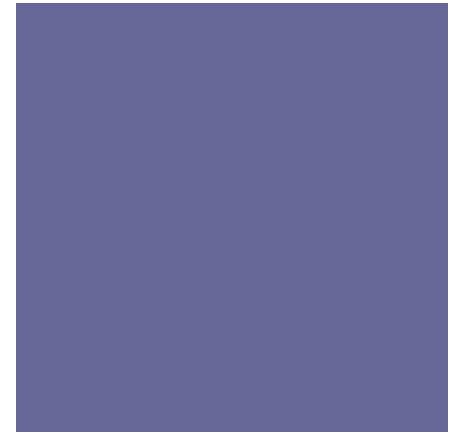




How Law Impacts the Health of Adolescents



A Global Inquiry

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Overview



- Laws affect adolescents and their future health by governing ability to access healthcare, work, marry, consume alcohol or tobacco, among other things
- Laws address:
 - Health (eg, access, contraception)
 - Health Risks (eg, consumption of alcohol, access to tobacco)
 - Social determinants of health (eg, age of marriage, protection from hazardous work)
- Laws reflect ever-evolving, complex, and often contradictory perspectives on young people
- Inconsistencies in adolescent legal frameworks globally have the potential to adversely affect current and future health outcomes



Legal Principles of Adolescent Capacity



- Courts have long recognized varying levels of adolescent capacity in decision-making + need to protect adolescents by taking age into account
- 20th century → more consistent adolescent legal frameworks emerged at the international level
- 1989 UN Convention on the Rights of the Child (UNCRC)
 - Recognized children as bearers of human rights rather than parental property with liberties and responsibilities appropriate to their age
 - Restrictions should be consistent with human rights principles and the concept of evolving capacity



+ U.S. Age of Majority



- The age at which someone is considered an adult by law: 18 most states. Nebraska and Alabama: 19 Mississippi: 21
- State laws vary on age at which someone has the capacity to consent to having intercourse or get married.
- Requirements of parental consent for adolescent's access to general medical health services, and abortion services also vary by state.

+ U.S.: Sexual Consent Laws

- The Legal age of consent is the minimum age at which a person is considered by the law to be able to consent to and engage in sexual acts
- Age of sexual consent laws are determined by each state or territory
- Age of sexual consent can vary based on a variety of factors including: gender of the actors, type of sexual act, the relationship between the actors, and others
- Some states have a *close-in-age-exemption* to protect people close in age who participate in consensual sex acts



+ U.S.: Minor Access to STI Services

- All 50 states and DC: Allow minors to consent to STI testing and treatment
- 31 states: STI services explicitly include HIV testing and treatment
- 18 States: **Allow** physicians to inform a minor's parents that the minor tested and/or received treatment for an STI

