2014 Year in Review

A REPORT OF THE NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH

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NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH

Building Momentum: Proactive Reproductive Health and Rights Legislation in the States

The National Institute for Reproductive Health (National Institute) works in states and localities across the country to promote reproductive rights and expand access to reproductive health care, including abortion; reduce unintended pregnancies; and empower youth to make healthy sexual and reproductive decisions.

The National Institute develops and implements innovative and proactive approaches to galvanize public support, change policy, and remove barriers to care. By working through a partnership model to support state and local advocacy, the National Institute addresses issues of national significance and helps to shift the overall culture.

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Introduction

For those working to advance reproductive health, rights, and justice in the states, 2014 was a banner year. Although anti-choice, anti-woman legislators and their extremist allies continued to undermine women's rights and health through restrictive laws, this year also saw a surge in the introduction, consideration, and enactment of laws intended to increase women's access to sexual and reproductive health care and protect their right to make their own reproductive decisions. While the dominant media narrative has focused, understandably, on state-level attacks on reproductive rights, state-level advocates and lawmakers across the country are making progress in protecting women's rights and expanding access to quality reproductive and sexual health care in their states.

Introduction

Building Momentum: Proactive Reproductive Health and Rights Legislation in the States provides highlights from the 2014 state legislative sessions, sharing key victories where advocates and legislators worked together to enact new laws, and documenting some of the progress made as new legislation was proposed and considered but not yet enacted. In the legislative arena, two things are clear: to safeguard women's rights and promote their health, states must enact new laws to expand access to reproductive health care and repeal the myriad laws that currently impede that access. Further, the very act of proposing and supporting such proactive legislation leads to change, allowing legislators and advocates the opportunity to share their views publicly, to educate new audiences and shift the public conversation, and to urge others to join in these efforts. Advocates across the country are working every day to achieve these goals, both inside and out of the state capitol.

The National Institute for Reproductive Health ("National Institute") works with state and local advocates to promote a proactive approach to advancing reproductive health policy through grant-making, strategic guidance, technical assistance, and independent research. We believe that working across the different facets of our movement and sharing insights from state to state can lead to stronger advocacy and ultimately better policy. To that end, we connect advocates with each other and with the resources they need to achieve their goals and, as a result, the National Institute has been fortunate to partner over the years with many state-based advocates, including many whose work led to the achievements described here. Moreover, this report specifically recognizes some of the individual organizations whose work contributed to the many successes this year. By amplifying their progress, we hope to spark new cross-movement discussions and learning.

This report documents more than 70 bills introduced in 32 states, more than 30 of which became law by the end of 2014. To highlight the policy trends in this growing state-based movement, it identifies policy initiatives in five key areas: protecting and expanding access to abortion and contraception; reinstating and improving insurance coverage for a broad range of reproductive and sexual health care; increasing access to sexual health care; improving the reproductive and sexual health of youth; and ensuring that women who do become pregnant have healthier pregnancies, healthier babies, and become healthier parents. This is not meant to be a fully exhaustive catalogue, but instead highlights the policy trends in this growing state movement. Furthermore, we recognize the significant impact that both budget appropriations and Medicaid expansion can have on women's access to reproductive and sexual health care but did not attempt to document them in this report due to the large and varied number of proposals considered in 2014.

With our partners and similar organizations in mind, this report is designed to give state advocates and lawmakers a better sense of the landscape of proactive reproductive and sexual health policy in the states today. Although there is much more to be done, it is clear that when advocates and lawmakers work together to put their political and organizing energy behind proactive, pro-choice legislation, change can happen in the states.

We look forward to supporting the work of those who would like to build on these successes and replicate them in other states in 2015 and beyond.

Section 1

Protecting and Expanding Access to Abortion and Contraception

In nine states and Washington, D.C., lawmakers considered or enacted laws designed to expand access to abortion or contraception. Reproductive health, rights, and justice advocates worked alongside pro-choice lawmakers to highlight the importance of these proposals in improving women's lives, and mobilized grassroots supporters to show legislators that their constituents want and need these expansions in access to care.

