

# Reproductive Health Wins in 2019

OCTOBER 2019

Despite significant attacks on reproductive health and rights in 2019, several states are fighting to ensure that abortion care is accessible for all. This fact sheet celebrates state wins on protecting and expanding access to abortion care.

**Laws protecting abortion access:** Four states actively protected the right to abortion by writing it into state law.

- New York passed the Reproductive Health Act, reinforcing the right to choose or refuse contraception and the right to abortion. The act also prohibits the state and its agencies from taking any action that interferes with those rights.<sup>1</sup>
- Illinois passed its own Reproductive Health Act protecting three fundamental reproductive rights: the right to make decisions about reproductive health without being influenced by others; the right to continue or terminate a pregnancy and make independent decisions about that right; and that a fertilized egg or fetus does not have individual rights separate from the rights of the pregnant person.<sup>2</sup>
- Vermont passed the Freedom of Choice Act, which protects the right to choose or refuse contraception and the right to abortion.<sup>3</sup> This act also prohibits state entities from denying or interfering with reproductive rights.<sup>4</sup>
- Rhode Island passed the Reproductive Privacy Act, which prohibits the state from restricting abortion care except in very limited circumstances.<sup>5</sup> The act also prohibits the state from restricting evidence-based, medically recognized methods of contraception and abortion, except where required by federal law.<sup>6</sup>

**Insurance coverage of abortion care:** Two states passed laws to expand insurance coverage of abortion services to public and private insurance. Improved insurance coverage makes the procedure more affordable and accessible, and is especially important in light of the federal ban denying Medicaid insurance coverage for abortion.

- Maine enacted a law to ensure that MaineCare, Maine's state version of Medicaid, covers abortion services.<sup>7</sup>
- Illinois' Reproductive Health Act requires public and private insurance plans that provide pregnancy benefits to also cover abortion services without additional deductibles, coinsurance or waiting periods.<sup>8</sup>

**Expanding the provider pool:** Scientific evidence shows that advanced practice clinicians, such as nurse practitioners, certified nurse-midwives and physician assistants, can safely and effectively provide abortion care.<sup>9</sup> However, many states constrain abortion provision to physicians only or have burdensome licensing requirements for those who want to provide abortions.<sup>10</sup> Three states are fighting back by broadening the definition of abortion provider; these evidence-based laws will help increase the number of abortion providers and thereby improve abortion access.

- The New York Reproductive Health Act allows qualified physicians, physician assistants, nurse practitioners and licensed midwives to provide abortion care.<sup>11</sup>
- Maine's new law will also allow physicians, physician assistants and advanced practice registered nurses (APRN) to provide abortion care.<sup>12</sup>
- Illinois' Reproductive Health Act defines a "health care professional" authorized to provide abortion care as a physician, APRN or physician assistant.<sup>13</sup>

**Access to abortion later in pregnancy:** people need access to abortion later in pregnancy for many complex reasons.<sup>14</sup> Protecting the right to access abortion at any point in pregnancy is important for the bodily autonomy and equality of all pregnant people. Three states have removed restrictions prohibiting abortions later in pregnancy.

- New York's Reproductive Health Act permits abortion past 24 weeks of pregnancy if a woman's health is at risk or if the fetus is not viable.<sup>15</sup>
- Illinois' Reproductive Health Act allows abortions post-viability if the abortion is necessary to protect the health of the woman.<sup>16</sup>
- Vermont prohibits public entities from interfering with a health care provider's medical decision to perform an abortion later in pregnancy.<sup>17</sup>

**Decriminalization of abortion providers and those who seek abortion care:** Some states penalize health care practitioners who provide or help someone else provide abortion care. Other states penalize people who seek to self-manage their own abortion care. Criminalization of the provision of care, including self-managed care, is an infringement on the right to access abortion care. Two states repealed laws that could needlessly criminalize the provision of abortion care.

- Nevada repealed laws criminalizing the sale and use of medication to induce abortion without a prescription.<sup>18</sup> The state also reformed the informed consent process.<sup>19</sup>
- Illinois' Reproductive Health Act prohibits the state from punishing a pregnant person for self-managing their own abortion care or for actions they do or do not take during pregnancy.<sup>20</sup>

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<sup>1</sup> Reproductive Health Act, N.Y. Pub. Health Law § 2599-aa (Consol. 2019).

<sup>2</sup> Reproductive Health Act, 775 Ill. Comp. Stat. 55/1-15 (2019); *see also* Dampier, C., & Yoder, C. (2019, June 5). Changing Abortion Rights: How Illinois' New Law Compares With What Other States Are Doing. *Chicago Tribune*. Retrieved 17 September 2019, from <https://www.chicagotribune.com/news/ct-viz-how-illinois-abortion-law-compares-htmlstory.html>

<sup>3</sup> Freedom of Choice Act, Vt. Stat. Ann. tit. 18, § 9493 (2019).

