

War on Women's Reproductive Rights Escalates in the States in 2013

An all-out assault on women's reproductive health and rights continues in many state legislatures — a stark reminder that elections have consequences. The Tea Party has wormed its way into prominence on the state level, resulting in an avalanche of abortion restrictions on the state level. Now, [55 percent of women of reproductive age in the US live in states hostile to abortion rights](#), a dramatic 22 percent increase from 2000.

Dozens of new restrictions are now law

In 2013, state legislatures passed [141 provisions related to reproductive health](#). 70 restrictions on access to abortion have been passed. Only 2011 was worse for reproductive rights, when 80 anti-choice restrictions had already been enacted by midyear.

These restrictions include:

- Bans on pre-viability abortion
- Prohibitions on medication abortion via telemedicine
- Restrictions on public and private funding for abortions
- Targeted Restrictions of Abortion Providers (TRAP Laws)
- Mandatory counseling, waiting periods, and ultrasounds
- State protection of misinformation
- Parental involvement
- Defunding family planning

Other bills prohibit race and sex selection, prohibit state employee and facility participation in abortion, restrict access to emergency contraception, pharmacy or pharmacist requirements to dispense contraception, and substance abuse during pregnancy, [among many others](#).

Luckily, since many of these restrictive measures have been challenged, recent court actions may have enjoined or struck down the laws.

More Pre-viability Abortion Bans Sought

In the past, legislative activity was aimed at regulating the delivery of abortion services, several states have turned toward banning abortion outright. Bans on abortion before viability, in clear violation of *Roe v. Wade*, have been enacted in 9 states, including Alabama, Arkansas, Indiana, Kansas, Louisiana, Nebraska, North Carolina, North Dakota, and Texas. These laws are designed to give the U.S. Supreme Court, which is now dominated by justices with a right-wing political agenda, the opportunity to overturn *Roe v. Wade* altogether. Cases from several of these states are now wending their way through the federal courts.

Prohibitions on Medication Abortion via Telemedicine

Alabama, Indiana, Louisiana, Oklahoma, Mississippi, Missouri, North Carolina, and Texas have all enacted measures directly or indirectly banning the use of telemedicine for medication abortions (RU-486). Telemedicine has rapidly become a widely used tool for expanding access to health care, particularly in rural areas. This prohibition — for which there is no medical justification — presents a significant setback. The number of states that prohibit the use of telemedicine for this procedure is now 12, although enforcement of the provision in Wisconsin has been enjoined by a state court.

Restrictions on Public and Private Funding for Abortion Care

Alaska Gov. Sean Parnell (R) signed a budget bill that curtails state funding for abortions under the joint state-federal funding for Medicaid. The new restriction will limit Medicaid funding for abortion to cases of rape, incest or life endangerment, and leaves women whose pregnancies threaten their health without protection. At the moment, Alaska is under a court order – superseding that provision in the budget – and must fund all medically necessary abortions.

Maryland Gov. Martin O’Malley (D) approved an appropriations measure that renews current restrictions limiting public funding of abortion to case of incest, rape, life or health endangerment, and fetal impairment.

In Iowa, the governor must now approve reimbursements for Medicaid-eligible abortions; Gov. Terry Branstad (R) signed a budget bill that enacts this new requirement.

To date, 8 states have banned private insurance coverage for abortions and 15 states have banned coverage from plans provided in health exchanges under the Affordable Care Act. Even when exceptions are recognized for cases of rape, incest and to protect the pregnant woman’s health or life, the exceptions are often very narrowly defined. North Carolina, Pennsylvania, Arkansas and Virginia have already enacted these restrictions. Other states such as Georgia and South Carolina would limit state employee’s access to insurance for abortion. Kansas Gov. Sam Brownback (R) signed an omnibus bill in April that prohibits individuals from claiming a tax credit for health insurance premiums that include abortion coverage.

Targeted Regulation of Abortion Providers (TRAP)

These laws are designed to shut down family planning clinics that offer abortion care by imposing so many medically unnecessary requirements that the clinics cannot afford to remain in business.

