

**PROTECT**

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**DEFEND**

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**EXTEND**

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State of  
the States  
2018

December 2018

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# CURRENT CONTEXT

In the past 12 months, many forces have strengthened and shifted in the U.S. political arena, continuing to reshape the legal and legislative landscape of reproductive rights in America.

Most notably, the Supreme Court lost its last “moderate” justice—Justice Anthony Kennedy—to retirement, and the country witnessed a bruising confirmation for Justice Brett Kavanaugh that threw into high relief the politicization of the judicial-appointment process, as well as the entrenched partisan divide in our government, as the Senate delivered a firm shift of the political balance of the country’s highest court. The confirmation process also exposed how sharp the lines are between those who support reproductive rights and those who are actively working to reduce a woman’s<sup>1</sup> autonomy in making private decisions that impact her health, her family, and her future—decisions in which the government has no place. The specter of a potential overturn of *Roe v. Wade* grows ever clearer.

<sup>1</sup> Although this report uses female pronouns as well as the term “woman,” we recognize that people who do not identify as women still need access to a full range of reproductive health care services, including access to abortion care and contraception. The Center intends that all policy recommendations made in this document apply to all people who need access to reproductive health care.

But *Roe* doesn't need to fall in order to be effectively gutted, and anti-abortion state legislatures have been leaning hard into their power to attack abortion access for women across America, especially in the South. During the 2018 legislative session alone, almost 200 bills restricting abortion were introduced, 28 of which were enacted, continuing the nearly decade-long coordinated strategy to shutter clinics with burdensome regulations or sham bans, forcing women to drive for hours or into other states to access services.

Anti-abortion legislative trends in 2018 included an increased number of abortion bans earlier and earlier in pregnancy—including six-week bans, the earliest bans ever passed—as well as a continued strategy of banning abortion method by method. In response to this increasingly hostile environment, women's health advocates led policy efforts that not only protect and expand access to these vital services, but that also hone in on the many underserved populations (young, poor, rural, people of color) that these restrictions impact the most. The Center for Reproductive Rights tracked almost twice as many bills that advance access to reproductive rights and saw a much higher percentage of those bills enacted as compared to the previous year. Despite these positive indicators, however, restrictive bills still vastly outnumber legislation to increase access.

The good news is that the 2018 midterm elections resoundingly brought forth a new wave of state leadership, as voters elected groundbreaking numbers of women, women of color, queer people, and young people to represent them. Many of these candidates espoused bold platforms that celebrated reproductive health, rights, and justice, and also pledged to protect access to reproductive health care.

# The specter of a potential overturn of *Roe v. Wade* grows ever clearer.

As the year draws to a close, both supporters and opponents of reproductive rights are girding themselves for the 2019 legislative session, in which anything could happen, due to these recent influences. The heightened federal threats against the legal right to abortion, coupled with hostile state legislatures' unceasing attacks on access to reproductive health services, underscores the importance of safeguarding access to care at the state and local levels now more than ever.

This report provides an overview of the most recent state legislative trends restricting access to abortion; the proactive approaches state policymakers are employing to strengthen access to reproductive health care; and a summary of the types of legal challenges that could impact the future of abortion rights for millions of women across the country. In the face of so many unknowns, the Center is clear about one certainty: we, along with our clients and partners, will work

tirelessly until a woman's bodily autonomy and agency over her reproductive life are guaranteed in law and protected from election outcomes and partisan politics. We will advocate for these principles in legislative bodies, articulate these values in the public sector, and go to court to strike down laws that limit our precious and bedrock freedoms. This is our promise.

*All data within this report is valid as of December 14, 2018.*

# GUTTING *ROE*: STATE TACTICS TO LIMIT ABORTION ACCESS

Abortion rights opponents in state legislatures have been coordinating and preparing for an anti-abortion majority on the Supreme Court for years.

They have been intent on passing laws that directly challenge *Roe*, both to attempt to limit access in the short term, but also to set the stage for a case to make its way to the Supreme Court to challenge existing precedent on abortion rights. In 2018, amidst rumors of Justice Kennedy's retirement from the Court, even more of these restrictions were considered in state legislatures.

The Center tracked almost 200 bills restricting abortion in 2018. These bills contained 243 individual abortion restrictions. Of these bills, 28, totaling 44 restrictions, were enacted in the states.

