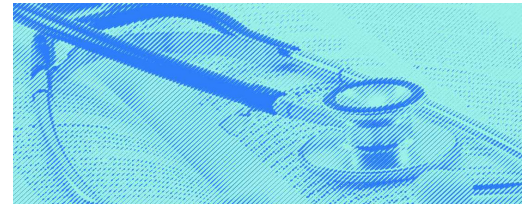


JUDICIAL BYPASS

NEBRASKA CASE LAW SNAPSHOT



The below cases are Nebraska Supreme Court opinions on judicial bypass, which is the process by which a Nebraskan who is 17 or younger can obtain a court order to obtain an abortion without parental permission. As the cases demonstrate, if a young person cannot or does not want to get permission from a parent to obtain an abortion, they must prove 1) they are mature enough to decide, 2) prove that they can't tell a parent based on abuse and neglect, 3) prove that bypassing consent is in their best interest, or 4) prove they are emancipated. If you are an attorney assisting a young person with judicial bypass in Nebraska or if you are a young person in need of care, please review your rights at aclunbraska.org/bypass. Legal assistance can be requested at aclunbraska.org/gethelp.

[In re Anonymous 1, 558 N.W.2d 784 \(Neb. 1997\)](#)

The Nebraska Supreme Court held that the 13-year-old minor was not sufficiently mature and capable of giving informed consent for an abortion and that the abortion was “not in the best interests” of the minor without parental notification.

[In re Anonymous 2, 570 N.W.2d 836 \(Neb. 1997\)](#)

The Nebraska Supreme Court found that the minor was able to articulate an understanding of each pregnancy option and its consequences. However, the court found that the minor was unemancipated and did not have experience with employment or managing finances. Therefore the court determined that the minor did not prove she was sufficiently mature and did not prove that waiver of parental notification would be in her best interests.

[In re Anonymous 3, 782 N.W.2d 591, 595 \(Neb. 2010\)](#)

The Nebraska Supreme Court held that the minor was emancipated and therefore did not need to obtain parental consent for her abortion. “Emancipation means the freeing of the child from the care, custody, control, and service of his or her parents. The emancipation of a minor may be proved by circumstantial evidence or may be implied from the conduct of the parties.” Here, the court found that, “[t]he evidence is clear and convincing that petitioner is in no manner dependent on a parent or guardian. Petitioner holds employment that pays her own bills, as well as the bills she incurs in the care of her 2-month-old son. Petitioner is not currently living with her mother and has no intention of returning to live with her mother. She currently lives with her boyfriend and their son as an independent family unit. Petitioner stated that her mother has not provided her with any support; instead, she has occasionally given her mother financial assistance. Petitioner makes her own decisions regarding herself and the care of her son.”

[In re Anonymous 5, 838 N.W.2d 226, 235 \(Neb. 2013\)](#)

The Nebraska Supreme Court held that a young woman who was under the care of the Department of Health and Human Services could not obtain an abortion because she had not proven that she was sufficiently mature and well-informed enough to make the decision to have an abortion. This case has wide-reaching effects because young women without legal parents or guardians have no one from whom they may obtain consent. This case represents a legal conundrum facing state wards in that these young women are not electing to bypass the consent requirement, but rather obtaining a judicial bypass is the only way in which these women are able to access abortion at all.