

Contextual Evidence for Title X Services within the United States South

Purpose

The purpose of this Policy Brief is to provide comprehensive contextual evidence for Title X services given the historical context and current policy landscape surrounding contraceptive care and access to services, particularly in the United States South.

1970

The Title X Family Planning Program is a federal grant created in 1970 to provide support and resources for comprehensive family planning services to people with incomes below the federal poverty level. The program provides grants to both public and nonprofit clinic organizations. The Title X grant ensures access to a broad range of family planning and preventative services such as birth control services, basic infertility treatments, assistance to achieve pregnancy, pregnancy testing and counseling, and STI testing and treatment.¹

2017

The Choose Well contraceptive access initiative was launched in 2017 in South Carolina. The initiative was aimed at promoting equitable access to contraception without judgement or coercion and to reduce the state's unintended pregnancy rate. Choose Well was implemented among various health care sectors including federally qualified health centers, health departments (the state's Title X family planning clinics), college health centers, and delivering hospitals. The initiative used a four-impact area framework, which included infrastructure and workforce enhancements, capacity-building and training opportunities, strategic marketing and communication efforts, and strategic learning and sustainability.⁴

2018

In 2018, Mississippi passed a law that banned most abortion operations after the first 15 weeks of pregnancy. The only abortion clinic in Mississippi, Jackson Women's Health Organization, sued Thomas E. Dobbs, state health officer with the Mississippi State Department of Health in March 2018. The lower courts had prevented enforcement of the law with preliminary injunctions that were based on the ruling *Planned Parenthood v. Casey* which had prevented states from banning abortion before fetal viability, generally within the first 24 weeks, on the basis that a woman's choice for abortion during that time is protected by rights of privacy under the Fourteenth Amendment to the United States Constitution.⁵

2019

In 2019, the Trump-Pence Administration's Department of Health and Human Services instituted a Title X gag rule that went into effect on July 11, 2019. The rule made it illegal for healthcare providers to give patients information related to abortion at clinics that received any Title X funding.¹ According to the Guttmacher Institute, the gag rule cut the Title X family planning patient capacity in half. It is estimated that one in every four Title X service sites left the program due to the gag rule.⁶

2021

On October 4, 2021, the Biden-Harris Administration's Department of Health and Human Services amended the regulations to restore many aspects of the Title X program that were removed through the Trump Administration regulations, including allowing co-located abortion services and abortion referrals, requiring clinics that are not able to provide clients with a broad range of family planning methods to provide a prescription or referral to the client if requested, and added confidentiality protections for adolescents—clinics may not require consent of a parent or guardian for the provision of services and cannot notify a parent or guardian before or after provision of any services.¹

Historical Impacts

Historical injustices were prevalent throughout the United States, and particularly in the Southeast. The long and painful history of reproductive control and coercion has roots in slavery, eugenics, and repression. Due to the ban on importing enslaved people after 1808, enslaved women became extremely valuable because any children they had were automatically enslaved. This was only the beginning of reproductive control over Black women. Beyond this, the eugenics movement of the 1920s and 1930s removed the autonomy of people throughout the country by means of forced sterilization as way to fix America's social problems. Many were unknowingly sterilized, being told that they were going to the doctor for one procedure and awakening to find their reproductive organs removed without their knowledge or consent.²

Today

The lack of access to reproductive healthcare, planning, and education continue the trend of removing reproductive autonomy for the most marginalized communities. Among women in South Carolina, barriers to reproductive justice include structural barriers to reproductive health care, such as lack of health insurance and the high cost of care, specifically contraceptive methods. Other barriers to reproductive justice include negotiating reproductive health care in a conservative environment and uncovering historical oppressions, which impact current healthcare seeking behaviors.³

2021

The 2021 amended regulations have also added new provisions to the program, including adding telehealth as an option for providing medical services in addition to in-person care; requiring family planning projects to provide services in a manner that is client-centered, culturally and linguistically appropriate, inclusive, and trauma-informed; protecting the dignity of the individual; ensuring equitable and quality service delivery consistent with a nationally recognized standard of care; and adding a new funding criterion – the ability of the applicant to advance health equity.¹

2022

In December 2022, U.S. District Judge Matthew Kacsmaryk ruled that Title X clinics violate Texas parents' rights and state and federal law. The ruling makes it nearly impossible for Texas teens to access birth control without their parents' permission. The ruling applies to the national regulations, but for now is followed only in Texas.⁷

Looking Forward

Federal and state-level policies readily impact reproductive autonomy and reproductive justice for birthing people. A prime example being the Title X Family Planning Program which although the program is implemented at the state-level, is subjected to federal-level measures. Thus, some policies promote access to requisite services that enhance reproductive autonomy and reproductive justice while other policies restrict access. Unfortunately, these policies are often politically motivated.

South Carolina may be an example of how, through public and private funding mechanisms as well as strategic collaboration, it is possible to increase access to requisite contraceptive care services in a historically conservative state. The South Carolina state legislature appropriated state funding in the 2022-2023 budget to directly fund contraceptives at Choose Well partner sites and thereby support the availability of (and equitable access to) contraceptives for South Carolina residents. Similarly, the Pharmacy Access Act was signed by Gov McMaster on 5/23/22 and went into effect 12/1/22. The bill allows pharmacists to prescribe and dispense contraceptives.⁹



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As of March 22, 2023, across the United States,

13

Abortion is
banned in
13 states

12

A gestational
limit in effect in
12 states

25

Abortion
remains legal
in 25 states &
Washington, DC

On June 24, 2022, the Supreme Court of the United States overturned *Roe v. Wade*, eliminating the federal standard protecting the right to abortion returned the legality of abortion to be decided by the states. The ruling overturned the precedents set by *Roe v. Wade* and *Planned Parenthood v. Casey*, eliminating the constitutional right to abortion. Across the nation, 26 states had "trigger laws" that went into effect automatically once *Roe* was overturned. Kentucky, Louisiana, and South Dakota banned abortion completely within minutes of the ruling while the other states followed within the next 30 days. This ruling drastically reduced Americans' access to legal abortion.

Depending on the state, the current exemptions to the ban include risk to the pregnant person's life or physical health and fetal anomaly. Restrictions include a 24-hour mandatory waiting period and a mandatory ultrasound.

Since the *Dobbs* decision, 23 states have tried to implement a complete ban or a pre-viability ban. In 6 states, these laws are currently blocked by courts. The 23 states are: AL, AZ, AR, FL, GA, ID, IN, IA, KY, LA, MS, MO, ND, OH, OK, SC, SD, TN, TX, UT, WV, WI, and WY.⁸

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