

Restricting Abortion: Idaho¹

In far too many places throughout this country, it has become extremely difficult for women to safely and legally end a pregnancy. In too many states, politicians have enacted laws that single out the provision of abortion services for restrictions that are more burdensome than those imposed on medically comparable procedures, do not significantly advance women's health or the safety of abortion services, and make abortion services more difficult to access. It's time for politicians to stop interfering with women's personal decision-making. We need a federal law that puts women's health, safety, and rights first. The Women's Health Protection Act does just that.

In Idaho, the following restrictions are among those that would be unlawful under the Women's Health Protection Act once enacted:

- **BAN** on abortions after viability without constitutionally adequate exceptions for the woman's life or health.²
- **REQUIREMENT** that if an ultrasound is performed prior to an abortion, the provider must offer the woman the opportunity to see the image and receive a physical picture of the ultrasound, whether or not the provider believes it is appropriate.³
- **BAN** on the use of telemedicine to provide medication abortion, reducing the potential for access to safe, nonsurgical abortion services and eliminating an important way to expand access to many low-income and rural women.⁴

The following restrictions have been held unconstitutional recently:

- **BAN** on abortion after 20 weeks of pregnancy (an unconstitutional pre-viability ban) with unconstitutionally narrow exceptions for when the life or health of a woman is endangered⁵ that includes felony charges against a woman for obtaining an abortion after 20 weeks.⁶
- **REQUIREMENT** that all abortion procedures performed after the first trimester be provided only at a licensed hospital, although the procedures can be performed safely in clinics.⁷ This requirement includes felony charges against a woman⁸ and her doctor⁹ if a second trimester procedure is performed outside of a hospital.
- **REQUIREMENT** that every clinic have a written transfer agreement with a hospital within a "reasonable proximity" of the clinic, burdening them with a rule that is not necessary to ensure patient safety nor required of similar health care providers in the state.¹⁰

(Endnotes)

¹ The restrictions highlighted herein are examples of the types of restrictions that the [Women's Health Protection Act](#) seeks to invalidate. This fact sheet is not intended as a comprehensive guide to abortion restrictions in Idaho.

² IDAHO CODE ANN. § 18-608(3).

³ IDAHO CODE ANN. § 18-609(5).

⁴ IDAHO CODE ANN. § 54-5607(3); IDAHO CODE ANN. 18-617(2)(e).

⁵ IDAHO CODE ANN. §§ 18-501 *et seq.*, *held unconstitutional* by *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128, 1149-51 (D. Idaho 2013).

⁶ IDAHO CODE ANN. § 18-606(2), *held unconstitutional* by *McCormack v. Hiedeman*, 694 F.3d 1004, 1010-1019 (9th Cir. 2012); *aff'd* by *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128, 1145 (D. Idaho 2013). CHECKS OUT

⁷ IDAHO CODE ANN. § 18-608(2), *held unconstitutional* by *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128, 1148 (D. Idaho 2013).

⁸ *Id.* The ninth circuit focused on the unconstitutionality of the provisions against the woman (606). It remanded the questions of whether the statutes involving the doctor (608) were unconstitutional.

⁹ IDAHO CODE ANN. § 18-605, *held unconstitutional* by *McCormack v. Hiedeman*, 694 F.3d 1004 (9th Cir. 2012).

¹⁰ IDAHO CODE ANN. § 18-608(1), *held unconstitutional* by *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128, 1145-47 (D. Idaho 2013) (void for vagueness).