

## Restricting Abortion: Indiana<sup>1</sup>

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

- J **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.<sup>2</sup>
- J **REQUIREMENT** that clinics that perform second-trimester abortions meet the same strict structural and other regulatory standards as ambulatory surgical facilities, essentially becoming "small hospitals," despite those standards being completely unrelated to ensuring patient safety.<sup>3</sup>
- J **REQUIREMENT** that a woman undergo an ultrasound before obtaining an abortion—even when medically unnecessary—and that the provider offer the woman the opportunity to see the image and to listen to the fetal heartbeat, if available, whether or not the provider believes it is appropriate.<sup>4</sup>
- J **REQUIREMENT** that providers who administer medication abortion be licensed physicians,<sup>5</sup> despite recommendations from the World Health Organization that other highly qualified health care providers can safely provide medication abortion.<sup>6</sup>
- J **REQUIREMENT** that abortion providers have either admitting privileges at a nearby hospital or a written transfer agreement with a physician who has admitting privileges at a nearby hospital, a medically unnecessary requirement that is not necessary for patient safety or health and designed to prevent qualified, experienced physicians from providing care to their patients.<sup>7</sup>
- J **REQUIREMENT** that clinics meet structural and regulatory standards unrelated to patient safety.<sup>8</sup>

- ) **REQUIREMENT** that forces a woman to wait at least 18 hours and make two separate trips to a provider before she can obtain an abortion.<sup>9</sup>
- ) **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.<sup>10</sup>
- ) **BAN** on abortions based on race and sex selection, allowing the state to police women's reasons for ending a pregnancy and perpetuating negative stereotypes about African American and Asian American communities that may result in the denial of health care.<sup>11</sup>
- ) **BAN** on abortions based on genetic anomaly, allowing the state to police women's reasons for ending a pregnancy and intended to politicize the lives of people with disabilities without taking steps to combat deeply rooted structural discrimination against individuals based on their abilities.<sup>12</sup>
- ) **REQUIREMENT** that embryonic and fetal tissue from abortions and miscarriages be buried or cremated, a requirement that is not imposed on medically comparable procedures. This requirement is imposed regardless of a woman's wishes, regardless of the affordability of these services, and regardless of the willingness of third parties to contractually provide these services.<sup>13</sup>

## (Endnotes)

- <sup>1</sup> 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 Indiana.
- <sup>2</sup> Ind. Code § 16-34-2-1(a)(1).
- <sup>3</sup> Ind. Code § 16-34-2-1(a)(2), *presumptively unconstitutional under* *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2314-18 (2016).
- <sup>4</sup> Ind. Code § 16-34-2-1.1(b).
- <sup>5</sup> Ind. Code § 16-34-2-1(a)(1)(A).
- <sup>6</sup> 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](http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1).
- <sup>7</sup> Ind. Code § 16-34-2-4.5(a).
- <sup>8</sup> Ind. Code § 16-18-2-1.5; 410 Ind. Admin. Code 26-17-2; *but see* *Planned Parenthood of Ind. & Ky. v. Comm'r, Ind. State Dept. of Health*, 984 F. Supp. 2d 912 (S.D. Ind. 2013) (preliminary injunction against this restriction for one clinic that only provides medication abortion).
- <sup>9</sup> Ind. Code § 16-34-2-1.1(a).
- <sup>10</sup> Ind. Code § 16-34-2-1(a)(3) (explicitly excludes mental health).
- <sup>11</sup> Ind. Code § 16-34-4-8; Ind. Code § 16-34-4-5; *Replacing Myths with Facts: Sex-Selective Abortion Laws in the United States*, National Asian Pacific American Women's Forum (June 2014), available at <http://napawf.org/wp-content/uploads/2014/06/Replacing-Myths-with-Facts-final.pdf>; *Race and Sex Selective Abortion Bans: Wolves in Sheep's Clothing*, National Asian Pacific American Women's Forum (July 2013), available at [http://napawf.org/wp-content/uploads/2013/11/PRENDAIssueBrief\\_11.26-FINAL.pdf](http://napawf.org/wp-content/uploads/2013/11/PRENDAIssueBrief_11.26-FINAL.pdf).
- <sup>12</sup> Ind. Code §§ 16-34-4-6 - 16-34-4-7.
- <sup>13</sup> Ind. Code § 16-21-11-6.