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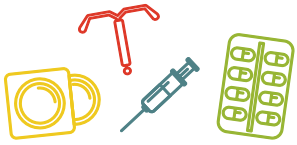
Case Studies: Examining Right-to-Contraception State-Level Legislative Processes

By Chelsea Boyd

By understanding the primary arguments against such legislation and proactively considering them when drafting bills, lawmakers will be better equipped to chart a viable path to passage

Introduction

Empowering individuals to decide whether, when, and how they will start a family can benefit maternal and infant health, as well as women's economic security.[1] Contraceptives are a key tool for reliably preventing pregnancy until it is desired. Multiple methods of contraception are available, each with its own set of benefits and drawbacks, some of which affect effectiveness.[2] Although methods like withdrawal, condoms, and fertility tracking have been used to prevent pregnancy throughout history, the introduction of hormonal contraceptive pills in 1960 provided a much more reliable method.[3] Since then, many other forms of hormonal and non-hormonal contraceptives have been developed, including intrauterine devices (IUDs), implants, patches, rings, injections, and emergency contraceptive pills.[4]



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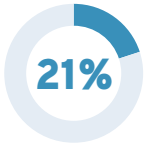
Recent surveys indicate that contraceptives are both widely used and broadly accepted. In one survey of women ages 18 to 49, 82 percent reported that it was very or somewhat important that they avoid pregnancy in the next month, and another found that more than 99 percent of women who have ever had sex with a male partner reported using contraceptives at some point in their lives.[5] Even when narrowing the definition of contraception to include only hormonal forms and the copper IUD, the vast majority of sexually experienced women (87.8 percent) reported using them.[6] Furthermore, surveys consistently show that the vast majority of Americans view contraception as morally acceptable.[7]

Despite broad use and support, contraception has become a political point of contention since 2022, when the Supreme Court overturned *Roe v. Wade*.[8] Although this decision did not explicitly impact access to contraception, Justice Clarence Thomas' concurring opinion suggested that the court was open to reconsidering *Griswold v. Connecticut*, the case that established the right to

The sources included in this paper were verified and active at the time of publication.

contraceptive use for married couples in 1965.[9] This suggestion spurred some states to enact legislation to safeguard their residents' right to contraception.[10] Each year since 2022, similar legislation has been introduced at the federal level, with one bill passing the House but not the Senate.[11]

Public opinion underscores the policy stakes: Polling suggests that 21 percent of American adults consider access to contraception a "threatened right," and 34 percent are not sure whether it is secure, giving legislators good reason to consider codifying contraception rights.[12]



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Even with widespread public backing, right-to-contraception bills often stall in state legislatures. This paper explores the reasons for that disconnect by examining the legislative discourse related to these bills with the goal of providing insights to guide legislative efforts and strategies toward more successful bills. The following sections discuss the context of the bills, first outlining the supportive messages, followed by the oppositional messages expressed during hearings. This study concludes with suggestions for future legislative efforts toward establishing the right to contraception.

Methodology

To better understand how contraception is being discussed in state legislatures, we explored the legislative records associated with bills that sought to protect the right to contraception in 2025. We identified a pre-existing list of bills related to sexual and reproductive health and reviewed the text to identify bills that explicitly sought to protect the right to contraception.[13] We reviewed the list for bills related to contraception access and excluded bills that addressed abortion rights because we wanted to try to isolate the debate about contraception access from the debate about abortion access, since they are two distinct issues.

We identified 21 bills introduced in state legislatures that sought to codify the right to contraception in 2025.[14] We then read each bill and collected and reviewed available archived video from all of the legislative hearings and publicly available written testimony for each bill. Eleven of the 21 bills identified never progressed beyond a first reading, were assigned to committees but never heard, or lacked archived video of their committee hearings.

