

# Life and Liberty for Women

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## Parental Notice/Consent Laws For Abortion Services/Family Planning Services

**Life and Liberty for Women  
opposes all such laws**

**Life and Liberty for Women** strongly encourages teenage girls and boys to talk with their parents and confide in them about issues surrounding their sexuality.

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However, **Life and Liberty for Women** is aware that in some homes, that may not be the case. In homes where abuse is present or where communication about sex is not encouraged, young girls may not feel they can go to a parent. For those young girls, it's critical that medical confidentiality be available to them.

**Life and Liberty for Women** believes that a law is wrong, immoral, dangerous and potentially deadly, that cannot guarantee that teenage girls will inform or seek guidance from a parent and would instead give teenage girls an option that today, with guaranteed medical confidentiality, they do not have to consider: self-aborting or unsafe and illegal medical care in secret. **Life and Liberty for Women** believes that legislating parent-child communication will always fail to produce the desired outcome. We believe that education and skill building in parent child communication has the potential of producing the desired outcome without placing a child's health and life at risk, which parental notice/consent laws would do.

**Life and Liberty for Women** believes that requiring parental notice/consent for STD testing, AIDS testing, or contraceptives will: stop teens from seeking such services with devastating consequences to their own health and life, would increase the incidences of sexually transmitted diseases

among teens, and would increase teen pregnancy and abortion rates at an alarming rate. We are convinced that it would not lead to increased parental involvement or a decrease in sexual teen activity. Teens themselves are adamant about such results.

**Life and Liberty for Women** believes that such laws are intended by the anti-abortion movement as another way to further restrict access to abortion services, and has no basis in a genuine desire to protect the health or life of any teenage girl.

### Currently:

Forty-two states have laws that require a minor to obtain the consent of or to notify an adult, typically a parent, prior to an abortion. (AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI, WY).

Thirty-two of these laws are currently enforced.

Of the 32 states that currently enforce notice or consent laws, only Idaho and Utah do not have a judicial or other bypass provision allowing a minor to secure a court order in lieu of notifying her parents. (AL, AR, DE, GA, ID, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NE, ND, OH, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI, WY).

Eight states permit a minor to notify specified adults, other than her parents, under certain circumstances. (DE, IL, IA, ME, NC, OH, SC, WI).

Delaware, Maryland, and West Virginia permit a minor to obtain an abortion without parental consent or notice in certain circumstances if a physician or health professional waives the requirement.

In Maine, a minor may obtain an abortion without parental consent if a physician has secured the informed written consent of the minor and the minor is mentally and physically competent to give consent.

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At least 11 states allow a minor to obtain an abortion without parental consent or notice if she declares she is a victim of abuse, neglect, rape, or incest. (AR, CO, IL, IA, KS, MN, NE, OH, SC, VA, WI). The Colorado Parental Notice ballot initiative that passed in November of 1998, is on stay while the court challenge to its constitutionality is litigated.

Connecticut does not mandate parental consent or notice, but requires that before obtaining an abortion a minor must receive counseling that must include discussion of the possibility of consulting her parents.<sup>1</sup>

**Life and Liberty for Women** recognizes and respects the delicate nature and the serious implications of the parent child relationship. As many supporters of **Life and Liberty for Women** are parents, it stands to reason that we are speaking on this issue, not just as activists and supporters of abortion and reproductive rights for all women of all ages, but we are speaking too as loving, responsible, and caring parents. And as loving, caring, and responsible parents, we have seriously contemplated the issue of parental notice/consent, and its implications for all the young teenage girls of our nation.

Respecting parent's authority over their own children and their right to give guidance, instill a moral value system within their children, and protect them from physical and emotional harm is not lost on **Life and Liberty for Women**. However, having said that, and absolutely having considered that as **Life and Liberty for Women** takes a stand against parental notice/consent laws, it must be said that we have determined that outweighing forced parental involvement in this case, is the health and life of all teenage girls in this country, including the health and life of those who fervently support such involvement laws.

