



Reproductive Justice in 2019:

*Everything you
need to know*

KAITLYN J. LAUBER
Erie County Commission on the Status of Women
University at Buffalo School of Law
J.D. Candidate, May 2021



Let's go back to 1973.

To understand the current atmosphere surrounding abortion rights, we must first go back and explore the Supreme Court's landmark decision in Roe v. Wade. The right to an abortion stems back to this important case and has been the target of many challenges and the subject of much controversy since the day it became law.

Roe v. Wade was heard in 1973 and established the right to abortion through its use of a trimester analysis. According to the Court's analysis, women and their physicians were to have an unlimited right to obtain and perform abortions without state interference at any point during the first trimester. Once a woman entered the second trimester, states were then allowed to override the interests of pregnant women, but only to the extent that their interests relate to maternal health. In other words, under Roe states may impose restrictions on abortions during the second trimester of pregnancy provided that the restrictions are solely related to the health of the mother. Third, the Court held that states have a legitimate interest in protecting the health of the fetus and may freely regulate abortion once fetal development reaches the third trimester. From the date of the decision, all non-compliant state laws became dormant on the grounds that federal interests supersede any directly conflicting state interests.

Much of the law set forth in Roe was expanded in 1992

when a more ideologically conservative Supreme Court revisited the issue in Planned Parenthood v. Casey. This case stems from a Pennsylvania law which requires a 24-hour waiting period between consultation and termination as well as parental consent for underage women seeking abortions (with some exclusions). This case affirmed Roe wherein it banned states from prohibiting abortions before the point of fetal viability, or just before the third trimester. However, **this case also broadened the interests of the states** as they relate to maternal health, but did not expand the states' abilities to enact legislation restricting abortions. In upholding the Pennsylvania law, the Court held that requiring a woman to wait 24 hours does not impose an undue burden upon her.

The "undue burden" standard that the Court applied in this case still stands today and is the measuring stick against which each new state-enacted abortion legislation is held.

Wait, how did all of this come about?

Eight years before Roe was heard, SCOTUS established the fundamental right to privacy in Griswold v. Connecticut. The right to privacy would soon become the soil into which Roe would take root.

Current Conditions

Physician and Hospital Requirements: 41 states require an abortion to be performed by a licensed physician. 19 states require an abortion to be performed in a hospital after a specified point in the pregnancy, and 18 states require the involvement of a second physician after a specified point.

Waiting Periods: 27 states require a woman seeking an abortion to wait a specified period of time, usually 24 hours, between when she receives counseling and the procedure is performed. 14 of these states have laws that effectively require the woman make two separate trips to the clinic to obtain the procedure.

Parental Involvement: 37 states require some type of parental involvement in a minor's decision to have an abortion. 26 states require one or both parents to consent to the procedure, while 11 require that one or both parents be notified.

Refusal: 45 states allow individual health care providers to refuse to participate in an abortion. 42 states allow institutions to refuse to perform abortions, 16 of which limit refusal to private or religious institutions.

Gestational Limits: 43 states prohibit abortions, generally except when necessary to protect the woman's life or health, after a specified point in pregnancy.

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States have been systematically challenging Roe by enacting laws that restrict abortions with the hope that an ensuing lawsuit will prompt the court to overturn its precedent. Think of it as an incremental approach where the states are looking for the "right law" to prompt the Supreme Court to re-examine the issue. This year's surge of abortion restrictions have not only brought this longstanding debate to a head, it has also been an abrupt departure from the traditional "low and slow" anti-abortion activism strategy.

The goal remains the same, however: to eliminate a woman's right to choose.