Two states took action to protect patients and health care providers from harassment and violence outside reproductive health clinics. (See **"Clinic Access"** Issue Highlight, page 6.) After the Supreme Court decided *McCullen v. Coakley*, 134 S. Ct. 2518 (2014), striking down a **Massachusetts** fixed buffer zone law, the state legislature acted quickly to enact a new law. Instead of a fixed buffer zone, Massachusetts Senate Bill 2283 expands law enforcement officials' ability to remove protestors who are disrupting patient and provider access to clinics. Officers may order any person or persons who have "substantially impeded access to or departure from a reproductive health care facility" to move at least 25 feet away and to remain there for eight hours or until the close of business. The law also creates new criminal offenses and strengthens penalties for acting with force or threat of force to intimidate or injure a person attempting to access or depart from a reproductive health care facility, or for interfering with those who are seeking to provide care there. Earlier in 2014, **New Hampshire** enacted Senate Bill 319, a fixed buffer zone of "up to 25 feet" from the entrances, exits, and driveways of reproductive health care facilities. The law has been challenged after *McCullen*, but New Hampshire's attorney general continues to defend it in federal court.[1]

Five state legislatures and the Washington, D.C., council specifically considered or enacted legislation designed to protect women's reproductive health decision-making from government or employer interference. **Vermont** took a critical step toward protecting women's reproductive health and rights by repealing the ban on abortion still on its books

“It is fundamentally wrong for politicians to block health care access for women and families who need it in an effort to make personal decisions for them – be it through a mandatory ultrasound law designed to shame women and put up barriers to access, or through banning insurance coverage for safe, legal abortion. Today the Virginia Senate took the first step towards repealing these outrageous laws and returning personal medical decisions back to where they belong – between women, their families, and their doctors.”

Tarina Keene, executive director, NARAL Pro-Choice Virginia, upon the passage of two bills through the Virginia Senate Committee on Health and Education. (NARAL Pro-Choice Virginia Press Release, “Virginia Senate Committee Approves Bills to Repeal Mandatory Ultrasound; Insurance Coverage Bans,” Feb. 6, 2014)

Protecting and Expanding Access to Abortion and Contraception

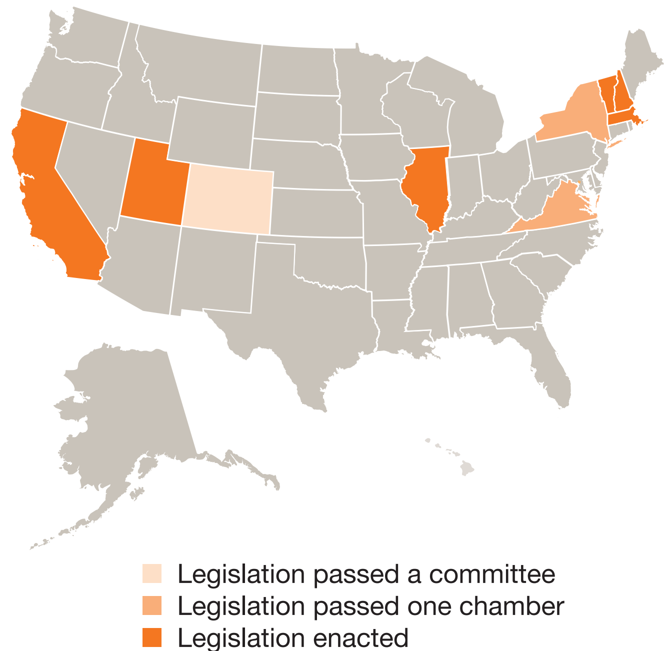
since before the U.S. Supreme Court decision in *Roe v. Wade*, 410 U.S. 113 (1973), recognizing a woman's right to decide to terminate her pregnancy prior to viability. Senate Bill 317 was passed unanimously by the Vermont legislature and signed by the governor, with strong support from Planned Parenthood of Northern New England and other women's health advocates. With its enactment, even if *Roe* were overturned, women in Vermont would continue to be able to access abortion as part of the full range of reproductive health care services.

New York legislators again considered the Women's Equality Act, first introduced in 2013. (See **"Women's Agendas"** Issue Highlight, page 23.) The Women's Equality Act is comprised of 10 proposals intended to ensure women's health, safety, and equality, including a provision that would effectively repeal New York's pre-*Roe* criminal abortion law, and align New York law with the standards in *Roe v. Wade*. The New York State Assembly passed the Women's Equality Act, Assembly Bill 8070, in two subsequent sessions, with strong support from a wide range of advocacy groups and the leadership of the pro-choice female Assembly members. However, in the 2014 session, the New York State Senate split the package into 10 separate bills and refused to take up the abortion rights plank.