First, it is important to point out what should be obvious but often times is not for some who support parental notice/consent laws, that is that not all families look like a Leave It To Beaver family. Approximately 3.2 million cases of child abuse (emotional, physical, psychological, sexual abuse, and neglect) were reported in 1997.<sup>2</sup>

An abusive parent or parents very often isolate the young girls they abuse and neglect. That is true because the abuser is trying to protect the "secret" and prevent anyone from finding out that he or she is abusing his or her child. They know that would mean police, an investigation and that they would be held accountable and likely be sent to jail.

Additionally it can be said, that there are untold numbers of homes in which those types of horrible abuses and neglect does not occur but where an open communicative relationship with parents or a parent also does not exist, even though a parent may be adamant that it does. In his 1990 book, "Abortion, The Clash of Absolutes," Laurence H. Tribe says, parental notice/consent laws, "while perhaps intended to foster communication within families, may only compound desperate situations where communication just is not possible. In families whose children feel free to discuss such things with a parent, neither consent laws nor notification requirements are necessary. And even if one could as a general matter legislate intrafamily communication, something that seems most unlikely, there are some circumstances in which the consequences of the attempt would surely be devastating."

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Sometimes a parental consent/notice law will include what is described as a "Trusted Adult" clause. That clause would allow another adult besides the parent, usually a aunt, grandmother, stepparent, etc., to be notified or give consent in place of a parent with the intention of providing a remedy for girls who fear telling a parent, especially an abusive parent. [Life and Liberty for Women](#) supports any idea that parents could utilize to give young girls more options, however, we do not support such for the sole purpose of providing a remedy for young girls trapped in an abusive home. As discussed above, one of the most easily readable signs of a child trapped in an abusive home is one of isolation; that is the abuser attempts to keep his secret by isolating those he abuses from other family and friends. Consequently, other trusted adults are non-existent for these families. This would provide no remedy for any young girl being abused by a parent.

[Life and Liberty for Women](#) believes that when contemplating the need for a parental involvement law requiring teens to notify one or both parents or obtain consent from one or both parents to obtain an abortion, it is essential that it be from the perspective of the teenage girl we must look. She is probably frightened, unsure of what to expect, maybe unsure of how she got to this point. She may feel alone, hopeless, and helpless. She may very likely feel she can't talk to her parents, or she doesn't want to because she may feel that she will be seen as sorely disappointing them. She may feel very depressed and desperate. And yes this would be the perfect time to have a parent enter into the picture - unless that parent is abusive, neglectful, or unable to provide genuine parental comfort and support or if the parents or parent is perceived to lack those abilities by their daughter. Here it can be said that that perception by the young girl is what it all boils down to.

In 1989 Spring Adams, was a 13-year old from Idaho, who became pregnant when her father raped her. Her age was at issue in paying for an abortion or traveling the nearly six-hour journey to the nearest abortion provider. Social Services in Idaho would not cover the abortion cost because there was a

law preventing public funding of abortions - even in cases of rape and incest. A private organization stepped forward to pay for her abortion, travel and lodging expenses but the day before she was to leave, her father found out. When she went to sleep, her father went into her room and shot her to death with a rifle.

Around the same time period, news reports were a flutter with the story of a 15-year old honor student at a Catholic high school who became pregnant. She knew she could not seek her mother's help. Seven years earlier her mother had sought an abortion and had regretted it. Since that time, her mother had repeatedly stressed to her children that abortion was murder. So rather than tell her mother, she tried to self-abort. Her mother found her, dead on the bathroom floor. She had died from a pulmonary air embolism caused by the wound she had inflicted on herself as she tried to self-abort.<sup>3</sup>

And of course, the now very well known story of 17 year-old Becky Bell who lived in Indiana, where a parental consent law is enforced. Rather than disappoint her parents who believed they had a wonderful and communicative relationship with Becky, she, just shy of her 18th birthday when she would not have been subjected to the consent law, sought an illegal abortion. She died.

