NOT FOR PUBLICATION

Appendix B. Legal Coding

The coding used in this paper relies upon the updated coding of Bailey and Guldi (2009) and differs from the coding used in Bailey (2006) for 15 states. These differences in coding reflect two main changes: (1) Non-specific female age of majority statutes are not treated as emancipation for the purpose of consenting for medical care unless this is specifically noted in the statute. As a result, the coding changes in 4 states. (2) Statutes were interpreted incorrectly, enforcement was ambiguous, or earlier statutes, policy changes or attorney general decisions were found. These changes affected coding in 11 states; in six of these cases, the date of legal change shifts by only one or two years. These legal changes are summarized in Table 1, and then the explanation of each of the changes is discussed in detail, including legal citations by state.

Table 1
Dates of Legal Change Granting Early Access to the Pill

State	Bailey (2006)	Bailey and Guldi (2009)	Different?	Reason for recoding?
Alabama	1971	1971		
Alaska	1960	1960		
Arizona	1972	1972		
Arkansas	1960	1973	X	FAOM->AOM
California	1972	1972		
Colorado	1971	1971		
Connecticut	1972	1972		
Delaware	1972	1972		
District of Columbia	1971	1971		
Florida	1974	1974		
Georgia	1968	1968		
Hawaii	1970	1972	X	TFP->AOM
Idaho	1963	1972	X	FAOM->AOM
Illinois	1973*	1969		
Indiana	1973	1973		
Iowa	1973	1972	X	Earlier AOM
Kansas	1970	1970		
Kentucky	1968	1965/1968?	X	Ambiguous interpretation
Louisiana	1972	1972		
Maine	1971	1969	X	Earlier AOM
Maryland	1967	1971	X	TFP->MM
Massachusetts	1974	1974		
Michigan	1972	1972		
Minnesota	1973	1972	X	Earlier AGD
Mississippi	1966	1966		

Missouri	1976	1973	X	Earlier AGD
Montana	1971	1971		
Nebraska	1972	1972		
Nevada	1969	1973	X	FAOM->AOM
New Hampshire	1971	1971		
New Jersey	1973	1973		
New Mexico	1971	1971		
New York	1971	1971		
North Carolina	1971	1971		
North Dakota	1972	1972		
Ohio	1965	1960		MM
Oklahoma	1966	1972	X	FP->AOM
Oregon	1971	1971		
Pennsylvania	1971	1970	X	Earlier MM
Rhode island	1972	1972		
South Carolina	1972	1972		
South Dakota	1972	1972		
Tennessee	1971	1971		
Texas	1974	1974		
Utah	1962	1975	X	FAOM->AOM
Vermont	1972	1972		
Virginia	1971	1971		
Washington	1971	1968	X	AOM->FP
West Virginia	1972	1972		
Wisconsin	1973	1972	X	Earlier AOM
Wyoming	1969	1969		
Differences in coding			15	

Legal change is coded as the earliest date, at which an unmarried, childless women under age 21 could legally consent for medical treatment without parental or spousal consent. A full legal appendix and scans of statutes are available from Bailey and Guldi (2009). FAOM->AOM: lower female age of majority changed to the legal majority for men and women for all purposes. FP->AOM: family planning law changed to age of majority law; AOM->FP indicates the reverse. TFP->AOM/MM: erroneously coded treatment for pregnancy statute changed to be the date for the change in legal age of majority/mature minor doctrine. Earlier AGD/AOM/MM indicates that an earlier attorney general decision/age of majority/mature minor doctrine was located. *Illinois is a typo in the published version of Bailey (2006) that the author did not catch before publication. The correct coding and the coding used in her analysis is 1969. See notes below for more details.

Arkansas

Bailey (2006) coded the 1948 Arkansas statute that stipulated that females over 18 were of the age of majority [AR Code §9-25-101 (1987), AR Stat. Ann. §57-103 (1947)], but it is unclear that this law treated women as legal adults except for marriage. Effective July, 1973, Arkansas passed a law allowing pregnant minors of any age to consent to medical care other than abortion (Merz et al. 1995: footnote 150; Acts 1973, No. 32, §1, p.1028). The law provided that *any* female could consent to medical treatment or procedures "for herself when in given [sic.] connection with pregnancy or childbirth, except the unnatural interruption of a pregnancy" [AR R.S. §82-363 (1976)]. The statute goes on to grant the power of consent to "any unemancipated minor of sufficient intelligence to understand and appreciate the consequences of the proposed surgical or medical

treatment or procedures" [ibid.]. Bailey and Guldi (2009), therefore, code a mature minor doctrine as of 1973.

