The Honorable Anna A.G. Eshoo
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Dr. Michael C. Burgess
2322A Rayburn House Office Building
Washington, DC 20515

February 12, 2020

Re: Hearing on "Protecting Women's Access to Reproductive Health Care"

Dear Chairwoman Eshoo, Ranking Member Burgess and Members of the Subcommittee:

Thank you for the opportunity to submit this statement on behalf of the Guttmacher Institute in support of HR 2975, the Women's Health Protection Act of 2019, for the February 12, 2020 hearing entitled "Protecting Women's Access to Reproductive Health Care."

As a nonprofit research and policy organization committed to advancing sexual and reproductive health and rights in the United States and globally, the Guttmacher Institute has collected and analyzed information about the provision of abortion in the United States for more than 50 years. We have also systematically tracked and analyzed state efforts to restrict access to this constitutionally protected form of health care since the early 1970s.

The U.S. Supreme Court has repeatedly affirmed—most recently in 2016—that abortion is a fundamental right and that undue burdens on access violate the Constitution. Yet, antiabortion policymakers continue to single out abortion care for restrictions that do not apply to similar health care and have enacted an avalanche of restrictive state abortion laws, especially since January 2011. These laws are designed to delay and, in some cases, entirely block access to care, shame people seeking access to abortion care, and vilify the providers who have dedicated themselves to offering high-quality, compassionate care in often-hostile environments. The harmful impact of these restrictions falls hardest on people already struggling to get by and marginalized from timely, affordable, high-quality health care, including people with low incomes, people of color, young people, LGBTQ individuals, and people in many rural communities.

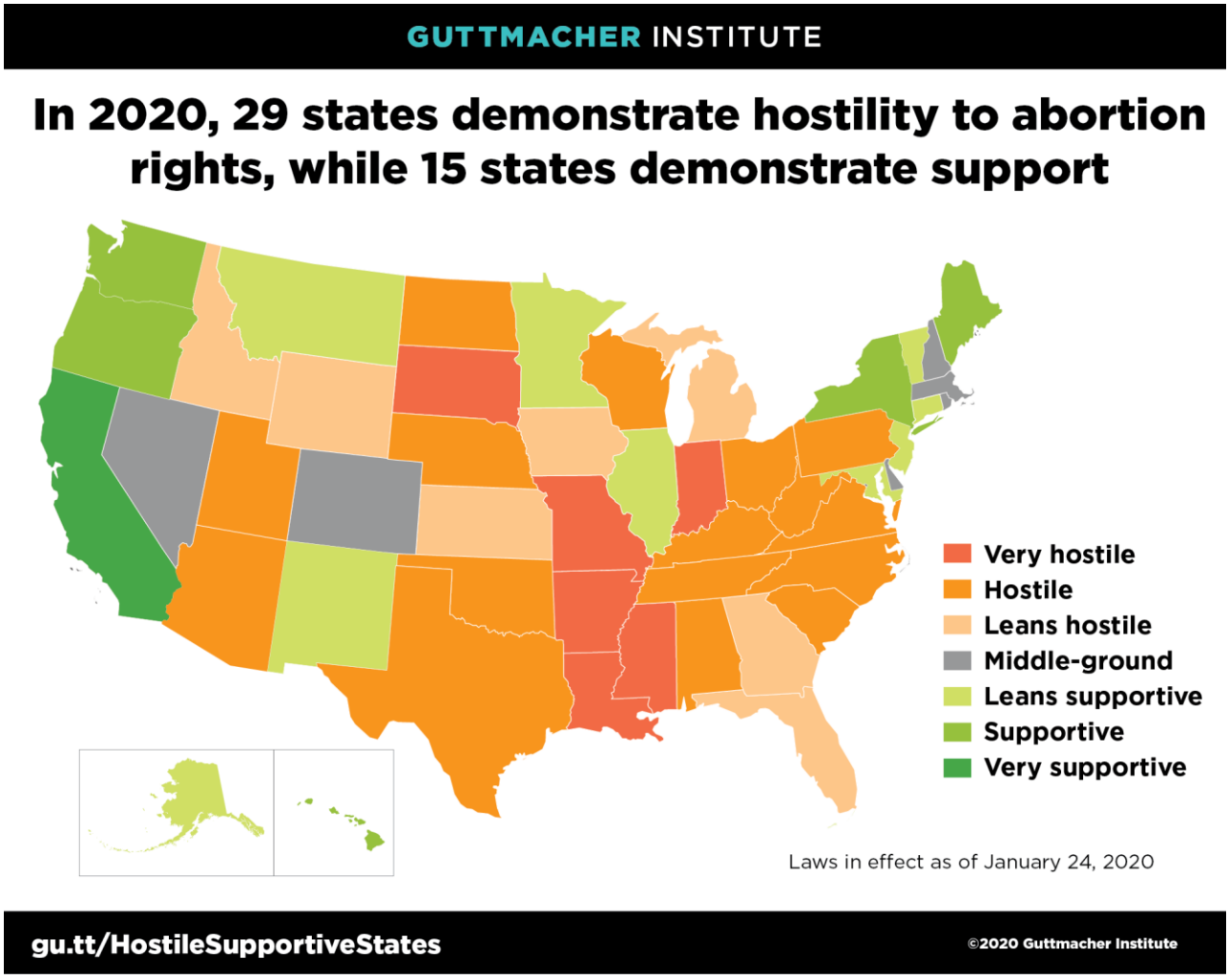
The primary purpose of the Women's Health Protection Act (WHPA) is to protect the right to access abortion care for all, no matter where a person happens to live. The bill would establish a federal statutory right for health care providers to offer, and their patients to receive, abortion care free from medically unnecessary restrictions that single out abortion and impede access to care.