Three very different circumstances but the outcome was the same; three beautiful and very desperate young girls dead. No parental notice/consent law did or could have changed these outcomes. In the case of Spring Adams or the 15 year-old whose mother was now adamantly "pro-life," a parental notice/consent law would not have made these scared and desperate young girls go to their parent. They would have circumvented the law and the results would have been no different. In the case of Becky Bell, had she been able to maintain her medical confidentiality and gone to a clinic for a safe and legal abortion, she would still be alive today. Of that, [Life and Liberty for Women](#), is sure of.

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There may be nothing more compelling, however than to hear the facts from the horses mouth. A 1991 study based on a nationally representative sample of more than 1,500 unmarried teenage girls having an abortion, where no mandatory parental consent or notice laws are enforced revealed that, 61% of parents knew of their daughter's pregnancy and abortion. Additionally, 57% of the mothers who knew about their daughter's pregnancy did not tell her father. Seventy-five percent of the parents who knew about their daughter's pregnancy, said their daughter herself had told them and a great majority supported their daughter's decision to have an abortion.<sup>4</sup>

Further, the study revealed that the young girls who did not tell their parents were disproportionately older (aged 16 or 17), white and employed.<sup>5</sup>

In this study, these teens revealed the most common reasons for not telling their parents. First, there was a desire to preserve their relationship with their parents and a desire to protect the parents from stress and conflict.

And of those who didn't tell their parents, 30% had experienced violence within their home and was afraid that violence would occur or were afraid they would be thrown out of their home.<sup>6</sup>

Additionally, and as equally as important, was the revelation by 52% of the young girls whose parents were not aware of their pregnancy and abortion that they had consulted with another adult, other than clinic staff about having the abortion. Twenty-two percent said they had consulted with a professional.<sup>7</sup>

But the fact that is most revealing and disturbing, is that nearly 40% of the teens that would not go to a clinic if they were forced to tell their parents in order to do so, say they would instead self-abort or find an illegal abortion.<sup>8</sup> The stories above bear out that stark reality.

Life and Liberty for Women believes that these facts and these stories give us fair warning about the devastating effects these laws can have on young girls lives.

Having noted all that, it is important to note why the number of teenage deaths from attempts to self-abort or seek an illegal abortion in states where parental involvement laws are enforced, hasn't skyrocketed. In addition to not being able to stop desperate teenage girls from self-aborting or seeking an illegal abortion, these laws have not created a decline in the teenage rate of abortion as was alleged and hoped for by their sponsors. Rather, they have created an influx of teenage girls seeking an abortion into states who do not have such laws. When a teenage girl believes she can make the arrangements and garner the money, sometimes by seeking the help of another adult, a friend, aunt or grandmother, or even her much older adult boyfriend, she seeks a legal abortion in another state that does not require parental notice or consent.

While Life and Liberty for Women prefers young girls to involve a parent, when they choose not to do that, we would prefer they seek a legal abortion out of state rather than consider self-aborting or an illegal abortion. However, the danger to this solution is obvious. For teenagers who already have a history of delaying an abortion decision or procedure because they don't discover they are pregnant until later in the first trimester or the beginning of the second trimester, or put that knowledge out of their mind until they can no longer ignore the truth, or because they are frightened and do not know what to do or where to turn, and because they must find a way to pay for the abortion itself, these laws add additional considerations that will delay an abortion procedure even further into the second trimester.

Now these young girls must find additional funds to support a trip out of state and perhaps even an overnight trip. She has to figure out how to account for her time away as well and she must find the transportation.

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All these considerations can add weeks to an already very progressed pregnancy. Currently, Planned Parenthood notes in their web site Fact Sheet, Abortion After the First Trimester, January, 2000, "Adolescents are more likely than older women to obtain abortions later in pregnancy. Adolescents obtain 29% of all abortions performed after the first trimester (CDC, 1998). Among women under age 15, more than one in four abortions is performed at 13 or more weeks gestation (CDC, 1998). The very youngest women, those under age 15, are more likely than others to obtain abortions at 21 or more weeks gestation (CDC, 1998)."

