

Access at Risk: Abortion Bans in 2019

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In 2019, we saw a surge of laws restricting reproductive rights. Anti-abortion politicians passed a total of **58 abortion restrictions**, including **26 bans on abortion**.¹ These restrictions ignore the challenges we face and the socioeconomic, political and historical context of our lives,² and they disproportionately impact women of color, people with low incomes and young people. The intent of these restrictions – and the politicians who voted to pass them – is to deny access to abortion care altogether.

2019 Restrictions on Abortion Care

Nine states enacted **bans on abortion**, either total bans or bans after a certain point in pregnancy, without regard for the individual circumstances of a pregnancy:

- Alabama passed a total ban on abortion with very narrow exceptions.³
- Georgia, Kentucky, Louisiana, Mississippi and Ohio all passed 6-week bans on abortion with very narrow exceptions.⁴ These bans outlaw abortion before many people even know that they are pregnant.
- Georgia's law also takes the extreme step of attempting to grant personhood at fertilization, threatening a pregnant person's rights and autonomy.⁵ Louisiana's ban is contingent upon the overturn of *Roe* or the adoption of a constitutional amendment empowering the states to prohibit abortion care.⁶
- Missouri enacted an 8-week ban on abortion.⁷ The law is the first to also include a "ladder" of bans, structured in anticipation of court challenges by pro-choice advocates. Under the law, bans at 14, 18 or 20 weeks are designed to take effect if the 8-week ban is struck down in court.
- Arkansas and Utah passed 18-week bans on abortion with very narrow exceptions.⁸

Trigger bans ban abortion immediately in the event that the U.S. Supreme Court overturns *Roe v. Wade*. **The number of states with trigger bans doubled in 2019:**

- Arkansas, Kentucky, Missouri and Tennessee each passed trigger bans in 2019.⁹ These laws contribute to a climate of confusion about the legality of abortion in the states that pass them. They demonize people who decide to have abortions by sending the message that their decision could be a crime in the future.¹⁰

Other state **bans** on abortion:

- Indiana¹¹ and North Dakota¹² both enacted bans on a standard method of abortion care commonly used after 14 weeks of pregnancy, effectively eliminating access for most people after that point in pregnancy. North Dakota's ban would go into effect if *Roe v. Wade* were overturned.¹³
- Arkansas, Kentucky, Missouri and Utah passed laws to ban abortion on the basis of certain fetal characteristics, such as race, sex or certain fetal diagnoses.¹⁴ Bans that prohibit abortion on the basis of prenatal diagnoses attempt to justify restricting abortion care under the guise of fighting for disability rights, though voting records show that anti-abortion politicians have voted to slash funding for crucial services for people with disabilities.¹⁵ Bans on the basis of race and sex perpetuate racial stereotypes as a means to deny reproductive care and harm communities of color.¹⁶

State legislatures enacted numerous other abortion **restrictions that create barriers to care** this year. These restrictions make it more difficult for women to get information about abortion and to access abortion care.

- Arkansas¹⁷ and Louisiana¹⁸ both enacted TRAP laws, or targeted regulation of abortion providers. These laws impose medically unnecessary, burdensome restrictions on abortion providers, making it harder for abortion providers to provide care to their patients. Arkansas amended existing laws to require that abortion facilities be located 30 miles from a hospital, increase the waiting period for abortion from 48 to 72 hours, implement burdensome reporting requirements for abortion providers and mandate additional biased counseling.¹⁹
- Indiana enacted a law that expands a state's abortion refusal clause to include nurses, pharmacists and physician assistants.²⁰ Under the new law, these health care providers can discriminate against people seeking abortions by refusing to provide services related to abortion, including referring for care and prescribing or dispensing abortion medication.

However, the movement to guarantee rights and access to abortion care is fighting back. Litigating organizations are challenging bans on abortion care, and activists on the ground are organizing in their communities to raise awareness and funds for access. Everyone deserves access to the health care they need. Join us in ensuring access to abortion for all.

¹ Guttmacher Institute. (2019, July 1). *State Policy Trends at Mid-Year 2019: States Race to Ban or Protect Abortion*. Retrieved 23 September 2019, from <https://www.guttmacher.org/article/2019/07/state-policy-trends-mid-year-2019-states-race-ban-or-protect-abortion>

² See Bee, A. (2019, March 21). Georgia's Total Abortion Ban Would Give Rights to a Fertilized Egg. *Rewire.News*. Retrieved 23 September 2019, from <https://rewire.news/article/2019/03/21/georgias-total-abortion-ban-would-give-rights-to-a-fertilized-egg/>

³ H.B. 314, Reg. Sess. (Ala. 2019).

