

## ***Roe v. Wade* in the States**

Immediate abortion bans and bans-in-waiting are not the only weapons wielded by anti-choice forces determined to weaken the protections afforded by *Roe v. Wade*. Since 1995, state legislatures across the country have passed more than 400 measures restricting access to abortion. These include bans on specific procedures, mandatory-delay and informed-consent requirements, funding roadblocks, and targeted regulations against abortion providers (TRAP laws) that aim to put facilities out of business.

The state program at the Center for Reproductive Rights tracks legislation in all fifty states that advances or restricts women's access to reproductive health care. With more than ninety percent of the state legislatures adjourned for the 2007 session, this factsheet highlights important trends in state reproductive health legislation.<sup>1</sup> As of August 1, 2007, the Center tracked 545 restrictive bills dealing with access to abortion, contraception, funding and other issues affecting reproductive rights. Of these 114 bills that were enacted, sixty-six measures make it more difficult for women and teens to obtain comprehensive reproductive health care; this includes the introduction of sixteen measures aimed to ban abortion in most circumstances.

### **Bans on Abortion Procedures**

The 2007 legislative session will largely be remembered as the session in which the Supreme Court upheld the Federal Abortion Ban in the Center's case *Gonzales v. Carhart* and Planned Parenthood's case *Gonzales v. Planned Parenthood*. The decision marked the first time that the Court agreed that a specific abortion procedure could be banned, as well as the first time that the Court upheld an abortion restriction that did not contain an exception for the health of the woman. While the decision came late in the legislative session, three states immediately introduced bills to ban so-called "partial-birth" abortion and the state of Louisiana enacted two such laws.

In November of this year, the Center gave oral argument before the U.S. Court of Appeals for the Fourth Circuit against such a ban in Virginia. The statute would effectively outlaw the most common second-trimester abortion procedures performed in the state. In 2005, the appellate court declared the law unconstitutional, but the Supreme Court asked the panel to revisit that decision in light of the *Carhart* ruling. The court's decision could have nationwide ramifications as state legislatures look closely at how the federal courts are interpreting *Carhart*. (*Richmond Medical Center for Women v. Herring*)

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<sup>1</sup> As of August 1, 2007, six states, California, Illinois, Massachusetts, Michigan, Ohio, and Wisconsin are in session. An additional four states (New Hampshire, Pennsylvania, New Jersey, New York), are still in session but are on recess. All other states have adjourned for the 2007 session.

### **Restrictions on Adolescents**

Since January, the Center has tracked sixty-one bills in twenty-seven states aimed to restrict teenagers' access to abortion, contraception, and health care. The major themes of these bills include making current parental-involvement laws more severe; amending existing judicial-bypass provisions to make compliance more difficult; and making it more difficult for teens to access contraceptives. Of the sixty-one measures introduced, three were enacted in Idaho, Mississippi, and Oklahoma.

In November 2007, the Center claimed victory in a case against an Alaska parental-consent law which would have required young women under the age of 17 to obtain the permission of a parent or a judge before having an abortion. The Alaska Supreme Court held the statute unconstitutional, recognizing that giving parents "veto power" over a teenager's decision to end a pregnancy robs them of their fundamental rights.

### **Mandatory Delays and Counseling**

The Center has monitored seventy biased-counseling and mandatory-delay bills in thirty-one states that include proposals to require women to wait 24-hours before receiving an abortion; receive information on fetal pain and fetal anesthesia; and receive referrals to crisis pregnancy centers for free ultrasounds. Others would require physicians to perform ultrasounds prior to an abortion; and require providers to inform women that another person cannot force her to have an abortion.

Strikingly, this year we saw almost three times the number of ultrasound bills introduced during the 2006 session. Twenty-three measures related specifically to ultrasound requirements and require a physician to perform or offer to perform an ultrasound before an abortion even if the ultrasound is medically unnecessary; three such measures were enacted in Georgia, Idaho, and Mississippi.

### **Funding Roadblocks**

Although most states already limit abortion-related funding, this legislative session continued to see an assortment of restrictive funding bills. Twenty-two bills have been introduced in sixteen states that seek to prohibit or restrict the use of state public funds to pay for abortions for low-income women. In Alaska, Iowa, Maryland, and North Carolina four of these measures were enacted, restricting the use of state funds to pay for abortion unless carrying the pregnancy to term puts a woman's life at risk or if the pregnancy was the result of rape or incest. All of these restrictive funding bills severely limit the ability of low-income women to obtain medically necessary abortions.

The Center also tracked sixteen bills that would prohibit insurance coverage for abortions, two of which were enacted in Oklahoma and Indiana. Lastly, the Center tracked thirty-nine bills in twenty states which fund crisis pregnancy centers, or anti-abortion organizations that often promise comprehensive medical advice and services, but deliver anti-choice propaganda. Eight of these were enacted.

### **TRAP Laws**

TRAP regulations impose burdensome and unusually stringent regulations on abortion providers or facilities, far in excess of laws regulating other similar medical practices and procedures. Regulations range from onerous requirements for the physical design of a facility to a variety of personnel or licensing requirements that are impossible to comply with. TRAP laws are often designed to effectively put the abortion facility out of business.

This session, the Center has monitored thirty-seven TRAP bills, many of which require abortions to be performed in hospitals, ambulatory surgical centers, or by a physician with admitting privileges at a local hospital. Missouri enacted a law requiring abortion clinics to be licensed as an ambulatory surgical facility. The Center filed a lawsuit against Missouri on behalf of a physician who has been performing first-trimester abortions in the same facility for more than thirty years. To bring his clinic into compliance would cost him more than one-million dollars. In September, a federal court in Missouri granted a preliminary injunction barring enforcement of the law.

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