

ISSUE: Contraception

AZ Republicans Claim They do not Want to Ban Birth Control.....That's a Lie



“Like I said, Bayer Company invented aspirin. Put it between your knees,” ~Sonny Borrelli, Senate Majority Leader of Arizona, responding to a question about blocking future contraception bills March 7, 2024¹



On March 13, 2024, Arizona Republicans unanimously voted to block Democrats' efforts to bring a vote on the Right to Contraception Act in both the Arizona House of Representatives (HB 2678) and Senate (SB 1362). Despite several bills designed to protect a person's right to contraception being introduced in both chambers over the years, the Republican-controlled legislature has refused to hold committee hearings and votes on these bills.²

In response to the Republicans' unwillingness to allow a vote on the Right to Contraception Act, Gov. Hobbs issued Executive Order 2024-03 Protecting Reproductive Freedom Through Increased Access to Contraception on May 17, 2024.³ The executive order stated:

- designates Opill and future FDA approved over-the-counter self-administered hormonal contraception as a preventative “essential health benefit,” at no cost, with or without a prescription under the State Plan;
- asks for the administrators of Arizona's Medicaid program to consider available options to expand contraception options for its members;
- mandates that the Arizona Dept. of Health Services, in coordination with the State Board of Pharmacy, shall work to educate Arizonians and pharmacists about the contraception options available under the Standing Order. (The Standing Order is a law in AZ that permits pharmacists to dispense birth control pills at pharmacies to customers without a prescription).⁴

Griswold provides U.S. constitutional protection of birth control

Following the *Dobbs v. Jackson Women's Health Organization* ruling, concern about patients losing access to contraception has significantly increased. Justice Thomas, in his concurring opinion, wrote, “In future cases, we should reconsider all of this Court's substantive due process precedents, including *Griswold* (contraception), *Lawrence* (same-sex sexual interaction), and *Obergefell* (marriage equality).”⁵ Even without *Griswold* being overturned in the future, access to contraception is currently under attack across the U.S. in state legislatures, including in Arizona and at the national level in the U.S. Congress.

In 1965, the U.S. Supreme Court found in *Griswold v. Connecticut*⁶ that a married woman has the right to contraception under the U.S. Constitution. In *Eisenstadt v. Baird* (1972)⁷ the Court further found that unmarried couples have the same right to birth control as married couples, and the Court

expanded access to birth control to persons under the age of 16 in *Carey v. Population Services, Int'l* (1977).⁸

Emergency contraception such as Plan B-One Step (also known as the morning after pill and not to be confused with Mifepristone (a medication used for nonsurgical abortion)) is legal in Arizona.⁹ However, it is also the case that, in Arizona, any pharmacist, any individual provider, or any institution may summarily refuse to dispense emergency contraception, IUDs, and oral birth control pills.¹⁰

Republicans weaponize misinformation about contraception

Even without the overturning of *Griswold*, Republicans continue to work aggressively to ban access to contraception. In 2021's SB 1362, the Arizona Legislature erroneously conflated emergency contraception such as Plan B One-Step with the abortion medication (Mifepristone). This was an amendment to statutes 36-1321, 36-1322 and 36-2154 that prohibit discrimination against health care entities that refuse to assist in "causing the death of any individual" by such means as "assisted suicide, euthanasia, or mercy killing." The amendment introduced to the statutes included "means of abortion" and "emergency contraception" to the list of actions causing the death of an individual for which health care providers are effectively shielded from liability.¹¹ The National Women's Law Center summarizes the intent of the ultra-right legislators this way: "By listing emergency contraception alongside abortion, the legislators sought to falsely equate them, in stigma and outcome. Ultimately this law passed in the state Senate but failed in the House."¹²

On the national level, efforts have been made in the U.S. Congress to purposefully conflate emergency contraception with abortifacients (medications that cause abortions). In June 2021, the U.S. House of Representatives considered the Equal Access to Contraception for Veterans Act, a bill that would allow veterans access to contraception at no-cost. During the proceedings, Rep. Greene (R, Georgia) stated "Contraception stops a woman from becoming pregnant. The Plan B pill kills a baby in the womb once a woman is already pregnant." Rep. Rosendale (R, Montana) went on record stating, "Let me be clear, drugs like Plan B and Ella are not contraception, they are abortifacients."¹³ The statements by Reps. Greene and Rosendale are categorically false. Emergency contraception prevents fertilization of an egg, i.e., prevents pregnancy. Emergency contraception does not cause an abortion, as there is nothing to abort.