The Alan Guttmacher Institute commented in their May/June, 1995 Family Planning Perspectives, on the impact of the Mississippi requirement for parental consent on minor's abortions. Stanley K. Henshaw said that "the state's new parental consent requirement had little effect on the abortion rate among minors. In a comparison of Mississippi residents who had abortions during the five months before and the six months after the law went into effect, the ratio of minors to adults who sought abortions in the state declined by 13%, a decrease offset by a 32% increase in the ratio of minors to adults who obtained abortions out of state. The parental consent requirement increased by 19% the ration of minors to adults who obtained their procedure after 12 weeks of gestation."

The American Medical Association also concluded in a 1992 study that parental consent and notice laws, "increase the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure."<sup>9</sup>

The Planned Parenthood Fact Sheet referenced above, also said, "Overall , abortion has a low morbidity rate. Fewer than 1 percent of women who undergo legal abortion sustain a serious complication."<sup>10</sup> The rate of complication increases by about 20 percent for each additional week of gestation past eight weeks. Presently the death rate from abortion at all stages of gestation is 0.6 per 100,000 procedures. The risk of death associated with childbirth is about 10 times as high as that associated with abortion. The risk of death associate with abortion increases with the length of pregnancy, from one death for every 530,000 abortions at eight or fewer weeks to one per 17,000 at 16-20 weeks, and one per 6,000 at 21 or more weeks.<sup>11</sup> After 20 weeks gestation there is no statistically significant difference in maternal mortality rates between terminating a pregnancy by abortion and carrying it to term.<sup>12</sup>

Clearly, while legal abortion remains one of the safest surgical procedures done in this country, the risks increase for abortions performed in the second trimester.

We could decrease those risks in the first place, if we better educated teenagers about the safety of first trimester abortions, the importance of knowing how pregnancy happens, what signs to look for, and how important it is to recognize an unintended pregnancy as soon as possible and make a decision as soon as possible and further, if the decision is to terminate the pregnancy, the importance of having a first trimester abortion verses a second trimester abortion.

It goes without saying that assuming an additional risk would not be necessary if another obstacle were not placed in the way of teenage girls seeking a first trimester abortion, additional risks associated with parental consent and notice laws. Clearly, those laws do not make or guarantee that a girl go to her parents and clearly she can and is likely to circumvent the law, increasing the odds that she will endanger her health and her life whether it be from self-aborting, seeking unsafe illegal medical care, or whether she finds herself having to undergo a second trimester abortion.

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Anti-abortion supporters of parental consent/notice laws have called the safety of legal abortion into question for the purpose of justifying this type of legislation. However, considering that the statistics have always shown legal first and early second trimester abortions to be safer for a woman than carrying a pregnancy to term and giving birth, it belies their true motivation, which is to place another obstacle in the way of every young girls access to safe and legal abortion. They also want the opportunity to stop their daughter's from accessing legal abortion. However, as has been made clear here, there is no way to make a young girl tell a parent but that seems to have had little effect upon anti-abortion extremists. They also are apparently not swayed by the fact that these laws will endanger every mother and father's daughter in America for what is an unattainable goal.

Finally, the federal courts have consistently ruled that parental consent/notice laws run the risk of being found unconstitutional, especially if it requires the involvement of both parents, if they do not contain what is referred to as a judicial bypass.

Meant particularly to remedy the dangerous situation that parental involvement laws create for abused young girls or for girls who could not for any other reason involve a parent, it is clear that it has failed miserably to be either of comfort to those young girls or a remedy for them. But once again that does not seem to have fazed the anti-abortion extremists.

Again, most young girls, already frightened and unsure of what will happen to them next and with little or no idea of how to navigate the legal and judicial waters, never utilize the judicial bypass. Adults are often intimidated by the legal and judicial system and so to think that a teenager, scared, desperate, embarrassed, and faced with the unknown, could navigate the legal waters, even if they wanted to, seems to also belie the anti-abortion stated motives in pushing for the passage of parental consent/notice laws.

