

Issue: PA Reproductive Rights

## Reproductive Rights in Pennsylvania

Democrats have long fought to preserve a woman's right to make decisions about her own body, which includes access to abortion. Conversely, many Republicans would like to completely outlaw abortions. Although they haven't been successful (yet), they have succeeded in making it more difficult for women to obtain an abortion in many states, including Pennsylvania. In spite of the existing burdensome restrictions, Pennsylvania Republicans would like to add even more.

This short paper discusses the existing restrictions in Pennsylvania and provides recent examples of Republican-sponsored bills that seek to further curtail access to abortion. The Appendix lists the sponsors of these bills.

### Current Restrictions

Access to abortion in Pennsylvania is highly restricted. For example:

- There is a 24-hour waiting period, which includes a requirement that women listen to an "informed consent" script. The Women's Law Project states that nearly a fourth of the statements in this script are medically inaccurate.<sup>1</sup>
- Abortion is banned after 24 weeks.<sup>2</sup>
- Permission of a parent or legal guardian is required for girls and women under 18 years of age.<sup>3</sup>

Pennsylvania also has medically unnecessary restrictions on the facilities that provide abortions. Clinics must be within a 30-minute drive of a hospital that has agreed to provide emergency services to clinic patients.<sup>4</sup> Only licensed physicians or osteopaths may provide abortions.<sup>5</sup>

Abortion medication must be prescribed by a licensed physician.<sup>6</sup>

Some limitations are due to insurance restrictions. For example, insurance for public employees or insurance obtained under the ACA state exchange will only cover abortion in the case of incest or rape. (Women purchasing insurance plans on the state exchange may also purchase a rider that would cover abortion.)<sup>7</sup>

Abortion providers in Pennsylvania are concentrated in the larger cities.<sup>8</sup> Almost half of all women in Pennsylvania live in counties with no clinics that provide abortions.<sup>9</sup>

### Recent Republican Legislation

Pennsylvania Republicans would like to make it even more difficult for woman and girls to obtain an abortion. Republican-sponsored legislation would essentially legislate medical decisions that should be between a woman and her health providers, as the bills below illustrate.

#### **HB 1890, Burial of fetal remains**

This 2019 bill would require the burial of fetal remains, resulting from abortions and miscarriages, by a medical facility. It would also require a death certificate. This bill, sponsored by Republican Francis Ryan (HD 101), passed in the House and is stalled in the Senate.<sup>10, 11, 12, 13</sup>

**HB 321. Outlaw of abortions in case of Down's Syndrome**

This bill, which would have outlawed abortions based on a prenatal diagnosis of Down's Syndrome, was passed by both the Senate and House, but was vetoed by Governor Wolf in 2019.<sup>14, 15</sup>

**HB 1977, SB 912, Ban after 6 weeks**

This 2019 bill would essentially block abortions at about six weeks, when many women do not even know they are pregnant. The criteria for this prohibition would be "detection" of a fetal heartbeat.<sup>16</sup> However, researchers have found that fetal hearts are not fully developed until around the 20<sup>th</sup> week of pregnancy, which means that a fetal heartbeat could not be detected before that time.<sup>17</sup> The American Congress of Obstetricians and Gynecologists states that heartbeat bills are "unnecessary political interference in the practice of medicine."<sup>18</sup> Around the country, no fetal heartbeat bill has survived a court challenge, although as recently as February of 2020, the state senate in Oklahoma passed one.

**HB 1058. "Perinatal support care" information; Physician gag order attempted**

As described by the Woman's Law Project, HB 1058, "initially sought to force doctors to refuse to answer their patients' questions for 24 hours after giving a patient a catastrophic medical diagnosis of an unviable pregnancy."<sup>19</sup> HB 1058 seeks to force a woman to continue a pregnancy despite a fatal prognosis by requiring health care practitioners to inform patients of the availability of "perinatal support care."<sup>20</sup> The gag order portion and the penalties for physician noncompliance were eventually removed. HB 1058 passed out of the House in May 2019 and now is in the Senate.

**SB 857, Ban on medication abortions**

Telemedicine enables people living in rural areas and those who want to avoid other people during the pandemic to get medical care. This recent Pennsylvania bill would have permitted online visits and would have required insurance to cover the visits. However, a House amendment added a prohibition against physicians prescribing the medication used for abortions via telemedicine visits. For that reason, Governor Wolf vetoed this bill in May 2020.<sup>21</sup>

## Appendix: Legislation Sponsors

These lists of sponsors were obtained from the state bill tracking web site:

<https://www.legis.state.pa.us/>

**Sponsors of HB 1890. Disposal of fetal remains**

Ryan, Rapp, Barrar, Bernstine, Diamond, Ecker, Gleim, Helm, James, Kulik, Moul, Murt, Pickett, Schmitt, Staats, Wheeland, Zimmerman, Hillefans, Lawrence, Fritz, Rothman, Warner, Dush, Fee, Greiner, Mustello and Jones

**House sponsors of HB 321. Down's Syndrome abortions**

Klunk, Turzai, Barrar, Bernstine, Boback, Borowicz, Brooks, Brown, Burns, Causer, Cook, Cox, Schlegelculver, Cutler, Day, Diamond, Dowling, Dunbar, Dush, Ecker, Emrick, Everett, Fee, Fritz, Gillen, Gillespie, Gleim, Gregory, Greiner, Grove, Hahn, Heffley, Helm, Hennessey, Hershey, Hickernell, Irvin, James, Jones, Jozwiak, Kail, Kauffman, Keefer, M. K. Keller, Knowles, Kulik, Lawrence, Lewis, Maloney, Marshall, Masser, Mehaffie, Mentzer, Metcalfe, Millard, B. Miller, Moul, Murt, Nelson, Nesbit, O'Neal, Oberlander, Ortitay, Owlett, Peifer, Pickett, Rader, Rapp, Readshaw,