In **Colorado**, legislators considered the Reproductive Health Freedom Act (Senate Bill 175), which would have prohibited the state and all local governments from enacting any policies related to reproductive health that are inconsistent with evidence-based science and medical consensus or from interfering with the provision of health care that is based on science and medical consensus. Senate Bill 175 passed the Senate Health and Human Services Committee but ultimately did not receive a vote on the Senate floor.

Also in **New York**, lawmakers in both legislative chambers introduced Senate Bill 6578/Assembly Bill 8769, partly in response to the Supreme Court's decision in *Burwell v. Hobby Lobby Stores Inc.*, 134 S. Ct. 2751 (2014), which held that under federal law, for-profit corporations could choose to deny their employees insurance coverage for contraception based on the corporation's religious beliefs. The New York bills would prohibit employers from discriminating against any employee on the basis of any reproductive health decision that the employee or his or her dependent has made. This legislation would give employees the right to sue employers who discriminated against them on this basis. This bill passed the Assembly and the Senate Committee on Labor before the end of session. **Washington, D.C.'s** City Council passed a similar ordinance called the Reproductive Health Non-Discrimination Amendment Act, which prohibits discrimination on the basis of reproductive health decision-making. The measure is currently pending before the city's mayor.

Similar bills were introduced late in the session in Illinois (House Bill 6299), North Carolina (Senate Bill 855), and Ohio (Senate Bill 355). Further, a federal



ISSUE HIGHLIGHT

Clinic Access

The entrances, driveways, and backdoors of reproductive health clinics can sometimes feel like battlefields. Abortion opponents frequently line the sidewalks and streets, making it difficult for patients and health care providers to approach and enter these health facilities, and often accost patients and providers, either verbally or physically.

In the face of this persistent harassment and violence, advocates, providers, and local leaders have pushed their state and local governments to take action to protect reproductive health patients and providers. Laws that touch on protecting access to these facilities balance the First Amendment rights of protestors with the rights of patients seeking unimpeded access to medical care.

In several cases, the U.S. Supreme Court has found that court-imposed "buffer zones" around clinics, which prohibit protestors from entering specific areas, appropriately finds that balance.[2] In 2000, the Supreme Court upheld a Colorado statute that—within a 100-foot zone of a health care facility—prohibited protestors from approaching within eight feet of a patient entering a clinic, essentially creating a "bubble" around the patient inside a set buffer zone.[3] Over time, similar responses were developed on the local level, with several cities enacting statutory "buffer zones" of varying distances, such as a 15-foot buffer zone around clinics in Pittsburgh, Penn., which sustained a legal challenge.

In 2007, Massachusetts enacted a law creating a 35-foot fixed buffer zone outside the entrances to reproductive health facilities in the state. In *McCullen v. Coakley*, 134 S. Ct. 2518 (2014), the U.S. Supreme Court struck down the 2007 law, finding that it was not narrowly tailored to achieve the state's legitimate goal of protecting patients and clinic workers while respecting the rights of those protesting to share their viewpoint.[4] Notably, the Court did not reverse its earlier case law, so previously upheld statutes and court orders are still in place, and other localities could consider those approaches. In addition, the Court emphasized the importance of enforcing existing protections and favorably called attention to other policy approaches that states and localities have taken to protect reproductive health clinics, including the clinic protection law enacted by New York City that prohibits obstructing clinic entrances or following and harassing someone within 15 feet of a clinic.[5, 6]

After *McCullen*, some existing buffer zones are facing legal challenges and will be considered under the Court's analysis in that case. However, in jurisdictions that have not yet enacted clinic protection laws, advocates and legislators have an opportunity to take a new look at other types of clinic protection laws and to work with allies in the legislature, city council, and law enforcement to ensure that patients and providers are protected. Already in 2014, the Massachusetts legislature, working with advocates and law enforcement, quickly enacted a new law to strengthen protections for patients and providers in the state while meeting constitutional standards.

Protecting and Expanding Access to Abortion and Contraception

bill, called the "Not My Boss's Business Act," was introduced in Congress in response to *Hobby Lobby*, and two states introduced resolutions urging Congress to pass that legislation. **California** Senate Resolution 55 passed both houses of the California legislature, while Michigan Senate Resolution 172 was simply introduced.