State Abortion Policy Landscape

State lawmakers hostile to abortion have sought to undermine the constitutional right to abortion and impede access to care ever since *Roe v. Wade* was decided in 1973. These efforts have escalated over the past decade: Since January 2011, states have enacted more than 450 new abortion restrictions, comprising nearly 40% of all restrictions on abortion enacted since the beginning of 1973.[i] These efforts have shifted the abortion policy landscape dramatically.

To assess how and where the volume of abortion restrictions has changed over time, analysts at the Guttmacher Institute considered whether six types of abortion restrictions and six types of policies that support abortion rights were in effect in the states in 2010 and 2020. Based on the number of policies in each of these groups, a state is placed in one of seven classifications, ranging from very hostile to very supportive.

In 2020, 29 states have policy landscapes considered hostile to abortion. Nearly 40 million women of reproductive age (58% of the total number) live in these states.[ii]



Strikingly, the extent to which states demonstrate hostility to abortion has intensified significantly since 2010, even as the overall number of hostile states has remained the same: In 2010, no states were

considered very hostile to abortion, whereas 10 states were hostile states and 19 leaned hostile. Today, these numbers have shifted toward the extreme end of the spectrum: Six states are considered very hostile, 16 are hostile and seven lean hostile.

State Abortion Policy Landscape, 2010 and 2020		
	2010	**2019**
Very Hostile	0	6
Hostile	10	16
Lean Hostile	19	7
Middle-ground	9	6
Lean Supportive	10	9
Supportive	2	5
Very Supportive	0	1

These classifications are more than a useful rhetorical tool: they reflect the very real overlay of policies that control if and how people are able to get the abortion care they need in a given state. Research suggests that barriers to abortion care exacerbate each other, meaning that the more restrictions a person encounters, the more difficult it can be to access care.[iii] As states enact ever more restrictions, the reality of abortion access for people in those states and regions becomes ever grimmer.

Recent Efforts to Restrict Abortion

In the years immediately following the 2010 midterm elections, the initial flood of abortion restrictions was largely characterized by clinic shutdown laws thinly veiled as safety measures.[iv] In 2016, the U.S. Supreme Court found two prominent examples of these laws in Texas to be unconstitutional. Nonetheless, just a few short years later, the increasingly conservative Supreme Court is considering a reprise of one of these laws in 2020.

Meanwhile, antiabortion state lawmakers have increasingly turned to blunter tactics, embracing a range of measures intended to ban all, most or some abortions outright. In 2019 alone, state legislatures (primarily across the South, Midwest and the Plains) enacted 58 abortion restrictions, 25 of which would ban all, most or some abortions.[v]

The most prominent trend to emerge from these recent efforts are bills that seek to ban abortion earlier and earlier in pregnancy—in particular, bills that would ban abortion as early as six weeks after the last missed period, which is before many people know they are pregnant. Bans on abortion by gestational age were enacted in nine states in 2019:

- Alabama enacted a **total ban** on abortion;
- Georgia, Kentucky, Louisiana, Mississippi and Ohio banned abortion as early as **six weeks** of pregnancy;
- Missouri banned abortion at **eight weeks**;
- Arkansas and Utah banned abortion at **18 weeks** of pregnancy.