Operation: *Opposition*

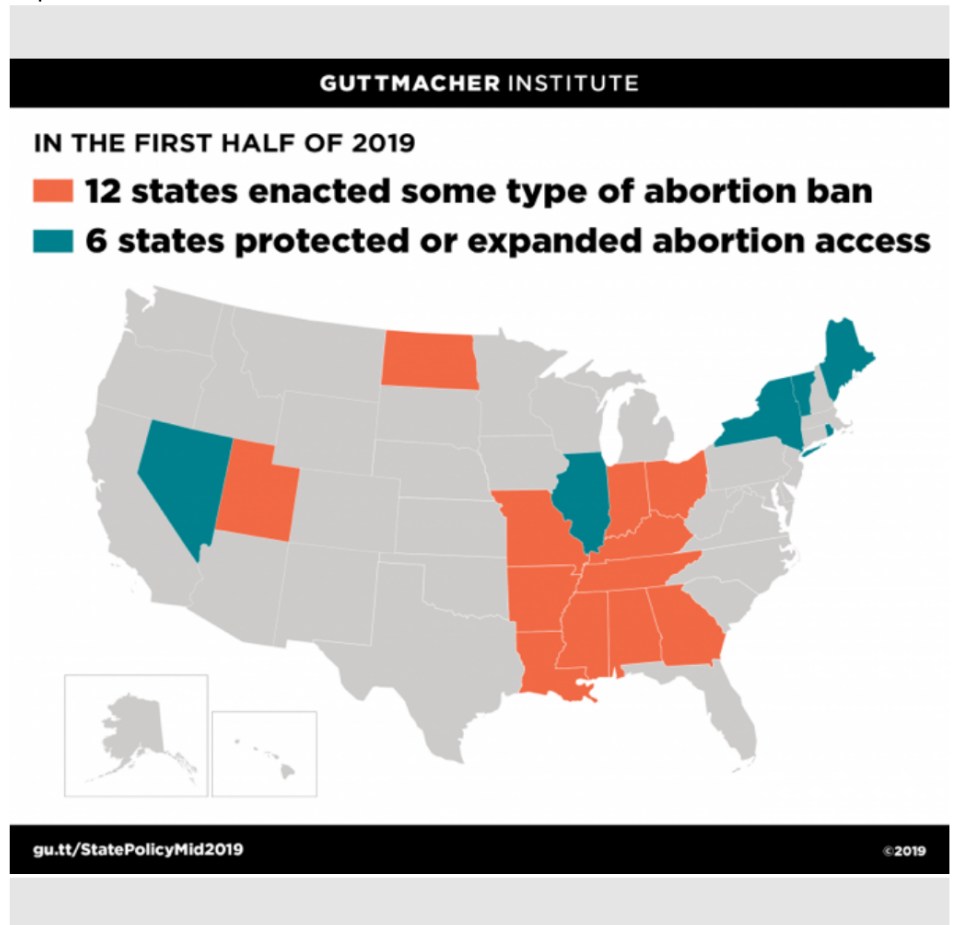
Abortion opponents have taken several different approaches to eliminating the law set forth by the Supreme Court in Roe and Casey. For instance, **nine states still have enjoined laws predating the Roe decision** that could become re-enforceable should the Court overturn its precedent. However, the Supreme Court is known to make incremental changes to the law, rather than overturning a prior decision completely. Thus, the unenforceable laws in these states can mostly be viewed as symbolic protests of the law without having a substantial impact.

Following suit, several states have enacted “**trigger laws**” that would make abortion illegal if the Supreme Court were to overturn Roe. Trigger laws remain unenforceable to date, but serve as a strong message from anti-abortion states that appears to respect the power of the federal government while taking an ideological shot at its policies.

The recent legislation passed in Alabama offers a near total ban on abortions, making exceptions for neither rape nor incest.

Even more alarming is the unique legislation passed by the State of Missouri. During this surge of anti-abortion laws, Missouri enacted something similar to that of Alabama, however, **the Missouri law is unique** because it is actually a “ladder” of successive and less restrictive bans. This means that the next less restrictive timeframe will automatically take effect if the preceding ban is struck down in court. Thus, if the eight-week ban is struck down, the timeline will automatically roll back to 14, 18, and then 20 weeks.

Additionally, **Ohio and Oklahoma are actively working on redesigning their sex education programs to teach anti-choice values** by creating curriculums that center on the “humanity of the unborn child” and restricts students’ access to information about their options when facing an unwanted pregnancy. House Bill 90, currently on the floor of Ohio’s House of Representatives, purports to prohibit the writers of the new sex-ed curriculum from consulting with any organizations that provide abortions (such as Planned Parenthood) regardless of their related expertise. If passed, this law would also prohibit school officials from referring students to abortion services when asked.



For More Information:

To view a comprehensive list of restrictions and protections broken down by state, either click on the QR code to the right or scan it with your smartphone’s camera.