In 2022, following the *Dobbs* decision, 195 Republicans voted against the Right to Contraception Act in the U.S. House, including four of Arizona's U.S. House members: Rep. Andy Biggs, Rep. Paul Gosar, Rep. Debbie Lesko, and Rep. David Schweikert.¹⁴ The Susan B. Anthony Pro-Life America (SBA America) organization also opposed the Right to Contraception Act. The group said in a statement provided to The 19th News that it "is a single-issue organization focused on abortion. We do not take a stance on contraception." The article also stated that in the past, SBA America has promoted the falsehood that IUDs and emergency contraception can cause abortions.¹⁵ To reiterate, emergency contraception and IUDs are both forms of birth control. They prevent pregnancy and physically cannot cause an abortion.

Alliance Defending Freedom (ADF), the organization that provided legal support for the *Dobbs* case in which *Roe* was overturned, is currently representing the doctors challenging the use of mifepristone. ADF told Politico in March 2024 that "ADF has never advocated for limitations on access to contraception." That is a ridiculous statement, given that ADF represented a nurse practitioner and a pharmacist who refused to dispense emergency contraceptives, arguing they were "abortion-

causing drugs.” “No one should be forced to violate his conscience in the workplace, and that includes dispensing drugs that can cause an abortion,” an ADF attorney wrote on behalf of the pharmacist who refused to dispense the morning-after pill Ella.¹⁶

Republicans use the following misinformation to support legislation that bans access to emergency contraception and IUDs and to justify voting against Democrat-sponsored legislation to protect access to contraception. Republicans falsely state IUDs and emergency contraception (such as Plan B One-Step) are abortifacients. An abortifacient causes abortions. Specifically, Republicans erroneously state that IUDs and emergency contraception block implantation of a fertilized egg into the uterine wall. This is false. Emergency contraception medications and IUDs prevent the fertilization of the egg and therefore, prevent pregnancies. As such, discussions of emergency contraception medications have no place in a discussion of abortion.

On June 5, 2024, the U.S. Senate voted against advancing the Right to Contraception Act. Democrats wanted to put Republicans on record regarding their position on protecting access to contraception. Republicans voted against the Right to Contraception Act, saying it was messaging stunt on behalf of Democrats. Sen. John Cornyn stated falsely “the bill would force healthcare providers to provide abortion drugs.”¹⁷ Only two Republicans supported the Right to Contraception Act, Sen. Lisa Murkowski, and Sen. Susan Collins. Sen. Lisa Murkowski stated, “If it is going to be a messaging bill, I want my message to be very clear that a woman should have a right to contraception.”¹⁸

Key takeaways:

1. Both IUDs and emergency contraception such as Plan B One-Step do not cause abortions. They prevent pregnancy by blocking ovulation. Without ovulation, no fertilization can occur, i.e., a pregnancy cannot occur.¹⁹
2. Emergency contraception such as Plan B One-Step consist of the hormone levonorgestrel, the identical hormone in oral birth control pills. Plan B One-Step is just a larger dose of levonorgestrel than is in oral birth control pills.²⁰
3. Hormonal IUDs release levonorgestrel over time and function in the same manner as oral birth control pills by blocking ovulation. Without ovulation, no fertilization can occur.²¹
4. Copper IUDs release copper ions that create a hostile environment to sperm, thus blocking fertilization.²²
5. There is no medical data that either type of IUD blocks implantation.
6. If there is no fertilization, there is nothing to abort.

Fetal Personhood: Granting a fertilized egg rights and privileges while denying the rights of Arizonians

Republican legislators voted for, and Gov. Ducey signed into law SB 1457 (2022), which grants fertilized eggs the same rights and privileges as enjoyed by children and adults.

