

FACT SHEET: LATER ABORTION BANS

WHAT IS FETAL VIABILITY?

Fetal viability is reached when the fetus has the ability to survive outside the uterus.¹ The possibility of fetal survival outside of the uterus varies case-by-case and depends on a variety of factors aside from gestational age.² However, because the literature has considered probability of survival to be higher around 24-26 weeks gestation calculated from the person's last normal menstrual period (LMP), states have interpreted these timeframes as representative of fetal viability in all cases to establish laws banning abortion past a specified number of weeks.³⁻⁴ Nearly all (91%) abortions in the US are performed before 14 weeks gestation (i.e. in the first trimester), and only 1.3% of abortions are completed at or greater than 21 weeks, most of which have not reached fetal viability.⁵

WHAT ARE LATER ABORTION BANS?

Later abortion bans prohibit abortions after a pregnancy has reached a certain number of weeks, but before viability, most commonly at 20 or 22 weeks gestation from the patient's LMP. However, these laws are often referred to as "18-week bans" or "20-week bans" because legislators use language that dates pregnancies from the time of fertilization. This method of dating pregnancies is not used in medicine, and as such, when specific laws are referred to in this text, they will be named based on weeks from a patient's LMP. Most Southeastern states have enacted a 22-week ban, including: Alabama, Arkansas, Georgia, Kentucky, Louisiana, and South Carolina; Mississippi and North Carolina have enacted 20-week bans; and Virginia has a 25-week ban.⁶

WHO IS AFFECTED BY LATER ABORTION BANS?

Later abortion bans limit the available time in which a person may seek a legal abortion. There are a number of risk factors and reasons why individuals seek abortion care in the second trimester. Those seeking later abortions tend to be younger, have limited financial resources, and have discovered their pregnancy later than those receiving earlier abortions.⁷⁻¹² After Georgia enacted a 22-week ban, the rate of later abortions decreased more rapidly than overall abortions.¹³ This was also observed after Texas enacted the same ban.¹⁴

WHAT FACTORS INFLUENCE THE LIKELIHOOD OF NEEDING LATER ABORTIONS?

Age and Parity

Younger people are less likely to detect their pregnancy early compared to those who are older and those who have experienced pregnancy before. In fact, half of all individuals seeking later abortions underestimate their gestational age by more than four weeks, and this is most common among women who are experiencing pregnancy for the first time.^{8,10} Additionally, menstrual irregularity, which occurs more commonly among younger people, contributes to later recognition of pregnancy.⁹ Later abortion bans are most likely to affect younger people who take longer to seek abortion care.

Income

Individuals with limited financial resources are especially affected by later abortion bans. Those seeking second trimester abortions cite “time gathering the funds necessary to pay for the abortion” as a main reason for waiting until this point to seek care.^{7,8,10} This affects many people, as the majority of abortions are sought by individuals living below 200% of the federal poverty line (FPL).¹¹ This creates a challenging cycle: those who need more time to collect the funds to pay for an abortion will face higher costs due to advancing gestational age. For example, the average cost of an abortion at 10 weeks is about \$534, whereas the average cost at 20 weeks is \$1562.¹² Many pay out-of-pocket for their abortion: 77% of those with private insurance did not or could not use it to cover their abortion, and more than one-third of individuals eligible for Medicaid coverage of abortion did not or could not utilize the funds.¹¹

Genetic Anomalies

During standard prenatal genetic testing, a fetal anomaly may be discovered in which the fetus will not live to term or will have a significant health defect. Screening tests and ultrasounds are completed by 17-20 weeks, and so individuals seeking abortion care for fetal anomaly will tend to do so later in the pregnancy after genetic tests are confirmed.^{9,15} In addition, 20% of pregnant individuals do not begin prenatal care until the second trimester. Delays in prenatal care are most likely to occur among individuals with low income and education levels, furthering their difficulties in obtaining an abortion once receiving results of a genetic test.¹⁵

Geography

Nearly 40% of women aged 15-44 live in counties that have no abortion providers.¹⁶ Patients traveling more than three hours to reach a clinic are more likely to be seeking a later abortion (21%) than a first trimester abortion (5%).⁸ 30% of individuals who received abortions near the gestational age limit set by their state traveled more than 100 miles to a clinic, compared to 13.6% of individuals in their first-trimester.¹² As patients reach more advanced gestational ages, they report further delays due to finding a provider and are more likely to visit multiple facilities before finding one that will complete the procedure.⁸ Later abortion bans also affect individuals who are not residents of that state. For example, half of abortions in Georgia were performed among non-residents in 2012.¹³ However, shortly after Georgia’s 22-week ban was enacted, fewer abortions were performed among out-of-state patients.¹³

Racial Disparities

Although white women account for the majority of all abortions in the US, African American women have abortions at a much higher rate: 27.1 per 1000 women aged 15-44 versus 10 per 1000 among white women.¹⁶ Conversely, among Southeastern states, African American women account for both the highest percentage and rate of abortions.⁵ In Georgia, where the disparity is highest (62% of all state abortions were reported by African American women in 2015 versus 25% reported by white women), African American women were most affected by the state’s later abortion ban.^{5,13}

HOW DO LATER ABORTION BANS IMPACT PROVIDERS?

