

The Women's Health Protection Act

The Women's Health Protection Act would protect the right to abortion throughout the United States and would block the barrage of state bans and restrictions on abortion intended to impede or outright deny access. The bill would protect a person's freedom to make decisions about their own reproductive health care and a health care provider's ability to provide the full range of reproductive health services, including abortion.

Abortion rights and access are facing a crisis in the United States. Despite overwhelming public support for the legal right to abortion, we're in the midst of an all-out assault on reproductive freedom. The U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* overturned *Roe v. Wade*, ending the constitutional right to abortion as we know it and signaling an ominous sign for the future of abortion rights in this country. The Court's ruling has empowered extremist state lawmakers to enforce total bans on abortion—several of which are now in place—and over half of the states in our country are at risk of doing so. The need to enshrine the legal right to abortion in federal statute is more urgent than ever.

Even before *Roe* was overturned by the Court, though it has long not been a reality for millions of people across the country, state lawmakers seeking to advance their agenda of power and control have passed hundreds of state-level attacks on abortion access over the last decade that have made care extremely difficult, if not impossible, to access for many people across the country. According to the Guttmacher Institute, over 500 restrictions on abortion access have been introduced at the state level this year, and now that *Roe* has fallen, we can expect to see even more. These systematic attacks on reproductive freedom and abortion access—which are rooted in racism, white supremacy, and other forms of discrimination—intentionally push access out of reach and most harm those already marginalized at every turn by our systems and institutions.

The Women's Health Protection Act (WHPA) would put a stop to these bans and medically unnecessary restrictions, thus allowing medical providers to do the important work of providing high-quality abortion care to people across the country. Specifically, it creates a right for healthcare providers to provide abortion care and a corresponding right for people to receive that care, without limitations or requirements that are more burdensome than restrictions imposed on medically comparable procedures. Such limitations and requirements include:

- A requirement that a health care provider perform specific medically unnecessary tests or procedures in connection with the provision of abortion (i.e., a mandatory ultrasound);
- A requirement that a health care provider offer or provide medically inaccurate information to a person seeking abortion (i.e., biased counseling);
- A limitation on a health care provider's ability to prescribe or dispense medication based on current evidence-based regimens or the provider's good-faith medical judgment (i.e., medication abortion care restrictions);

- A limitation on a health care provider's ability to provide abortion services via telemedicine (i.e., medication abortion care restrictions);
- A requirement or limitation specifically targeted at facilities or the personnel of facilities that provide abortion services (i.e., Targeted Restriction on Abortion Providers (TRAP) laws);
- A requirement that, prior to obtaining an abortion, a person make one or more medically unnecessary in-person visits to the provider of abortion services or to any individual or entity that does not provide abortion services (i.e., multiple unnecessary visits to the doctor or visits to a fake health center);
- A prohibition on abortion prior to fetal viability, including a prohibition or restriction on a particular abortion procedure (i.e., timing and procedures-based abortion bans);
- A prohibition on abortion after fetal viability when, in the good-faith medical judgment of the treating health care provider, continuation of the pregnancy would pose a risk to the pregnant person's life or health (i.e., abortion bans without the life or health exceptions required under Roe);
- A limitation on a health care provider's ability to provide immediate abortion services when the provider believes, based on their good-faith medical judgment, that delay would pose a risk to the pregnant person's health; or
- A requirement that a person seeking abortion services prior to fetal viability state their reasons for seeking abortion services, or a limitation on the provision of abortion services prior to fetal viability based on the person's reasons or perceived reasons for obtaining abortion services (i.e., abortion bans based on the reason a person is seeking care).

The legislation also outlines factors for courts to consider when determining whether a limitation or requirement unlawfully impedes access to abortion services. Finally, this legislation would put a stop to state restrictions or limitations that violate the Women's Health Protection Act.

Reps. Judy Chu (D-CA), Lois Frankel (D-FL), Ayanna Pressley (D-MA), and Veronica Escobar (D-TX), along with Sens. Richard Blumenthal (D-CT) and Tammy Baldwin (D-WI) originally introduced the Women's Health Protection Act in Congress in June 2021. The White House issued a Statement of Administration Policy in support of WHPA. In September 2021, the U.S. House of Representatives passed WHPA in an historic vote. This was the first time ever that Congress voted on proactive, standalone legislation to protect abortion rights. Leader Schumer brought this critical bill to the Senate floor in February and May of 2022, yet Senate Republicans blocked its advancement on both occasions. In light of the Supreme Court's decision to end the constitutional right to abortion, Rep. Chu reintroduced the Women's Health Protection Act in the House in July 2022, which included modified findings to reflect the overturning of *Roe v. Wade*.