Specifically, SB 1457 states:

“The laws of the state shall be interpreted and construed to acknowledge, on behalf of an unborn child at every stage of development, all rights, privileges and immunities available to other persons, citizens and residents of this state.”²³

Arizona’s fetal personhood law does not include any exceptions for abortion. The law strips away existing rights by regulating both pregnant people and in vitro fertilization patients. A federal fetal personhood law would ban abortion in every state, such as the Life at Conception Act (2023), which was supported by 125 Republican representatives in the U.S. House, including Arizona representatives, Rep. Andy Biggs, Rep. Elijah Crane, Rep. Paul Gosar, and Rep. Debbie Lesko.²⁴ Fetal personhood laws do not ban any contraception, unless of course Republicans weaponize misinformation and promote the falsehood that IUDs and emergency contraception cause abortions.

If Trump returns to the White House, Project 2025

If Trump wins the 2024 U.S. Presidential election, the Heritage Foundation has created a blueprint for the Trump Administration transition period called Project 2025. Project 2025 is a complete revamping of the Executive branch.²⁵ In Project 2025, the Heritage Foundation encourages Trump to remove emergency contraception from the coverage mandate contained in the Affordable Care Act, saying it is a “potential abortifacient” and “close cousin” to mifepristone.

For more on contraception or fetal personhood laws in Arizona see Local Majority’s [full reports](#)

¹ <https://x.com/AZHouseDems/status/1766104886616408120>

² <https://azmirror.com/2024/03/13/democrats-tried-to-force-a-vote-on-contraception-access-but-republicans-shut-it-down/#:~:text=Arizona%20Republicans%20unanimously%20blocked%20an,in%20the%20Grand%20Canyon%20State.>

³ https://mcusercontent.com/44a5186aac69c13c570fca36a/files/abba4499-1c63-61d7-c59d-3a5d0dfc5a46/EO_2024_03.pdf

⁴ <https://directorsblog.health.azdhs.gov/improving-access-to-birth-control/>

⁵ https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf

⁶ <https://supreme.justia.com/cases/federal/us/381/479/>

⁷ <https://caselaw.findlaw.com/us-supreme-court/405/438.html>

⁸ <https://caselaw.findlaw.com/us-supreme-court/431/678.html>

⁹ <https://www.azag.gov/issues/reproductive-rights/faq#:~:text=legal%20in%20Arizona%3F,Yes.,them%20is%20not%20an%20abortion.>

¹⁰ <https://www.guttmacher.org/state-policy/explore/refusing-provide-health-services>

¹¹ <https://legiscan.com/AZ/bill/SB1362/2021>

¹² <https://nwlc.org/resource/dont-be-fooled-birth-control-is-already-at-risk/>

¹³ <https://www.govinfo.gov/content/pkg/CREC-2021-06-24/pdf/CREC-2021-06-24.pdf>

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- ¹⁴ <https://clerk.house.gov/Votes/2022385>
- ¹⁵ <https://19thnews.org/2024/05/right-to-contraception-politics-legislation/>
- ¹⁶ <https://www.politico.com/news/magazine/2024/03/25/head-of-alliance-defending-freedom-kristen-waggoner-speaks-on-mifepristone-00148565>
- ¹⁷ <https://www.nytimes.com/2024/06/05/us/politics/contraception-bill-senate-democrats.html>
- ¹⁸ <https://alaskapublic.org/2024/06/05/murkowski-votes-to-advance-democrats-messaging-bill-on-contraception-rights-she-likes-the-message/>
- ¹⁹ <https://www.plannedparenthood.org/planned-parenthood-massachusetts/online-health-center/planned-parenthood-services-birth-control-abortion-std-hiv-pregnancy-health-care/emergency-contraception-study-and-video#work>
- ²⁰ <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/plan-b-one-step-15-mg-levonorgestrel-information#:~:text=A.-,Plan%20B%20One%2DStep%20is%20an%20emergency%20contraceptive%2C%20a%20backup,pills%20for%20over%2035%20years.>
- ²¹ <https://www.plannedparenthood.org/learn/birth-control/iud/hormonal-iuds>
- ²² <https://www.plannedparenthood.org/learn/birth-control/iud/non-hormonal-copper-iud>
- ²³ <https://legiscan.com/AZ/text/SB1457/id/2377031>
- ²⁴ <https://www.congress.gov/bill/118th-congress/house-bill/431/cosponsors?pageSort=alphaByState>
- ²⁵ <https://www.project2025.org/policy/>