

## Californians Could Again be Asked to Vote on Adolescent Right to Privacy

### *Group Makes Third Attempt in Four Years to Force Teens to Notify Parents Before an Abortion*

by Rebecca Gudeman

In both 2005 and 2006, Californians voted on measures that would have restricted a minor's right to choose by requiring that she notify a parent 48 hours before getting an abortion.<sup>1</sup> While both ballot measures were soundly defeated – Proposition 85 (2006) was defeated by an even greater margin than Proposition 73 (2005)<sup>2</sup> – the supporters of the two failed measures want to try again. They have proposed a new, nearly identical initiative that they hope will go on the November 2008 California ballot.<sup>3</sup>

Like those that preceded it, the new proposition is an attempt to amend the California Constitution to remove rights currently guaranteed adolescents. In *American Academy of Pediatrics v. Lungren*, a case co-counseled by NCYL, the California Supreme Court recognized that minors have a right to privacy under the state constitution, and that this right includes the right to choose to continue or terminate a pregnancy.<sup>4</sup>

Once the California Supreme Court held that a minor's right to choose derives from her rights guaranteed under Article I of the state constitution<sup>5</sup>, it became much more difficult to limit that right. Parental consent or notification could only be mandated if the state constitution is amended, and one of the few ways to amend the constitution is by ballot initiative.

The proponents of this initiative are currently gathering signatures in an attempt to get it on the November 2008 ballot. At least 694,354 "qualified" signatures<sup>6</sup> are needed by April 21, 2008 in order for the proposition to make the November ballot.<sup>7</sup>

While Secretary of State Debra Bowen may wait until the summer to announce whether the proposition will qualify, advocates should have a good idea of the chances once the signatures are submitted for counting. If the initiative does make the ballot, NCYL will provide detailed analysis.

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<sup>1</sup> Gudeman, Macfarlane, "The Abortion Issue in November's Election," *Youth Law News* Oct-Dec 2006.

<sup>2</sup> See National Abortion Federation, *Election Results Signal Victory for Reproductive Freedom*, Nov. 9, 2006, at [www.prochoice.org/news/releases/20061109.html](http://www.prochoice.org/news/releases/20061109.html).

<sup>3</sup> The newest iteration is substantially similar to its predecessors, but it does contain some important additions that may make this initiative even more restrictive than its predecessors. NCYL will prepare an analysis should the measure qualify for the ballot. Meanwhile, the text of Initiative 1287 can be found at [http://ag.ca.gov/cms\\_pdfs/initiatives/i722\\_07-0053\\_A1S\\_Initiative.pdf](http://ag.ca.gov/cms_pdfs/initiatives/i722_07-0053_A1S_Initiative.pdf)

<sup>4</sup> *A.A.P. v. Lungren*, 66 Cal. Rptr. 2d 210, 226-7 (1997).

<sup>5</sup> Cal. Const. Art. I, §1 ("All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy." (emphasis added)).

<sup>6</sup> For an explanation of what is considered a 'qualified' signature, see California Secretary of State, "How to Qualify an Initiative," at

[www.ss.ca.gov/elections/elections\\_h.htm](http://www.ss.ca.gov/elections/elections_h.htm). For a full description of the initiative process, see the California Secretary of State's website at [http://www.ss.ca.gov/elections/initiative\\_guide.htm](http://www.ss.ca.gov/elections/initiative_guide.htm).

<sup>7</sup> [http://www.sos.ca.gov/elections/2008\\_suggested\\_initiative\\_deadlines.pdf](http://www.sos.ca.gov/elections/2008_suggested_initiative_deadlines.pdf)