Reese, Rigby, Roae, Rothman, Ryan, Sankey, Saylor, Schemel, Schmitt, Staats, Struzzi, Topper, Walsh, Warner, Wentling, Wheeland, Zimmerman and Mizgorski

**House sponsors HB 1977, Ban after six weeks**

Borowicz, Struzzi, Lewis, Topper, Ryan, Millard, Bernstine, Cox, Rothman, Kauffman, Rapp, Schmitt, Diamond, Metcalfe, B. Miller, Hickernell, Kail, Zimmerman, Dowling, Readshaw, Irvin, Wheeland, Grove, Fritz, Hershey, Jones, Reese, Marshall, Gillen, Dush, Greiner, Knowles, Barrar, Keefer, Owlett, Schemel, Cook, Turzai, Rigby, Gleim, Ecker, Rowe, Fee, Warner and Brooks

**Senate sponsors of SB 912, Ban after six weeks**

Mastriano, Scarnati, Pittman, Stefano, J. Ward, Langerholc and Hutchinson

**Sponsors of HB 1058, “Perinatal support care” information: Attempted physician gag order**

Rapp, Cutler, Klunk, Pickett, Zimmerman, Bernstine, Saylor, Kauffman, Reese, Topper, Jozwiak, Grove, Neilson, Murt, Ecker and Diamond

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<sup>1</sup> <https://www.womenslawproject.org/2020/01/22/abortion-rights-access-in-pennsylvania-at-roe47/>

<sup>2</sup> <https://www.plannedparenthood.org/planned-parenthood-southeastern-pennsylvania/patients/pa-abortion-control-act>

<sup>3</sup> <https://www.plannedparenthood.org/planned-parenthood-southeastern-pennsylvania/patients/pa-abortion-control-act>

<sup>4</sup> <https://www.prochoiceamerica.org/state-law/pennsylvania/>

<sup>5</sup> <https://www.prochoiceamerica.org/state-law/pennsylvania/>

<sup>6</sup> <https://www.gutmacher.org/state-policy/explore/medication-abortion>

<sup>7</sup> <https://www.gutmacher.org/fact-sheet/state-facts-about-abortion-pennsylvania#:~:text=In%20Pennsylvania%2C%20the%20following%20restrictions,as%20of%20March%201%2C%2020%3A&text=Abortion%20is%20covered%20in%20insurance,life%20endangerment%2C%20rape%20or%20incest.>

<sup>8</sup> <https://www.womenslawproject.org/2020/01/22/abortion-rights-access-in-pennsylvania-at-roe47/>

<sup>9</sup> <https://www.gutmacher.org/fact-sheet/state-facts-about-abortion-pennsylvania#>

<sup>10</sup> [https://www.legis.state.pa.us/cfdocs/billInfo/bill\\_votes.cfm?year=2019&sind=0&body=H&type=B&bn=1890](https://www.legis.state.pa.us/cfdocs/billInfo/bill_votes.cfm?year=2019&sind=0&body=H&type=B&bn=1890)

<sup>11</sup> <https://www.inquirer.com/opinion/editorials/fetal-remains-harrisburg-wolf-abortion-reproductive-rights-editorial-20191124.html>

<sup>12</sup> <https://www.pennlive.com/news/2019/10/fetal-remains-bill-would-force-women-in-pa-to-have-funeral-services-for-miscarriages-and-abortions.html>

<sup>13</sup> [https://www.vice.com/en\\_us/article/8xwyng/pennsylvania-fetal-burial-bill-death-certificates-for-miscarriage-abortion-fertilized-eggs-hb1890](https://www.vice.com/en_us/article/8xwyng/pennsylvania-fetal-burial-bill-death-certificates-for-miscarriage-abortion-fertilized-eggs-hb1890)

<sup>14</sup> <https://apnews.com/d616bc3630344bd4a195a8aad4057d03>

<sup>15</sup> [https://www.legis.state.pa.us/cfdocs/billInfo/bill\\_history.cfm?year=2019&sind=0&body=H&type=B&bn=321](https://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2019&sind=0&body=H&type=B&bn=321)

<sup>16</sup> <https://www.pennlive.com/news/2019/10/pa-lawmakers-introduced-heartbeat-bill-aimed-at-restricting-banning-abortion.html>

<sup>17</sup> <https://www.medicinenet.com/script/main/art.asp?articlekey=167987>

<sup>18</sup> <https://www.acog.org/About-ACOG/News-Room/Statements/2017/ACOG-Opposes-Fetal-Heartbeat-Legislation-Restricting-Womens-Legal-Right-to-Abortion?IsMobileSet=false>

<sup>19</sup> <https://www.womenslawproject.org/2019/12/11/2019-the-year-in-abortion-restrictions-pro-choice-bills/>

<sup>20</sup> <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=H&type=B&bn=1058>

<sup>21</sup> <https://why.org/articles/pa-gov-wolf-to-veto-bill-that-places-restrictions-on-abortion-telemedicine/>