Also in response to *Hobby Lobby*, the **Illinois** legislature passed a bill to put a referendum on the 2014 general election ballot in Illinois, asking voters whether health insurance plans in the state that cover prescription drugs, including contraception, should continue to be required to include birth control as part of that coverage. Illinois state law already requires "contraceptive equity," meaning that birth control must be part of any prescription drug plan. After a broad public education campaign by the Illinois Votes Yes for Birth Control Campaign, more than 65% of voters reaffirmed that birth control is a vital aspect of women's health care and should continue to be part of any prescription drug coverage.

Two other states considered or enacted legislation that would prevent politicians and other government officials from interfering in the physician-patient relationship, making it easier for providers to give their patients the best possible evidence-based care. **Virginia** Senate Bill 617 would have repealed Virginia's intrusive waiting period and ultrasound law, which currently requires patients seeking an abortion to make an extra visit to the clinic 24 hours before their procedure in order to receive a state-mandated ultrasound. Senate Bill 617 passed the Senate in a major victory for advocates. However, the bill was defeated by a House committee that denied advocates the opportunity to even testify about the bill.

Legislators in **Utah** amended that state's existing law, which currently requires any patient seeking an abortion in Utah to be given state-mandated, biased information before being permitted to have the abortion. After the enactment of Utah Senate Bill 71, women seeking abortions following a diagnosis of "uniformly lethal" fetal anomaly will now be permitted to avoid this counseling. This bill was supported by pro-choice advocates in the state and is a positive step, because it allows some women to avoid the unnecessary, biased, state-mandated counseling that the state requires. Even so, Utah legislators should continue to revise the law so that all women seeking abortion care are given information that is based on medicine, science, and their own physician's best medical judgment, not political ideology.

Finally, although they did not see movement this session, both Ohio and Pennsylvania introduced bills that directly address legislative interference in the doctor-patient relationship. Ohio House Bill 585 would have allowed doctors to follow their medical training in the provision of abortion care and to refrain from performing medically unnecessary procedures or delivering inaccurate and scientifically unsound information to patients without being held liable or facing criminal charges. Pennsylvania House Bill 2303 would have similarly prevented the state or any political subdivision from requiring a licensed health care practitioner to give their patient information or provide care in a manner that is not medically accurate, appropriate, and evidence-based. This bill is part of a broader package of bills, the Agenda for Women's Health, designed to improve women's health, increase access to care, and address inequality in women's lives. The Agenda for Women's Health is supported by a broad coalition of legislators and advocates, has already gained public support, and has resulted in the passage of three new laws. (See **"Women's Agendas"** Issue Highlight, page 23.).

Section 2

Enhancing Insurance Coverage of Reproductive Health Care

In 10 states, lawmakers considered or enacted legislation to expand both public and private insurance coverage for reproductive and sexual health care–including protecting and expanding insurance coverage of abortion and contraception, ensuring equitable coverage for sexual health treatment, and expanding coverage for infertility treatment.

In many of these states, advocates played a vital role in identifying the barriers faced by those trying to access health care, working with elected officials to find solutions, and mobilizing key constituencies to demonstrate constituent support for policy change.

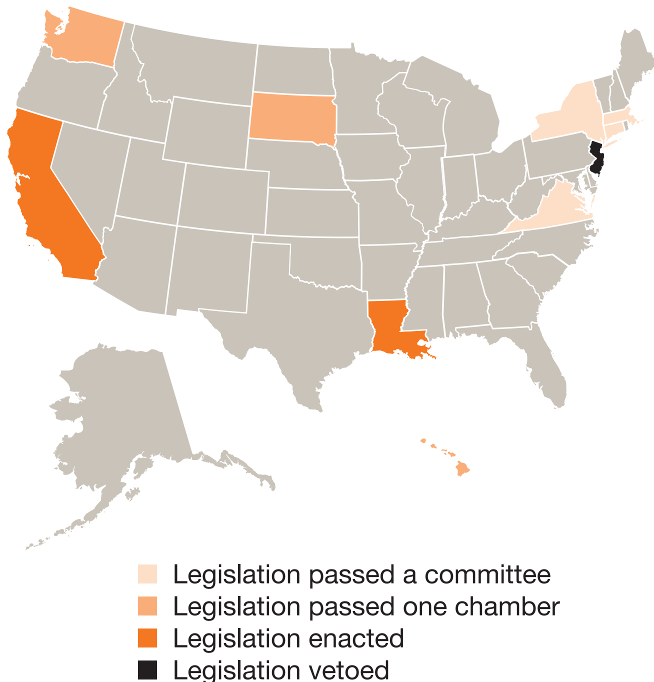
In two states, legislation that would have reinstated or expanded insurance coverage of abortion was considered, although not enacted. In **Virginia**, Senate Bill 618 would have repealed the current law that bans abortion coverage in qualified health insurance plans sold on the health exchange. (See **"Repealing Bad Laws"** Issue Highlight, page 11.) If enacted, this bill would have given those purchasing health insurance through the state's exchange the ability to choose a plan that covers abortion. The bill passed the Senate Committee on Education and Health but was rejected by the full Senate by only a few votes.