Expanding Protections in the Face of a Challenge

As the growing number and severity of state restrictions comes to a head, perhaps New York’s response might ease your mind ever so slightly. **On the 46th anniversary of the Roe decision, New York enacted new protections for abortion rights, making the state one of the most pro-choice in the nation.** These changes are considered a much-needed update to New York law and codify of the law set out in Roe in case it should ever be overturned. “Today . . . we are saying ‘no, not here in New York,’” said the State Senate’s leader, Andrea Stewart-Cousins of Yonkers.

New York was not the only state to codify protections for abortion rights this year. In addition to several other states, Illinois passed similar protections in an attempt to provide extra coverage for its citizens in the event that Roe v. Wade is overturned.

“So let the word go forth today that if you believe in standing up for women’s fundamental rights, Illinois is a beacon of hope in the heart of this nation.

... [b]ut make no mistake: abortion bans don’t ban abortion. They just endanger women – and none more than rural women, poor women, young women and women of color. It’s wrong, and here in Illinois we reject it.”

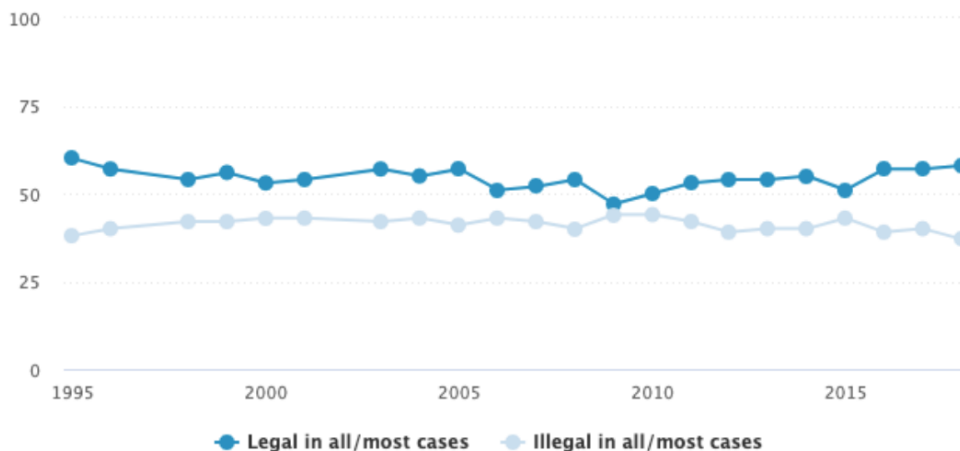


Illinois Governor JB Pritzger, @JBPritzger on Twitter



Although discourse is healthy and essential in any democracy, the recent wave of legislative restrictions have been aptly dubbed a “tyranny of the minority.” In the United States, **women make up only 26-28% of all lawmakers** with more working in the federal government than in state governments. Comparatively, 60% of all women in the U.S. believe that abortion should be legal in all/most cases while 35% believe that it should be illegal in all/most cases. Disparity in the decision-making power of women in government is likely one of the major causes of this year’s unprecedented surge in highly-restrictive shots at women’s fundamental rights.

% of U.S. adults who say abortion should be legal/illegal (1995-2018)



58%

believe that abortion should be legal in all/most cases

37%

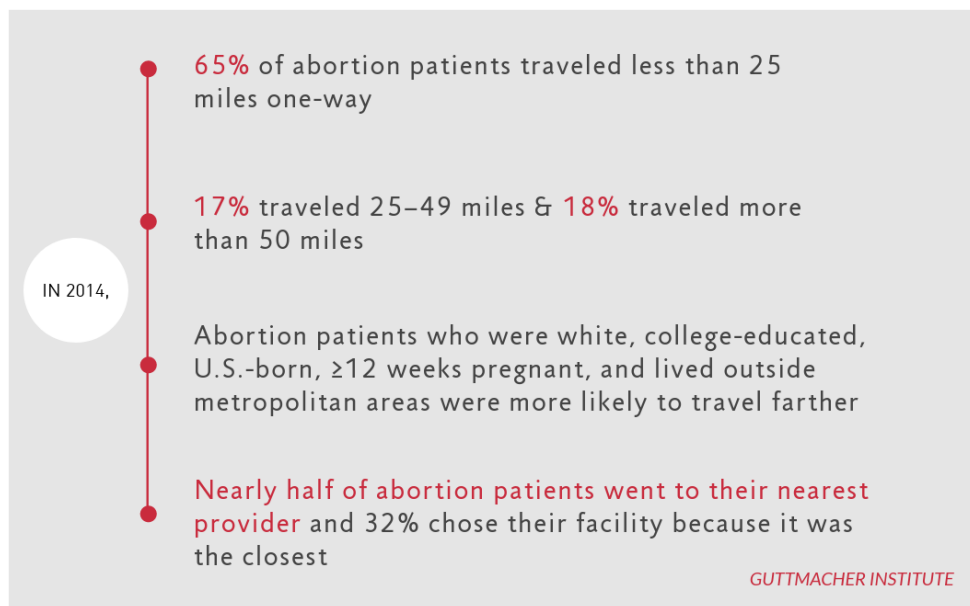
believe that abortion should be illegal in all/most cases

