

**UNDER ATTACK:**

**REPRODUCTIVE RIGHTS  
IN THE 112<sup>TH</sup> CONGRESS**

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CENTER  
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RIGHTS

## The Center's Mission and Vision

The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.

Reproductive freedom lies at the heart of the promise of human dignity, self-determination and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. The Center works toward the time when that promise is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.

# INTRODUCTION

The 112<sup>th</sup> Congress earned two dubious distinctions. First and foremost, its two-year term was marked by a relentless assault on reproductive freedom. This ranged from bills that would defund Planned Parenthood at home to efforts to gag community organizations overseas from even discussing safe abortion services. The 112<sup>th</sup> Congress waged a protracted, but ultimately futile, war on women and their fundamental right to access affordable reproductive health care free from coercion or discrimination.

Second, and not coincidentally, the 112<sup>th</sup> was the most unpopular Congress in U.S. history.<sup>1</sup>

This report tells the story of the 112<sup>th</sup> Congress as it pertains to reproductive choice. The story is simultaneously shocking (insofar as it details the unceasing attack on reproductive rights) and hopeful (because reasonable lawmakers took a stand and rejected these attacks). Two key lessons emerged from this turbulent congressional session.

The first is that anti-choice ideologues will stop at nothing in their quest to erect new and numerous barriers to reproductive health care, either by devising their own schemes to thwart access to reproductive services or by larding up unrelated bills with draconian, anti-choice provisions. Legislators in the 112<sup>th</sup> Congress filed at least 87 bills containing proposals to dismantle reproductive rights—starting from their first moments in office.<sup>2</sup>

The second lesson, however, is more reassuring: women—and their partners, families, and friends—*will not stand for these attacks*. Ultimately, sensible lawmakers drew the line and succeeded in blocking this radical, anti-woman agenda, and the 112<sup>th</sup> session came to a close on a positive note for reproductive rights advocates and their allies in Congress.

# SETTING THE STAGE FOR THE 112TH CONGRESS

Many of the battles fought in the 112<sup>th</sup> Congress were foreshadowed by the 111<sup>th</sup>. The use of abortion as a bogeyman during the national debate over health care reform, followed by the rise of the Tea Party movement, were harbingers of what would become troublingly recurring policy skirmishes in the following Congress.

## *Health Care Reform and Abortion Coverage*

The signature achievement of the 111<sup>th</sup> Congress was the passage, in March 2010, of the Patient Protection and Affordable Care Act (ACA), a comprehensive health care reform bill with the goal of extending health insurance coverage to more than 30 million people.<sup>3</sup> Despite the enormous scale of the reform effort, which aimed at improving health care and lowering costs nationwide, anti-choice activists and legislators publicly positioned abortion coverage as a make-or-break issue in the year leading up to its passage. In so doing, they nearly derailed the entire process on multiple occasions.

While pro-choice lawmakers were able to prevent the inclusion of an outright federal abortion-coverage ban in the law, the final bill did include a provision requiring those enrolling in plans offering abortion coverage in the new state-based exchanges to make two separate payments—one for abortion coverage and another for everything else—because many individuals purchasing coverage in the exchanges would be receiving federal premium assistance.<sup>4</sup> This policy, known as the Nelson Amendment (after retired senator Ben Nelson (D-NE)), also permits states to enact bans on abortion coverage in their exchanges.<sup>5</sup>

Sadly, even these draconian restrictions were not enough to appease some anti-choice lawmakers. To secure the necessary votes, President Obama promised to issue an executive order confirming that the law would not provide for federal coverage of abortion services, except in the limited circumstances of pregnancies resulting from rape or incest or when an abortion is necessary to save the life of the woman.<sup>6</sup> Only after extracting this promise did enough lawmakers agree to support the bill.

But the debate over abortion coverage—and, for that matter, the entire ACA—did not end there. To the contrary, the battles fought in the 111<sup>th</sup> Congress paved the way for ongoing and increasingly broad attacks on reproductive health care and insurance coverage in the next session.

## *The 2010 Elections and the Rise of the Tea Party*

The biggest story of the 2010 midterm elections was the rise of the Tea Party, an anti-government movement.<sup>7</sup> According to the Pew Research Center, Tea Party supporters made up over 40 percent of the 2010 electorate.<sup>8</sup> These voters swept dozens of candidates into the House of Representatives,<sup>9</sup> and incumbent conservatives—fearful for their reelection chances—increasingly adopted Tea Party positions as its momentum grew. By the end of July 2011, the “official Tea Party Caucus” in the House of

Representatives numbered 60, more than a dozen of whom were freshman members elected in 2010.<sup>10</sup> In addition, many Republican legislators “rode the Tea Party wave,” praising the movement and affirming shared values to capitalize on its momentum, without officially joining the caucus.

Despite some claims that this “new” breed of conservatives eschewed social issues, Tea Party supporters tended to adopt extreme positions on issues like abortion and same-sex marriage, with nearly six in ten saying that abortion should be illegal in all or most cases.<sup>11</sup> This radical anti-choice agenda came boldly to the forefront in the early days of the 112<sup>th</sup> Congress.

# JANUARY 2011: THE BELLWETHER FOR THE 112TH CONGRESS

The 112<sup>th</sup> Congress convened on January 5, 2011, and anti-choice members in the House of Representatives wasted no time in laying out their aggressive agenda. Indeed, the new GOP majority's published plan, *A Pledge to America*, unapologetically called for an end to any taxpayer funding – or even government subsidies for private insurance – for abortion coverage, with no exceptions for pregnancies in the cases of rape, incest, and life endangerment.<sup>12</sup>

Rep. John Boehner (R-OH), known for his anti-choice voting record after 20 years in office,<sup>13</sup> became Speaker of the House, and the majority proceeded to file a half-dozen bills hostile to reproductive rights *in just the first month*:

- A bill to eliminate abortion coverage from the health insurance exchanges, penalize employers offering comprehensive health insurance coverage, and permanently codify harmful federal coverage restrictions (H.R. 3, see more below);<sup>14</sup>
- A bill to ban abortion coverage for the millions of women seeking health insurance in the new state exchanges, and to allow hospitals and other providers to deny emergency abortion services (H.R. 358, see more below);<sup>15</sup>
- A bill denying Title X family planning funds to providers that offer abortion services, even if those services are paid for using non-Title X funds;<sup>16</sup>
- A bill allowing health care providers to refuse to provide abortion services without any protections for the women seeking the services;<sup>17</sup>
- Two bills granting personhood status from the moment of fertilization;<sup>18</sup>
- A resolution in support of crisis pregnancy centers (CPCs)—organizations that are set up to counsel women against abortion and are notorious for providing misleading information—and a bill to fund them.<sup>19</sup>

At the same time, legislators in the House embarked on a symbolic campaign to repeal the Affordable Care Act, which, among many other things, significantly expanded access to reproductive health care services. On January 5, Majority Leader Eric Cantor (R-VA) introduced the Repealing the Job-Killing Health Care Law Act, and the House passed it two weeks later.<sup>20</sup> Four other bills aimed at repealing or defunding the ACA were also introduced in the House before the end of the month, and one companion bill was filed in the Senate.<sup>21</sup> In addition, a resolution introduced on January 5 instructed certain committees to report out legislation that would replace the ACA, prohibit public coverage of abortion services, and grant refusal rights to health care providers. Within three weeks, the House voted to pass it.<sup>22</sup>

This flurry of activity during January was emblematic of the 112<sup>th</sup> Congress. Over the next two years, the House voted to repeal the ACA at least 33 times,<sup>23</sup> and anti-choice members in the House – and sometimes in the Senate – went to great lengths to try to restrict access to abortion services and other reproductive health care for women.



KEEP YOUR  
LAWS OFF  
MY BODY

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# DENYING ABORTION COVERAGE AND CARE: HR3 AND HR358

## *The No Taxpayer Funding for Abortion Act*

As the 112<sup>th</sup> Congress got underway, it soon became clear that anti-choice legislators would continue to seek out opportunities to restrict insurance coverage for abortion services, rallying supporters around messages that appealed to their fiscally conservative, anti-government views by framing the issue as a matter of taxpayer funding. Compounding these attacks on insurance coverage were legislators' repeated attempts to reinforce or expand protections for individuals and entities that refuse to provide abortion coverage or care.

Within the first three weeks of the session, the House majority assigned a high-priority bill number (H.R. 3) to Rep. Chris Smith's (R-NJ) No Taxpayer Funding for Abortion Act, signaling the importance of these efforts within the majority's overall agenda for the 112<sup>th</sup> Congress.<sup>24</sup> Rep. Smith presented H.R. 3 as a bill to codify the Hyde Amendment, an annual appropriations restriction that denies abortion coverage to women in the Medicaid program except in the most extreme circumstances—only when the woman's life is at risk if she continues her pregnancy or if she became pregnant as a result of rape or incest. Denying insurance coverage for abortion in this way tragically harms women, as documented in a 2010 report by the Center: it forces women to continue unwanted pregnancies, causes them to delay receiving abortions, and imposes significant financial strains on low-income and indigent women.<sup>25</sup>

In reality, however, Rep. Smith's rhetoric was intended to mask his true intent, which was to go far beyond the already harmful restrictions imposed on low-income women by the Hyde Amendment. H.R. 3 would completely and permanently eliminate abortion coverage in all markets. Among other things, his bill would have:

- effectively banned private abortion coverage in the state health insurance exchanges by denying federal credits and subsidies to health insurers that offer abortion coverage, even when the coverage is paid for using private money (reviving a proposed amendment to the ACA originally pursued by Rep. Bart Stupak (D-MI));
- prevented any program, provider, or facility from offering abortion coverage or abortion services if it receives federal funding for any other purpose;
- imposed tax penalties on employers and individuals that pay for abortion coverage;
- singled out the District of Columbia and barred it from using its own funds to provide abortion coverage for low-income women, a right that all 50 states can choose to exercise.

