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Abortion Laws and HIV in the US

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Image



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Abortion Rights Around the Globe

Abortion refers to the intentional termination (ending) of a pregnancy. It is a common medical procedure and can be a normal part of a person's reproductive life. It is estimated that one in four US women will have an abortion by the age of 45, and that 73 million abortions take place worldwide each year.

View our companion fact sheet, [Abortion and HIV](#), for more information on this safe, important procedure and how it relates to HIV

Across the world, laws surrounding abortion range from prohibiting this form of medical care under any circumstances to permitting the procedure under most circumstances. Some countries, such as Canada, treat the procedure like any other medical condition, with national health insurance covering the cost of abortion medications. In other countries, abortion is available on demand up to a certain point in the pregnancy. In the Netherlands, for example, that limit is 24 weeks, also called *fetal viability* (the point at which a fetus might survive outside the womb). Other countries, such as Austria, set that limit at 12 weeks, or the first trimester of pregnancy. Some countries, such as Honduras, prohibit abortion under any circumstances, even to save the pregnant person's life. It is worth noting that research shows rates of unintended pregnancy to be highest in countries with restrictive anti-abortion laws, and lowest in countries where abortion access is not so constrained.

The rest of this fact sheet will focus on laws in the United States.

Click above to view or download this fact sheet as a [PDF slide presentation](#)

Abortion Rights in the US – Federal

In 1973, a decision by the US Supreme Court, called *Roe v. Wade* after the two parties to the lawsuit, invalidated state anti-abortion laws. It held that strict anti-abortion laws violated a woman's right to privacy and that this right was implicit in the US Constitution's 14th amendment, which protects people's right to life, liberty, and property. The decision protected the unrestricted right to abortion until the end of the first trimester – in other words, 12 weeks after a woman's last menstrual period.

At least one Supreme Court justice has suggested that the reasoning behind it could be used to restrict other rights, such as the right to same-sex marriage or access to contraception.

Later Supreme Court decisions further defined women's and state's rights, holding that abortion cannot be prohibited entirely if it placed an "undue burden" on the pregnant person before the fetus could live outside the womb, which usually occurs around 24 weeks of pregnancy.

In the wake of these decisions and because of public pressure, many states passed less restrictive

laws. Exceptions to the rules for pregnancies that endangered the life or health of the pregnant person, or that were the result of rape or incest, were also enacted. Other states tried to make abortions harder to get by instituting burdensome regulations for abortion providers.

In June 2022, in a case called *Dobbs v. Jackson Women's Health Organization*, the Supreme Court overturned its previous ruling. It now holds that the US Constitution does not provide a right to abortion and that each state is free to pass its own laws on the issue. While the decision itself only applies to abortion rights, at least one Supreme Court justice has suggested that the reasoning behind it could be used to restrict other rights, such as the right to same-sex marriage or access to [contraception](#).

Abortion Rights in the US – States

Many states had never revoked their earlier anti-abortion laws – or had enacted "trigger laws" that took effect immediately after that Supreme Court decision. Other states have since passed their own laws, many of them severely restricting people's rights to make decisions about their own bodies – but some also protecting the right to abortion. For example, California wants to become an "abortion sanctuary" that protects not only the rights of people living there, but also refuses to help other states enforce their restrictive laws.

Laws surrounding abortion range from prohibiting this form of medical care under any circumstances to permitting the procedure under most circumstances.

On one end of the spectrum, Texas bans all abortions except to save the pregnant person's life. Vermont, on the other hand, does not have any restrictions on the procedure. States in between allow exceptions for pregnancies resulting from rape or incest (e.g., Idaho), and/or allow abortions up to a certain time after the last menstrual period – commonly between 12 weeks (e.g., Nebraska) and 24 weeks (e.g., Minnesota).

In many states, restrictive laws are being challenged in court. For example, the organization Planned Parenthood, along with a local women's clinic and two medical providers, is suing South Carolina for its ban on abortions after six weeks from the last menstrual period. During such lawsuits, the law in question is often put on hold – called an *injunction* – while the court process continues. This is the case in South Carolina, keeping abortion up to 22 weeks (the previous law) legal there for the time being.

Abortion laws are changing rapidly, as do the results of court challenges to them. For current information on the laws in your state, check online trackers, such as Abortion Finder's [state-by-state abortion guide](#) or the Center for Reproductive Rights' [map](#). The Additional Resources section below also provides more sources of information.

Some states have attempted to outlaw helping people travel to other states to seek abortions. Idaho, for example, makes it a crime to help a young person (a "minor") get an abortion out of state. This includes providing money, transportation, or housing. Since Idaho has one of the most restrictive anti-abortion laws in the country, this effectively means that [young people](#) without their own money or transportation are forced to carry an unwanted pregnancy to term.

Abortion Rights in the US – Youth

The 10 states with the highest rates of teen pregnancy in the US all emphasize abstinence in health education.

Special restrictions for minors generally do not threaten the pregnant person themselves but criminalize anyone who helps them get an abortion. This may include providing information on where or how to terminate a pregnancy. Restrictions often apply only if the young person's parents didn't agree to the abortion (called "without parental consent"). However, young people may seek an abortion precisely because they fear their parents' reaction to their pregnancy.

Some states that do not allow abortions for young people also restrict sex education in schools. Young people then may not have accurate information on contraception – or even on how precisely one gets pregnant. Myths around sex and pregnancy are still common. "Abstinence-only" education – telling teens only that they should not have sex before marriage, without providing any other information about sexual health or sexuality – makes unintended pregnancies more likely. In fact, statistics show that the 10 states with the highest rates of teen pregnancy in the US all emphasize abstinence in health education. Such sex (mis)education often also does not cover HIV prevention or same-sex relationships.

If You Want to Help

- *Support organizations that advocate for a person's right to make decisions about their own body.* This includes a pregnant person's right to choose what to do about their pregnancy and a [transgender](#) person's right to seek and receive gender-affirming care. More direct help – such as providing transportation or a temporary bed to people traveling for abortion care – may also be needed, if you are able to provide it.
- *Advocate for evidence-based sex education.* This equips young people with the knowledge they need to prevent unintended pregnancies and to protect themselves from acquiring HIV or other [sexually transmitted infections](#). Meanwhile, you could provide this information yourself to young people you know or through youth groups or other venues beyond schools.

Our fact sheets on [Sexual and Reproductive Health, Rights, Justice, Pleasure, and HIV](#), [How to Be an Advocate for Yourself and Others](#), and [Social Media, HIV Advocacy, and Your Voice](#) provide more information on advocacy and activism.

Special thanks to Samantha Hyacinth, MSN, reproductive health nurse practitioner and advocate, for her review of this fact sheet.

Additional Resources

Select the links below for additional articles of interest.

- [Protecting the Right to Abortion Is Critical to Ending HIV \(POZ\)](#)
- [An Overview of Abortion Laws \(Guttmacher Institute\)](#)
- [How Major Abortion Laws Compare, State by State \(The Fuller Project\)](#)
- [Reproductive Justice \(Positive Women's Network – USA\)](#)
- [After Roe Fell: Abortion Laws by State \(Center for Reproductive Rights\)](#)
- [Abortion Explained \(We Testify\)](#)