In 2018, abortion opponents focused their efforts on passing unconstitutional laws that (1) ban abortion before viability; (2) ban one of the most common and safe methods of abortion past 15 weeks; and (3) ban abortion when a genetic anomaly is detected.

## PRE-VIABILITY BANS

Abortion opponents continue to advance legislation banning abortion earlier and earlier in pregnancy. The Center tracked 14 so-called “heartbeat” bans this year, which attempt to outlaw abortion as soon as a provider can detect a heartbeat, which is often as early as six weeks, when most people do not even know they are pregnant. One state, **Mississippi**, introduced *five* different iterations of this ban. In December, the **Ohio** legislature approved such a ban.

Additionally to the six-week bans cited above, 20-week bans continued to proliferate as in years past, and for the first time, 15-week bans were introduced—and passed—in **Mississippi** and **Louisiana**. The Center challenged Mississippi’s ban and, in November, U.S. District Judge Carlton Reeves resoundingly rejected the law, saying that it “unequivocally” violated constitutional law. (He went on to add that Mississippi’s professed interest in women’s health was “pure gaslighting.”)

## METHOD BANS

The Center tracked 11 bills banning the D&E procedure, a restriction known as a “method ban.” D&E procedures are the preferred standard of care for abortion past 14 weeks. When states ban a preferred abortion method approved by the medical community, pregnant people are forced to undergo additional, invasive, and unnecessary procedures to obtain abortion care. This legislation harms patients and prevents doctors from exercising their best judgment. The **Ohio** legislature passed one such ban, SB 145, which as of December 13, 2018, is eligible for the governor’s signature. Center attorneys are currently litigating a method ban that **Texas** passed in 2017, in a case that might make its way to the Supreme Court.

## BANNING ABORTION IN THE CASE OF GENETIC ANOMALY

Banning abortion when a patient may be motivated by the diagnosis of a fetal genetic anomaly was a trend in 2018, and many of these bills focused on Down syndrome, threatening physicians with liability if they perform an abortion for a patient who has received a fetal Down syndrome diagnosis or indication. The Center tracked ten such bills in 2018. These bills harm patient access to quality care by infringing on the doctor-patient relationship and entering a family’s private decision-making, while also utterly failing to create policies that support children with disabilities—the purported reason for these bans in the first place.

“Pure  
gaslighting”



# LOUISIANA ENACTED MORE ANTI-ABORTION BILLS THAN ANY OTHER STATE IN 2018

Lawmakers in **Louisiana** introduced 11 anti-abortion bills, some of which were attempts to circumvent litigation concerning previous legislation. The following were among the bills that passed:

## BIASED COUNSELING

The legislature requires the Louisiana Department of Health to publish and distribute a “Woman’s Right to Know” publication about adoption, and also requires providers to give information about programs and services related to a diagnosis of fetal genetic anomalies to women prior to performing an abortion.

## HARASSMENT OF PROVIDERS

Legislation was passed that awards \$1,000 to any person who acts as a “whistleblower” by reporting abortion providers who violate the state’s ban on fetal tissue research and activities related to it. By offering a monetary incentive, this policy encourages anti-abortion activists to expose providers to biased government investigations.

## 15-WEEK BAN

Anti-abortion lawmakers faced substantial pushback as they tried to move this legislation forward. Knowing this law is blatantly unconstitutional and would immediately be enjoined, the lawmakers amended the bill so that its date of effectiveness was contingent upon the results of our 15-week ban litigation in **Mississippi**, which the Southern District of Mississippi found unconstitutional on November 20, 2018.



# ANTI-ABORTION BALLOT MEASURES

During midterm elections, abortion opponents anticipating a future without *Roe* pushed for anti-abortion constitutional amendments in **Alabama**, **Oregon**, and **West Virginia**. Despite strong opposing campaigns from state advocates, these measures passed in Alabama and West Virginia.



## ALABAMA'S AMENDMENT 2

On November 6, 2018, voters in **Alabama** passed Amendment 2. This measure declares the state's policy to recognize the rights of zygotes, embryos, and fetuses during any point of development and that there is no state constitutional right to abortion or public funding for abortion. This amendment could be used to prohibit abortion entirely if *Roe* is scaled back or overturned.