In addition, H.R. 3 included a proposal to permanently allow any individual or institutional health care provider to refuse to pay for, cover, provide, or refer for abortion services.<sup>26</sup>

The bill did provide for three very limited exceptions, which were purportedly parallel to the exceptions that accompany the Hyde Amendment: the harsh restrictions on abortion coverage imposed by the bill were not to apply in the cases of rape, incest, or when an abortion was necessary to save the life of the mother. However, the bill as introduced limited the rape exception to instances of “forcible rape”—suggesting that statutory rape or rape not involving direct force are somehow more acceptable. After considerable backlash, the “forcible” language was ultimately removed, but the still extremely restrictive bill was passed by the House of Representatives on May 4, 2011.

### *The Protect Life Act*

Meanwhile, another radical bill intended to ban abortion coverage for millions of women around the country was also gaining traction in the House. Introduced by Rep. Joseph Pitts (R-PA) on January 20, 2011, H.R. 358 (the cynically named Protect Life Act) would have effectively banned abortion coverage in state exchanges by preventing any plan from offering the coverage if a single individual enrolled in the plan received affordability credits to help purchase his or her insurance. This was despite the fact that those credits already could not be used to pay for abortion coverage (because of the Nelson amendment, discussed above).

But Rep. Pitts’ bill did not stop there. It also included a provision allowing hospitals and other health care providers to turn away patients who needed emergency abortion services – even if a woman’s life was at risk. For this reason, the Protect Life Act came to be known among women’s health advocates as the “Let Women Die Act.”

Though its journey through the House took longer than H.R. 3, the Let Women Die Act also proceeded to a floor vote and was passed in the House in the middle of October 2011.

Fortunately for women across the country, both bills failed in the Senate.

# USING THE BUDGET PROCESS TO HOLD WOMEN'S HEALTH HOSTAGE

## *Priority Number One*

Another favorite tactic of reproductive rights opponents in the 112<sup>th</sup> Congress was to try to manipulate the budget process to restrict access to abortion and family planning services. Indeed, House leadership assigned bill number “1” to a piece of legislation that included a proposal to eliminate all federal funding for the United Nations Population Fund (UNFPA), which provides family planning and reproductive health services in 150 countries, as well as dozens of other health and social services, including relief for Haitian earthquake victims and help to those suffering from obstetric fistula. H.R. 1 would have also reinstated the Global Gag rule, which prohibits any non-governmental organization receiving financial aid from the United States from providing, informing about, or referring for abortion services, even if they fund those activities with separate, non-U.S. government resources. The global gag rule has a devastating impact on advocates trying to respond to the daily tragedy of unsafe abortion around the world, as was documented in a 2003 report by the Center.<sup>27</sup>

Positioned as a bill to reduce federal spending, H.R. 1 included many other proposals and ultimately would have cut \$60 billion from the federal budget. Passed by the House in February of 2011, it failed in the Senate. However, led by Speaker Boehner, proponents in the House continued to point to H.R. 1 as emblematic of the House's priorities.<sup>28</sup> And, as subsequent anti-choice efforts to eliminate abortion services and family planning programs through the budget process emerged, it became obvious that H.R. 1 was only the beginning.

## *Threatening a Federal Government Shutdown in Effort to Close Down Planned Parenthood*

By April 2011, the federal government was on the brink of a shutdown because legislators could not agree on a federal budget. As negotiations faltered—not over economic policy, but over social issues concerning the environment and abortion—anti-choice policy riders became a flashpoint.<sup>29</sup> These included the anti-choice proposals from H.R. 1: reinstating the Global Gag rule and eliminating funding for the UNFPA. They also included a proposal to prevent Planned Parenthood and its affiliates from receiving any federal funds.

As the clock ticked down on the final day of negotiations, the Planned Parenthood rider became the final hurdle.<sup>30</sup> Planned Parenthood is barred under existing law from using federal funds for abortion services, but it receives federal funds that go towards other essential women's health services, such as cancer screenings, mammograms, and contraception services for low-income women. Though these funds represent a miniscule proportion of the federal budget, anti-choice politicians were willing to risk a government shutdown in order to strip Planned Parenthood of its ability to provide basic health services to low-income women. According to Sen. Orrin Hatch (R-UT), the ranking Republican on the Senate Finance Committee, maintaining the restriction was a “matter of principle.”<sup>31</sup>

### *Controlling the Purse Strings in the District of Columbia*

The Planned Parenthood-defunding rider was dropped when a last-minute deal to avert the shutdown was brokered. However, the final compromise was not free of anti-choice riders. Instead, the spending bill that was finally approved included a provision denying the District of Columbia the right to use its own locally raised funds to provide abortion coverage to the District's Medicaid recipients—a right which is guaranteed to all states, and which the District's elected government supported.<sup>32</sup>

Once the District's autonomy was sacrificed in this way during the April budget negotiations, it became impossible for D.C. and pro-choice advocates to remove the D.C. rider during subsequent budget negotiations. With another shutdown looming toward the end of 2011, Congress reached a deal in December that funded the government through the rest of the 2012 fiscal year. Again, this deal included the D.C. ban, extending it through September 2012. At that point, seeking to avoid another protracted budget fight just before the election, Congress negotiated a six-month continuing resolution to take the pressure off until March 2013. The D.C. ban was quietly extended as part of that agreement.<sup>33</sup>

Thus as of February 2013, the District of Columbia has been denied the right to spend its own funds on abortion coverage for low-income women for nearly two years.

### *Using the Federal Budget to Prevent Safe Abortion Training*

The ACA created a federal grant program to fund teaching health centers so that they could provide medical resident training in certain fields, including obstetrics and gynecology. In May 2011, the House passed a bill to convert this funding from direct appropriations to an authorization of appropriations. The bill passed by the House also included an amendment introduced by Rep. Virginia Foxx (R-NC) that would prohibit grant recipients from using the funds to provide safe abortion services or to provide abortion training to medical residents.<sup>34</sup> The Foxx Amendment to H.R. 1216 also prohibited grant recipients from discriminating against anti-choice individuals and institutions.

### *Restricting Funding Streams to Deny Rural and Low-Income Women Access to Medication Abortion*

Telemedicine—the “use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration”<sup>35</sup>—has become a critical delivery method for health care to low-income individuals and in rural areas. In fact, telemedicine has been such an important advance in the expansion of access to health care that the U.S. Department of Health and Human Services has created an Office for the Advancement of Telehealth, which “promotes the use of telehealth technologies for health care delivery, education, and health information services . . . to [help] assure quality health care for underserved, vulnerable, and special needs populations.”<sup>36</sup> Among other things, this office administers telehealth grant programs and provides technical assistance.

Medical research has found that providing medication abortion through telemedicine is safe, effective, and highly acceptable among women.<sup>37</sup> Given the House of Representatives' penchant for using funding streams to restrict access to women's reproductive health care, it was only a matter of time before anti-choice legislators tried to carve medication abortion out of telemedicine altogether. Rep. Steve King (R-IO) introduced an amendment that was attached to an agriculture appropriations bill in 2011 (but later dropped) and a stand-alone bill in 2012, both of which sought to prohibit federal telehealth grants from going to medical facilities that use technology to prescribe the abortion medication mifepristone (also known as RU-486).<sup>38</sup>

In his campaign against medication abortion via telemedicine, Rep. King made specious claims that mifepristone is dangerous.<sup>39</sup> In reality, however, the drug "is safe or safer than commonly used medications such as over-the-counter non-steroidal anti-inflammatory drugs and anti-histamines . . ." <sup>40</sup> Ultimately, Rep. King's telemedicine bill did not make it out of committee. But his proposal reflects a growing trend among anti-choice state legislators: at least ten states considered proposals to ban the provision of medication abortion through telemedicine in 2012.<sup>41</sup> Many such proposals were based on model legislation provided by the anti-choice organization Americans United for Life, which celebrated new bans in Michigan and Wisconsin as successes in their 2012 State Legislative Session Report.<sup>42</sup>

# THE CONTRACEPTIVE COVERAGE DEBATE: HEALTH CARE DENIALS MASQUERADING AS RELIGIOUS LIBERTY

One of the most far-reaching of the 112<sup>th</sup> Congress' campaigns against women's reproductive rights was an effort to normalize the idea that employers should be able to carve out health care services and deny coverage to their employees based on the employer's personal religious objections.

In large part, the debate came to center on coverage for contraception under the ACA, which is required as part of a provision ensuring that enrollees receive certain preventive health care services. But the signature proposal touted by conservative politicians in Congress preceded the contraceptive coverage requirement and accompanying rulemaking, and was far more sweeping. In March 2011, Rep. Jeff Fortenberry (R-NE) introduced a proposal to grant employers the right to opt out of providing coverage for any health care service to which the employer claimed a moral or religious objection – allowing employers to impose their beliefs on their employees by picking and choosing which health care services would be covered.<sup>43</sup> Though the Fortenberry bill did not move during 2011, anti-choice legislators quickly revived the concept in early 2012 in response to developments in the federal rulemaking process for the ACA contraception benefit.

On January 20, 2012, the Administration issued a final rule requiring most health insurance plans to cover preventive services for women, including the full range of FDA-approved contraceptive services, without charging a co-pay or other cost-sharing amount. The rule included an exemption for houses of worship and closely related entities. On February 10, the Administration took action to accommodate the concerns of a broader range of religiously affiliated organizations, such as certain hospitals and universities, by announcing that they would be allowed to opt out of paying for, and communicating about, contraceptive coverage. Instead, the employees of these organizations will receive contraceptive coverage directly from an insurance issuer.

Though federal rulemaking is a function of the executive branch, conservative legislators quickly took issue with the regulations and leveraged the public resources at their disposal to raise objections. At a now-infamous congressional hearing on February 16, the Republican-controlled House Committee on Oversight and Government Reform assembled a predominantly male cast of religious leaders to opine on issues of religious freedom ostensibly threatened by the contraceptive coverage requirement.