<sup>4</sup> Freedom of Choice Act, Vt. Stat. Ann. tit. 18, §§ 9494, 9497 (2019).

<sup>5</sup> Reproductive Privacy Act, 23 R.I. Gen. Laws. § 23-4.13-2 (2019).

<sup>6</sup> *Ibid.*

<sup>7</sup> Me. Stat. tit. 24-A, § 4320-M (2019).

<sup>8</sup> Reproductive Health Act, 215 Ill. Comp. Stat. 5/356z.4a (2019).

<sup>9</sup> Studies show that advanced practice clinicians can provide safe and effective abortion care. *See* University of California San Francisco, Advancing New Standards in Reproductive Health. (2014, June). *Health Workforce Pilot Project #171 Final Data Update* (p. 2). Retrieved 23 September 2019, from <http://www.ansirh.org/sites/default/files/documents/hwppupdate-june2014.pdf> (concluding that nurse practitioners, certified nurse midwives and physician assistants “can provide early abortion care that is clinically as safe as physicians”); *see also* National Abortion Federation. (2018). *2018 Clinical Policy Guidelines for Abortion Care* (p. 1). Retrieved 23 September 2019, from [https://5aa1b2xfmfh2e2mk03kk8rsx-wpengine.netdna-ssl.com/wp-content/uploads/2018\\_CPGs.pdf](https://5aa1b2xfmfh2e2mk03kk8rsx-wpengine.netdna-ssl.com/wp-content/uploads/2018_CPGs.pdf) (“Abortion is a safe procedure when provided by qualified practitioners. . . . This category is intended to include physicians from various specialties as well as nurse midwives, nurse practitioners, physician assistants, registered nurses, and other health professionals.”). As of March 2015, advanced practice clinicians provide aspiration abortion care in California, Montana, New Hampshire, Oregon and Vermont. *See* Barry, D., & Rugg, J. (2015, March 26). *Improving Abortion Access by Expanding Those Who Provide Care*. Retrieved 23 September 2019 from Center for American Progress website: <https://www.americanprogress.org/issues/women/reports/2015/03/26/109745/improving-abortion-access-by-expanding-those-who-provide-care/>

<sup>10</sup> Guttmacher Institute. (2019, September 1). *Targeted Regulation of Abortion Providers*. Retrieved 18 September 2019, from <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>

<sup>11</sup> Reproductive Health Act, N.Y. Pub. Health Law § 2599-bb (2019); *see also* The New York State Senate, New York State Senator Liz Krueger. (2019, February 12). *FAQs About the Reproductive Health Act*. Retrieved 17 September 2019, from <https://www.nysenate.gov/newsroom/articles/2019/liz-krueger/faqs-about-reproductive-health-act>

<sup>12</sup> Me. Stat. tit. 22, § 1598(3)(A) (2019).

<sup>13</sup> Reproductive Health Act, 775 Ill. Comp. Stat. 55/1-10, 55/1-25(a) (2019).

<sup>14</sup> American College of Obstetricians and Gynecologists. (2019, February). *Facts Are Important: Abortion Care Later in Pregnancy Is Important to Women's Health*. Retrieved 17 September 2019, from <https://www.acog.org/About-ACOG/ACOG-Departments/Government-Relations-and-Outreach/Facts-are-Important-Abortion-Care-Later-in-Pregnancy-is-Important-to-Womens-Health?IsMobileSet=false>

<sup>15</sup> *See* note 11, Reproductive Health Act. Fetal viability is a medical concept that refers to when a fetus may be able to survive outside of the womb.

<sup>16</sup> 775 Ill. Comp. Stat. 55/1-25(a) (2019).

<sup>17</sup> Freedom of Choice Act, Vt. Stat. Ann. tit. 18, § 9497 (2019); *see also* Taylor, K., & Turkewitz, J. (2019, May 21). Vermont Moves to Protect Abortion Rights as Other States Impose Bans. *New York Times*. Retrieved 17 September 2019, from <https://www.nytimes.com/2019/05/21/us/vermont-abortion-bill-h57.html>

<sup>18</sup> 2019 Nevada Laws Ch. 265 (S.B. 179); *see also* Nev. Rev. Stat. Ann. § 201.120 (repealed 2019); Nev. Rev. Stat. Ann. § 201.130 (repealed 2019); Nev. Rev. Stat. Ann. § 201.140 (repealed 2019).

<sup>19</sup> *Ibid.*

<sup>20</sup> Reproductive Health Act, 775 Ill. Comp. Stat. 55/1-20(a)(2) (2019).

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at [NationalPartnership.org](http://NationalPartnership.org).

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