## OREGON'S MEASURE 106

In **Oregon**, voters resoundingly rejected Measure 106, which would have blocked the state from providing public funding for abortions except for medically necessary procedures or those required by federal law.



## WEST VIRGINIA'S AMENDMENT 1

Amendment 1 states that there is no state constitutional right to abortion or public funding of abortion. Unfortunately, this anti-abortion measure prevailed by a thin margin and had an immediate and significant impact as **West Virginia** stopped providing public funding for abortion at 7:30pm on November 6, 2018. The amendment in full could become operable if *Roe* is scaled back or overturned.

Blatantly  
unconstitutional

**WV FREE ON  
THE PASSAGE OF  
AMENDMENT 1**

“Alas, we fell short. They very narrowly outnumbered us, and their victory will have shattering repercussions if we do not act with the urgency the situation demands. We are channeling our outrage in ways that will ensure that not one woman or girl will be forced to bring a pregnancy to term that she decides is not in her best interest. Period. If those who oppose abortion rights thought they would silence us with this vote, they made a serious miscalculation. We have emerged from this more determined than ever.”

—MARGARET CHAPMAN POMONIO,  
EXECUTIVE DIRECTOR OF WV FREE

**“More determined  
than ever”**



**WV FREE AND THEIR SUPPORTERS RAISE THEIR VOICES AT A "NO ON 1" RALLY AT THE STATE CAPITAL IN CHARLESTON**

# FIGHTING BACK: PROACTIVE STRATEGIES TO SECURE RIGHTS

Thanks to the strong leadership of state legislators and advocates, proactive strategies continued to gain momentum during the 2018 session.

These policy efforts are changing the narrative around reproductive health, expanding access to abortion services and contraceptive care, and providing open and honest reproductive health care services to communities across the country. Our team tracked almost twice as many proactive bills as last year, and a much higher proportion of those bills were enacted this year.

# IMPROVING INSURANCE COVERAGE

Legislators in numerous states enacted measures to require insurance coverage for reproductive health care.

## CONTRACEPTION

States aggressively continued to pursue improved insurance coverage for reproductive health care services. At least 17 states introduced measures to codify the birth control benefits of the Affordable Care Act (ACA), which requires health plans in their state to cover FDA-approved birth control with no copay. Those measures passed in **Connecticut, Delaware, Maryland, Rhode Island, Washington,** and **Washington, D.C.**

## BEYOND BIRTH CONTROL

Some states are pushing even further: **New Jersey**, in addition to restoring \$7.5 million in family-planning funding, introduced a bill that requires coverage of contraceptives with no cost-sharing and requires insurance to cover abortion care.

The **Washington** State Legislature passed Senate Bill 6219, the Reproductive Parity Act, and Governor Jay Inslee signed the bill into law on March 21. Beginning January 1, 2019, health insurance plans in Washington that cover pregnancy care are required by state law to also cover abortion services and other reproductive health care with no cost-sharing. This includes FDA-approved contraceptives, including over-the-counter drugs, devices, and products and preconception, maternity, and postpartum care. Lastly, the legislation required the Governor's Interagency Council on Health Disparities to research access to reproductive health care based on a series of factors; a report is expected in January 2019.



On May 2, **Colorado** introduced House Bill 1438 or the Reproductive Health, Rights, and Justice Act. While not enacted, this bold policy would have required individual and group health insurance plans to cover a full range of reproductive health care services—including screenings for cervical cancer, well woman visits, abortion care, contraception, and more, all with no cost-sharing. The bill aimed to eliminate the five-year waiting period for Medicaid, which prevents immigrants from enrolling. In addition, the legislation expanded current postpartum Medicaid coverage from 60 days to 180 days. Advocates are hopeful for a reintroduction next session.

**CONVERSATION:  
MOVING THE  
NEEDLE IN  
COLORADO**

Karla Gonzales Garcia, Policy and Program Director of **Colorado** Organization for Latina Opportunity and Reproductive Rights (COLOR), discusses the importance of House Bill 1438 (the Reproductive Health, Rights, and Justice Act), and how we can all help push the needle forward.

