



‘State Stupak’ Laws on the Rise

Chart Compares Antiabortion Legislation

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Abortion opponents have launched an all-out assault on reproductive rights this year at both the federal and state levels. Congress, over the past two months, has attacked private and public health insurance coverage of abortion, attempted to redefine rape to only cases of “forcible rape,” and tried to defund Planned Parenthood and Title X, our nation’s family planning program. State-level legislators also have proposed a bizarre parade of extreme measures. These include a bill in South Dakota that permitted the killing of an abortion provider as “justifiable homicide,” a “heartbeat” bill in Ohio that would ban abortion by six weeks’ gestation (which is before many women even know they are pregnant), and a Georgia bill that would allow the investigation and prosecution of miscarriages.

But with the distraction of all of these high-profile bills, it is easy to miss a more concerted and pernicious attack making its way through the states—an attempt to prohibit the sale of health insurance plans that cover abortion services. Most women with insurance have this benefit but may soon lose it if abortion opponents get their way.

Remember the Stupak Amendment? It was Rep. Bart Stupak’s (D-MI) proposal to effectively ban insurance coverage of abortion in all health insurance exchanges that will be set up under the Patient Protection and Affordable Care Act by 2014. We haven’t seen the end of that idea. The Stupak Amendment’s extreme provisions were ultimately rejected by Congress. But § 1303(a)(1) of the Affordable Care Act permits states to pass legislation to “opt out” of abortion coverage in their exchanges.

A slew of antichoice state legislators jumped at the invitation, introducing numerous bills with Stupak-like restrictions in their states. Arizona, Louisiana, Mississippi, Missouri, and Tennessee already passed laws last year “opting out” of allowing plans offered on their state exchanges to provide coverage for abortion.* And at least 21 states have introduced legislation this year that seeks to restrict the availability of abortion coverage in their exchanges.†

Many of these bills, however, contain provisions that are even more stringent than the original measure. For instance, some prohibitions apply not only to a state exchange but to the entire private health insurance market in that state, while others bar abortion cov-

erage for state employees. Some include no exceptions for rape or incest. Others do not even include an exception to protect a woman's life. Still others allow the purchase of supplemental insurance to cover abortion care, known as a rider, but only in the private market outside of the state's exchange.

A few state measures are slightly more forgiving than the Stupak Amendment. They include exceptions for fetal anomalies or to protect a woman's health, but those exceptions are usually defined quite narrowly.

Below is a chart that compares the original Stupak Amendment to its state copycats. It includes both the laws enacted last year and the bills proposed this year. If unchecked, these statutes will result in diminished access to abortion care and a dramatic decrease in insurance coverage of abortion services, leading to higher out-of-pocket health care costs for the one in three women who need an abortion.

State antiabortion laws at a glance

		Scope			Exceptions						Rider†	
State	Law or bill number	Exchange	Private insurance	Government employees	Life	Rape	Incest	Health	Fetal anomaly	None	Inside exchange	Outside exchange
Stupak	<u>ACA amendment</u>	ü			ü	ü	ü				ü	
Enacted laws												
Arizona	<u>S.B. 1305</u>	ü		ü\$	ü			ü**			ü	
Louisiana	<u>H.B. 1247</u>	ü								ü		
Mississippi	<u>S.B. 3214</u>	ü			ü	ü	ü					
Missouri	<u>S.B. 793</u>	ü			ü						ü	ü
Tennessee	<u>H.B. 2681/S.B. 2686</u>	ü								ü		
Proposed bills												
Alabama	<u>S.B. 183</u>	ü								ü		
Arkansas	<u>S.B. 113</u>	ü			ü††						ü	ü
Florida	<u>H.B. 97</u>	ü			ü	ü	ü	ü			ü	
	<u>S.B. 1414</u>	ü			ü	ü	ü				ü	
Georgia	<u>S.B. 29</u>	ü			ü							
Idaho	<u>S.B. 1115</u>	ü			ü	ü	ü					
Indiana	<u>S.B. 116</u>	ü								ü		
	<u>S.B. 241</u>		ü		ü							ü
	<u>H.B. 1210</u>	ü								ü		
Iowa	<u>S.F. 38</u>	ü			ü							
	<u>H.F. 576</u>	ü								ü		
Kansas	<u>H.B. 2292</u>	ü	ü		ü††						ü	ü
	<u>H.B. 2293</u>			ü	ü††							
Kentucky	<u>H.B. 176/H.B. 185</u>	ü								ü		
	<u>H.B. 105</u>	ü								ü	ü	ü††
	<u>S.B. 27</u>	ü			ü							
	<u>H.B. 61</u>	ü			ü††	ü	ü				ü	ü
Michigan	<u>H.B. 4147</u>	ü	ü		ü						ü	ü
	<u>H.B. 4143</u>	ü	ü		ü						ü	ü
Montana	<u>S.B. 176</u>	ü			ü	ü	ü					
Nebraska	<u>L.B. 22</u>	ü	ü		ü							ü
	<u>L.B. 132</u>	ü			ü							
New Jersey	<u>A.B. 3085</u>	ü			ü	ü	ü					
Ohio	<u>H.B. 79</u>	ü			ü	ü	ü					
Oklahoma	<u>S.B. 547</u>	ü	ü		ü††						ü	ü
Pennsylvania	<u>S.B. 3</u>	ü			ü	ü	ü				ü	ü
South Carolina	<u>S.B. 102</u>	ü			ü	ü	ü					
	<u>H.B. 3406</u>	ü	ü		ü††						ü	ü
	<u>H.B. 3408</u>	ü	ü		ü††						ü	ü
Texas	<u>H.B. 636</u>	ü								ü		
	<u>H.B. 552</u>	ü								ü		
	<u>S.B. 404/H.B. 816</u>	ü	ü	ü	ü						ü	ü
Utah	<u>H.B. 354</u>	ü			ü	ü	ü	ü**	ü††			
Virginia	<u>S.B. 1202</u> §§	ü			ü	ü	ü				ü	
	<u>H.B. 2147</u> §§	ü									ü	
West Virginia	<u>S.B. 443/H.B. 3020</u>	ü	ü		ü††						ü	ü

Notes

* Idaho, Kentucky, Missouri, North Dakota, and Oklahoma passed laws prohibiting private insurance plans and policies from covering “elective abortions” (the definition of which varies by state) prior to the health reform debate that resulted in the passage of the federal Affordable Care Act. Some permit the purchase of optional riders for coverage.

† Oklahoma also introduced S.B. 43, which does not mimic the Stupak Amendment but would have a similar effect. It requires all health benefit plans to cover medically necessary health care services except “elective procedures that would result in the termination of a pregnancy.”

‡ In this category, “ü” indicates that the language permits the offering of a separate rider for abortion coverage and “Û” indicates language prohibiting such a rider. The space is left blank where the text is silent on the issue of riders.

§ The statute prohibits the use of government funds from paying for plans that cover abortion, which would include insurance plans for state and local government employees.

** The statute narrowly defines the health exception as a “substantial and irreversible impairment of a major bodily function.”

†† The statute narrowly defines the life exception, essentially excluding cases of potential suicide. The language generally specifies that the exception does not apply to prevent the death of the woman based on a claim or diagnosis that she will engage in conduct that will result in her death. There is no life exception to the exchange ban in the case of Kentucky H.B. 105. But there is one for the rider provision.

‡‡ The statute narrowly defines fetal anomaly as a fetal defect that is “uniformly” diagnosable and lethal.

§§ Bill status at the time of publication: Virginia S.B. 1202 failed in committee on February 3, 2011; Virginia H.B. 2147 failed in committee on February 17, 2011.