Hawaii

Bailey (2006) erroneously codes a "treatment for pregnancy" statute as a mature minor doctrine: "The consent to the provision of medical care and services by public and private hospitals or public and private clinics, or the performance of medical care and services by a physician licensed to practice medicine, when executed by a female minor who is or professes to be pregnant" [HI Rev. Stat. §577A-2 (1999), L. 1968, c. 58]. Under this law, *only* minors professing to be pregnant or having a venereal disease could consent to "medical care," defined as "the diagnosis, examination and administration of medication in the treatment of venereal diseases and pregnancy" [L. 1968, c. 58, §4]. This law did not permit non-pregnant teens to be treated or prescribed contraception legally. Bailey and Guldi (2009) code the legal change in the age of majority, effective March 28, 1972, which lowered the age of majority to 18.

Idaho

Bailey (2006) codes a female age of majority statute [ID Code Ann. §31-101 (1932)], but it is unclear whether consent to contraception would have been covered under this statute. Bailey and Guldi (2009) found a 1972 amendment that equalized the ages of majority for males and females at 18 and extended this majority for *all* purposes [ID Code §32-101 (1983); am. 1972, ch. 117, §1, p. 233].

Iowa

Bailey (2006) codes the change in the legal age of majority to 18 in 1973. Bailey and Guldi (2009) located and code an earlier change in the legal age of majority from 21 to 19 in 1972 [IA Code Ann. §599.1 (1954), Acts 1972 (64 G.A.) ch. 1027, §49; Acts 1973 (65 G.A.) ch. 140, §49].

Kentucky

Bailey and Guldi (2009) codes a law, effective January 1, 1965, that lowered the legal age of majority "for all purposes" in Kentucky to 18 [KY R.S. §2.015 (1967), enacted Acts 1964, ch. 21, § 1].[1] Because this Council of State Governments publication in 1973 noted that this 1965 had law prompted "a good deal of confusion [about the exact privileges granted to those 18 and older] and four years later [a] clarifying statute was passed"

[1] Merz et al. cites 1972 KY Acts ch. 98, effective July 26, 1972, as lowering the age of majority from 21 to 18. This citation, however, is in error. The referenced statute is a law "relating to the powers and duties of fiscal courts to control wild animals that carry diseases transmissible to man and domestic animals." We believe this citation to be incorrect; we have verification that the age of majority did, in fact, change in 1964, effective January 1, 1965, with the clarification added in 1968 (see text).

[1972: pp.12-3], Bailey (2006) codes the 1968 amendment to the age of majority statute that included the clause "all other statutes to the contrary notwithstanding" [KY Acts ch. 100, §1, approved March 25, 1968] that clarified the interpretation of the statute.

Maine

Bailey (2006) codes a change in the legal age of majority passed in 1971 which lowered the legal age of majority to 18 [1 M.R.S.A. §73 (1979); 1969, c. 433 §8; 1971 c. 598, §8]. Bailey and Guldi (2009) located an earlier statutory change in the age of majority, effective October 1, 1969, which lowered the legal age of majority in Maine from 21 to 20.[2]

Maryland

Bailey (2006) erroneously codes a "treatment for pregnancy" statute based upon Merz et al. (1995: footnote 388), which notes that minors could consent to medical treatment for "alcohol and drug abuse, venereal diseases, pregnancy, contraception other than sterilization, and in cases of rape or sexual abuse" since June 1, 1967. However, the specific language relating to contraception was not added until 1971. The original statute, effective June 1, 1967, restricted the law to "apply … to minors who profess to be in need of hospital or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine, whether because of suspected pregnancy or venereal disease, regardless of whether such professed suspicions of pregnancy or venereal disease are, or are not subsequently substantiated on a medical basis" [MD Laws 1967 ch. 468]. Therefore, Bailey and Guldi (2009) code the 1971 revision to the 1967 statute that eliminated the restriction to pregnant minors or minors suspected to be pregnant.