**THE CENTER**

**One of the leading values behind the Reproductive Health, Rights, and Justice Act, or HB 1438, is reproductive equity for all, no matter your immigration status. In advocating for this bill, how did advocates lift up immigrant communities and their needs?**

**KGG**

As a Reproductive Justice organization, COLOR looks at policies that will help us truly embody the core values that we each decide whether and when to have children and [deserve] to be able to raise our children with safety and dignity. We believe that our struggles around the right to parent or not to parent are not isolated from any other social justice issue that our communities face.

But first: we can't speak about abortion rights without talking about the maternal mortality crisis among Black women. We can't speak about abortion rights while our families are being torn apart due to an incompetent and cruel immigration system. We can't speak about abortion rights without talking about how our Black and Brown kids are being systematically pushed out of schools, into prisons, and lost to state violence. We can't speak about abortion

“We believe that  
our struggles  
are not isolated”

**KGG (CONT.)** rights while we do not have the economic means to access the full range of reproductive health services we need in order to manage our health, and while too many people are denied a living wage and fair workplace policies so that they can care for their families. We can't speak out about abortion rights when young people in our state are denied the ability to access care. But most importantly, we can't speak about abortion rights when we don't have the ability to make decisions about our own bodies when there is a range of obstacles and barriers to access important services that will help us to make those decisions on our own. This bill takes substantial steps in closing the gaps in information and services. It draws a line when it comes to allowing a situation where some people get to make decisions about their futures and their health care and others do not. It allows us to have conversations about the political agendas behind attacks on reproductive health care, who gets hurt most, and how it plays into a larger set of systemic oppressions.

**THE CENTER** **What are some challenges advocates and lawmakers faced in introducing this bill? How do you think these challenges can be overcome in the future?**

**KGG** While we were able to present extended background on the necessity of this bill for our communities, we did not have a lot of research specific to the state on the different issues that this bill is trying to address. We are already working to address this specific challenge, which requires expanding our networks and identifying potential partners that we wouldn't think to engage otherwise. We are also looking at doing polling to definitively prove the strong base of support for the bill.

**THE CENTER** **The Colorado legislature adjourned before any additional action was taken on this bill. How do you plan to activate around this bill moving forward?**

**KGG** For us, it is all about movement-building. We do believe that transformative change happens from the ground up to the top. That's the legacy left from our ancestors, for us to continue the hard work of changing the systems of oppression that try to take away our humanity and our existence in itself. Our system is exclusively designed to make us feel and think we can't change those. However, we never stopped organizing our communities. We just don't give up in one year and let it go.



**KGG (CONT.)**

We will continue to provide education so that people can understand the benefits of this legislation. We will do the research we need to make the strongest case for the bill. We will hold trainings and briefings to engage with and mobilize our communities. We will be ready to show support for the bill and to turn people out to make calls, send emails, attend rallies, testify, and speak out in support of this important policy change.

“Transformative  
change  
happens  
from  
the  
ground  
up”

# IMPROVING ACCESS TO REPRODUCTIVE HEALTH SERVICES

Policymakers in some states deployed new strategies to strengthen access to care by introducing innovative, proactive measures that protect and expand contraceptive coverage and remove barriers to abortion access.



## CALIFORNIA'S SENATE BILL 320

**California's** Senate Bill 320, also known as the “College Right to Access Act,” which requires all on-campus student health centers that are part of the University of California and California State University systems to offer medication abortion services to students, passed with a two-thirds majority in both the California Senate and California Assembly. Although the bill was subsequently vetoed by Governor Jerry Brown, it was reintroduced (SB42) on December 3, 2018. Incoming Governor Gavin Newsom has publicly pledged to support it.



## TENNESSEE LARC ACCESS

Other states are also advancing bills that expand access to contraception. **Tennessee** is paving the way for expanded access to a Long-Acting Reversible Contraceptives (“LARCs”) by advancing legislation that would create a LARC access program to train public health and family planning facilities to ensure they are providing non-coercive counseling, qualified LARC insertions and removal, education and outreach to the public, and other services necessary to improve access to LARCs.



## PHARMACY-DISPENSED CONTRACEPTION

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States across the country, including **South Carolina**, are advancing bills that will, among other provisions, allow pharmacists to provide contraception, thereby lowering barriers to birth control. More than ten states, including **Indiana, Kentucky, and Mississippi**, and the **District of Columbia** have put forth legislation that will permit doctors to prescribe, and pharmacists to dispense, a 12-month supply of contraceptives. Similar measures were enacted in **Connecticut, Delaware, Maryland, New Hampshire, and Rhode Island**.