The remaining ten bills were from five states (Virginia, Tennessee, North Dakota, Maine, Nevada, and Hawai'i) and varied in their progression through the legislature.[15] Maine SB 573 was held over for the next session at the request of the sponsor.[16] North Dakota HB 1478 did not pass its House floor vote.[17] Hawai'i SB 350 crossed over from the House after its committee meetings but only received a first reading in the Senate.[18] Virginia and Tennessee each had multiple versions of right-to-contraception bills; Virginia HB 2853 and Tennessee HB 1010/SB1220 did not progress past their assigned committees.[19] Only four bills (Virginia SB 1105, Nevada AB 176, Tennessee SB 449, and Tennessee HB 533), with the two

Tennessee bills being companion bills, were sent for gubernatorial signature, and SB 1105 in Virginia was vetoed.[20] Tennessee SB 449 and HB 533, and Nevada AB 176, were signed into law.[21] The legislative records associated with these ten bills contribute most significantly to the observations and suggestions in this policy study.

Building Support

Framing strategies in support of right-to-contraception bills included connecting contraception and assisted reproductive technologies (ARTs) and discussing contraception's role in treating medical conditions and empowering victims of violence.

Connecting Contraception to ARTs

Tennessee SB 499 and HB 533, and Maine SB 573 sought to protect access to ART, like in vitro fertilization (IVF), at the same time as contraception.[22] Contraceptives and ART are both related to being able to choose when and how to start a family, and both have faced political headwinds.[23] Because of these factors, connecting contraceptive and ART access in legislative efforts to protect contraceptive access makes sense. Protecting IVF featured prominently in the discussions during hearings for Tennessee SB 449 and HB 533 and bolstered support for the bill.[24] One legislator in Tennessee registered support for the bill because of personal experience with using IVF to build his family.[25]

Describing Contraception's Role in Medical Treatment and Empowering Victims of Violence

Right-to-contraception bill supporters also focused on the importance of contraception in situations involving intimate partner violence.[26] During committee hearings for North Dakota HB 1478 and Nevada AB 176, advocates from coalitions supporting victims of sexual violence testified on the importance of contraception for people experiencing domestic violence.[27] Homicide by an intimate partner is a leading cause of death during and after pregnancy, and reproductive coercion is associated with intimate partner violence.[28] For those experiencing these situations, the ability to access contraception that does not require a partner's involvement can be particularly important.[29]

During the Tennessee House of Representatives debate for SB 449, the sponsor met some resistance because the bill included the right to access emergency contraceptives.[30] Another representative countered this resistance by explaining how emergency contraceptives are given to victims of sexual assault at hospitals, highlighting the importance of this medication for preventing pregnancy after a nonconsensual sexual encounter.[31]

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Several bill sponsors discussed contraceptives' importance in treating medical conditions.[32] Hormonal contraceptives are used to treat or manage the symptoms

of many medical conditions, such as polycystic ovarian syndrome, acne, heavy menstrual periods, and uterine fibroids.[33] In fact, a survey found that 17 percent of IUD users and 45 percent of contraceptive pill users reported that they used these products exclusively to treat a medical condition or to both treat a medical condition and prevent pregnancy.[34]

Standing in Opposition

Opposition to right-to-contraception bills was more diverse than in support of such bills. Oppositional messages tended to raise concerns about minor consent and embryo destruction, question the need for legislation, and cite religious or moral objections.

Raising Concerns About Embryo Destruction

Opponents to one of Tennessee's right-to-contraception bills (SB 449) raised concerns about the destruction of embryos, especially during IVF.[35] This concern is grounded in the belief that life begins at fertilization, a premise debated among biologists.[36] While this concern could be relevant to conversations about IVF, as it sometimes involves the disposal of embryos, contraceptives' mechanisms of action make this argument less directly applicable to bills focused solely on contraceptive access.[37]