Minnesota

Bailey (2006) codes the change in the age of majority to 18 effective June 1, 1973 [Minn. Stat. § 518.54(2) (1990)]. One year prior to the change in the age of majority, on May 27, 1971, a series of statutes concerning the consent to medical care of minors became effective. One section provides for an extension of the rights of emancipated minors [MN Stat. Ann. §144.341 (1989); see also CA Civil Code §34.6 (1982)]. Although

[2] Merz et al. only states that the general age of majority has been 18 since 1971[ME RSA tit. 1, §72.1]; the text does not mention what the age changed from to become 18. The statutory change, lowering the age of majority from 20 to 18, is cited as 1971, c. 598, §8; however, this was during a special session of the 1971 legislature, and the Acts were not effective until June 9, 1972. Even though the law was passed in 1971, it did not become effective until 1972. Therefore, we do not see any conflict with Merz; we simply provide more precise detail of the changes.

ambiguous in their applicability to consent for birth control, a 1972 Attorney General decision interpreted these statutes as "not making it a crime for physicians to furnish birth control devices to minors" [From LexisNexis Academic: Minn. Stat. §§144.341-144.347, 617.251 (1971), No. 494-b-39, 1972 Minn. AG LEXIS 35]. The interpretation of these statutes remained in dispute for some time; they were again challenged in *Maley v. Planned Parenthood of Minnesota, Inc.* Cir. Case No. 37769 (Minn. Dist. Ct., Third Jud. Dist., Jan. 5, 1976). In this case, six couples filed a class action lawsuit, seeking to prevent Planned Parenthood from providing contraceptive services to unemancipated minors without parental consent (Paul, Pilpel and Wechsler, 1974; http://www.popline.org/docs/730457). However, the Minnesota District Court upheld the constitutionality of sections 144.343 and 144.344, writing that "under these sections Planned Parenthood could provide minors with contraceptive information and services without parental consent, unless a parent specifically notifies Planned Parenthood that he/she does not wish his/her child to receive such services" (DHEW 1978, p.244).[3] This decision, therefore, reinforced the attorney general's broad interpretation of the statute. Legally, Planned Parenthood could provide contraceptives to unmarried minors as long as they had not been explicitly informed by parents. Bailey and Guldi (2009), therefore, revise the coding to reflect the 1972 attorney general decision.

Missouri

Bailey (2006) coded the *Planned Parenthood of Central Missouri v. Danforth* decision [428 U.S. 52 (1976)], in which the Supreme Court ruled that the state could not prohibit minors from obtaining abortions and, by extension, contraception. Bailey and Guldi (2009) located an earlier Attorney General decision issued in March of 1973 stating that "no law prohibits physicians from prescribing contraceptives to minors who do not have parental consent or who have not been emancipated by marriage or other means" [DHEW 1978, p. 253, citing Op. Atty. Gen. 3/9/1973].

Nevada

Bailey (2006) codes a 1969 lower female age of majority statute, but this statute was in effect since at least 1930 and applied only to women's ability to enter into contracts [NV C.L. §300 (1930); NV R.S. §129.010 (1963); see also DHEW 1974, p. 236]. Bailey and Guldi (2009) code a 1973 amendment to the age of majority

[3] Though the final *Maley* ruling was not issued until 1976, according to Paul, Pilpel and Wechsler (1974), the district court came to the same conclusion during a preliminary stage of the case in 1973.

statute which equalized the ages of majority for males and females at 18 [N.R.S. §129.010 (2003); 1973, p. 1578].

Ohio

Ohio courts adopted a mature minor doctrine as early as 1956. The *Lacey v. Laird* [166 Ohio St. 12, 139 N.E. 2d 25 (1956)] opinion states,

> *A charge that this 18-year-old plaintiff [who had nose surgery when she was 18 without her parents' consent] could not consent to what the jury could have found was only a simple operation, would seem inconsistent with the conclusion of our General Assembly, that any female child of 16 can prevent the taking of liberties with her person from being raped merely by consenting thereto at the time such liberties are taken….My conclusion is that performance of a surgical operation upon an 18-year-old girl with her consent will ordinarily not amount to an assault and battery for which damages may be recoverable even though the consent of such girl's parents or guardian has not been secured [139 N.E. 2d at 34].*

