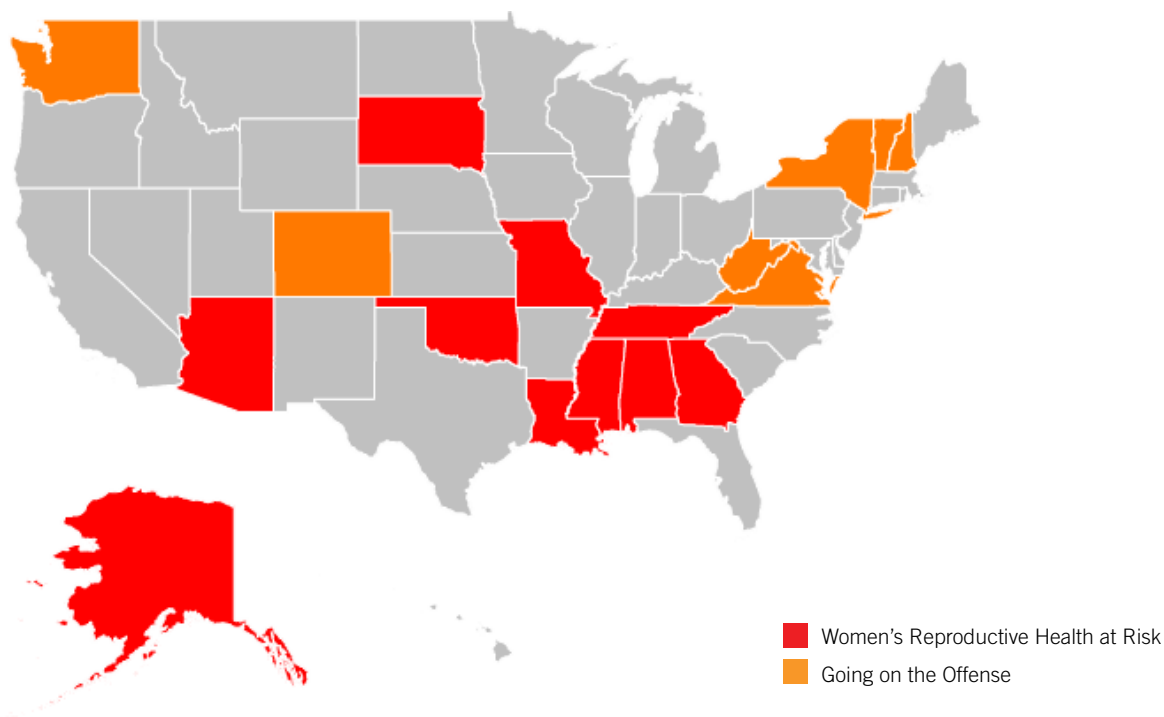


# THE STATE OF THE STATES: 2014 MID-YEAR REVIEW



On the heels of 2013's historic year for reproductive rights – from the renowned Texas filibuster to the introduction of the groundbreaking Women's Health Protection Act in Congress, prochoice advocates were prepared in 2014 to continue the fight for access to safe and legal abortion care without undue political interference. Despite the introduction of more than 250 bills restricting abortion in nearly 40 states, as well as underhanded legislative maneuvering and outlandish statements by state legislators making crystal clear their true political motives, we witnessed a strong and ever-growing effort to protect and promote reproductive health and rights with the introduction of over 100 proactive, pro-women's health measures. Midway through 2014, the Center for Reproductive Rights is taking stock of the states and finding that while the gap in access continues to grow zip code by zip code, the reproductive rights movement is more energized than ever.

## 11 THINGS YOU SHOULD KNOW ABOUT REPRODUCTIVE RIGHTS IN THE STATES IN 2014

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2. Alaska doubles down on reducing access to abortion
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On the heels of 2013's historic year for reproductive rights – from the renowned Texas filibuster to the introduction of the groundbreaking Women's Health Protection Act in Congress, prochoice advocates were prepared in 2014 to continue the fight for access to safe and legal abortion care without undue political interference. Despite the introduction of more than 250 bills restricting abortion in nearly 40 states, as well as underhanded legislative maneuvering and outlandish statements by state legislators making crystal clear their true political motives, we also witnessed a strong and ever-growing effort to protect and promote reproductive health and rights with the introduction of over 100 proactive, pro-women's health measures. Midway through 2014, the Center for Reproductive Rights is taking stock of the states and finding that while the gap in access continues to grow zip code by zip code, the reproductive rights movement is more energized than ever.