Anti-abortion judges often ignore the standards given them by the Supreme Court and deny a bypass petition despite its merits. For example, in Indiana, lawyers and clinics routinely refer teenagers out of state because local judges either refuse to hold hearings or are widely known to be anti-abortion. In Massachusetts, a number of judges refuse to handle judicial bypass petitions while others focus inappropriately on the morality of abortion and are insulting and rude to the minors and their attorneys. The Supreme Court even found that in Minnesota, many judges refuse even to hear bypass proceedings. In Ohio a 17 year-old who testified that her father beat her was denied a judicial bypass. She was a senior in high school with a 3.0 average who played team sports and worked 20-25 hours a week, paid for her own car expenses and medical expenses. In Louisiana, a judge denied a 15 year-olds bypass petition after asking her a series of inappropriate questions including what the minor would say to the fetus about her decision. Her request was granted only after a rehearing by six appellate court judges. (National Abortion and Reproductive Rights Action League - Web Site "The Child Custody Protection Act and the Inadequacy of Judicial Bypass Procedures")

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Clearly, the manner in which each state conducts its judicial bypass laws is erratic. Planned Parenthood, on its web site, Fact Sheets: Teenagers, Abortion, and Government Intrusion Laws," said, "In Minnesota, the federal district court found that the state courts 'denied only an infinitesimal proportion of the petitions brought since 1981.' (ACLU, 1986). A study in Massachusetts found that only nine of the 477 abortion requests studied had been denied (Yates and Pliner, 1988). But in Ohio, a report found that the percentage of waivers denied ranged from 100% to 2%, depending on the county in which the petition was filed (Rollenhagen, 1992)." Judicial bypass also presents another obstacle to the timely performance of a first trimester abortion. Obviously, navigating the legal and judicial system will further delay what may be a pregnancy that is already approaching the second trimester or which would place the abortion well into the second trimester, increasing the risks of complications. In Planned Parenthood's web site it is noted that, "Court proceedings in Minnesota routinely delayed abortions by more than one week, and sometimes up to three weeks (ACLU, 1986) Further, Planned Parenthood's web site said, "In Minnesota, the proportion of second-trimester abortions among minors terminating their pregnancies increased by 18 percent following enactment of a parental notification law. Likewise, since Missouri's parental consent law went into effect in 1985, the proportion of second-trimester abortions among minors increased from 19% in 1985 to 23% in 1988 (Donovan, 1992)."

In rural areas, judicial bypass is seen as a threat to young girls confidentiality. For example, in one instance that the National Abortion and Reproductive Rights Action League cites, a young girl discovered that her former Sunday school teacher would conduct her bypass hearing.

Lastly, young girls may be too embarrassed to talk about such a personal and private event in their life, to ever consider navigating the legal and judicial system. Embodied in the idea of confidentiality is a safe environment in which to explore feelings and alternatives to such a very life-changing event and an expectation of comfort and support. The judicial bypass certainly does not offer that kind of environment. It is a very somber legal process and will not be the friend and alternative to any young girl, let alone young girls who are abused.

Finally, **Life and Liberty for Women** believes that requiring parental consent/notice for minors to obtain STD testing, AIDS testing, or contraceptives is as dangerous and deadly to young girl and young boys health and life as such a requirement to obtain abortion services is.

Approximately 23 states and the District of Columbia give minors the authority to consent to contraceptive services. About 27 states and the District of Columbia authorize a pregnant teenage girl to obtain prenatal care and delivery services without parental consent or notification and 49 states and the District of Columbia give teenage girls and boys the authority to consent to the diagnosis and treatment of sexually transmitted diseases. I think the implications of these facts are especially important to note here. Planned Parenthood, on their web site fact sheet Teenagers, abortion, and Government Intrusion Laws, says, "many of these laws allow minors to give consent to treatments that involve greater medical risk than a first-trimester abortion, such as surgical interventions during pregnancy and Caesarean sections."