In framing the topic, Rep. Darrell Issa (R-CA), the committee's chairman, strained the limits of credulity by insisting that women's health and reproductive rights were outside the scope of the hearing. He also barred the minority's proposed female witness from participating. The witness, a Georgetown law student named Sandra Fluke, went on to become a national symbol of the 112<sup>th</sup> Congress' hostility towards women and women's health.<sup>44</sup>

Meanwhile, between January 20 and the end of February, 122 representatives added themselves as co-sponsors to the Fortenberry bill, more than doubling the number that had been collected from March to December 2011. Ultimately, however, the legislative



*House Oversight and Government Reform Committee  
Hears from First Panel at Hearing about the ACA  
Contraception Rule, February 2012.*

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battle over this expansive refusal provision was fought out in the Senate. In August 2011, Sen. Roy Blunt (R-MO) had introduced a companion bill to the Fortenberry proposal, but the committee did not take up the bill. In February 2012, Sen. Blunt attempted to tack the provision to a mammoth must-pass transportation bill that had nothing to do with health care or coverage.

Initially, the Senate's majority leader, Harry Reid (D-NV), blocked a vote on the Blunt amendment. However, following the February 10 contraception rule announcement from the Obama administration, Reid was forced to allow a vote on the Blunt amendment because Senate Republicans threatened to block the transportation bill from advancing if he did not.<sup>45</sup>

On March 1, the Senate voted 51-48 to table the amendment – a margin far too close for comfort on a sweeping measure to allow employers to deny insurance coverage for essential health care services.

# BANS AND BARRIERS: LEGISLATIVE EFFORTS TO END RUN AROUND THE CONSTITUTIONAL RIGHT TO ABORTION

As the 112<sup>th</sup> Congress progressed, pro-choice legislators and advocates were confronted with a new challenge: a number of efforts to directly restrict access to abortion (as opposed to merely choking off health care coverage). Modeled after proposals previously associated with state legislative efforts, these measures moved through the committee process and appeared to enjoy substantial support in the House. By the middle of 2012, however, national attention was focused on lawmakers' "war on women," and some legislators began to shy away from these more extreme proposals.

## *Erecting Complicated Legal Barriers to Safe Abortion for Minors*

In March 2012, members of the House Judiciary Committee voted 20-13 to advance the Child Interstate Abortion Notification Act (CIANA), an extreme bill intended to criminalize rendering assistance to young women seeking abortion services outside their home states. Introduced by Rep. Ileana Ros-Lehtinen (R-FL), CIANA would have imposed a mandatory parental notification and delay requirement on young women seeking abortion services in another state. If enacted, this unworkable proposal would have subjected young women, anyone who assists them, and abortion providers to a confusing maze of overlapping and conflicting state and federal laws — ultimately making it more difficult and more dangerous for young women to obtain abortions.

CIANA did not include any exception for threats to a young woman's life or health, and proposed harsh civil and criminal liability on those who do help young women — including up to a year in prison and fines of up to \$100,000. Moreover, when members such as Reps. Judy Chu (D-CA), Sheila Jackson Lee (D-TX), Hank C. Johnson (D-GA), Jerrold Nadler (D-NY), Mike Quigley (D-IL), Bobby C. Scott (D-VA), and Mel Watt (D-NC) proposed amendments that would have protected victims of rape and incest, teens facing threats to their health, and grandparents and siblings helping their young family members, their proposals were summarily rejected by the committee.

Though CIANA made it out of committee, it was not taken up for a vote on the House floor. As 2012 progressed, some members of Congress began to realize that attacks on women's health and rights were prompting backlash from the public at large, and, at least among the House leadership, the appetite for these extreme bills began to falter. This is evidenced by the trajectory of two extreme measures proposed by Rep. Trent Franks (R-AZ), which were only allowed to come to the floor after the leadership imposed restrictions on the votes.

## *Promoting an Abortion Ban as an Anti-Discrimination Measure*

One of Rep. Franks' bills, H.R. 3541, would have criminalized abortions that were "based on" the sex, gender, color, or race of the fetus. Originally introduced as the Susan B. Anthony and Frederick Douglass Prenatal Non-Discrimination Act (PreNDA), the title referenced twentieth century leaders of the women's rights and civil rights movements while seeking to eliminate abortion services under the guise of non-discrimination policy. After considerable outcry from the civil rights community, however, Rep. Franks agreed to drop the references to Susan B. Anthony and Frederick Douglass.

The bill's prohibition on certain abortions based on a woman's reason for seeking the abortion would have required medical providers to scrutinize the motives of their patients. Unsurprisingly, the absurd suggestion that some women might seek abortions based on racial discrimination against their fetuses generated considerable unfavorable attention, and the prohibition of race-based abortion was eventually removed from the bill.

Nonetheless, PreNDA moved forward as a bill ostensibly intended to prohibit sex-selective abortions. Though such abortions are a widespread problem in some other parts of the world, international consensus is that son-preference is most effectively addressed by dealing with its root causes, not by criminalizing abortion.<sup>46</sup>

The House Judiciary Committee voted 20-13 to advance PreNDA in February 2012, and the bill was reported favorably to the House at the end of May. When the House leadership brought the bill to the floor a few days later, they brought it up under suspension of the rules, which meant very limited floor debate, no amendments, and a two-thirds majority vote to pass. As a result, the measure failed—but the 246 favorable votes it received (well more than the simple majority required under normal rules) are a stark illustration of the strength of the opposition to women's reproductive autonomy in the chamber.

### *Using the District of Columbia as Legislators' Anti-Abortion Laboratory*

During the spring of 2012, PreNDA was not the only extreme and misleading anti-abortion bill that Rep. Franks had in the hopper. In addition to attacking abortion rights under the guise of anti-discrimination policy, Rep. Franks decided to use the District of Columbia as a political toy in his crusade against abortion. Called the District of Columbia Pain-Capable Unborn Child Protection Act, H.R. 3803 sought to ban women from obtaining abortions in D.C. after 20 weeks gestation, notwithstanding clear Supreme Court rulings that abortion cannot be banned for any reason prior to the point at which a fetus is viable outside the womb.

Rep. Franks' utter disregard for the health, well-being, and autonomy of D.C. residents was apparently shared by his colleagues in charge of the Judiciary Committee's Subcommittee on the Constitution. When the bill was scheduled for consideration in May, the subcommittee chair blocked Del. Eleanor Holmes Norton, the district's sole congressional representative, from testifying in opposition—rejecting a longstanding House tradition that allows members of Congress to speak at hearings related to bills directly affecting their constituents.<sup>47</sup>

Moreover, the disregard that Rep. Franks demonstrated for residents of the District of Columbia was mirrored by his complete disdain for women and their well-being. His bill contained no exceptions for rape, incest, or the health of the woman. It also proposed harsh penalties, including significant fines and jail time, on medical providers, and would have allowed nearly anyone to sue a doctor to prevent a woman's abortion.

The House Judiciary Committee voted to pass the bill out of committee in July 2012, again rejecting amendments offered by representatives attempting to lessen the bill's harsh impact on women, including a proposal by Rep. Jerrold Nadler (D-NY) to add an exception for instances when the health of the pregnant woman is at risk.<sup>48</sup>

A few days later, the House leadership allowed Rep. Franks' bill to proceed to a floor vote—like PreNDA, under suspension of the rules. Again, the bill failed to obtain the two-thirds majority needed to pass, but the 220 votes in favor were an alarming illustration of the willingness of so many members of the House to disregard women's fundamental, constitutional rights and health.

### *Prenatal Personhood*

Two federal proposals, both introduced in the 112<sup>th</sup> Congress, would have criminalized abortion outright by redefining human life to begin at conception. Though the bills did not move through the committee process, they are noteworthy in how extreme they were, and in how they sought to establish prenatal personhood at the federal level.

Introduced in 2011, H.R. 212 and H.R. 374 both sought to define human life as beginning at fertilization.<sup>49</sup> Doing so would theoretically bestow all the legal protections extended to human beings on a fertilized egg, criminalizing any hostile action against a fertilized egg, embryo or fetus and setting up a direct challenge to the constitutional right to abortion established by *Roe v. Wade*. In the Senate, Rand Paul (R-KY) even attempted to tack a personhood proposal to a critical flood insurance bill, again illustrating the lengths to which supposedly “small government” conservatives would go to establish complete government control of women's reproductive lives.

Opposition to personhood proposals came not only from the pro-choice community but also from advocates concerned about the similarly harsh implications these proposals would have for IVF treatments and many forms of hormonal birth control. These prenatal personhood proposals are contrary to U.S. and human rights law, as detailed in a 2012 briefing paper by the Center, which provides examples from several countries around the world where prenatal personhood has been incorporated into law with tragic results.<sup>50</sup>

To date, the prenatal personhood movement has been a failure; three state ballot measures have been rejected by voters, and not one personhood measure that would ban abortion (or other reproductive health care) has been enacted at the state or federal level.<sup>51</sup> But proponents of “personhood” are not deterred by the fact that their goals are out of touch with American values and the law.

# THE 2012 ELECTION AND THE BEGINNING OF THE 113TH CONGRESS

In the months and weeks leading up to the 2012 election, women's reproductive rights took center stage. Despite promises to focus on economic issues, many politicians delivered startling, and often medically inaccurate, remarks about women's bodies that caused shock and outrage across the political spectrum. The "war on women" was no longer confined to the chambers of Congress—it had made its way into campaigns around the country.