Lowering  
barriers to birth  
control

## **CALIFORNIA STUDENTS FOR THE RIGHT TO ACCESS**

**California** students led the campaign for a first-of-its-kind abortion-access bill that would provide access to medication abortion at all California public university campus health centers. Senate Bill 320, the “College Student Right to Access Act,” was inspired and pushed forward by students at the University of California, Berkeley.

# **A first-of-its-kind abortion-access bill**

CALIFORNIA  
COLLEGE  
STUDENTS  
RALLY AT  
THE CAPITOL  
FOR SB 320  
COMMITTEE  
HEARING



Students United for Reproductive Justice (SURJ) launched a campaign to address the need for medication abortion to be available in campus health centers. The group organized thousands of student signatures in support of the policy and secured a six-figure grant to implement the service on campus, but Berkeley administrators refused to support implementation. In response, the student leaders partnered with the Women’s Foundation of California, State Senator Connie

Leyva, and other co-sponsoring organizations to write Senate Bill 320, a landmark piece of policy that will provide access to medication abortion for all California public university students. Student leaders built a two-year grassroots campaign called “JustCARE: Campus Action for Reproductive Equity,” which mobilized thousands of California students to participate in lobby days and legislative hearings in Sacramento, both in-person and via digital platforms.

# A FOCUS ON ACCESS DURING INCARCERATION

Several state legislators focused on access to reproductive health care for people who are incarcerated.



## OKLAHOMA'S HOUSE BILL 3393

**Oklahoma** lawmakers passed landmark bipartisan legislation to ensure that pregnant women who are incarcerated can labor and deliver in a safe, supported, and dignified manner. Specifically, Oklahoma House Bill 3393 prohibits the use of restraints on pregnant inmates during labor and delivery, including an explicit prohibition of the use of restraints around the abdomen and restraints that would increase the risk of a forward fall.



## MARYLAND'S SENATE BILL 629

**Maryland** enacted legislation (SB 629) that requires every correctional facility in the state to have a policy in place for the medical care of women who are incarcerated, including prenatal testing, labor and delivery care, abortion care, postpartum care, and counseling. The correctional facilities will be required to provide the policy to women who are incarcerated so that they are aware of their options for pregnancy-related care. A companion piece of legislation, HB 797/SB 598, requires correctional facilities also to have a written policy about menstrual hygiene as well as a sufficient supply of free menstrual hygiene products to meet the needs of incarcerated women.



## ARIZONA'S HOUSE BILL 2222

A bill to secure access to an unlimited, free supply of feminine hygiene products for incarcerated women was also introduced in **Arizona** (HB 2222).

# REMOVING RESTRICTIONS ON ABORTION & CODIFYING THE RIGHT TO ABORTION



More than a dozen states introduced legislation in 2018 to repeal abortion restrictions. One example is the **Virginia** General Assembly, which introduced both a House and Senate version of the Whole Woman's Health Act. These companion bills repeal unconstitutional abortion restrictions and codify the legal right to abortion in state law.



## REMOVING RESTRICTIONS

**Missouri** and **Kentucky** introduced legislation to repeal their mandatory delay requirements, allowing patients to receive abortion care more quickly.

**Arizona** introduced a bill to repeal the state's ban on using telemedicine to administer abortions, and lawmakers in **Maine** attempted to widen the scope of health care professionals allowed to perform abortions.



## CODIFYING PROTECTIONS

With ongoing threats affecting reproductive rights under the shadow of a potentially hostile U.S. Supreme Court, some state lawmakers quickly sought to protect abortion rights in their states. **Massachusetts** Governor Charlie Baker signed the NASTY Woman Act (Negating Archaic Statutes Targeting Young Women) into law late July. This law repealed multiple pre-*Roe* restrictions, including provisions that criminalized abortion, a ban on unmarried people's right to access abortion care and contraceptives, a ban on the distribution of information regarding abortion care, and a policy punishing health care providers for distributing contraception.



