



# State Laws Regulating Reproductive Rights

## Abortion Bans

- Fifteen states (AL, AZ, AR, CO, DE, LA, MA, MI, MS, NM, OK, UT, VT, WV, WI) criminally ban abortion throughout pregnancy, even though *Roe v. Wade* makes these laws unconstitutional and unenforceable. LA and UT enacted their bans after *Roe*. LA, MS, ND, and SD's "trigger" bans will come into effect if the Supreme Court overturns *Roe*.<sup>1</sup>
- South Dakota successfully passed extreme legislation to outlaw all abortion in 2005, but it was subsequently rejected by voters at the polls.<sup>2</sup>
- In 2007, thirteen state legislatures considered twenty-six measures banning abortion.<sup>3</sup>
- Twenty-two states impose unconstitutional, unenforceable bans on abortions as early as the 12<sup>th</sup> week of pregnancy.<sup>4</sup>

## Biased Counseling & Mandatory Delays

- Laws in thirty-one states currently prohibit women from having abortions until they undergo biased counseling, mandatory delays, or both. In DE, KY, MA, MI, MT, SD, and TN courts have found such laws fully or partially unconstitutional.<sup>5</sup>
- Mandatory delays of hours or days increase medical risks by inhibiting earlier, safer abortions. Delays may force women to make several trips to a clinic, creating a time burden as well as a potential financial burden.<sup>6</sup>
- The mandated counseling interferes with the physician-patient relationship and the woman's private decision process. It is often misleading, designed to discourage abortion.<sup>7</sup>

## Counseling Bans (AKA "Gag Rules")

- Gag rules prohibit healthcare organizations that receive any state or federal funds from providing counseling or referral to abortion services. These laws obstruct responsible treatment and deny women full information with which to make reproductive decisions.<sup>8</sup>
- Nineteen states currently have partial or complete gag rules in effect.<sup>9</sup>

## Emergency Contraception

- Laws in thirteen states (AR, CA, CO, CT, IL, MA, MN, NJ, NM, NY, OR, SC, WA) improve access to EC and information about EC for sexual-assault survivors in hospitals.<sup>10</sup>

## Freedom of Choice Acts

- Only seven states (CA, CT, HI, ME, MD, NV, WA) have codified a woman's right to choose.

## Access and Coverage for Contraception

- Twenty-seven states have passed laws ensuring that private insurance covers prescription contraception to the same extent as other medications.<sup>11</sup>

<sup>1</sup> WHO DECIDES?, NARAL PRO-CHOICE AMERICA & NARAL PRO-CHOICE AMERICA FOUNDATION 12 (17<sup>th</sup> Ed. Jan. 2008).

<sup>2</sup> Associated Press, South Dakota Abortion Ban Rejected, USA TODAY, Nov. 8, 2006, available at [http://www.usatoday.com/news/politicselections/vote2006/SD/2006-11-08-abortion-ban\\_x.htm](http://www.usatoday.com/news/politicselections/vote2006/SD/2006-11-08-abortion-ban_x.htm).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id. at 14.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id. at 15.

<sup>9</sup> Id.

<sup>10</sup> Id. at 24.

<sup>11</sup> Id. at 27.



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- Six states (CA, IL, ME, NV, NJ, WA) require that pharmacies fill birth control prescriptions, although a pending legal challenge has resulted in an injunction on the Washington law.<sup>12</sup>

## Insurance Coverage for Abortion

- Laws in 17 states (AR, CO, ID, IL, KY, MA, MS, MO, NE, ND, OH, OK, PA, RI, SC, VA, WI) prohibit private insurance plans from covering abortion services for public employees.<sup>13</sup>
  - In RI, courts have found two insurance prohibition statutes unconstitutional and unenforceable, one in full and one in part.

## Pro-Choice Legislation

- In 2007, twenty-eight states enacted eighty pro-choice measures.<sup>14</sup>
  - Seventeen of these laws emerged from NARAL's Prevention First initiative.<sup>15</sup>
- Sixteen state constitutions (in AK, AZ, CA, CT, FL, IL, IN, MA, MN, MT, NJ, NM, OR, TN, VT, and WV) better protect reproductive rights than the U.S. Constitution.<sup>16</sup>

## Protection from Clinic Violence

- Laws in sixteen states and Washington, D.C. protect healthcare facilities, providers, and patients from harassment and violence.<sup>17</sup>

## Restrictions on Young Women's Access to Abortion

- Forty-three states require parental consent or notification before a minor can terminate a pregnancy. Courts have found these laws unconstitutional in seven states.<sup>18</sup>
- Studies have shown that a lack of confidentiality prevents young women from seeking needed health care services.<sup>19</sup>
- Even when laws provide teens with a judicial bypass option, courts often assign anti-choice judges and appoint an attorney as guardian ad litem to represent the fetus.

## Spousal Notification

- Unconstitutional, unenforceable laws in eight states (CO, IL, KY, LA, ND, PA, RI, SC) require spousal notification or consent for married women seeking abortions.<sup>20</sup>

## Targeted Regulations of Abortion Providers (TRAP) Laws

- These regulations often impose medically unnecessary requirements more stringent than those applied to comparable medical practices, increasing the cost of abortion and causing women to delay or forego abortion.<sup>21</sup>
- Thirty-three states have TRAP laws; twenty-five restrict abortion services to hospitals and specialized facilities.<sup>22</sup>

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<sup>12</sup> Id. at 26.

<sup>13</sup> Id. at 16.

<sup>14</sup> Id. at 5.

<sup>15</sup> Id.

<sup>16</sup> Id. at 30.

<sup>17</sup> Id. at 29.

<sup>18</sup> Id. at 19.

<sup>19</sup> Cynthia Dailard and Chinué Turner Richardson, Teenagers' Access to Confidential Reproductive Health Services, 8 GUTTMACHER REPORT ON PUBLIC POLICY 6, 9 (2005), <http://www.guttmacher.org/pubs/tgr/08/4/gr080406.pdf>.

<sup>20</sup> Id. at 20.

<sup>21</sup> Id. at 21.

<sup>22</sup> Id.