

# THE WOMEN'S HEALTH PROTECTION ACT OF 2015

## *Structural Summary*

### Purpose

- To protect a woman's right and ability to determine whether and when to bear a child or end a pregnancy by limiting restrictions on the provision of abortion services.
- To protect women's health by ensuring that abortion services will continue to be available and that abortion providers are not singled out for medically unwarranted restrictions that harm women by preventing them from accessing safe abortion services.

### Findings

- Access to safe, legal abortion services is essential to women's health and central to women's ability to participate equally in the economic and social life of the United States.
- Access to safe, legal abortion services has been hindered in the United States in various ways, including, but not limited to: blockades of health care facilities and associated violence; restrictions on insurance coverage; restrictions on minors' ability to obtain services; and requirements and restrictions that single out abortion providers and those seeking their services, thus harming women's health and reducing the availability of services.
- The Women's Health Protection Act focuses on this last category of access barriers – restrictions on abortion that are neither science-based nor generally applicable to the practice of medicine and which, in fact, interfere with women's personal decision-making while doing nothing to protect women's health and safety. The prevalence of such laws and regulations in the states has dramatically increased in the last four years.
- Congressional authority is rooted in the Commerce Clause and Section Five of the Fourteenth Amendment.

### Prohibited Measures and Actions

- Laws and regulations 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 are unlawful. This includes:
  - Requiring unnecessary tests and procedures (*e.g.* mandatory ultrasounds).
  - A requirement that the same clinician who performs the abortion also perform all services related to the abortion (*e.g.* requiring the physician providing the abortion to also administer the ultrasound and all other care).
  - Making doctors adhere to outmoded and less effective medical regimens (*e.g.* restrictions on medication abortion).
  - Limitations on providing abortion services via telemedicine.

- TRAP laws – targeted regulation of abortion providers – that impose onerous requirements on facilities and providers that do nothing to further health and make it nearly impossible for health care providers to keep their doors open.
- Requiring women to make one or more medically unnecessary visits to a provider, including visits to so-called crisis pregnancy centers.
- Limitations that prohibit or restrict medical training for abortion procedures.
- Pre-viability bans (*e.g.* 20 week bans and “heartbeat” bans)
- Post-viability bans that do not make exceptions for the woman’s health or life
- Limitations that delay a woman receiving an abortion when that delay would cause a health risk
- Reason-based bans
- The Act also prohibits laws like those above that might be passed in the future. It directs courts to consider various factors in evaluating such future restrictions, such as whether the measure or action:
  - Interferes with an abortion provider’s ability to provide care and render services in accordance with her or his good-faith medical judgment.
  - Is reasonably likely to delay some women in accessing abortion services.
  - Is reasonably likely to increase the costs of providing or obtaining abortion services.
  - Is effectively going to necessitate extra, unnecessary trips to the abortion provider.
  - Is reasonably likely to result in a decrease in the availability of abortion services in the state.
  - Imposes criminal or civil penalties that are harsher or not imposed at all on other health care professionals for comparable conduct or failure to act.
  - Has a cumulative impact when combined with other new or existing restrictions.