## TEN NOTEWORTHY ASSAULTS ON ABORTION ACCESS IN 2014

### 1. Alabama abortion access goes from bad to worse

Despite the fact that last year's admitting privileges law is still winding its way through the court system, the Alabama state legislature in 2014 attempted to further reduce access to abortion care by tightening restrictions in two existing laws. [HB 489](#) extended the mandatory 24 hour waiting period for abortion care to 48 hours, and [HB 494](#) expanded the parental consent law to both require that a parent sign a consent form in front of the providing physician and restrict minors seeking judicial bypass to the courts in their home county, placing minors' confidentiality and safety at risk. The legislature failed to advance an extreme 'heartbeat' ban ([HB 490](#)) that could have prohibited abortion as early as six weeks of pregnancy. This clearly unconstitutional bill would have required a doctor to determine the presence of a fetal heartbeat prior to performing an abortion and would have made it a crime to perform an abortion if a heartbeat is detected, with only extremely narrow exceptions for the life and health of the pregnant woman. Anti-choice lawmakers also introduced an insensitive bill ([HB 493](#)) requiring abortion providers to inform any woman who discovers that her fetus has fatal anomalies about the option of perinatal hospice care as an alternative to abortion.

### 2. Alaska doubles down on reducing access to abortion

"Other than putting contraceptives in the drinking water . . . we've done just about everything we can do as far as family planning services [in Alaska]." –[Anti-choice Alaska Representative Gabrielle LeDoux](#), [SB 49](#) cosponsor, in an attempt to justify more abortion restrictions.

In late 2013, the Alaska Department of Health enacted regulations that severely restrict abortion access for low-income women on Medicaid. The regulations were a direct attempt to circumvent a 2001 decision by the Alaska Supreme Court holding that the state cannot discriminate in the provision of services under the Medicaid program. The Center for Reproductive Rights, representing Planned Parenthood of the Great Northwest, along with our allies the American Civil Liberties Union, Planned Parenthood Federation of America, and Susan Orlansky of Anchorage, filed a lawsuit challenging these harmful regulations, and early this year the Alaska Superior Court [temporarily blocked](#) the policy from taking effect. Just months later, the state doubled down on restricting low-income women's access to abortion,

passing [SB 49](#)—a nearly identical, unconstitutional restriction on Medicaid insurance payments for abortions. The Center and our allies amended our lawsuit to include a challenge to the newly passed law, which is currently pending in state court.

Restrictions on abortion coverage not only interfere with a woman's ability to make personal decisions, but also amplify existing health disparities, disproportionately harming women who already face barriers to accessing health care, including lower-income women and women of color. In order for a woman to make the best decision for herself and her family, a woman needs to have coverage for all pregnancy-related care, including abortion care, no matter where she gets her insurance.

### 3. Arizona enacts "perfect storm" TRAP law

[HB 2284](#) presents the ultimate catch-22 for abortion providers in Arizona. The bill greatly expands the state health department's ability to conduct surprise, warrantless inspections, while simultaneously sharply curtailing a clinic's ability to remain open if the inspection reveals even a minor deficiency that bears no relationship to patient health or safety.

Anti-abortion activists elsewhere routinely file anonymous, unfounded complaints for the purpose of encouraging the state health department to harass and ultimately close abortion clinics. One serious risk of [HB 2284](#) is that it could lead to arbitrary and discriminatory enforcement of the many laws and regulations applicable to abortion care in the state—some of which are completely unrelated to patient safety. This bill is yet another example of Arizona's notoriously misguided efforts to limit constitutional rights and freedoms instead of promoting and protecting those rights. For example, legislators in 2012 passed one of the most extreme anti-abortion laws in recent memory. The most egregious provisions of that bill—an unconstitutional [ban](#) on pre-viability abortion and harmful [restrictions](#) on medication abortion—are blocked from going into effect by federal court orders.

### 4. Georgia lawmakers' attacks on abortion access mirror assault on other progressive values

In 2014, Georgia politicians resorted to unfair and deceptive tactics in order to take away insurance coverage for abortion from women who need it. Using an array of undemocratic maneuvers—including holding hearings with limited public notice—the legislature passed and Georgia Governor Nathan Deal signed into law [SB 98](#). This law prohibits insurance coverage for abortion in health insurance plans purchased through the state health insurance marketplace, with an extremely narrow exception for medical emergencies. The law also codifies a discriminatory regulation enacted in 2013 which prohibits abortion coverage in state employees' health insurance plans with a very limited exception for life endangerment. Georgia is the twenty-fifth state to restrict abortion coverage in health insurance marketplaces.

The attacks on abortion coverage in Georgia are happening alongside attacks on other health care services, public education, voting, and workers' rights. Activists in Georgia have come together to promote progressive values including reproductive justice through the Georgia Moral Mondays coalition, and their voices continue to grow louder through rallies, marches, and online organizing.