Although not alone in making troubling comments, five politicians in particular drew national ire for their uninformed statements and anti-women agendas:

- During his Senate campaign, Rep. Todd Akin (R-MO) sent shockwaves around the country when he told a local television station that rape survivors did not need access to legal abortion services because victims of "legitimate rape" rarely get pregnant, since "the female body has ways to try to shut that whole thing down."<sup>52</sup> When subsequently attempting to clarify his statement, Akin clung to his ill-informed science but explained that he had misspoken: he had misplaced the word "legitimate," which he chose to reflect the fact that women sometimes make "false claims" about being raped.<sup>53</sup>
- In a Senate debate against opponent Joe Donnelly, Indiana treasurer Richard Mourdock argued that women who become pregnant due to rape should not have legal abortion access because their pregnancies are "a gift from God."<sup>54</sup> Asserting that the resulting pregnancy was "something that God intended to happen," Mourdock later told reporters that he "really regret[ted]" that his comments were "twisted" to imply that God pre-ordained rape but otherwise maintained his position.<sup>55</sup>
- When presented with a hypothetical in which a rape victim requested emergency contraception at a Catholic hospital, Republican Senate candidate Linda McMahon asserted that the hospital should be allowed to deny emergency contraception to rape victims as a matter of "separation of church and state."<sup>56</sup> McMahon later tried to backpedal on her statement by saying that she meant Catholic churches, not hospitals, should be exempt from providing the medication in cases of "emergency rape."<sup>57</sup>
- Explaining his position on denying rape survivors access to abortion services, Republican Senate candidate Tom Smith said that he could personally relate to the situation. When prompted for clarification, Smith said that his daughter had a child out of wedlock, suggesting that a pregnancy resulting from rape and a pregnancy resulting from consensual sex among unmarried partners both have, as he said, a "similar" effect on the women's fathers.<sup>58</sup>
- Clarifying his position on abortion access, Republican congressional candidate John Koster explained that he opposed legal abortion in cases of "the rape thing" because allowing abortion would only be "putting more violence onto a woman's body..."<sup>59</sup>

Despite the national outcry that these statements provoked, conservative pundits remained convinced that the notion of a “war on women” would carry little weight on voting day.<sup>60</sup> As the election results came in, the reality proved to be far different: people not only re-elected a pro-choice president, but also soundly rejected the anti-woman antics that flourished during the campaign cycle. Comprising 53 percent of the electorate in an election that had the second largest gender gap in American history, women, in particular, used their votes to demonstrate that they would not stand idly by as candidates threatened their rights.<sup>61</sup> All five candidates described above lost their races (Akin and Mourdock had been ahead in the polls), a record number of women won seats in the Senate, and New Hampshire elected the country’s first-ever all-female congressional delegation.<sup>62</sup>

After two years of seemingly endless anti-choice measures being introduced, the 2012 elections made one thing clear: attacking women’s health is not a winning strategy. As President Obama’s success demonstrates, supporting family planning funding and providing insurance coverage for contraception is. The 2012 elections marked a turning point, and during the final session of the 112<sup>th</sup> Congress, a victory was achieved: members of the military who are victims of rape and incest would finally have insurance coverage for abortions—a right long afforded to women receiving health care coverage through other federal programs.

### *Some Good News: The Shaheen Amendment*

Since 1981, there has been a ban in place that prohibits coverage for abortion services for servicewomen, except in the case of life endangerment.<sup>63</sup> Although military health care facilities are allowed to provide abortion services in cases where pregnancy results from rape or incest, servicewomen have had to pay out of pocket for the procedure.<sup>64</sup> For the approximately 215,000 women who currently serve in the United States military, this discriminatory coverage restriction represented an undeniable injustice, especially in the context of the military’s high incidence of rape and sexual assault that has recently come under the national spotlight.<sup>65</sup> During Senate Armed Services Committee consideration of the FY2013 National Defense Authorization Act (NDAA), Sen. Jeanne Shaheen (D-NH) introduced—and the committee adopted—an amendment to allow abortion coverage for pregnancies resulting from rape or incest, rectifying this generation-long injustice.

On December 4, 2012, the Senate passed the NDAA 98-0 with the Shaheen amendment included. The bill then went to conference, where the House and Senate versions had to be reconciled in order for the final bill to pass. On December 18, the conference report was signed and filed—including the Shaheen amendment. On January 2, President Obama signed the 2013 NDAA, ending a policy of blatant discrimination against American servicewomen by bringing their insurance coverage into line with other federal health care programs.

While celebrating this victory for our servicewomen, the Center continues to work to remove discriminatory restrictions that deny federal employees, low-income women, and military servicewomen abortion coverage except in the extreme circumstances of incest, rape, or life endangerment.



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# CONCLUSION

Women's reproductive rights were under continual attack in the 112<sup>th</sup> Congress. Anti-choice legislators were bold and relentless in their efforts to deny women access to contraception, abortion, and other fundamental reproductive health services. Radical proposals to ban abortion, prohibit abortion coverage, and deny employees access to basic health care coverage were supported by significant segments of Congress and taken seriously in congressional proceedings.

Yet these proposals also garnered national attention. And the public debate was by no means one-sided; the actions of the 112<sup>th</sup> Congress prompted an intense national debate over health policy and reproductive rights. In the end, the message to Congress was clear: anti-choice legislators went too far. Their extreme, ideological fixation on women's reproductive rights backfired.

Entering the 113<sup>th</sup> Congress, reproductive rights advocates and legislators have an opportunity. The path is not free of obstacles; anti-choice legislators will continue—in fact, they are already continuing—to wage their renewed war against women's reproductive rights. But the moment to push back has arrived.

The Center for Reproductive Rights stands ready to work with advocates and allies willing to draw the line on these attacks and to advance the cause of reproductive freedom at the federal level. We urge legislators and advocates to find and promote ways of improving women's access to the full range of reproductive health care and increase women's ability to determine the course of their reproductive lives, free from coercion and discrimination.

For more information on the Center's legislative activity and advocacy at the federal level, please contact Julie Gonen, Director of Government Relations, at [jgonen@reprorights.org](mailto:jgonen@reprorights.org). For press inquiries, please contact Kate Bernyk at [kbernyk@reprorights.org](mailto:kbernyk@reprorights.org) or 917.637.3676.



# APPENDIX

This appendix provides an overview of the number and breadth of reproductive rights-related bills and resolutions introduced in the 112<sup>th</sup> Congress. Table 1 summarizes measures containing anti-choice provisions introduced in the House of Representatives; Table 2 summarizes measures containing anti-choice provisions introduced in the Senate; and Table 3 summarizes the pro-choice measures introduced in both chambers. The proposed bills are categorized according to the predominant strategies that legislators employed, including:

- Reversing the expansion of affordable reproductive health care provided by the Affordable Care Act (ACA) by repealing the landmark health care law;
- Restricting federally subsidized insurance coverage, or direct federal funding, for abortion or contraception directly;
- Restricting or banning abortion explicitly or through the introduction of, for example, personhood measures;
- Requiring health care providers to give women seeking an abortion medically unnecessary or misleading information about abortion or reproductive health services by, for example, forcing them to undergo a fetal ultrasound and listen to a description of the image;
- Instituting burdensome reporting requirements for abortion providers that are often more stringent than regulations applied to comparable medical practices;
- Permitting individuals or institutions to assert religious or moral objections to deny patients health care.

This list of measures is not intended to be exhaustive: legislators introduced many more bills with potential consequences for women's health and well-being than those listed here. The primary criterion for inclusion below was whether the bill or resolution would have had an impact on women's access to abortion or contraception. Some of the proposed measures overtly sought to limit women's reproductive choices; others simply reiterated anti-choice provisions in prior legislation; and still others, despite misleading titles, intended to limit women's choices without explicitly saying so. Whether presented as stand-alone bills or as riders to other (sometimes unrelated) legislation, the sheer number and variety of retrograde proposals reveals the relentless attack on women's reproductive freedom that the 112th Congress—and particularly, the House of Representatives—waged.

**Table 1: Measures Containing Anti-Reproductive Choice Provisions Introduced in the House of Representatives**

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.R. 2:</b> Repealing the Job-Killing Health Care Law Act	X	X <sup>1</sup>					<i>Passed (245-189); No Senate Action</i>
<b>H.R. 105:</b> Empowering Patients First Act	X	X				X	<i>Died in Committee</i>
<b>H.R. 165:</b> Informed Choice Act			X	X			<i>Died in Committee</i>
<b>H.Res. 9:</b> Instructing certain committees to report legislation replacing the job-killing health care law	X	X				X	<i>Agreed To (253-175)</i>
<b>H.Res. 18:</b> Expressing the sense of the House of Representatives with respect to pregnancy resource centers				X			<i>Died in Committee</i>
<b>H.R. 212:</b> Sanctity of Human Life Act			X				<i>Died in Committee</i>
<b>H.R. 217:</b> Title X Abortion Provider Prohibition Act		X					<i>Died in Committee</i>
<b>H.R. 3:</b> No Taxpayer Funding for Abortion Act		X				X	<i>Passed (251-175); No Senate Action</i>
<b>H.R. 358:</b> Protect Life Act		X				X	<i>Passed (251-172); No Senate Action</i>
<b>H.R. 361:</b> Abortion Non-Discrimination Act of 2011						X	<i>Died in Committee</i>

<sup>1</sup> A significant component of the Affordable Care Act was the expansion of affordable reproductive health care. Although H.R. 2 did not specifically address funding or insurance coverage for abortion or contraception in its text, an effect of the bill would have been to eliminate the contraceptive-coverage benefit along with the rest of the ACA.

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.R. 364:</b> Common Sense Health Reform Americans Actually Want	X	X				X	<i>Died in Committee</i>
<b>H.R. 374:</b> Life at Conception Act			X				<i>Died in Committee</i>
<b>H.R. 397:</b> Reform Americans Can Afford Act of 2011	X	X				X	<i>Died in Committee</i>
<b>H.R. 536:</b> Indian Healthcare Improvement Act of 2011		X					<i>Died in Committee</i>
<b>H.R. 593:</b> Taxpayer Conscience Protection Act of 2011					X		<i>Died in Committee</i>
<b>H.R. 1:</b> Full-Year Continuing Appropriations Act, 2011		X		X			<i>Passed (235-189); No Senate Action</i>
<b>H.R. 958:</b> We the People Act <sup>2</sup>			X			X	<i>Died in Committee</i>
<b>H.R. 1096:</b> Sanctity of Life Act of 2011			X				<i>Died in Committee</i>
<b>H.R. 1099:</b> Taxpayers' Freedom of Conscience Act		X					<i>Died in Committee</i>
<b>H.R. 1135:</b> Welfare Reform Act of 2011		X					<i>Died in Committee</i>
<b>H.R. 1167:</b> Welfare Reform Act of 2011		X					<i>Died in Committee</i>

<sup>2</sup> This bill would have denied all federal courts, including the Supreme Court, jurisdiction over free exercise or establishment clause cases, right to privacy cases (including sexual practices, orientation, and reproduction), and equal protection claims that involve marriage equality. It would have also struck all previous federal cases as controlling precedent. If passed, the bill would have made it impossible to challenge state-level restrictions that ban abortion and allow refusals. H.R.958 would have, therefore, indirectly enabled abortion restrictions or bans, and permitted religiously based refusal of care.