Although the specific details of how contraceptives prevent pregnancy vary by method, they all prevent pregnancy before fertilization (i.e., conception).[38] Generally, hormonal contraceptives and the copper IUD work by preventing the body from releasing an egg and/or by inducing changes to the reproductive tract that prevent sperm from reaching and fertilizing an egg.[39] Even emergency contraceptives (i.e., Plan B or "the morning after pill"), which bill opponents voiced concerns about during the Tennessee SB 449 and Nevada AB 176 hearings, prevent pregnancy before conception.[40] The misunderstanding that some contraceptives induce abortion is often a component in oppositional arguments against right-to-contraception bills.[41]

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Raising Concerns About Minor Access

Bills that do not include age limits for the right to contraception can experience opposition because of concerns that they violate parental rights.[42] One organization in Virginia, for example, testified in opposition to the state's SB 1105 because they were concerned that the law allowed minors to consent to contraception, particularly sterilization, without parental approval.[43] The bill sponsor addressed this concern by clarifying that the existing law allows minors to consent to use contraceptives, except for sterilization, without parental notification.[44] Despite opposition, medical organizations such as the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists support adolescent self-consent and confidentiality, citing safety and well-being benefits.[45]

Regarding sterilization, concern about ensuring informed consent is warranted, given the United States' documented history of coercive sterilization practices.[46] Virginia SB 1105 addressed these concerns by amending the bill to include language requiring a patient's informed consent for sterilization procedures.[47]

Questioning the Need for Legislation and Legal Remedies

In Tennessee and North Dakota, right-to-contraception bill opponents often questioned the need for codifying this right into law.[48] Opponents questioned whether any legislation had been introduced in their respective state that threatened access to contraception, with some warning that this type of legislation could lead to broader reproductive health protections.[49] In Hawai'i, the oppositional arguments related to the type of legislative action proposed.[50] A legislator in Hawai'i offered the opinion that their proposed legislation should take the form of a law rather than a constitutional amendment.[51]

Bills that included provisions that allowed for legal action if a person's right to contraception was denied or infringed upon were sometimes opposed on the grounds that it was not wise to "create a whole new right to sue," as it could burden the legal system.[52]

Citing Religious and Moral Objections

During public comment for Virginia SB 1493 and SB 1105, opponents raised concerns that the bills did not include conscience protections allowing providers or health systems the right to decline contraceptive services on religious or moral grounds.[53] Supreme Court cases *Burwell v. Hobby Lobby*, *Pennsylvania v. Trump*, and *Little Sisters of the Poor v. Pennsylvania* address organizational religious objections to providing insurance coverage for contraception, providing a legal basis for this objection.[54] On the federal stage, the Department of Health and Human Services has released rules related to providers and religious or moral objections to providing care, but state laws vary in how they address providers' rights to decline providing care based on religious or moral objections.[55]

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Finding Ways Forward

Although contraception enjoys broad public support and use, right-to-contraception bills rarely receive automatic consideration. For policymakers and organizations that support right-to-contraception legislation, this section provides some suggestions for building support.

Tailor the Scope and Framing of Legislation

There are many legislative pathways to protecting contraception access. Legislation that ensures reproductive rights or autonomy generally includes the right to contraception; however, these bills may encounter heightened opposition because they generally address pregnancy termination in addition to other reproductive healthcare access, such as ART.[56] Right-to-contraception legislation offers a targeted

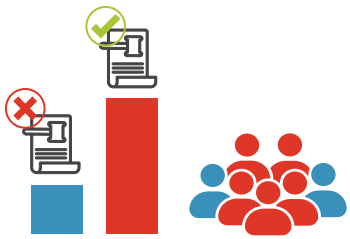
pathway to protecting contraception access. Because contraception is widely accepted across demographic groups, legislation that protects the right to engage in contraception may have a clearer path to passage than broader reproductive health legislation.