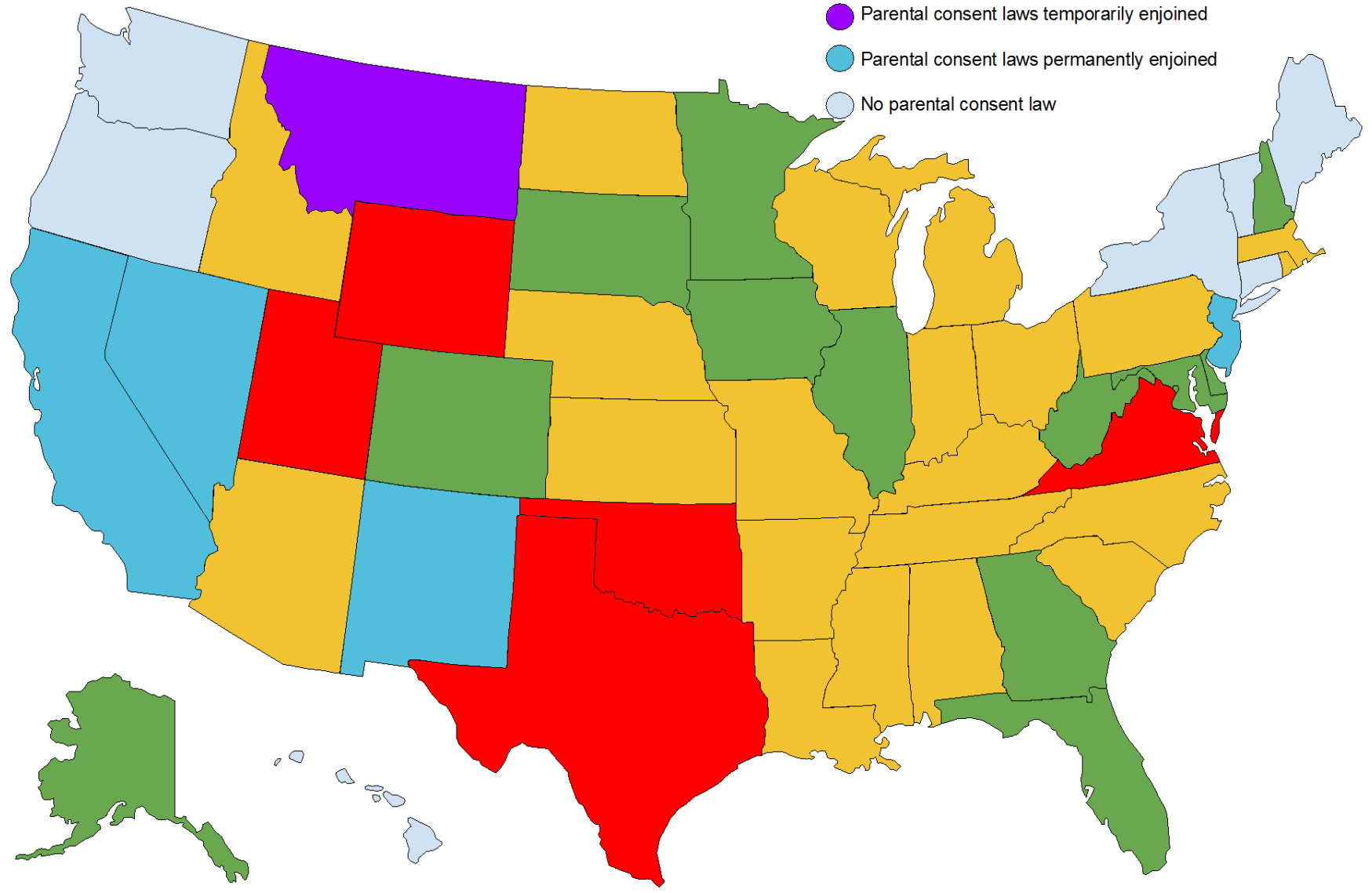
Alabama	Maine
Arkansas	Maryland
Delaware	Michigan
Georgia	Minnesota
Hawaii	Missouri
Illinois	Montana
Kansas	New Jersey
Kentucky	Oklahoma
Louisiana	Texas

- In Iowa alone a physician **must** notify parents of a minors' positive HIV test