<b>Bill or Resolution Title</b>  <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.R. 1216:</b> To amend the Public Health Service Act to convert funding for graduate medical education in qualified teaching health centers from direct appropriations to an authorization of appropriations		X				X	<i>Passed (234-185); No Senate Action</i>
<b>H.R. 1232:</b> To amend the Internal Revenue Code of 1986 to eliminate certain tax benefits relating to abortion		X					<i>Passed Committee (22-14); No Floor Action</i>
<b>H.Res 237:</b> Providing for consideration of the bill H.R. 3 to prohibit taxpayer funded abortions and to provide for conscience protections		X				X	<i>Agreed To (243-177)</i>
<b>H.R. 1823:</b> Criminal Code Modernization and Simplification Act of 2011			X				<i>Died in Committee</i>
<b>H.R. 2055:</b> Consolidated Appropriations Act, 2012		X				X	<i>Enacted into Law (PL: 112-74)</i>
<b>H.R. 2059:</b> To prohibit funding to the United Nations Population Fund		X					<i>Passed Committee (23-17); No Floor Action</i>
<b>H.R. 2112:</b> Consolidated and Further Continuing Appropriations Act, 2012		X					<i>Enacted into Law (PL: 112-55)</i>

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.R. 2299:</b> Child Interstate Abortion Notification Act			X				<i>Passed Committee (20-13); No Floor Action</i>
<b>H.R. 2434:</b> Financial Services and General Government Appropriations Act, 2012		X					<i>Passed Committee; No Floor Action</i>
<b>H.R. 2583:</b> Foreign Relations Authorization Act, FY 2012		X					<i>Passed Committee (23-20); No Floor Action</i>
<b>H.R. 2596:</b> Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012		X					<i>Passed Committee; No Floor Action</i>
<b>H.R. 3000:</b> Empowering Patients First Act	X	X				X	<i>Died in Committee</i>
<b>H. R. 3070:</b> Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012		X				X	<i>Died in Committee</i>
<b>H.R. 3130:</b> Heartbeat Informed Consent Act			X	X			<i>Died in Committee</i>

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.Res 430:</b> Providing for consideration of the bill (H.R. 358) to amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act		X				X	<i>Agreed To (248-173)</i>
<b>H.R. 3541:</b> Prenatal Nondiscrimination Act (PreNDA) of 2012			X	X			<i>Failed Under Suspension (246-168)<sup>3</sup></i>
<b>H.R. 3671:</b> Consolidated Appropriations Act, 2012		X				X	<i>Died in Committee</i>
<b>H.R. 3802:</b> National Pro-Life Waiting Period Act of 2012			X				<i>Died in Committee</i>
<b>H.R. 3803:</b> District of Columbia Pain-Capable Unborn Child Protection Act			X		X		<i>Failed Under Suspension (220-154)<sup>4</sup></i>
<b>H.R. 3805:</b> Ultrasound Informed Consent Act			X				<i>Died in Committee</i>
<b>H.R. 3897:</b> Religious Freedom Restoration Act of 2012		X				X	<i>Died in Committee</i>
<b>H.R. 3982:</b> Religious Liberty Protection Act of 2012		X				X	<i>Died in Committee</i>

<sup>3</sup> H.R. 3541 was brought up under suspension of the rules, which meant very limited floor debate, no amendments, and a two-thirds majority vote required for passage. As a result, the measure failed despite garnering a majority of House votes.

<sup>4</sup> H.R. 3803 was brought up under suspension of the rules, which meant very limited floor debate, no amendments, and a two-thirds majority vote to pass. As a result, the measure failed despite garnering a majority of House votes.

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Insurance Coverage or Funding for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously Based Refusal of Care</b>	<b>Status</b>
<b>H.R. 3989:</b> Student Success Act		X					<i>Passed Committee; No Floor Action</i>
<b>H.R. 4046:</b> Schoolchildren's Health Protection Act		X					<i>Died in Committee</i>
<b>H.R. 4160:</b> State Health Flexibility Act of 2012	X	X				X	<i>Died in Committee</i>
<b>H.R. 4971:</b> SAFE Act		X					<i>Died in Committee</i>
<b>H.R. 5326:</b> Commerce, Justice, Science, and Related Agencies Appropriations Act, 2013		X					<i>Passed House (247-163); No Senate Action</i>
<b>H.R. 5646:</b> Homeland Security Respect for Life Act		X					<i>Died in Committee</i>
<b>H.R. 5731:</b> Telemedicine Safety Act			X				<i>Died in Committee</i>
<b>H.R. 5855:</b> Department of Homeland Security Appropriations Act, 2013		X					<i>Passed House (234-182); No Senate Action</i>
<b>H.R. 5857:</b> Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013		X					<i>Passed Committee; No Floor Action</i>
<b>H.R. 5979:</b> Medicaid Accountability and Care Act of 2012		X					<i>Died in Committee</i>

Bill or Resolution Title <i>Measures are listed in order of introduction.</i>	Repeals Affordable Care Act	Restricts Insurance Coverage or Funding for Abortion or Contraception	Restricts or Bans Abortion	Requires Provision of Medically Unnecessary or Misleading Information About Abortion or Reproductive Health Services	Institutes Burdensome Reporting Requirements for Abortion Providers	Permits Religiously Based Refusal of Care	Status
<b>H.R. 6020:</b> Financial Services and General Government Appropriations Act, 2013		X					<i>Passed Committee; No Floor Action</i>
<b>H.R. 6079:</b> Repeal of Obamacare Act	X	X <sup>5</sup>					<i>Passed (244–185); No Senate Action</i>
<b>H.R. 6173:</b> Protecting Life in Funding Education Act, (PRO-LIFE Act)		X					<i>Died in Committee</i>
<b>H.R. 6644:</b> Global Partnerships Act of 2012		X					<i>Died in Committee</i>
<b>H.R. 6645:</b> Save and Strengthen Medicare Act of 2012		X					<i>Died in Committee</i>
<b>TOTAL</b>	<b>8</b>	<b>42</b>	<b>13</b>	<b>5</b>	<b>2</b>	<b>18</b>	<b>13 Passed the House</b>

**Total House Measures Introduced: 58**

<sup>5</sup> A significant component of the Affordable Care Act was the expansion of affordable reproductive health care. Although H.R. 2 did not specifically address funding or insurance coverage for abortion or contraception in its text, an effect of the bill would have been to eliminate the contraceptive-coverage benefit along with the rest of the ACA.



**Table 2: Measures Containing Anti-Reproductive Choice Provisions Introduced in the Senate**

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Funding or Insurance Coverage for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information about Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously-Based Refusal of Care</b>	<b>Status</b>
<b>S. 91:</b> Life at Conception Act			X				<i>Died in Committee</i>
<b>S. 96:</b> Title X Family Planning Act		X					<i>Died in Committee</i>
<b>S. 121:</b> Pregnant Women Health and Safety Act					X		<i>Died in Committee</i>
<b>S. 165:</b> Abortion Non-Discrimination Act of 2011						X	<i>Died in Committee</i>
<b>S. 167:</b> Child Custody Protection Act			X				<i>Died in Committee</i>
<b>S. 314:</b> Unborn Child Pain Awareness Act of 2011			X				<i>Died in Committee</i>
<b>S. 740:</b> Garrett Lee Smith Memorial Act Reauthorization of 2011		X					<i>Died in Committee</i>
<b>S. 768:</b> Government Shutdown Prevention Act of 2011		X					<i>Passed Committee; No Floor Action</i>
<b>S.877:</b> Protect Life Act		X				X	<i>Died in Committee</i>
<b>S.906:</b> No Taxpayer Funding for Abortion Act		X				X	<i>Died in Committee</i>
<b>S.1005:</b> Parental Notification and Intervention Act of 2011			X				<i>Died in Committee</i>
<b>S.1241:</b> Child Interstate Abortion Notification Act			X				<i>Died in Committee</i>
<b>S.1484:</b> Hyde and Related Amendments Codification Act		X				X	<i>Died in Committee</i>

<b>Bill or Resolution Title</b> <i>Measures are listed in order of introduction.</i>	<b>Repeals Affordable Care Act</b>	<b>Restricts Funding or Insurance Coverage for Abortion or Contraception</b>	<b>Restricts or Bans Abortion</b>	<b>Requires Provision of Medically Unnecessary or Misleading Information about Abortion or Reproductive Health Services</b>	<b>Institutes Burdensome Reporting Requirements for Abortion Providers</b>	<b>Permits Religiously-Based Refusal of Care</b>	<b>Status</b>
<b>S.1488:</b> Hyde Amendment Codification Act		X					<i>Died in Committee</i>
<b>S.1489:</b> Health Care Provider and Hospital Conscience Protection Act						X	<i>Died in Committee</i>
<b>S. 1572:</b> Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012		X					<i>Passed Committee; No Floor Action</i>
<b>S. 1573:</b> Financial Services and General Government Appropriations Act, 2012		X					<i>Passed Committee; No Floor Action</i>
<b>S. 1599:</b> Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2012		X				X	<i>Passed Committee; No Floor Action</i>
<b>S. 1601:</b> Department of State, Foreign Operations, and Related Programs Appropriations Act		X					<i>Passed Committee; No Floor Action</i>
<b>S.1609:</b> Medical-Legal Partnership for Health Act		X					<i>Died in Committee</i>
<b>S. 1904:</b> Welfare Reform Act of 2011		X					<i>Died in Committee</i>
<b>S. 2043:</b> Religious Freedom Restoration Act of 2012		X				X	<i>Died in Committee</i>