Depending on the legislative environment of the state and the sponsor's goals, policymakers may opt to pursue a narrow or a broad legislative approach. In some states, legislation that ensures a right to access both contraceptives and ARTs may make sense, whereas in other states, focusing on contraception may be a better strategy. For example, Virginia and Tennessee each had multiple versions of right-to-contraception legislation introduced in 2025.[57] In Virginia, one reason the subcommittee preferred SB 1105 over SB 1493 was that it defined contraception, whereas SB 1493 did not.[58] In Tennessee, multiple versions of right-to-contraception bills differed in several ways.[59] The version that passed established a right to ARTs, along with contraception, with few other provisions.[60] The bill that did not pass included a provision that required insurance companies to "ensure affordable access" to a variety of contraceptives and allowed the right to seek legal action if an entity violated the enumerated rights.[61] Understanding what may be a sticking point or priority for legislators can help policymakers craft a bill that is more likely to progress.

Additionally, being open to amending bills to address concerns—without changing the intention of the bill—can help defuse opposition. For example, Virginia added an amendment that clarified the informed consent requirements to perform sterilization, and Tennessee added an amendment that specified the definition of contraception.[62] Nevada also amended their bill to explicitly state that it did not apply to laws related to abortion and exempted schools from the legislation.[63]

Leverage Political Dynamics to Advance Legislation

Although policy and politics are not necessarily synonymous, politics can influence policy decisions. In Virginia and Tennessee, where multiple versions of right-to-contraception bills were put forth, the bill that passed the legislature was sponsored by a member of the party with legislative control.[64] On the whole, of the 21 right-to-contraception bills we identified for this study, the bills that passed or made any meaningful progress through the legislature were sponsored by members of the party with legislative control. Bills sponsored by members of the minority party predominantly did not progress beyond committee assignment. While the bill sponsor's party is far from a guarantee that legislation will progress, in the case of right-to-contraception bills, our research suggests that party alignment appears to correlate with bill progress. In cases where party alignment is not possible, bipartisan co-sponsorship may help the bill progress. For example, North Dakota's right-to-contraception bill had bipartisan sponsorship, and, although it failed the floor vote in the House of Representatives, it did pass out of committee.[65]



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Engage Stakeholders to Build Support

Considering different stakeholder needs is an important component of moving legislation forward. In fact, discussing legislation with less-supportive stakeholders is just as important as hearing from supportive stakeholders. Working with stakeholders who have concerns can help identify potential provisions that may face significant opposition as the bill progresses. Additionally, if unlikely stakeholders come to support or at least not actively oppose a bill, it may help persuade legislators who are unsure to support the bill. Maine offers an example of this as the bill sponsor requested that the Act to Protect Access to Reproductive Health Care, Including Fertility Treatments and Contraceptives, be carried over to the next legislative session to give more time to adjust the language based on stakeholder feedback.[66] Similarly, Nevada's bill sponsor, Assemblymember Torres-Fossett, discussed how the legislation is the result of a compromise, and it is rare that she finds alignment with some of the organizations that initially opposed the bill.[67]

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Although engaging all stakeholders is generally considered a best practice for building legislation, stakeholder support can also get caught up in politics.[68] For example, in Tennessee, one legislator who voted for a right-to-contraception bill to move out of committee later came to oppose the bill because he learned that an organization he opposed supported the bill.[69] Despite saying the bill was important, the legislator wanted to rework the bill so the stakeholder would "have a problem with it."[70] Situations like this are difficult to navigate, predict, or control, but having a well-respected bill sponsor and a broad coalition in support of the bill can help manage potential opposition. Noting constituent concerns was another way that bill sponsors attempted to defuse more politically centered opposition.

Conclusion

Even though advances in contraception have dramatically influenced society, the current legislative environment related to reproductive healthcare is complex and challenging.[71] As such, policymakers seeking to pass legislation that protects the right to contraception must carefully consider their messaging and anticipate the form opposition to such bills might take. By understanding the primary arguments against such legislation and proactively considering them when drafting bills, lawmakers will be better equipped to chart a viable path to passage. These efforts are critical, as contraception is not just about family planning—it safeguards the health and economic well-being of individuals, families, and society, and helps secure that protection for future generations.

About the Author
Chelsea Boyd is a research fellow at the R Street Institute.

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