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Abortion Rights Policy

What's the Problem?

Since the 1973 U.S. Supreme Court decision in *Roe v. Wade* provided women with safe and legal abortion, subsequent decisions have resulted in states having enacted a total of 1,142 restrictions to abortion access. This has created a patchwork of laws that impact women's health inconsistently and impose financial hardship.

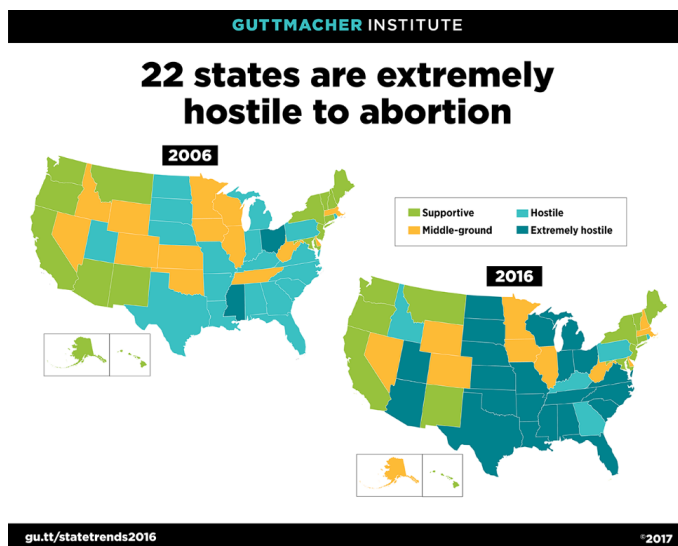
Just in the first three months of 2017, state legislators introduced 1,053 measures related to reproductive health, including 431 restrictions to abortion services. Like a game of whack-a-mole, each new restriction is met with a counter lawsuit.

In 2016, 50 new restrictions were enacted including:

- Strict facility requirements (equipment, staffing and more)
- TRAP (“targeted regulation of abortion providers”) laws or physician bans
- Mandatory counseling of medically inaccurate information
- Unnecessary ultrasounds and required waiting periods
- Parental notification and consent requirements for minors
- Gestation limits and bans on dilation and evacuation abortion

Who's at Risk?

As many as 57% of American women of reproductive age (15-44) are living in states hostile to abortion rights—with six or more restrictions to access, from inappropriate restrictions on medication abortion to a scarcity of providers. In the Southern U.S., it impacts 93% of women and in the Midwest, it is 68%.



Millions of women live in states with restrictions to abortion access from both public financing as well as private health plans under the Affordable Care Act. In 40 states, healthcare providers at religious-affiliated facilities can refuse to perform an abortion even in cases of rape, incest, fetal abnormality, and when endangering a women’s life. With possible changes to the ACA, more restrictions are expected.

Since the 1977 Hyde Amendment prohibited federal dollars for abortion coverage, 28 million women are impacted, including:

- Federal Employees covered by the Health Benefits program, including military personnel, veterans, prisoners, Peace Corps volunteers, as well as American Indians and Alaska Natives insured by the Indian Health Service.
- Women insured by Medicaid, Medicare and Children’s Health Insurance Program, as well as women with disabilities; low-income and people of color, are disproportionately impacted (27 percent are African-American, 18 percent are Hispanic and 6 percent are multiple-ethnicity).

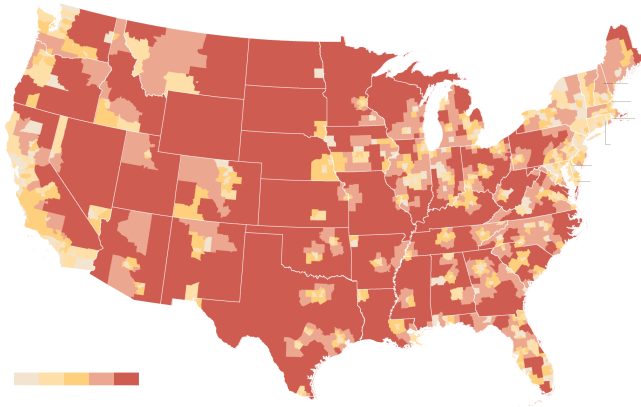
GUTTMACHER INSTITUTE

Legislation to ban all or some abortions, January to March 2017

	Introduced	Passed a chamber	Enacted
All abortions	Colorado, Indiana, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, Texas		
Abortion at or after:			
Six weeks*	Alabama, Mississippi, Missouri, New York, Oklahoma, Tennessee, West Virginia		
12 weeks*	South Carolina		
20 weeks postfertilization	Florida, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Missouri, Montana, New Jersey, New York, Pennsylvania, Texas, Virginia	Iowa, Montana, Pennsylvania	Kentucky
24 weeks* or viability	Montana, New Jersey, New Mexico, Washington	Montana	
Common and safe method for second-trimester abortions	Arkansas, Illinois, Massachusetts, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas	Pennsylvania, South Carolina, Texas	Arkansas
Sex-selective abortion	Arkansas, Illinois, Maryland, Missouri, New York, Oregon, Rhode Island, Texas		Arkansas
Race-selective abortion	Illinois, Missouri, Texas		
Abortion due to genetic anomaly	Illinois, Missouri, Oklahoma, Texas	Oklahoma	