Fortunately, courts have stepped in to block these laws from going into effect while litigation proceeds. But these examples demonstrate three important things about lawmakers' tactics and intentions. First,

these lawmakers have an ultimate goal of eliminating abortion services. Second, their strategy is to tee up court cases that will present the Supreme Court with the opportunity to significantly roll back abortion rights in the United States. Third, these legislators are willing to essentially try anything to achieve their goal. Missouri is perhaps the most telling example in this regard: Not content to simply ban abortion at eight weeks, the legislature included additional bans at three later gestational ages in anticipation of litigation, in the hopes that one might be considered constitutional by the courts.

Abortion Restrictions Are Cruel and Discriminatory

One in four women in the United States will have an abortion in their lifetime.[vi] When someone decides to have an abortion, they should be able to do so affordably, with dignity and on the timeline that meets their needs. Anything less is a fundamental violation of reproductive freedom and autonomy.

The recent wave of abortion bans at the state level gets right to the heart of the antiabortion agenda: eliminating abortion care outright. Yet the endless list of other restrictions attached to abortion care over the years is no less insidious. Restrictions that close clinics, force people to delay abortion care, or impact the quality of care they receive have a disproportionate impact on populations already marginalized from quality health care.

Moreover, as people struggle to overcome legal, financial and logistical obstacles to obtaining abortion care, the passage of time can push that care further out of reach: The further along a pregnancy is, the higher the cost and the fewer the providers who offer abortion services.[vii] Whether state law mandates a medically unnecessary procedure, forces clinics to close or withholds insurance coverage of abortion care, the sacrifices required to overcome these obstacles are unconscionable.

Despite the cruel intentions behind them, state abortion restrictions overall do not appear to be the primary driver of recent declines in abortion nationwide.[viii] However, certain abortion restrictions—particularly, those known as Targeted Regulation of Abortion Providers (TRAP) laws—have played a clear role in shutting down clinics in some states, thereby reducing access to abortion and likely preventing some people from getting the care they seek.

The landmark Turnaway Study by researchers at the University of California, San Francisco (UCSF), found that denying access to wanted abortion care can have serious consequences for women's health and well-being.[ix] For example, women denied abortions are more likely than those who receive abortion care to experience:

- short-term anxiety and loss of self-esteem;
- ongoing exposure to intimate partner violence; and
- serious complications during the end of their pregnancies, such as eclampsia and death.

The UCSF study also found that women denied a wanted abortion are more likely than their counterparts to experience financial hardship and economic insecurity.[x] For example, they are:

- more likely to be enrolled in public safety-net programs;
- more likely to report not having enough money to cover basic needs;

- three times more likely to be unemployed; and
- four times more likely to have family incomes below the federal poverty level.

States Are Stepping Up but Federal Action Is Needed

State legislatures can take steps to protect and expand access to abortion, and some are already doing so.[xi] For example, nine states took major steps in 2019 to protect or expand abortion access, and governors in five states vetoed abortion restrictions passed by the state legislature.[xii]

Efforts like these can help ensure that abortion is available and accessible to people seeking care in those states. However, in the face of ongoing and escalating attacks on abortion elsewhere around the country, congressional action is critically necessary to put an end to the relentless cycle of harmful state laws, and to ensure that abortion access does not depend on a person's income or zip code.

The Women's Health Protection Act, under consideration today, would put an end to medically unnecessary and burdensome restrictions on abortion, including TRAP laws, restrictions that limit access to medication abortion, policies that force pregnant people to make multiple trips to the provider for reasons unrelated to medical necessity, and constitutionally impermissible bans on abortion. WHPA would ensure that people across the United States can access abortion free from such restrictions.

In addition, another piece of legislation under this committee's jurisdiction, the **EACH Woman Act** (HR 1692), would ensure that people can afford abortion care, regardless of their income or source of insurance, by restoring abortion coverage to people enrolled in federal programs and allowing private insurers to offer abortion coverage free from political interference.

Taken together, these two bills would go a long way toward protecting and promoting access to abortion in the United States.[xiii] On behalf of the Guttmacher Institute, I urge the members of this committee to support these critical bills.

Thank you for the opportunity to provide these comments.

Sincerely,

Heather D. Boonstra
Vice President for Public Policy

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