In 2018, the **New York** legislature considered a broad bill protecting abortion rights. The New York State Assembly passed the Reproductive Health Act, but the bill did not make it out of the state Senate. Many provisions in the Reproductive Health Act are urgent and relevant in this landscape: it affirms the right to privacy in New York law; removes outdated criminal penalties, including for self-induction; and clarifies that advanced practice clinicians such as nurse practitioners and physician assistants can provide abortion care within their

scope of practice. These medical professionals fill a critical coverage gap in rural areas of the state and would increase the number of providers to assist with a potential influx of patients from other states if access to abortion is restricted in the future. Removing abortion from New York’s criminal code is a crucial step in recognizing that abortion is health care. It is urgent to remove language that could be used to criminalize women who self-manage their abortions as such language is disproportionately used against women of color and women from low-income backgrounds.



**Missouri** and **Vermont** both introduced bills which would have codified the right to abortion in state law by enshrining the protections outlined in *Roe* (Missouri HB 1772; Vermont SB 268).

**Rhode Island** introduced the Reproductive Health Care Act (SB 2163), which would prohibit the state from interfering with any individual’s reproductive health care choices.

Now, more than ever, states must redouble their efforts to pass state laws to guarantee that a pregnant person who has made the decision to end a pregnancy can access safe, respectful care in the state in which they live.



## WHOLE WOMAN'S HEALTH ACT REINTRODUCED IN VIRGINIA

**Virginia** State Senator Jennifer McClellan and Delegate Jennifer Boysko introduced the Whole Woman's Health Act to enshrine the fundamental right to obtain an abortion into Virginia law, repeal state restrictions that impede access to abortion, and make it illegal to enforce a new regulation on abortion that has no legitimate medical benefit. The bill would repeal the state's mandated ultrasound and 24-hour waiting period requirements as medically unnecessary restrictions that are unconstitutional under the 2016 Supreme Court ruling in *Whole Woman's Health*.

This is the second time the Whole Woman's Health Act has been introduced in Virginia. In 2017, the bill was denied a hearing, driving advocates to protest the bill's dismissal outside the committee chambers. In 2018, however, advocates were able to give testimony and explain why this bill is imperative to women and families. NARAL Pro-Choice Virginia, Planned Parenthood, Women's Equality Coalition, and Progress Virginia, along with almost 30 health care providers, impacted Virginians, and other supporters testified in front of the House Courts of Justice Committee on behalf of the bill. While the bill did not pass out of committee, Virginia advocates are building momentum toward restoring reproductive health care access in the state.



STATE LEADERS IN VIRGINIA HOLD A RALLY ON REPRODUCTIVE HEALTH PRIORITIES, INCLUDING THE WHOLE WOMAN'S HEALTH ACT

# THE NEXT CHALLENGE: PREPARING FOR A SUPREME COURT FIGHT

Challenges to state-level abortion restrictions are currently pending in federal courts across the country — including some that are already candidates for Supreme Court review, and others that could ultimately make their way to the Court.

The Supreme Court itself decides what cases it will hear, requiring four justices to vote in the affirmative for a case to proceed before the Court.

There are a number of different types of cases that are currently in the Supreme Court pipeline which could be considered relatively soon, as well as multiple challenges to similar restrictions in earlier stages of litigation, both in federal and state courts. Whether and how the Supreme Court decides to rule on these types of laws will hugely impact the future of abortion jurisprudence, and the lived experiences of millions of women across the country.

## REASON BANS

Reason bans prohibit abortion if sought for a particular reason—for example, on account of the race, sex, or disability of the fetus. Because these bans apply both before and after fetal viability, they are bright-line unconstitutional under *Roe*. After **Indiana**'s reason ban was blocked by a federal district court and the Seventh Circuit Court of Appeals, the state has now asked the Supreme Court to hear the case.

## FETAL TISSUE BURIAL OR CREMATION MANDATES

That same Indiana case also asks the Supreme Court to review a fetal tissue burial or cremation mandate, which has also been blocked by lower courts. In addition to **Indiana, Texas** and **Louisiana** have also enacted these mandates, and litigation in those states is ongoing. The mandates require the burial or cremation of embryonic or fetal tissue following an abortion, prohibiting any other form of transfer or disposal. The Center won a decision from a federal district court permanently blocking Texas's fetal tissue burial law. The state has appealed to the Fifth Circuit Court of Appeals.

