

**LEGISLATURE’S MAKING:
APPLYING PARENTAL
CONSENT STATUTES TO
MINORS WITHOUT PARENTS
IN RE ANONYMOUS 5,
286 NEB. 640 (2013)**

Kaeanna Wood

InreAnonymous5 marked the first opportunity for the Nebraska Supreme Court to consider a waiver of parental consent. In this case, the Nebraska Supreme Court denied the Petitioner authorization for an abortion without parental consent because: 1) she did not establish that she was a victim of abuse or neglect by a parent or guardian; and 2) she did not establish that she was sufficiently mature and well-informed to make a decision without parental consent.

Nebraska Supreme Court’s decision as to the Petitioner’s immaturity is antithetical for two reasons. First, the Petitioner had no parent or guardian. Dissenting Justice Maurice Connolly wrote that the decision left the Petitioner in “legal limbo—a quandary of the Legislature’s making.” Nebraska’s parental consent statute results in an impermissible, absolute ban on the Petitioner’s right

to an abortion because she is a minor ward of the state and such parental consent is impossible for her to obtain. Second, *In re Anonymous 5* held that the Petitioner was not mature enough for an abortion, but was mature enough to raise a child. Carrying and possibly raising a child demands the same, or even more, maturity than deciding whether to bear a child.

This Article argues three points: 1) the Nebraska Supreme Court lacked jurisdiction to entertain the Petitioner's request for judicial bypass; 2) the new law does not serve a significant state interest so as to outweigh a minor ward's right to privacy; and 3) the law results in an impermissible, absolute ban violating the Petitioner's constitutional right to obtain an abortion. Finally, this Article addresses possible remedies for the Petitioner and recommends actions for states with similar parental consent statutes.