### **5. Louisiana Department of Health and Hospitals backs down on choking off abortion access, but the legislature storms ahead**

Some good news first: Late in 2013, the Louisiana Department of Health and Hospitals DHH proposed new abortion regulations that would have created incredibly onerous restrictions on clinics that have absolutely nothing to do with the quality of medical care and everything to do with creating a host of cost-prohibitive requirements for providers that would have ultimately shut them down. These regulations also would have required women to get two medical tests the day they request an abortion and then wait 30 days to get the results - essentially creating an outrageous 30-day waiting period! Louisianans – led by the New Orleans Abortion Fund, Law Students for Reproductive Justice at Tulane University, Choice Louisiana, Planned Parenthood of the Gulf Coast, and other members of the Louisiana Coalition for Reproductive Freedom – mounted a national response, delivering thousands of comments in opposition to these regulations. And DHH backed down – for now.

The legislature, however, did not hold back, instead pushing one harmful abortion restriction after another. Energized by local and national support, Louisiana advocates continued to fight back against the litany of extreme anti-abortion bills considered in 2014. Six anti-choice bills were considered by the Louisiana legislature in 2014 – and 5 were signed into law by Governor Bobby Jindal. Perhaps the most damaging of these is [HB 388](#), a bill that threatens to send Louisiana down the same path as Mississippi and Texas by requiring abortion providers to obtain medically unnecessary hospital admitting privileges that do nothing to protect the health and safety of women. Louisiana advocates gathered in Baton Rouge to protest [HB 388](#) and other harmful measures multiple times throughout the session, wearing purple, testifying, and delivering petitions. The fate of abortion access in the state is unclear, but one thing is certain – we’re not giving up!

### **6. Mississippi enacts callous and unconstitutional abortion ban as lone clinic fights to stay open**

Access to safe, legal abortion care in Mississippi is on the verge of extinction —there is only one remaining clinic in the entire state, and it is fighting to stay open in the face of repeated attempts by the legislature to close its doors. What’s more, Mississippi has one of the worst records in the nation when it comes to women’s health, with the largest number of women living in poverty and some of the highest rates of teen pregnancy and maternal mortality in the country. Despite these deeply disturbing circumstances, legislators continue to block access to reproductive health care. Rather than focusing on evidence-based methods of improving women’s health during the 2014 legislative session, lawmakers instead passed a callous and unconstitutional abortion ban. [HB 1400](#) prohibits physicians from providing abortion care after 20 weeks of pregnancy—banning pre-viability abortions and containing zero exceptions for survivors of rape or incest and only an extremely narrow exception for medical emergencies and lethal fetal anomalies. The very few Mississippi women who may need to seek abortion services after 20 weeks already face extreme barriers to care, as the sole remaining abortion clinic in the state only provides abortion services through 16 weeks of pregnancy.

While Mississippi politicians were wasting time passing this cruel abortion ban, the sole remaining clinic in the state was struggling to stay open. In 2012, the state enacted [HB 1390](#),

which imposed the arbitrary and medically unwarranted requirement that any physician performing abortions in the state have admitting privileges at a local hospital. Following the [lawsuit](#) brought by the Center for Reproductive Rights on behalf of the Jackson Women’s Health Organization and Dr. Willie Parker, the law was blocked from going into effect while the court challenge—barring the state from imposing criminal and civil penalties on the clinic doctors and staff for not having the admitting privileges required by the new law. In late April of this year, the U.S. Court of Appeals for the Fifth Circuit Court heard oral argument in the case. As we await the court’s decision, the devastating impact of this unconstitutional law couldn’t be clearer. If it is allowed to take effect, Mississippi will become the first state since *Roe v. Wade* without a single clinic offering safe, legal abortion care.

### **7. Missouri legislator compares getting an abortion to shopping for a car**

In this state with just one abortion provider, women in Missouri are already required to have a separate counseling session discouraging abortion 24 hours prior to the procedure. According to Missouri State Representative Chuck Gatschenberger, that 24 hour wait is not long enough. He thinks women should be required by law to endure a 72 hour mandatory waiting period before having an abortion. [Rep. Gatschenberger reasoned](#) that, much like buying a car or putting down new carpeting, women should take the time to “think about it” before making a decision about their pregnancy options, as if women need the state to remind them to think about their reproductive options. While no one is debating bills to mandate the decision-making processes of car and carpet consumers in the state, dozens of bills aimed at restricting access to abortion care and influencing women’s decisions about their reproductive health were introduced in Missouri in 2014.