## METHOD BANS

Abortion method bans have been enacted in nine states, making it a crime for a doctor to perform a D&E procedure, the preferred standard of care for abortion starting at about 14 weeks. Courts have found that under these criminal bans, the alternative abortion methods available to doctors are “experimental,” “unreliable,” with “unknown risks,” and “no medical benefits to the woman.”<sup>2</sup> After **Alabama**'s method ban was blocked by a federal district court and the Eleventh Circuit Court of Appeals, the state said it will ask the Supreme Court to hear the case. The Center has also successfully blocked method bans enacted in **Texas** and (with the ACLU) in **Arkansas**; these cases are now on appeal in the Fifth and Eighth Circuits, respectively.

<sup>2</sup> *Hopkins v. Jegley*, 267 F. Supp. 3d 1024 (E.D. Ark. 2017); see also *W. Alabama Women's Ctr. v. Miller*, 299 F. Supp. 3d 1244 (M.D. Ala. 2017).

“Unknown risks”  
and “no benefits”

## PRE-VIABILITY BANS

Pre-viability bans have been enacted in several states, flagrantly defying *Roe's* holding that states may not ban abortion before the point of fetal viability. **Mississippi** and **Louisiana** have each enacted a ban on abortion after 15 weeks. **Iowa** enacted a six-week ban and the **Ohio** House and Senate approved six-week bans. Anti-abortion lawmakers and activists have explicitly discussed these laws as vehicles to overturn *Roe*. On November 20, 2018, a federal district court in **Mississippi** found that the state's pre-viability ban is unconstitutional.

## TARGETED REGULATION OF ABORTION PROVIDERS

TRAP laws (“Targeted Regulation of Abortion Providers”) saddle abortion providers with medically-unnecessary restrictions that are burdensome to comply with, forcing providers to stop offering abortion and clinics to close. In its 2016 *Whole Woman's Health* decision, the Supreme Court struck down a **Texas** TRAP law that required doctors to have admitting privileges at a local hospital, and that clinics providing abortion meet hospital-like building standards. Despite that historic ruling, some states still have similar or identical TRAP laws on the books and continue to defend them in court.

## ADMITTING PRIVILEGES

The Center won a decision from a federal district court blocking **Louisiana's** admitting privileges law, but that decision was reversed by a panel of the Fifth Circuit Court of Appeals. The Center has asked the full Fifth Circuit to hear the case.

# Flagrantly defying *Roe*

## ABORTION RIGHTS OF IMMIGRANTS

The Trump administration's Office of Refugee Resettlement (ORR) has refused to allow unaccompanied immigrant minors held in its custody to leave detention centers to access abortion, while subjecting them to coercive counseling and pressure from officials (including its director, anti-abortion activist Scott Lloyd) to carry to term. Under the administration's policy, minors in federal custody have been able to receive abortions only under federal court order, even when ORR had existing knowledge that a minor's pregnancy was the result of rape.

A federal district court has blocked the administration's policy. The administration has appealed to the D.C. Circuit Court of Appeals.

## DE-FUNDING ABORTION PROVIDERS

Many states—among them **Arkansas, Kansas, and Louisiana**—have prohibited Planned Parenthood from receiving reimbursement for serving patients who are enrolled in Medicaid. After state attempts to defund Planned Parenthood in Louisiana and Kansas were blocked by federal district courts and by the Fifth and Tenth Circuits respectively, each state asked the Supreme Court to hear its case. On December 10, 2018, the Court declined to hear those cases with Justices Thomas, Alito, and Gorsuch dissenting.

Some states, including **Ohio**, have also prohibited their health departments from awarding non-Medicaid funds for state health programs unrelated to abortion. For example, funding dedicated to sex education, STD testing, and breast cancer screening—to entities that “promote,” let alone provide abortions, or even contract with such entities. Ohio's law was blocked by a district court and a panel of the Sixth Circuit Court of Appeals. The full Sixth Circuit agreed to rehear the case, and a decision is pending.

**FOR ADDITIONAL  
INFORMATION  
AND TECHNICAL  
ASSISTANCE,  
CONTACT US**

The Center is proud to support independent abortion providers and state advocates around the country. For more information or technical assistance, or to sign up for our monthly e-newsletter on proactive policy developments and resources, please contact Ashley Gray at **[statepolicy@reprorights.org](mailto:statepolicy@reprorights.org)**.

For all press inquiries, please contact **[press@reprorights.org](mailto:press@reprorights.org)**.



