This violates the duty of child care in all 50 states. Legally, the parents are responsible to care for their minor daughter until she is 18. She may be eligible for financial assistance from the state and other groups. She also has the right to child support from the father of the child.
2. **“No more talking, I’m taking you for an abortion. I have made the appointment.”** Or **“You are my child; you will do what I say.”** The parents could be civilly, and perhaps criminally, liable if they force the girl to have an abortion against her will (including the father of the child or his parents). Without the voluntary consent of the mother, killing a child in the womb is a fetal homicide in the vast majority of states.
3. **“I’ll beat you if you don’t stop this nonsense. You are not keeping this baby.”** A threat or act of violence is unlawful and may constitute child abuse. As you know, if you suspect that abuse is occurring, as a counselor, in most states you are mandated to report it to Child Protective Services or law enforcement.

It is also important for the parents to understand that in addition to possible civil and criminal liability, they could destroy their relationship with their daughter. They may think they are helping her by encouraging her to have an abortion and that having a baby could ruin her life. However, sometimes in these situations the guilt and shame following a forced abortion can result in the young woman spiraling downward into self-destructive behaviors. These include: depression, substance abuse, suicidal thoughts or attempts, anxiety, nightmares, promiscuity; to name a few.

The Justice Foundation attorneys are available to help you if you are faced with a forced abortion situation. We are also available to conduct free one hour training sessions for you and other professionals, if you desire. Visit our website www.thejusticefoundation.org/cafa to download the “Dear Parent” letter.

We encourage you to share this information with other mental health professionals.

Advancing Life, Liberty and Justice in Him,



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President
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R. Clayton Trotter
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****Disclaimer: This letter is for general educational and information purposes and does not constitute specific legal advice. Situations and state laws vary and you should consult an attorney for specific legal advice.***

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