If [HB 1307](#) becomes law, Missouri will be one of three states, along with Utah and South Dakota, with a 72 hour wait, the longest in the country. Waiting periods, designed to provoke doubt in a woman about her decision and let her know the state disapproves, create a complex set of burdens—from increasing the shame a woman might feel about her situation to requiring additional trips to the clinic, which means additional travel time, costs and time off work. The cost of travel and lodging for women who have to wait three days for their procedure is a significant burden, especially in a state like Missouri where ninety seven percent of counties do not have an abortion provider. In addition to mandatory waiting and ultrasound procedures for women, legislators also took aim at the one remaining abortion clinic in Missouri, proposing mandatory, unannounced inspection requirements. This and other attempts to enshrine an array of anti-choice restrictions in the law - from stricter parental consent requirements to protection from government regulation for crisis pregnancy centers - were not successful in the legislature this year.

In light of these relentless attacks on abortion access, advocates staged a 72-hour Women’s Filibuster in May, protesting at the capitol and sharing personal stories about why Governor Jay Nixon should veto this outrageous bill. After gaining national attention with this women’s filibuster, Governor Nixon vetoed the restriction, calling the measure “extreme and disrespectful.” Nevertheless, the legislature could override his decision later this year and so the fate of the outrageous 72 hour waiting period awaits another vote.

## 8. Oklahoma Republican risks the wrath of his party, fights back against state abortion restrictions

“I’m a physician first... I resent the government stepping into that exam room and standing between me and the patient, and standing between the patient and the patient’s choices.” Those are the words of Oklahoma State Representative Doug Cox – a Republican who has been [increasingly vocal](#) about his party’s misguided stance on reproductive rights. Also a practicing physician, Rep. Cox fought hard in 2014 against anti-choice bills and introduced amendments to a medically unnecessary admitting privileges bill ([SB 1848](#)) with the goal of slowing down or stopping the bill’s passage.

Despite the best efforts of the [Oklahoma Coalition for Reproductive Justice](#) and legislators like Rep. Cox, political agendas trumped women’s health and safety when the legislature passed both [HB 2684](#) and SB 1848. Both of these bills, signed by Governor Mary Fallin, put politics above women’s health and safety. With HB2684, physicians will be forced to cast aside their best medical judgment in patient care. The legislature amended current law to require doctors providing medication abortion to follow the outdated protocol on the FDA-approved label – essentially banning the provision of drugs using the evidence-based regimen that is the standard of care nationwide and recommended by the American College of Obstetricians and Gynecologists. The Center for Reproductive Rights successfully challenged a 2011 Oklahoma law that effectively banned medication abortion and the highest court in the state made clear that FDA approval of the original labeling was *not* intended to preclude physicians from using their best medical judgment. Physicians know better than politicians how to best treat their patients, and medical decisions should be made according to their advice and expertise, not any politician’s ideological agenda to restrict abortion.

With SB 1848, on days when abortion procedures are performed, a reproductive health care clinic in Oklahoma must have on-site a physician who maintains admitting privileges at a hospital within thirty miles of the facility—a requirement that is not necessary for the treatment of the fewer than 1% of abortion patients who experience complications, and that is difficult to meet because of many hospitals’ inclination to deny admitting privileges to abortion providers for political or other reasons not related to the doctors’ qualifications.

These restrictions don’t do anything to improve patient care or safety—in fact they drive up health care costs for patients and drive providers of quality health care out of practice. Contrary to the claims of proponents of these measures, TRAP laws harm women’s health and undermine their safety. Politically motivated regulations that make it more difficult for clinics to provide high-quality care only make it harder for people to access essential reproductive health services, including lifesaving cancer screenings, contraception, STD prevention and treatment, and continued access to safe and compassionate abortion care.

## 9. South Dakota enacts an unconstitutional and misguided ban on “sex-selective” abortions

“Let me tell you, our population in South Dakota is a lot more diverse than it ever was... There are cultures that look at a sex-selection abortion as being culturally okay. And I will suggest to you that we are embracing individuals from some of those cultures in this country, or in this state. And I think that’s a good thing that we invite them to come, but I think it’s also important that we send a message that this is a state that values life, regardless of its sex.” –Anti-choice South Dakota Representative Don Hagggar on his support for [HB 1162](#).