*Number of weeks after the woman’s last menstrual period

Congress recently passed legislation in April 2017 allowing state and local governments to withhold federal funding for family planning services, including contraception and pregnancy care, STDs, breast and cervical cancer testing and treatment. This law interferes with healthcare for women with the highest need for financial assistance and could result in closed clinics. In addition to not being able to pay for the procedure itself, without insurance or help, many women cannot afford to also lose wages and pay for lodging and child care that are incurred with unnecessary requirements.



5 mi. 10 20 40 Access to abortion clinics (from 5 to 40 or more miles):

<http://www.nytimes.com/interactive/2016/02/29/us/why-the-abortion-clinics-have-closed.html>

Can Restrictions to Abortion Access be Prevented?

As states scramble to add more restrictions to abortions and insurance coverage, intended to chip away at legal abortions, each new law is met with a counter lawsuit to strike it down. A dramatic example is the Texas judge who recently succeeded at blocking a rule to mandate *burial* or cremation of fetal remains.

In March 2016, the Supreme Court upheld the constitutional protections for abortion rights with *Whole Women's Health v. Hellerstedt*. The court ruled against another Texas law that required clinics to meet hospital standards and doctors to have admitting privileges at nearby hospitals. This unnecessary law would have resulted in the closure of most state clinics. The decision that it placed an "undue burden" on women can be used to challenge other states with similar laws.

Despite the increase in limitations, in 2016 several states adopted expanded reproductive health services by requiring insurance coverage to include contraception, comprehensive sex education and access to emergency contraception. But Congressional efforts, such as the Equal Access to Abortion in Health Insurance Act, are stalled. With abortion rights under assault, it is expected to meet further opposition, including the ultimate hope of reversing *Roe v. Wade*.

The Bottom Line

Safe and legal abortion has been a woman's Constitutional right in the U.S. for more than 40 years, but state and federal lawmakers continue to impose laws to limit women's decisions and control over their bodies in lieu of repealing *Roe v. Wade*.

Case Example

Jessica was completing her sophomore year at a college in a small Texas town when she discovered she was pregnant. She always used a diaphragm but worried about a night at a fraternity party when she feared her drink was drugged and she had nonconsensual sex. The university counselor dismissed the idea and recommended she visit a nearby woman's health center. When Jessica asked about an abortion, the staff person tried to dissuade her from terminating her pregnancy and to consider adoption, warning her about the risk of breast cancer, chronic depression from "post-abortion syndrome" as well as fetal pain. Jessica was confused and alarmed. She was told to "think it over," since the local Christian hospital wouldn't perform an abortion.

Upset about her situation and feeling lost, Jessica spoke with a friend who encouraged her to come to Houston where she wouldn't encounter such obstacles. She took time off school, missing finals, and rode a bus for hours. The clinic insisted she obtain an ultrasound and have mandatory counseling where they showed her the image and then required a 24-hour waiting period before the procedure. This unnecessary ordeal troubled her but she also faced additional costs. As a scholarship student, she'd didn't have money to cover the expenses of the 4-day trip. Her mother had died of cancer the year before but she was afraid to tell her conservative religious father. Jessica struggled with the debt as she pursued a summer job that might have to continue, preventing her from completing the next school year.

Resources:

- State by state abortion laws – Guttmacher Institute
<https://www.guttmacher.org/state-policy/explore/overview-abortion-laws>
- Laws Affecting Reproductive Health and Rights: State Policy Trends 2017:
<https://www.guttmacher.org/article/2017/04/laws-affecting-reproductive-health-and-rights-state-policy-trends-first-quarter-2017>
- States hostile to abortion: <https://www.guttmacher.org/infographic/2017/93-women-south-live-state-hostile-or-extremely-hostile-abortion>
- Women's Health Protection Act: <http://www.actforwomen.org/the-womens-health-protection-act/>
- CDC Reproductive Health Data: http://www.cdc.gov/reproductivehealth/data_stats
- National Abortion Federation: <https://prochoice.org>
- Center for Reproductive Rights: <http://reproductiverights.org/>