Bill or Resolution Title <i>Measures are listed in order of introduction.</i>	Repeals Affordable Care Act	Restricts Funding or Insurance Coverage for Abortion or Contraception	Restricts or Bans Abortion	Requires Provision of Medically Unnecessary or Misleading Information about Abortion or Reproductive Health Services	Institutes Burdensome Reporting Requirements for Abortion Providers	Permits Religiously-Based Refusal of Care	Status
<b>S. 2092:</b> Religious Freedom Protection Act of 2012		X				X	<i>Died in Committee</i>
<b>S. 2103:</b> District of Columbia Pain-Capable Unborn Child Protection Act			X		X		<i>Died in Committee</i>
<b>S. 2323:</b> Commerce, Justice, Science, and Related Agencies Appropriations Act, 2013		X					<i>Passed Committee; No Floor Action</i>
<b>S. 3241:</b> Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013		X					<i>Passed Committee; No Floor Action</i>
<b>S. 3290:</b> Prenatal Nondiscrimination Act (PreNDA) of 2012			X				<i>Died in Committee</i>
<b>S. 3295:</b> Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2013		X				X	<i>Passed Committee; No Floor Action</i>
<b>S. 3301:</b> Financial Services and General Government Appropriations Act, 2013		X					<i>Passed Committee; No Floor Action</i>
<b>Total</b>	<b>0</b>	<b>19</b>	<b>7</b>	<b>0</b>	<b>2</b>	<b>9</b>	<b>0 Passed the Senate</b>

**Total Senate Measures Introduced: 29**

**Table 1: Pro-Reproductive Choice Measures Introduced in the 112<sup>th</sup> Congress**

Bill Title	Description	Status
<b>H.R. 418:</b> International Women’s Freedom Act	Expresses United States foreign policy with respect to, and strengthens United States advocacy on behalf of, individuals persecuted and denied their rights in foreign countries on account of gender	<i>Died in Committee</i>
<b>H.R. 933:</b> Immigration Oversight and Fairness Act	Directs the secretary of Homeland Security to provide detainees with quality medical care, including emergency contraception in the case where sexual abuse occurs (in accordance with the standards under the Prison Rape Elimination Act of 2003)	<i>Died in Committee</i>
<b>H.R. 949:</b> Obstetric Fistula Prevention, Treatment, Hope, and Dignity Restoration Act of 2011	Authorizes the president to provide foreign assistance to address the social and health issues that lead to obstetric fistulas and to support treatment of obstetric fistulas, including preventative measures such as access to sexual and reproductive health services and contraception	<i>Died in Committee</i>
<b>H.R. 1319:</b> Global Sexual and Reproductive Health Act of 2011	Declares positive federal policy on access to safe abortion, contraception, and informed consent; authorizes president to support universal access to reproductive health care in developing countries	<i>Died in committee</i>
<b>H.R. 1724:</b> Compassionate Assistance for Rape Emergencies Act of 2011	Requires that Medicare participating hospitals offer and provide emergency contraception to any woman identifying as a rape victim, or believed to be a rape victim	<i>Died in committee</i>
<b>H Res. 261:</b> A resolution expressing commitment to the objectives of the Program of Action of the International Conference on Population and Development	Declares the commitment of the House of Representatives to the goals of the Cairo Consensus as set forth at the International Conference on Population and Development; encourages NGOs, faith-based organizations, community organizations, and private citizens to improve gender equality; end violence against women; expand access to reproductive, maternal, and other health services; lower infant, childhood, and maternal mortality rates; and eradicate world poverty	<i>Died in Committee</i>
<b>H.R. 2085:</b> MARCH for Military Women Act	Amends Department of Defense (DOD) appropriations to allow for abortion coverage for women in the military in cases where pregnancy is the result of rape or incest (in addition to already-existing coverage for abortions where the life of the woman is endangered); allows use of DOD facilities to perform abortions	<i>Died in Committee</i>
<b>H.R.2543:</b> Stop Deceptive Advertising for Women’s Services Act	Requires the Federal Trade Commission to prohibit advertising that intentionally suggests an entity provides abortions when it does not and vice versa	<i>Died in Committee</i>
<b>H.R. 2639:</b> Global Democracy Promotion Act	Prohibits the reimposition of the Mexico City Policy (popularly known as the “Global Gag Rule”), which proscribes American foreign assistance from going to foreign NGOs that provide, refer for, or discuss abortion services—even using non-U.S. funds	<i>Did in Committee</i>
<b>H.R. 2659:</b> Access to Birth Control Act	Requires pharmacies to fill contraceptive prescriptions without obstruction, intimidation, or coercion	<i>Died in Committee</i>
<b>H.R. 2954:</b> Health Equity and Accountability Act of 2011	Sets forth provisions to improve health for women and children, including by expanding access to federal programs for immigrant women and children, and promoting awareness about emergency contraception	<i>Died in Committee</i>

<b>H.R. 5650:</b> Protecting Women's Access to Health Care Act	Prohibits discrimination against Title X providers on the basis of whether they provide or refer for abortions	<i>Died in Committee</i>
<b>S.1214:</b> MARCH for Military Women Act	Amends Department of Defense appropriations to allow for abortion coverage for women in the military in cases where pregnancy is the result of rape or incest (as opposed to just life endangerment); allows use of DOD facilities to perform abortions	<i>Died in Committee</i>
<b>S. 1374:</b> Stop Deceptive Advertising for Women's Services Act	Requires the Federal Trade Commission to prohibit advertising that intentionally suggests an entity provides abortions when it does not and vice versa	<i>Died in Committee</i>
<b>S.1415:</b> Access to Birth Control Act	Requires pharmacies to fill contraceptive prescriptions without obstruction, intimidation, or coercion	<i>Died in Committee</i>
<b>S.1585:</b> Global Democracy Promotion Act	Prohibits the reimposition of the Mexico City Policy (popularly known as the "Global Gag Rule"), which proscribes American foreign assistance from going to foreign NGOs that provide, refer for, or discuss abortion services—even using non-U.S. funds.	<i>Died in Committee</i>
<b>S.2474:</b> Health Equity and Accountability Act of 2012	Includes provisions to improve health for women and children, including by expanding access to federal programs for immigrant women and children, and promoting awareness about emergency contraception	<i>Died in Committee</i>
<b>S. 3254:</b> National Defense Authorization Act for Fiscal Year 2013	Amended in committee to include a provision allowing for DOD-funded abortion coverage for women in the military and their dependents in cases where pregnancy is the result of rape or incest (in addition to already-existing coverage for abortions where the life of the woman is endangered)	<i>Passed Senate (98-0); Provision included in enacted law (PL:112-239)</i>