Great, I'm protected. Why does this matter?

Although New York State has some of the most highly protected abortion rights in the nation, it is our job as responsible citizens to look at the bigger picture. This year's rapid decrease in access to abortion services marginalizes women and perpetuates values that equate women with a lesser societal status.

In other words, these bans send everyone back a few steps.

Data collected from the most recent Abortion Patient Survey and Abortion Provider Census (2014) indicates that **the distance a woman must travel to obtain abortion services is an important determinant of whether or not she receives care.** For the 18% of women who traveled more than 50 miles to obtain services, the most common reason cited was a lack of closer providers.



Foreign-born women comprise around 16% of all abortions performed in the U.S. Of the 16%, a majority of immigrants were in their 20's and 73% were of or near poverty-level income. Nearly half of those individuals were uninsured and 44% had been in the U.S. for less than 10 years. Today, it goes without question that money can take a person a lot farther than no money.

Abortion Checklist:

- ___ A job that allows me to take time off
- ___ \$350-950 in savings for a procedure during 1st trimester
- ___ A reliable method of transportation
- ___ A clinic within a reasonable distance
- ___ Someone to drive me home after the procedure
- ___ Health Insurance
- ___ Money for post-procedure sanitary products

To the suburban white New Yorker, the recent surge of abortion laws is most likely concerning – but has no dire effect on one's daily life. It's okay to have a full hand. However, even the most minute restriction of access to resources and information more seriously affects those with fewer cards to play. The theory of intersectionality promotes those with more of a systemic stake in the game passing the mic, so to speak, to those who have not traditionally had their voices heard in American society. Unfortunately, this includes all women. However, these are some of the groups of people who are more acutely underrepresented:

Women with disabilities
Women of Color
Trans-folks
Women living in rural areas
Women of faith
Women of a different national origin

Wow, I care about others' rights but hadn't thought of all of this before.

What can I do?

The debate over abortion rights is both nothing new and far from over. It is likely that these new laws will be tied up in the court system for quite some time before reaching SCOTUS. Here's what you can do right now:

1 **Talk about it.**

Abortion is (understandably) a difficult topic to approach, but having an earnest and respectful conversation with your loved ones can have a great impact and strengthen your personal relationships.

2 **Pay attention to local elections.**

From County Legislature to State Assembly races, it is important to pay attention to who you are voting for. Think: Am I voting with everyone's best interests in mind? What issues does the candidate focus on? Some google research before election day will generally suffice for those who aren't political junkies.

3 **Volunteer as a clinic escort.**

Escorting someone into a clinic may seem a bit unnecessary, but it is invaluable to someone in a vulnerable situation. Most clinics have seen a rise in the number of anti-choice protesters picketing outside/nearby. Sign up to volunteer with Planned Parenthood: <https://www.plannedparenthood.org/get-involved/jobs-and-volunteering>.

4 **Donate.**

Donate whatever you can to organizations serving women in the most severely impacted areas. A few reputable organizations can be found here: <http://www.womenhaveoptions.org/>; <https://yellowhammerfund.org/>; <https://msreprofreedomfund.org/donate/>; and <https://www.arc-southeast.org/>.

**"I will not have my life narrowed down.
I will not bow down to somebody else's
whim or to someone else's ignorance."**

- Gloria Jean Watkins
a.k.a. *Bell Hooks*



To learn more about ECCSW serves the women of Erie County please visit our website at:

<http://www2.erie.gov/csw> or click/scan the accompanying QR code.



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