Later abortion bans can affect the training outcomes for OB/GYNs within a state. Fewer medical residents within the state will be able to gain the experience necessary to perform second trimester abortions.¹⁵ The US already faces a shortage of providers who are trained to provide abortions within this time frame: only 23% of US abortion providers offer abortions after 20 weeks, and only 11% will complete the procedure at 24 weeks.¹² Other hospitals limit medical student involvement and OB/GYN training for the most common and safest surgical abortion technique (D&E) used for second trimester abortions.¹⁸⁻²⁰

REFERENCES

1. Roe v. Wade. (n.d.). Oyez. Retrieved April 12, 2019, from <https://www.oyez.org/cases/1971/70-18>
2. Perivable birth. Obstetric Care Consensus No. 6. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2017;130:e187-99.
3. Morgan, M. A., Goldenberg, R. L., & Schulkin, J. (2008). Obstetrician-gynecologists' practices regarding preterm birth at the limit of viability. *The Journal of Maternal-Fetal & Neonatal Medicine*, 21(2), 115-121.
4. Vavasseur, C., Foran, A., & Murphy, J. F. (2007). Consensus statements on the borderlands of neonatal viability: from uncertainty to grey areas. *Irish medical journal*, 100(8), 561-564.
5. Jatlaoui TC, Boutot ME, Mandel MG, et al. Abortion Surveillance — United States, 2015. *MMWR Surveill Summ* 2018;67(No. SS-13):1-45. DOI: <http://dx.doi.org/10.15585/mmwr.ss6713a1>
6. Guttmacher Institute. (February 1, 2019). State Laws and Policies: State Policies on Later Abortions. Retrieved from: <https://www.guttmacher.org/state-policy/explore/state-policies-later-abortions>
7. Finer, L. B., Frohwrith, L. F., Dauphinee, L. A., Singh, S., & Moore, A. M. (2006). Timing of steps and reasons for delays in obtaining abortions in the United States. *Contraception*, 74(4), 334-344.
8. Foster, D. G., & Kimport, K. (2013). Who seeks abortions at or after 20 weeks?. *Perspectives on Sexual and Reproductive Health*, 45(4), 210-218.
9. Grimes, D. A. (1998). The continuing need for late abortions. *JAMA*, 280(8), 747-750.
10. Janiak, E., Kawachi, I., Goldberg, A., & Gottlieb, B. (2014). Abortion barriers and perceptions of gestational age among women seeking abortion care in the latter half of the second trimester. *Contraception*, 89(4), 322-327.
11. Roberts, S. C., Gould, H., Kimport, K., Weitz, T. A., & Foster, D. G. (2014). Out-of-pocket costs and insurance coverage for abortion in the United States. *Women's Health Issues*, 24(2), e211-e218.
12. Upadhyay, U. D., Weitz, T. A., Jones, R. K., Barar, R. E., & Foster, D. G. (2014). Denial of abortion because of provider gestational age limits in the United States. *American Journal of Public Health*, 104(9), 1687-1694.
13. Roberts, S. C., Gould, H., & Upadhyay, U. D. (2015). Implications of Georgia's 20-week abortion ban. *American journal of public health*, 105(8), e77-e82.
14. Grossman, D., Baum, S., Fuentes, L., White, K., Hopkins, K., Stevenson, A., & Potter, J. E. (2014). Change in abortion services after implementation of a restrictive law in Texas. *Contraception*, 90(5), 496-501.
15. Farrell, R. M., Mabel, H., Reider, M. W., Coleridge, M., & Katsuki, M. Y. (2017). Implications of Ohio's 20-week abortion ban on prenatal patients and the assessment of fetal anomalies. *Obstetrics & Gynecology*, 129(5), 795-799.
16. Jones, R. K., & Jerman, J. (2017). Population group abortion rates and lifetime incidence of abortion: United States, 2008-2014. *American Journal of Public Health*, 107(12), 1904-1909.
17. Partial Birth Abortion Act of 2003, 18 U.S.C. § 1531 (2003).
18. Haddad, L., Yanow, S., Delli-Bovi, L., Cosby, K., & Weitz, T. A. (2009). Changes in abortion provider practices in response to the Partial-Birth Abortion Ban Act of 2003. *Contraception*, 79(5), 379-384.
19. Stubblefield, P. G., Carr-Ellis, S., & Borgatta, L. (2004). Methods for induced abortion. *Obstetrics & Gynecology*, 104(1), 174-185.
20. White, K. O., Jones, H. E., Shorter, J., Norman, W. V., Guilbert, E., Lichtenberg, E. S., & Paul, M. (2018). Second-trimester surgical abortion practices in the United States. *Contraception*.
21. Jones, B. S., & Weitz, T. A. (2009). Legal barriers to second-trimester abortion provision and public health consequences. *American Journal of Public Health*, 99(4), 623-630.



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