Legal interpretations held that minors could consent to minor surgery and general medical care under this decision (DHEW 1974: 265), but Ohio also had an anti-obscenity statute. Ohio's statute originally passed in 1885 and banned the dissemination of information and supplies relating to contraception. The words "for the prevention of conception" were removed from Ohio's statute in 1965, so Bailey (2006) coded 1965 as the earliest date that an unmarried minor could obtain the Pill legally. However, Ohio's statute went on to note that "nothing in this section [about contraception and obscenity] or the next two sections shall be construed to affect teaching in regularly chartered medical colleges, or the publication of standard medical books, or the practice of regular practitioners of medicine, or druggists in their legitimate business" [OH R.S. §7027 (1896)] [April 30, 1885: 82 v. 184]. It is not clear how to interpret this physician and pharmacist exceptions, which makes it unclear whether to code Ohio as 1960, when the Pill was introduced (this assumes that the obscenity statute was not binding for physicians), or 1965, when the law was amended to omit language about contraception (this assumes the obscenity statute was binding for physicians).

Oklahoma

Bailey (2006) coded a family planning statute [OK Stat. Ann. Tit. 63 Ch. 32, §§2071-5 (1984)]. Although no explicit eligibility requirements are stated in the statutes, the Department of Health Education and Welfare (DHEW) contacted the state about their policy and reported that, "[a]ll categories of adults apparently are eligible for family planning services; no exclusions were noted in the CFPPD survey and none appear in the written policies. According to the Division of Maternal and Child Health's *Guidelines for Family Planning*

Programs, 'minors may be accepted for services if: 1) ever married or ever pregnant; 2) bearing acceptable proof of impending marriage; 3) accompanied by parent or guardian requesting services; 4) referred by a recognized agency, a doctor, a nurse, or a clergyman…[However,] contraceptive advice may be given in *all* cases where the 'health needs of the patient make it advisable…'" (1974, p.271). Because these policies only allow legal minors who are pregnant to obtain contraceptive *advice*, Bailey and Guldi (2009) code the change in the legal age of majority which was amended and effective in August 1, 1972, which equalized the ages of majority for men and women at 18 [OK Stat. Ann. Tit. 15 §13 (1972); L. 1972, c. 221, §1].

Pennsylvania

Bailey (2006) coded a mature minor doctrine effective in 1971, but Bailey and Guldi (2009) located an earlier mature minor statute, enacted on February 13, 1970 and effective in April 1970, that allowed any minor 18 or over to consent to medical care: "Any minor who is eighteen years of age or older… may give effective consent to medical, dental and health services for himself or herself, and the consent of no other person shall be necessary" [PA Stat. tit. 35, §10101 (1977)].

Utah

Bailey (2006) coded the lower age of female majority, but this statute's application was unclear with respect to medical care. Policy documents indicate there was considerable ambiguity regarding whether physicians could prescribe birth control to unmarried women under age 21. On July 21, 1971, the Attorney General advised "*not* to provide family planning information or services to minors without parental consent 'until such time as the state legislature may adopt appropriate legislation.'…In support of this view the Attorney General cites the common law requirement of parental consent in the absence of an emergency, plus the expression of legislative intent inferred from the statute dealing with prophylactics…" (DHEW 1974: 300 citing Op. Atty. Gen. No. 71-017, July 21 1971). Bailey and Guldi (2009), therefore, code the amendment to this statute in 1975 to make both men and women legal adults at the age of 18 for all purposes [L. 1975, ch. 39, §1, approved March 24, 1975].

Washington

Bailey (2006) codes the legal age of majority "for all purposes" which changed from 21 to 18 in 1971. Bailey and Guldi (2009) located an earlier policy change and code 1968, because a Washington Board of Health Policy directed that all persons were eligible for family planning without parental consent, including never-

pregnant, never-married minors [WAC248-128-001 for Board of Health policy adopted August 3, 1967, codified July 1, 1968].

Wisconsin

Bailey (2006) erroneously coded the date of 1973 as the year the legal change in age of majority to 18 became effective [WI Laws 1971, ch. 213; see also DHEW (1978: 363)]. In fact, this statute became effective in March 23, 1972. Bailey and Guldi (2009), therefore, code 1972.