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The National Abortion and Reproductive Rights Action League (NARAL) on its web site, "Mandatory Parental Involvement In Family Planning Services Threatens Minors' Health," said, "In the single year following the elimination of a parent consent requirement for HIV counseling and testing in Connecticut, the number of teens aged 13-17 obtaining HIV tests at publicly funded facilities doubled. Fifty-eight percent of high school students surveyed in 3 public schools in central Massachusetts reported having health concerns they would like to keep from their parents. Approximately 25% of the students said they would forgo seeking certain types of medical treatment if there were a possibility of disclosure to parents by physicians."

The NARAL site also said, "A United States District court, in *Planned Parenthood Association of Utah v. Matheson*, prohibited a 'blanket parental notification requirement for minors seeking contraceptives. In doing so, the court recognized that 'minors seek contraceptives after becoming sexually active, not before {and}...that a significant percentage of sexually active minors would not cease their sexual activity if access to contraceptives is conditioned on parental notification. Instead, those minors would terminate their use of contraceptives. Thus,...{the law} would expose sexually active minors to the health risks of early pregnancy and venereal disease."

**Life and Liberty for Women** believes that medical confidentiality for young girls and boys seeking abortion services, STD or AIDS testing, and contraceptives is essential for these youngsters well being. We are convinced that there is no satisfactory remedy from these laws for young girls from abusive homes.

We believe that educating not legislating family communication, and encouraging youngsters to involve their parents, not legislating them to, will best serve all our youngsters.

**Life and Liberty for Women** is also convinced that no law could ever make any young girl go to or confide in even the most loving and understanding parent. **Life and Liberty for Women** is also convinced that no law can guarantee any parent that their daughter won't circumvent the law with dangerous and deadly consequences to their health and life.

**Life and Liberty for Women** believes that the anti-abortion supporters of parental consent/notice laws, are intent upon trying to stop all abortions and the health and life of this nation's youngsters pales in importance to that ultimate goal. The Bergen New Jersey newspaper, on March 16, 2000 reported a story about a lawsuit by a suburban Philadelphia couple against a public school guidance counselor who they accused of advising their 17 year-old daughter to get a secret abortion in New Jersey. The school district settled the lawsuit and the parents issued this statement, "The most important thing for us has always been making sure this doe not happen to another family in this district. If even one girl is encouraged to turn to her parents instead of a New Jersey abortion clinic - and if even one baby lives because of this policy - then it was worth the fight."

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<sup>1</sup>National Abortion and Reproductive Rights Action League, "Who Decides; A State by State Review of Abortion and Reproductive Rights," 9th Edition, 2000

<sup>2</sup>Ching-Tung Wang and Deborah Daro, "Current Trends in child Abuse reporting and Fatalities: The Results of the 1997 Annual Fifty State Survey" (Chicago: National Committee to Prevent Child Abuse, 1998); H. Amaro, et al., "Violence During Pregnancy and Substance Abuse," American Journal of Public Health, vol. 80 (1990): 575-579

<sup>3</sup>A. Torres, J.D. Forrest, and S. Eisman, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," November/December, Family Planning Perspectives 12

<sup>4</sup>S.K. Henshaw; K. Kost, "Parental Involvement in Minors' Abortion Decisions." September/October 24, 1992 Family Planning Perspectives: 196-207, 213

<sup>5</sup>Ibid.

<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

<sup>8</sup>A. Torres, J.D. Forrest, and S. Eisman, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," November/December, Family Planning Perspectives 12

<sup>9</sup>American Medical Association, "Induced Termination of Pregnancy Before and After Roe v. Wade, Trends in the Mortality and Morbidity of Women," JAMA, vol. 268, no. 22 (Dec. 1992): 3238

<sup>10</sup>Alan Guttmacher Institute, (1998, accessed 1999, July 16). "Facts in Brief: Induced Abortion {Online}. <http://www.agi-usa.org/pubs/ib13.html>

<sup>11</sup>Ibid.

<sup>12</sup>Paul, Maureen, et al. (199). "A Clinician's Guide to Medical and Surgical Abortion." New York: Churchill Livingstone.

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