⁴ H.B. 481, 155th Gen. Assem., Reg. Sess. (Ga. 2019); S.B. 9, Reg. Sess. (Ky. 2019); La. R.S. § 40:1061.1.3; S.B. 2116, Reg. Sess. (Miss. 2019); ORC Ann. § 2919.195 (West 2019). Enforcement of all four bans is currently enjoined pending litigation.

⁵ *Ibid.*, H.B. 481; Prabhu, M. T. (2019, July 23). *Georgia Abortion Rights Groups Ask Judge to Block Anti-Abortion Law*. ACLU of Georgia. Retrieved 16 September 2019, from <https://www.acluga.org/en/news/georgia-abortion-rights-groups-ask-judge-block-anti-abortion-law>; see Complaint at 31-32, *SisterSong v. Brian Kemp* (N.D. Ga. 2019) (No. 1:19-cv-02973) (the vagueness of the definition of "natural person" under section 3 and 4 threatens a wide range of treatment for patients who may be pregnant). Retrieved 23 September 2019, from <https://drive.google.com/file/d/1z3SFmaLvKSISToU6thkfCKNkOGhaH0xK/view>. Enforcement of this ban is currently enjoined pending litigation.

⁶ La. R.S. § 40:1061.1.3 (F) (West 2019).

⁷ H.B. 126, 100th Gen. Assemb., 1st Reg. Sess. (Mo. 2019). The ban is currently enjoined pending litigation.

⁸ H.B. 136, 63rd Leg., Gen. Sess. (Utah 2019); 2019 Ark. Acts 493. Both bans are currently enjoined pending further litigation.

⁹ S.B. 149, 92d Gen. Assemb., Reg. Sess. (Ark. 2019); 2019 Ky. Acts ch. 152, sec. 2 (formerly H.B. 148); H.B. 126, 100th Gen. Assemb., 1st Reg. Sess. (Mo. 2019); S.B. 1257, 111th Gen. Assemb. (Tenn. 2019). The Missouri ban is currently enjoined pending litigation.

¹⁰ Shen-Berro, J. (2019, May 23) 'Trigger Laws' In 7 States Would Ban Abortion Immediately if *Roe v. Wade* Is Overturned. *HuffPost*. Retrieved 23 September 2019, from https://www.huffpost.com/entry/trigger-laws-abortion-roe-v-wade_n_5ce5af39e4b0547bd131c788

¹¹ Burns Ind. Code Ann. § 16-34-2-1(c) (2019).

¹² H.B. 1546, 66th Leg. Assemb., Reg. Sess. (N.D. 2019).

¹³ *Ibid.*

¹⁴ S.B. 2, 92d Gen. Assemb., Reg. Sess. (Ark. 2019). Arkansas's law prohibits abortion based on diagnosis or potential diagnosis of Down syndrome. It is currently enjoined pending further litigation; H.B. 166, 63rd Leg., Gen. Sess. (Utah 2019). Utah prohibits abortion on the basis that the fetus is diagnosed with Down syndrome; H.B. 5, Reg. Sess. (Ky. 2019). Kentucky's law prohibits abortions on the basis of race, sex, color, national origin or certain prenatal diagnoses. It is currently enjoined pending further litigation; H.B. 126, 100th Gen. Assemb., 1st Reg. Sess. (Mo. 2019). Missouri's ban prohibits abortions based on the fetus's race, sex, or diagnosis or potential diagnosis of Down syndrome.

¹⁵ Matson, E. (2014, Sept. 24) Reproductive Justice Activists Must Combat Anti-Choicers' False Push for Disability Rights. *Rewire.News*. Retrieved 23 September 2019, from <https://rewire.news/article/2014/09/24/reproductive-justice-activists-must-combat-anti-choicers-false-push-disability-rights/>

¹⁶ National Asian Pacific American Women's Forum. (n.d.). *Sex Selective Abortion Bans*. Retrieved 16 September 2019, from <https://www.napawf.org/reproductive-health-and-rights/sex-selective-abortion-bans>

¹⁷ S.B. 278, 92nd Gen. Assemb., Reg. Sess. (Ark. 2019).

¹⁸ H.B. 484, 2019 Leg., Reg. Sess. (La. 2019); S.B. 221, 2019 Leg. Reg. Sess. (La. 2019). This restriction is currently enjoined pending further litigation.

¹⁹ See note 17.

²⁰ Burns Ind. Code Ann. § 16-34-1-4 (2019).

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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