**Total Pro-Choice Measures Introduced: 18**

# ENDNOTES

- <sup>1</sup> Chris Cillizza, *The Most Unpopular Congress. Ever.*, THE FIX (WASH. POST BLOG), Aug. 4, 2011, [http://www.washingtonpost.com/blogs/the-fix/post/the-most-unpopular-congress-ever/2011/08/04/gIQAto2RuI\\_blog.html](http://www.washingtonpost.com/blogs/the-fix/post/the-most-unpopular-congress-ever/2011/08/04/gIQAto2RuI_blog.html).
- <sup>2</sup> The Appendix following this report provides a representative overview of the reproductive rights-related proposals introduced during the 112<sup>th</sup> Congress.
- <sup>3</sup> For an overview of the law and its background, see *Health Care Reform*, N.Y. TIMES, [HTTP://TOPICS.NYTIMES.COM/ TOP/NEWS/HEALTH/DISEASESCONDITIONSANDHEALTHTOPICS/HEALTH\\_ INSURANCE\\_AND\\_MANAGED\\_CARE/HEALTH\\_CARE\\_REFORM/INDEX. HTML](http://topics.nytimes.com/top/news/health/diseasesconditionsandhealthtopics/health_insurance_and_managed_care/health_care_reform/index.html) (last updated Nov. 8, 2012). For detailed guides about various provisions of the law, see, e.g., U.S. Dep't of Health and Human Services, *The Health Care Law & You*, <http://www.healthcare.gov/law/index.html> (last visited Feb. 12, 2013); The Henry J. Kaiser Family Found., *Health Reform Source*, <http://healthreform.kff.org> (last visited Feb. 12, 2013).
- <sup>4</sup> For an overview, see JON O. SHIMABUKURO, CONG. RESEARCH SERV., R41013, ABORTION AND THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (Sept. 10, 2010).
- <sup>5</sup> *Id.* at 3 (referring to P.L. 111-148, § 1303(a)(1) (2010)).
- <sup>6</sup> See Ed Hornick, *Abortion Issues Seen as Key to Health Care Reform Passage*, CNN.COM, Mar. 22, 2010, <http://www.cnn.com/2010/POLITICS/03/22/abortion.health.care.vote/index.html>.
- <sup>7</sup> For a recent overview, see *Tea Party Movement*, N.Y. TIMES, [HTTP://TOPICS.NYTIMES.COM/TOP/REFERENCE/TIMESTOPICS/ SUBJECTS/T/TEA\\_PARTY\\_MOVEMENT/INDEX.HTML](http://topics.nytimes.com/top/reference/timestopics/subjects/t/tea_party_movement/index.html) (last updated Dec. 26, 2012).
- <sup>8</sup> THE PEW FORUM ON RELIGION AND PUBLIC LIFE, PEW RESEARCH CENTER, THE TEA PARTY AND RELIGION (2011), [HTTP://WWW. PEWFORUM.ORG/POLITICS-AND-ELECTIONS/TEA-PARTY-AND-RELIGION.ASPX](http://www.pewforum.org/politics-and-elections/tea-party-and-religion.aspx).
- <sup>9</sup> See Alexandra Moe, *Just 32% of Tea Party Candidates Win*, NBCNEWS.COM, Nov. 3, 2010, [HTTP://FIRSTREAD. NBCNEWS.COM/\\_NEWS/2010/11/03/5403120-JUST-32-OF-TEA-PARTY-CANDIDATES-WIN](http://firstread.nbcnews.com/_news/2010/11/03/5403120-just-32-of-tea-party-candidates-win) (noting that more Tea Party-backed candidates lost than won in 2010).
- <sup>10</sup> Shannon Travis, *Who Is the Tea Party Caucus in the House?*, CNN.COM, July 29, 2011, [http://politicalticker. blogs.cnn.com/2011/07/29/who-is-the-tea-party-caucus-in-the-house/](http://politicalticker.blogs.cnn.com/2011/07/29/who-is-the-tea-party-caucus-in-the-house/).
- <sup>11</sup> PEW, *supra* note 8, (survey of registered voters in Sept. 2010). See also Kate Zernike, *Tea Party Avoids Divisive Social Issues*, NYTIMES.COM, Mar. 12, 2010, [http://www. nytimes.com/2010/03/13/us/politics/13tea.html?\\_r=0](http://www.nytimes.com/2010/03/13/us/politics/13tea.html?_r=0) (noting that Tea Party leaders tried to keep the party focused on economic issues, but were not always successful).
- <sup>12</sup> The House Republican Conference, *A Pledge to America*, <http://www.gop.gov/indepth/pledge/healthcare#body> (last visited Feb. 16, 2013).
- <sup>13</sup> During his previous twenty years in the House of Representatives, Rep. Boehner “cast 142 votes on abortion and other reproductive-rights issues. All 142 were anti-choice.” Nancy Keenan, *Just How Bad Is Boehner for a Woman’s Right to Choose?*, HUFF. POST, Nov. 17, 2010, [http://www.huffingtonpost.com/nancy-keenan/just-how-bad-is-boehner-f\\_b\\_784854.html](http://www.huffingtonpost.com/nancy-keenan/just-how-bad-is-boehner-f_b_784854.html). During his 2010 re-election campaign, Rep. Boehner promised to be the most anti-choice Speaker in in history. Feminist Majority Foundation, *Boehner Announces Anti-Abortion Agenda*, Ms. MAG., Jan. 6, 2011, [www.msomagazine.com/news/ uswirestory.asp?ID=12799](http://www.msomagazine.com/news/uswirestory.asp?ID=12799).
- <sup>14</sup> No Taxpayer Funding for Abortion Act, H.R. 3, 112<sup>th</sup> Cong. (2011).
- <sup>15</sup> Protect Life Act, H.R. 358, 112<sup>th</sup> Cong. (2011) [hereinafter “Let Women Die Act”].
- <sup>16</sup> Title X Abortion Provider Prohibition Act, H.R. 217, 112<sup>th</sup> Cong. (2011). A similar bill was filed in the Senate before the end of the month. Title X Family Planning Act, S. 96, 112<sup>th</sup> Cong. (2011).
- <sup>17</sup> Abortion Non-Discrimination Act of 2011, H.R. 361, 112<sup>th</sup> Cong. (2011). A companion bill was also filed in the Senate in January. Abortion Non-Discrimination Act of 2011, S. 165, 112<sup>th</sup> Cong. (2011).
- <sup>18</sup> Sanctity of Human Life Act, H.R. 212, 112<sup>th</sup> Cong. (2011); Life at Conception Act, H.R. 374, 112<sup>th</sup> Cong. (2011). A companion to H.R. 374 was also filed in the Senate before the end of the month. Life at Conception Act, S. 91, 112<sup>th</sup> Cong. (2011).
- <sup>19</sup> Informed Choice Act, H.R. 165, 112<sup>th</sup> Cong. (2011); Expressing the Sense of the House of Representatives with Respect to Pregnancy Resource Centers, H. Res. 18, 112<sup>th</sup> Cong. (2011). For more information about crisis pregnancy centers, see NATIONAL ABORTION FEDERATION, CRISIS PREGNANCY CENTERS: AN AFFRONT TO CHOICE (2006), [http://www.prochoice.org/pubs\\_research/publications/downloads/public\\_policy/cpc\\_report.pdf](http://www.prochoice.org/pubs_research/publications/downloads/public_policy/cpc_report.pdf).
- <sup>20</sup> Repealing the Job-Killing Health Care Law Act, H.R. 2, 112<sup>th</sup> Cong. (2011).
- <sup>21</sup> Empowering Patients First Act, H.R. 105, 112<sup>th</sup> Cong. (2011); Common Sense Health Reform Americans Actually Want, H.R. 364, 112<sup>th</sup> Cong. (2011); Reform Americans Can Afford Act of 2011, H.R. 397, 112<sup>th</sup> Cong. (2011); Spending Reduction Act of 2011, H.R. 408, 112<sup>th</sup> Cong. (2011); Spending Reduction Act of 2011, S. 178, 112<sup>th</sup> Cong. (2011).
- <sup>22</sup> Instructing Certain Committees to Report Legislation Replacing the Job-Killing Health Care Law, H. Res. 9, 112<sup>th</sup> Cong. (2011).
- <sup>23</sup> John Parkinson, *House Obamacare Repeal: Thirty-Third Time’s the Charm?*, ABCNEWS.COM, July 11, 2011, [http:// abcnews.go.com/blogs/politics/2012/07/house-obamacare-repeal-thirty-third-times-the-charm/](http://abcnews.go.com/blogs/politics/2012/07/house-obamacare-repeal-thirty-third-times-the-charm/).
- <sup>24</sup> The majority in each chamber of congress controls the assignment of the first ten bill numbers, and the minority controls the assignment of the second ten bill numbers, using them to signal priorities for the session. Whereas the Senate majority leader introduced bills 1-10 altogether on the first legislative day of the 112<sup>th</sup> session, the House majority unveiled its priorities over time, with hundreds of other bills filed in the meantime. See Pete Kasperowicz, *Republican Priorities Being Revealed in Bill Numbering*, THE HILL (Floor Action Blog), Jan. 21, 2011, [http://thehill.com/blogs/floor-action/ house/139295-republican-priorities-being-revealed-in-bill-numbering](http://thehill.com/blogs/floor-action/house/139295-republican-priorities-being-revealed-in-bill-numbering). Ultimately, the House signaled that attacks on the ACA and reproductive health care would be among its top priorities for the session: H.R. 1 contained significant anti-choice elements, H.R. 2 was devoted to ACA repeal, and H.R. 3 was solely devoted to attacking women’s access to safe abortion.

