

THE WOMEN'S HEALTH PROTECTION ACT

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Restricting Abortion: Arkansas¹

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

-]) **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 endangered.²
-]) **BAN** on abortion at approximately 12 weeks of pregnancy (an unconstitutional pre-viability ban) with unconstitutionally narrow exceptions for pregnancies resulting from rape or incest, or when the life or health of a woman is endangered.³
-]) **REQUIREMENT** that clinics meet structural and other regulatory standards unrelated to patient safety.⁴
-]) **REQUIREMENT** that surgical abortions be performed no more than 30 miles away from a hospital, without exceptions for rural clinics, leaving women in rural areas with severely limited access.⁵
-]) **REQUIREMENT** that providers who administer medication abortion procedures be licensed

"To make her have to carry the full pregnancy would have been hard. This bill...would put those of us who helped with good, compassionate care in jail."

- Dr. Linda Worley, a psychiatrist who treated a patient with a fetus lacking kidneys, testifying regarding Arkansas' unconstitutional 20-week ban.

physicians,⁶ despite recommendations from the World Health Organization that other highly qualified health care providers can safely provide medication abortion.⁷

-]) **RESTRICTIONS** on medication abortion that could prohibit physicians from providing individualized, patient-specific care based on their best medical judgment.⁸
-]) **BANS** 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.⁹
-]) **REQUIREMENT** that every physician who provides medication abortion must have a signed contract with a physician with admitting and gynecological/surgical privileges at a hospital, burdening them with a rule that is not necessary to ensure patient safety nor required of similar health care providers in the state.¹⁰
-]) **REQUIREMENT** that forces a woman to wait at least 48 hours and make two separate trips to a provider before she can obtain an abortion.¹¹
-]) **PRE-VIABILITY BAN** on a safe and common method to end a pregnancy in the second trimester.¹²

(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 Arkansas.

² Ark. Code Ann. §§ 20-16-1402 *et seq.*

³ Ark. Code Ann. §§ 20-16-1301 *et seq.*, *invalidated by Edwards v. Beck*, 8 F. Supp. 3d 1091, 1101 (E.D. Ark. 2014) (issuing a permanent injunction blocking enforcement of the ban), *aff'd*, 786 F.3d 1113, 1117 (8th Cir. 2015) (deferring to Supreme Court decisions that hold a pre-viability ban is unconstitutional), *reh'g and reh'g en banc denied*, (8th Cir. July 9, 2015), cert. denied, 136 S.Ct. 895 (2016).

⁴ Ark. Code Ann. § 20-9-302; 007.05.2 Ark. Code R. §§ 1 *et seq.*

⁵ 007.05.2 Ark. Code R. § 4(C).

⁶ Ark. Code Ann. § 5-61-101.

⁷ See World Health Org., Safe Abortion: Technical and Policy Guidance for Health Systems 65 (2nd ed. 2012), available at http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1.

⁸ Ark. Code. Ann. § 20-16-1504(a)(1). This law is temporarily blocked while litigation proceeds.

⁹ Ark. Code. Ann. § 20-16-603.

¹⁰ Presumptively unconstitutional under *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2310-13 (2016).

¹¹ Ark. Code. Ann. § 20-16-1503.

¹² H.R. 1032, 91st Gen. Assemb., Reg. Sess. (Ark. 2017).