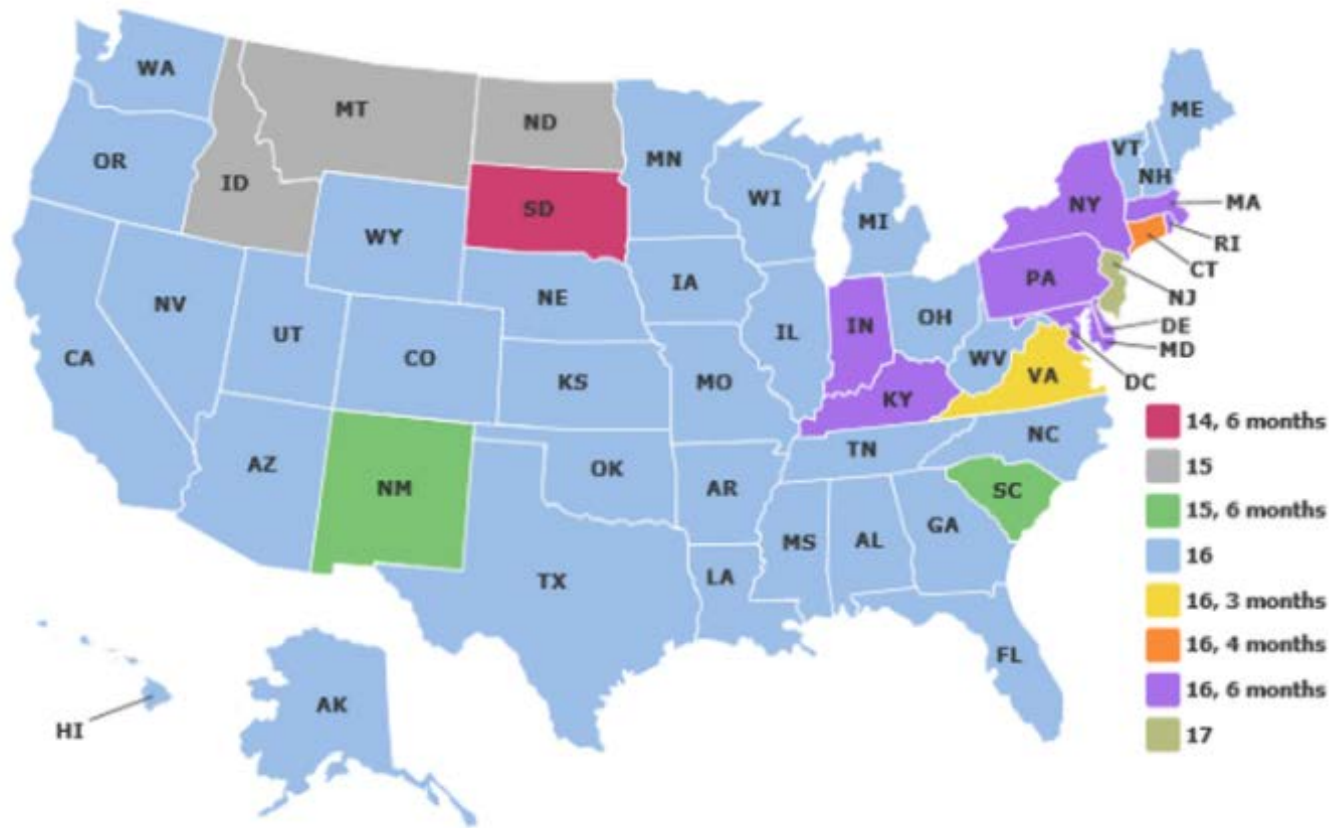
Parental Involvement in Minors' Abortions

- Law requiring parental consent in effect
- Law requiring parental notification in effect
- Law requiring parental consent and notification in effect
- Parental consent laws temporarily enjoined
- Parental consent laws permanently enjoined
- No parental consent law



Source: Guttmacher Institute http://www.guttmacher.org/statecenter/spibs/spib_PIMA.pdf

+ U.S.: Minimum Age For Unsupervised Driving by State



+ U.S. Juvenile Law: Life Without Parole

- Convention on Rights of a Child 1989
 - Signed but not ratified by the US in 1995
 - Article 37(a) states capital punishment and life imprisonment without possibility of release should not be imposed on persons under 18
- *Roper v. Simmons* 2005
 - Supreme Court ruled that execution of minors violates Eighth Amendment
- *Graham v. Florida* 2010
 - Supreme Court banned sentence of life without parole for juveniles offenders convicted of non-homicidal offenses
- *Miller v. Alabama* 2012
 - Supreme Court rules mandatory sentences of life without parole are unconstitutional for juvenile offenders
 - However, minors can still get life without parole sentences but not automatically after a conviction; instead a judge now decides

+ U.S.: National Drinking Age

- 1984 National Minimum Drinking Age Act
 - Sets the national minimum drinking age at 21
 - If a state reduces their drinking age, state annual federal highway apportionment (or the sum of federal money that was allotted to them for interstate highway construction and maintenance) is reduced by 8%
 - Act does not criminalize consumption during religious occasions
 - Prior to 1984 states varied in drinking age restrictions
- United States is one of only four countries that has nationwide drinking age over 18

+ Plural Legal Systems

- Countries with plural or multiple legal systems allow various sources of law to govern simultaneously¹
 - English common law; French civil or other law; Statutory law; Customary law; Religious law; Tradition/practice
- Customary and religious laws enjoy the status of binding sources of law or practice in the vast majority of countries in the African region and a number of countries in Asia and the Americas.² These laws permit cultural and religious customs or practices, some of which are discriminatory, to persist, which have direct implications on adolescent rights and health