In April 2014, South Dakota enacted [HB 1162](#), an unconstitutional and discriminatory law that bans abortions for sex selection. Using baseless and racist rhetoric, the South Dakota legislature passed the bill under the guise of prohibiting gender-based discrimination. However, [HB 1162](#) was not passed to combat sex discrimination or to address the root causes of son preference, nor was there any evidence that sex selection was happening in South Dakota. Instead, this new law was a thinly veiled attempt to reduce access to reproductive health care services. [HB 1162](#) does nothing to remedy the deeply rooted causes that lead to gender-based discrimination against women and girls, and it threatens the health and human rights of women by creating additional barriers to obtaining safe and legal abortions. For more information and analysis about these types of bans, read the National Asian Pacific American Women’s Forum’s issue brief on race- and sex-selective abortion bans [here](#).

## 10. Despite national outcry, Tennessee allows women to be criminally charged for drug use during pregnancy

States should pass legislation to ensure healthy pregnancies and healthy families, and last year, Tennessee did just that by passing the [Safe Harbor Act](#). That law—supported by the Tennessee Medical Society—incubated treatment for pregnant women struggling with drug addiction by guaranteeing that women in treatment would not risk losing custody of their newborns because of their drug dependency. However, in 2014, Tennessee politicians turned their backs on these same women by passing first-of-its-kind legislation that will allow the state to press criminal charges against women who struggle with addiction during pregnancy ([SB 1391](#)). Despite a petition opposing the bill that was signed by over [10,500 endorsers](#), and the fact that every major medical association in the United States that has taken a position on this issue [opposes criminal penalties for mothers who use illegal substances](#), Tennessee Governor Bill Haslam signed the bill into law. Under the law, women face criminal penalties of up to 15 years in prison for using illegal narcotics during pregnancy. The law is written in such broad language that it could even [prove dangerous for non-using pregnant women](#), possibly allowing for the criminalization of any poor pregnancy outcome. Lawmakers should aim to encourage women to pursue recovery options and seek prenatal care services, rather than erect new barriers for pregnant women struggling with addiction. At this time, 17 states [equate substance abuse while pregnant with child abuse](#), and three of those states use this definition to allow for civil commitment for treatment or even termination of parental rights. Rather than helping women, such punitive laws ultimately contribute to less healthy mothers and families. For more information on the harmful impact of [SB 1391](#), see the [letter](#) from National Advocates for Pregnant Women and the [letter](#) from SisterReach opposing the bill.

## MOVING FORWARD

Fortunately, we are also witnessing new efforts to push back on abortion restrictions and advance a proactive agenda to protect women's health and rights around the country. For example, pro-choice lawmakers in Colorado – with strong support from [advocates](#) like NARAL Pro-Choice Colorado – advanced [SB 175](#), the Reproductive Health Freedom Act, through a Senate Committee in 2014. This proactive legislation codifies reproductive freedom explicitly in Colorado law, prohibiting a state or local policy that denies or interferes with an individual's reproductive health care decisions.

In New Hampshire, Governor Maggie Hassan signed [SB 319](#), a bill that would ensure patients have safe access to abortion clinics by enacting a 25-foot buffer zone around reproductive health care facilities in the state. The bill recognizes that no one should be subject to threats of intimidation, harassment or violence when attempting to exercise a fundamental constitutional right. Unfortunately, with the Supreme Court's recent ruling in *McCullen v. Coakley* striking down a 35-foot buffer zone in Massachusetts, the fate of the New Hampshire law is unclear.

For the second year in a row, New York passed through the state Assembly the [Women's Equality Act](#), a ten-point plan to address a range of ways to improve women's rights in the state, including a provision to update the state's pre-*Roe* abortion law so it is in line with federal constitutional protections.

Virginia lawmakers advanced two bills to repeal some of the harsh abortion restrictions that made national headlines just a few years ago. In 2014, the Virginia Senate passed [SB 617](#) which would repeal the requirement that women undergo an ultrasound prior to an abortion. A Senate committee also passed [SB 618](#), which would repeal the ban on including abortion coverage in plans sold on the health insurance exchange. While neither repeal bills were ultimately sent to the Governor's desk, they represent a new chance to move reproductive rights forward in Virginia.

Vermont Governor Peter Shumlin signed [SB 317](#), which repealed an unconstitutional and unenforceable state law that made it a crime to provide abortion care. This an important step to ensure that state law protects women in the event *Roe v. Wade* is overturned.

The Washington State House of Representatives passed the Reproductive Parity Act, [HB 2148](#), which would protect access to comprehensive reproductive health care by requiring insurance companies that cover maternity care to also cover abortion care. Despite its failure to advance in the Senate, this bill represents a bold step forward in ensuring comprehensive coverage for all reproductive health care options.

Governor Early Ray Tomblin of West Virginia vetoed [HB 4588](#), a cruel ban on abortions after 20 weeks, citing the bill's unconstitutionality as well as undue interference in the doctor-patient relationship. This is the first time an anti-abortion governor has vetoed a 20-week ban.

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