Ohio has long required abortion providers to have an agreement with a hospital allowing them to transfer patients needing emergency care. In June, Ohio adopted a new provision prohibiting public hospitals in the state from entering into these transfer agreements, in an effort to force clinics to shut down. The provision affects hospitals that are operated by

the state or a city or county, including state university hospitals. [The law could halve the number of clinics in Ohio.](#)

Virginia, meanwhile, finalized regulations to implement its 2011 TRAP law that requires clinics to meet stringent standards equivalent to those for ASCs. This has caused NOVA Women's Healthcare, the state's busiest abortion clinic, to close because it could not afford to make the changes needed to comply with this legislation.

North Carolina Gov. Pat McCrory (R) signed a number of new abortion restrictions into law, including a provision directing state officials to regulate abortion clinics like surgical centers. Republicans, who control the legislature but wanted to avoid public debate and deliberation on this bill, attached it at the eleventh hour to a motorcycle safety bill. If it withstands court challenge, the new law will close nearly all of the state's women's health centers.

Mandatory Counseling, Waiting Periods, and Ultrasounds Before Abortion

The effort to make abortion more costly and cumbersome continued in 2013. Waiting periods were proposed in 14 states and passed in Kentucky. Seven states proposed mandated counseling, which passed in Ohio and Kansas. For example, in Kansas, Planned Parenthood has sued the state over a law that violates doctors' free speech rights, requiring them to inform women seeking abortions that they are ending the life of a "whole, separate, unique, living human being." Ohio's bill would require providers to falsely inform patients that the abortion would increase their risk of breast cancer, [a claim that has been soundly rejected by medical experts.](#)

Wisconsin's Republican-led State Assembly passed a mandatory ultrasound bill in early June which requires the provider to administer an ultrasound whether it is medically necessary or not. Then they must give the pregnant woman images, a description of the fetus and a visualization of a fetal heartbeat before providing the abortion. Republican Gov. Scott Walker signed the bill, but a court has temporarily blocked enforcement.

A similar mandatory ultrasound bill has been introduced in Ohio, and this one requires non-consensual trans-vaginal ultrasounds, which many have rightly characterized as state-sponsored rape, for early-term abortions. The abortion provider would have to describe to women "all relevant features" of the fetus visible in an ultrasound image. Indiana, Kentucky, and Ohio are considering similar legislation.

State Protection of Misinformation

A new tactic is legislation that shields medical professionals from liability for misleading women about their pregnancies or their health status in order to dissuade or prevent them from choosing abortion. In Kansas, such a law went into effect in July, while in Montana, Gov. Steve Bullock (D) allowed a similar bill to go into effect in October without his signature.

Numerous states are also considering allocating large sums of money to “inform” women that childbirth and adoption are alternatives to abortion, as if they didn’t already know. These measures not only insult women’s intelligence, but also funnel tax away from actual medical services. \$700,000 has been proposed for these purposes in Michigan and \$5 million is awaiting action by Texas Gov. Rick Perry. Missouri and Ohio have similar pending legislation.

Parental Involvement

Legislation requiring greater involvement of parents of minors when they are seeking abortion has been enacted in Arkansas, Montana, and Oklahoma. These laws include provisions such as requiring a parent to provide a government-issued identification and prove parental status via “written documentation”, leaving appeals to judges as the only way to seek an abortion in many cases. The Oklahoma law establishes a process that a judge needs to follow when considering whether a waiver of notification will be issued. The Arkansas law also requires reproductive health clinics to report child sexual abuse and preserve fetal tissue when minors younger than 14 have an abortion.

After a decades-long struggle, the Illinois Supreme Court has upheld a 1995 law requiring a parent be notified before a minor obtains an abortion. It took effect in August.

Family Planning Being Defunded

Ohio and Oklahoma moved to bar family planning providers from receiving funding that flows through the states’ treasuries. These clinics provide a range of basic reproductive health services, including mammograms, cervical cancer screenings, birth control and STD/HIV screening. Oklahoma’s budget denies family planning providers state funds, along with Title X dollars or federal block grant funds related to maternal and child health or social services. Ohio established a priority system for allocating state or federal funds (including Title X dollars) that puts family planning providers at the bottom of the list.

*This page has been adapted from “War on Women’s Reproductive Rights Escalates in the States” from August 2013.
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