Customary, Religious, and Traditional Laws



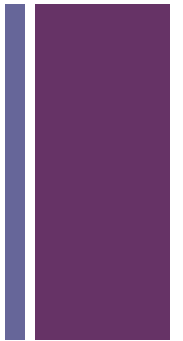
- Legal pluralism permits religious, traditional and customary law or practice to trump national legislation through two primary avenues
 - Reservations to international conventions (ie. CEDAW/) on grounds based on:
 - Islamic law
 - Areas regulating matters of personal status (marriage, divorce, custody, guardianship, adoption, inheritance)
 - Laws of personal status as determined by various religious/ethnic communities
 - Exceptions to national legal frameworks based on customary/religious/traditional law
 - Example: national legislation sets age of marriage at 18, but exceptions for religious/customary laws have their own rules



	India	Lebanon	Nigeria	Peru	United States
Age of majority (bestowing legal status of adulthood)	15–18 <i>Depends if married or personal law applies*²</i>	18 <i>Unless married*³</i>	21 <i>Unless married*⁴</i>	18⁵	18–21 <i>Depends on state⁶</i>
Minimum age of marriage	“Puberty”–21 <i>Depends on sex and if personal law applies*⁷</i>	9–18 <i>Depends on sex and religion*⁸</i>	9–18 <i>Depends on sex and religion*⁹</i>	16¹⁰	16–21 <i>Depends on state¹¹</i>
Age of capacity to consent to sex	None–18 <i>Depends on sex and if married*¹²</i>	None–18 <i>Depends if married or given religious consent*¹³</i>	“Puberty”–18 <i>Depends on state and religion*¹⁴</i>	14¹⁵	16–18 <i>Depends on state¹⁶</i>
Legal working age	None¹⁷	13¹⁸	None¹⁹	14²⁰	14²¹
Drinking age	18–Illegal <i>Depends on state and if personal law applies*²²</i>	16–Illegal <i>Depends on religion*²³</i>	18–Illegal <i>Depends on religion*²⁴</i>	18²⁵	21²⁶
Legal smoking age	18²⁷	None²⁸	None²⁹	18³⁰	None–20 <i>Depends on state³¹</i>
Age of consent to medical treatment	18 <i>Law is unclear; some argue 12³²</i>	18³³	16³⁴	18³⁵	12–18 <i>Depends on state³⁶</i>
Age of criminal responsibility	7³⁷	7³⁸	None³⁹	12–18⁴⁰	6–14 <i>Depends on state⁴¹</i>
Age to access to contraceptives	None <i>Provider discretion⁴²</i>	Only if married⁴³	No information available	None⁴⁴	Explicitly allowed in 21 states and DC; 25 states permit under certain circumstances; 4 states have no policy on minors⁴⁵
Age to access abortion	18 <i>Without parental consent, unless married, and only in cases of fetal impairment or risk of grave physical or mental (includes rape) injury to the woman⁴⁶</i>	Illegal <i>Except to save the woman’s life*⁴⁷</i>	Illegal <i>Except to save woman’s life*⁴⁸</i>	Illegal <i>Unless to avoid grave and permanent harm to woman⁴⁹</i>	18 <i>Without parental consent, gestational limits vary by state⁵⁰</i>



+ Child Marriage & International Laws



- International legal consensus that the age of marriage should be 18
- Child marriage is a human rights violation
- Child marriage violates array of internationally recognized rights:
 - The right to be free of discrimination (based on sex and age)
 - The right to marry and found a family
 - The right to life & highest attainable standard of health
 - The right to education
 - The right to be free from slavery
- Each year 14 million girls under the age of 18 around the world marry
- At least 40 countries provide for customary or religious law to override age of marriage legislation
- 34 countries to permit girl to marry under 18

+ The Way Forward

- Legal frameworks should protecting adolescent from harm and support and promote adolescent autonomy
- Legal and policy frameworks should reflect evolving cognitive and emotional abilities with age-appropriate autonomy, freedoms, and rights
 - Also need legal and policy safeguards and support for decisions made in contexts where heightened emotion affects the choices an adolescent might make.
 - Ex. Permit access to IUDs can protect adolescents' health
 - Capacity for adolescent learning should be exploited through graduated legal and policy frameworks
 - Ex. Graduated driving laws
 - Ex. Prevent custodial sentences for young offenders