- <sup>25</sup> CENTER FOR REPRODUCTIVE RIGHTS, WHOSE CHOICE? HOW THE HYDE AMENDMENT HARMS POOR WOMEN (2010), available at <http://reproductiverights.org/en/feature/whose-choice-how-the-hyde-amendment-harms-poor-women>.
- <sup>26</sup> This provision would have codified the Weldon Amendment, which is an appropriations rider that has been renewed annually since 2005. The Weldon Amendment allows individuals, hospitals, provider-sponsored organizations, health maintenance organizations, insurance plans, and any other health care facility, organization, or plan to refuse to provide, pay for, cover, or refer for abortions. For more information about the Weldon Amendment and other federal refusal provisions, see U.S. Dep't of Health and Human Services, *Overview of Federal Statutory Health Care Provider Conscience Protections*, <http://www.hhs.gov/ocr/civilrights/faq/providerconsciencefaq.html> (last visited Feb. 16, 2013).
- <sup>27</sup> CENTER FOR REPRODUCTIVE RIGHTS, BREAKING THE SILENCE: THE GLOBAL GAG RULE'S IMPACT ON UNSAFE ABORTION (2003), available at <http://reproductiverights.org/en/document/breaking-the-silence-the-global-gag-rules-impact-on-unsafe-abortion>.
- <sup>28</sup> Amanda Terkel, *GOP Budget Cuts: International Family Planning Funding Threatened*, HUFF. POST, Mar. 31, 2011 (updated May 31, 2011), [http://www.huffingtonpost.com/2011/03/31/family-planning-funding-gop-budget-cuts\\_n\\_843094.html](http://www.huffingtonpost.com/2011/03/31/family-planning-funding-gop-budget-cuts_n_843094.html).
- <sup>29</sup> Jennifer Steinhauer, *It May Be a 'Budget Battle,' but Some Skirmishes Have Little to Do with Money*, N.Y. TIMES, April 7, 2011, at A18, available at [http://www.nytimes.com/2011/04/08/us/politics/08riders.html?\\_r=1&](http://www.nytimes.com/2011/04/08/us/politics/08riders.html?_r=1&).
- <sup>30</sup> Matthew Jaffe, *Government Shutdown Hinges on Planned Parenthood Rider*, ABCNEWS.COM, April 8, 2011, <http://abcnews.go.com/Politics/government-shutdown-sticking-point-planned-parenthood/story?id=13328560>.
- <sup>31</sup> Sen. Orrin Hatch, Interview on TOPLINE, April 8, 2011, <http://abcnews.go.com/Politics/government-shutdown-sticking-point-planned-parenthood/story?id=13328560> (see video on sidebar).
- <sup>32</sup> Erik Wemple, *D.C. Budget Deal: A Reader on the Riders*, TBD.COM, April 11, 2011, <http://www.tbd.com/articles/2011/04/d-c-budget-deal-a-reader-on-the-riders-58264.html>.
- <sup>33</sup> On September 22, the Senate passed H.J. Res. 117 with the restriction on D.C. local funds intact. Continuing Appropriations Resolution, 2013, H.J. Res. 117, 112th Cong. (2012). See also Women's Policy, Inc., *House Passes Continuing Resolution*, <http://www.womenspolicy.org/site/News2?id=11097> (last visited Feb. 16, 2013).
- <sup>34</sup> Allison Reilly, *House Bans Federal Funding of Abortion Training*, TECHNORATI.COM, May 27, 2011, <http://technorati.com/women/article/house-bans-federal-funding-of-abortion/>; Pete Kasperowicz, *House to Vote Tonight on Abortion Training Provision*, THE HILL (Floor Action Blog), May 24, 2011, <http://thehill.com/blogs/floor-action/house/163013-house-preps-for-controversial-abortion-vote-tuesday-night>.
- <sup>35</sup> Health Res. and Services Admin., U.S. Dep't of Health and Human Services, *Telehealth*, <http://www.hrsa.gov/ruralhealth/about/telehealth/> (last visited Feb. 16, 2013).
- <sup>36</sup> *Id.*
- <sup>37</sup> Daniel Grossman, et al., *Effectiveness and Acceptability of Medical Abortion Provided through Telemedicine*, *Obstetrics and Gynecology* 2011; 118: 296-303.
- <sup>38</sup> The 2011 amendment to the agriculture bill was initially adopted by a vote of 240-176 in the House of Representatives, but it was later dropped when various appropriations measures were integrated. Press Release, King's Pro-Life Amendment Added to Agriculture Appropriations Bill, June 16, 2011, [http://www.steveking.house.gov/index.php?option=com\\_content&task=view&id=4237&Itemid=300100](http://www.steveking.house.gov/index.php?option=com_content&task=view&id=4237&Itemid=300100); iHealthBeat, *Bill Would Block Grants for Using Telehealth To Prescribe Abortion Drug*, May 14, 2012, <http://www.ihealthbeat.org/articles/2012/5/14/bill-would-block-grants-for-using-telehealth-to-prescribe-abortion-drug.aspx>. Rep. King's 2012 stand-alone bill was H.R. 5731. Telemedicine Safety Act, H.R. 5731, 112th Cong. (2011).
- <sup>39</sup> See, e.g., Letter to Secretary Sebelius, Feb. 3, 2011, <http://operationrescue.org/pdfs/King%20letter%20to%20Sebelius%202-3-11.pdf> (signed by 71 Members).
- <sup>40</sup> Association of Reproductive Health Professionals, *Mifepristone Safety Overview*, <http://www.arhp.org/publications-and-resources/clinical-fact-sheets/mifepristone-safety-overview> (last updated April 2008).
- <sup>41</sup> CENTER FOR REPRODUCTIVE RIGHTS, REPRODUCTIVE RIGHTS IN 2012: A LOOK BACK AT THE STATES 3 (2012). Wisconsin and Michigan enacted bans on the telemedicine provision of medication abortion in 2012, and Oklahoma added further restrictions to its existing telemedicine ban. In Minnesota, on the other hand, Governor Mark Dayton vetoed a similar proposal.
- <sup>42</sup> Esmé E. Deprez, *'Webcam Abortion' Laws Would Ban Practice where it Doesn't Exist*, BLOOMBERG.COM, Feb. 10, 2013, <http://www.bloomberg.com/news/2013-02-11-webcam-abortion-laws-would-ban-practice-where-it-doesn-t-exist.html>; AMERICANS UNITED FOR LIFE, 2012 STATE LEGISLATIVE SESSION REPORT (2012), [http://www.aul.org/wp-content/uploads/2012/08/2012-Session-Report-FINAL\\_-\\_2\\_.pdf](http://www.aul.org/wp-content/uploads/2012/08/2012-Session-Report-FINAL_-_2_.pdf).
- <sup>43</sup> Respect for Rights of Conscience Act of 2011, H.R. 1179, 112th Cong. (2011). Senator Roy Blunt introduced a companion bill in the Senate in August 2011. Respect for Rights of Conscience Act of 2011, S. 1467, 112th Cong. (2011).
- <sup>44</sup> See Kate Pickert, *The Candidates: Sandra Fluke*, TIME.COM, Nov. 26, 2012 ("Who Should Be TIME's Person of the Year 2012?") [http://www.time.com/time/specials/packages/article/0,28804,2128881\\_2128882\\_2129176,00.html](http://www.time.com/time/specials/packages/article/0,28804,2128881_2128882_2129176,00.html).
- <sup>45</sup> Sam Baker, *Reid Will Allow Vote on Repeal of Administration's Birth Control Mandate*, THE HILL (Healthwatch Blog), Feb. 14, 2012, <http://thehill.com/blogs/health-watch/other/210631-reid-will-allow-vote-on-contraception-amendment>.
- <sup>46</sup> WORLD HEALTH ORGANIZATION, PREVENTING GENDER-BIASED SEX SELECTION: AN INTER-AGENCY STATEMENT (2011) available at [http://whqlibdoc.who.int/publications/2011/9789241501460\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241501460_eng.pdf).
- <sup>47</sup> Norton instead spoke at a press conference before the hearing. Press Release, Norton Request to Testify at Hearing on Bill to Ban Post-20 Week Abortions Denied (May 15, 2012), [http://www.norton.house.gov/index.php?option=com\\_content&view=article&id=3210:norton-request-to-testify-at-hearing-on-bi](http://www.norton.house.gov/index.php?option=com_content&view=article&id=3210:norton-request-to-testify-at-hearing-on-bi).
- <sup>48</sup> Laura Bassett, *D.C. Abortion Ban Passed by House Judiciary Committee*, HUFF. POST, July 18, 2012, [http://www.huffingtonpost.com/2012/07/18/dc-abortion-ban\\_n\\_1684283.html](http://www.huffingtonpost.com/2012/07/18/dc-abortion-ban_n_1684283.html).

- <sup>49</sup> Rep. Paul Broun (R-GA) first introduced H.R. 212, the “Sanctity of Human Life Act,” during the 109th Congress. He has re-introduced the bill during every subsequent session.
- <sup>50</sup> CENTER FOR REPRODUCTIVE RIGHTS, RIGHTS AT RISK: THE TRUTH ABOUT PRENATAL PERSONHOOD (2012), available at [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/crr\\_PersonhoodPapers\\_BriefingPaper.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/crr_PersonhoodPapers_BriefingPaper.pdf).
- <sup>51</sup> *Id.*
- <sup>52</sup> John Eligon & Michael Schwartz, *Senate Candidate Provokes Ire with ‘Legitimate Rape’ Comment*, N.Y. TIMES, Aug. 19, 2012, <http://www.nytimes.com/2012/08/20/us/politics/todd-akin-provokes-ire-with-legitimate-rape-comment.html>.
- <sup>53</sup> Igor Volsky, *Akin Clarifies ‘Legitimate Rape’ Comments: Women Make ‘False Claims’ about Being Raped*, THINK PROGRESS, Aug. 21, 2012, <http://thinkprogress.org/politics/2012/08/21/721791/akin-clarifies-legitimate-rape-comments-women-make-false-claims-about-being-raped/>.
- <sup>54</sup> Anne Groer, *Indiana GOP Senate Hopeful Richard Mourdock Says God ‘Intended’ Rape Pregnancies*, WASH. POST, Oct. 24, 2012, <http://www.washingtonpost.com/blogs/she-the-people/wp/2012/10/24/indiana-gop-senate-hopeful-richard-mourdock-says-god-intended-rape-pregnancies/>.
- <sup>55</sup> Elspeth Reeve, *Mourdock Is Sorry You Misunderstood His Rape Pregnancy Comments*, THE ATLANTIC WIRE, Oct. 24, 2012, <http://www.theatlanticwire.com/politics/2012/10/mourdock-sorry-you-misunderstood-his-rape-pregnancy-comments/58314/>.
- <sup>56</sup> Evan McMorris-Santoro, *Linda McMahon: Catholic Hospitals Should Not Be Required to Dispense Emergency Contraception to Rape Victims*, TPM.COM, Oct. 15, 2012, <http://2012.talkingpointsmemo.com/2012/10/linda-mcmahon-emergency-contraception-hospitals.php>.
- <sup>57</sup> Neil Vigdor, *McMahon Reverses Stance on Hospital Birth Control Mandate*, CTPost.COM, Oct. 17, 2012, <http://www.ctpost.com/news/article/McMahon-reverses-stance-on-hospital-birth-control-3954682.php>.
- <sup>58</sup> Keegan Gibson, *Updated: Smith Makes Abortion Gaffe*, POLITICS PA, Aug. 28, 2012, <http://www.politicspa.com/updated-smith-makes-abortion-gaffe-with-audio/40404/>.
- <sup>59</sup> Laura Bassett, *John Koster, GOP House Candidate: ‘The Rape Thing’ Does Not Excuse Abortions*, HUFF. POST, Oct. 31, 2012, [http://www.huffingtonpost.com/2012/10/31/john-koster-the-rape-thing\\_n\\_2051752.html](http://www.huffingtonpost.com/2012/10/31/john-koster-the-rape-thing_n_2051752.html).
- <sup>60</sup> See, e.g., Carrie L. Lukas, *Valenti Tells Women their Lady Parts Threatened by Romney – Women Aren’t Buying It*, INDEPENDENT WOMEN’S FORUM, Nov. 1, 2012, <http://iwf.org/blog/2789775/Valenti-Tells-Women-Their-Lady-Parts-Threatened-by-Romney--Women-Aren't-Buying-It>; Ross Douthat, *President in Shining Armor*, N.Y. TIMES, Oct. 27, 2012, <http://www.nytimes.com/2012/10/28/opinion/sunday/douthat-President-Obama-in-Shining-Armor.html?hpwArmor.html?hpw>.
- <sup>61</sup> Michelle Goldberg, *The War on Women Backfires*, THE DAILY BEAST, Nov. 9, 2012, <http://www.thedailybeast.com/newsweek/2012/11/11/gop-s-war-on-women-backfires.html>.
- <sup>62</sup> *Id.*
- <sup>63</sup> Allison Yarrow, *Shaheen Amendment Expands Female Service Members Access to Abortion*, THE DAILY BEAST, Jan. 3, 2013, <http://www.thedailybeast.com/articles/2013/01/03/shaheen-amendment-expands-female-service-members-access-to-abortion.html>.
- <sup>64</sup> *Id.*
- <sup>65</sup> Ashley Parker, *Lawsuit Says Military Is Rife with Sexual Abuse*, N.Y. TIMES, Feb. 15, 2011, <http://www.nytimes.com/2011/02/16/us/16military.html?scp=1&sq=pentagon%20rape&st=cse>; Women in Service for America Memorial Foundation, Inc., *Statistics on Women in the Military*, <http://www.womensmemorial.org/PDFs/StatsonWIM.pdf> (last updated Nov. 30, 2011). See also Editorial, *An Injustice for Women in Uniform*, N.Y. TIMES, Dec. 11, 2011, <http://www.nytimes.com/2011/12/12/opinion/an-injustice-for-women-in-uniform.html>.





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