Washington's House Bill 2148, or the Reproductive Health Parity Act, would have required all insurers who provide coverage for maternity care or services to also provide equivalent coverage for abortion. This bill would have ensured that almost all women in Washington with health insurance would have coverage for abortion. A coalition of reproductive health advocates, including Legal Voice and NARAL Pro-Choice Washington, worked strongly in support of this bill, tirelessly organizing supporters for the third year in a row. House Bill 2148 passed the Washington House of Representatives, but once again was not taken up by the Senate. Washington legislators also introduced House Bill 1448, which would have required insurance coverage for telemedicine for all health services, including reproductive health care. Increasing access to telemedicine would improve health care access for all but would have the greatest benefit for rural citizens in Washington State. House Bill 1448 also passed the House before the end of the legislative session.

“A woman should be able to count on her insurance to offer a full range of reproductive care.”

Janet Chung, legal and legislative counsel, Legal Voice
(“It’s Back: Unlikely Abortion Insurance Bill Returns to Legislature,”
Puget Sound Business Journal, Jan. 14, 2014)

Enhancing Insurance Coverage of Reproductive Health Care



In four states, lawmakers moved forward legislation to protect or expand access to family planning services by requiring or expanding insurance coverage of contraception, ensuring that employees understand their existing coverage, or improving access to family planning providers for low-income people.

California enacted two laws that will improve coverage for contraception – Senate Bill 1053 and Assembly Bill 2051. Senate Bill 1053, or the Contraceptive Coverage Equity Act, requires all health insurance plans to cover the full range of FDA-approved methods of birth control without restrictions or co-pays. The bill was supported by a large and diverse coalition of advocates such as ACLU of Northern California, American College of Obstetricians and Gynecologists, Planned Parenthood Affiliates of California, and the National Health Law Program, which applauded the law as "groundbreaking" and the "first of its kind."[7] Assembly Bill 2051 streamlined the process of approving certified family planning providers, thus increasing the number of providers and expanding access to sexual and reproductive health services for those with Medicaid coverage. The **New Jersey** legislature passed Assembly Bill 2795, which would have expanded public coverage of family planning services to individuals up to 200% of the federal poverty line. Despite strong support among lawmakers and advocates, New Jersey Governor Chris Christie vetoed the legislation. This marks the fifth time Gov. Christie has vetoed such legislation, sparking widespread condemnation.

The **South Dakota** House passed House Bill 1158, which would have expanded prenatal care for immigrant women not otherwise eligible for Medicaid. The bill was supported by many advocates, including the South Dakota Campaign for Healthy Families and hospital groups, and would have had a major and positive impact on the health of immigrant women in South Dakota. However, it failed to pass in the Senate. Notably, rather than give the insurance coverage to immigrant women, the law purports to give the coverage directly to the fetus. This approach – linking coverage to the fetus rather than the woman – raises some understandable concerns among advocates for women's rights and health. At the same time, however, additional language granting "personhood"-type rights was considered and flatly rejected by legislators who wanted to ensure that the purpose of this bill was to improve birth and pregnancy outcomes.

In **New York**, Assembly Bill 420/Senate Bill 1494 would have ensured insurance coverage for emergency contraception, including when dispensed by a pharmacist without a doctor's prescription. Requiring insurance coverage for emergency contraception – as well as increasing dispensing authority by pharmacists, even when some types are already available over the counter – helps ensure that it is affordable and accessible for all women. The bill was considered and amended in the Assembly Committee on Health but did not move further this session.

ISSUE HIGHLIGHT

Repealing Bad Laws

In some states, one of the most effective ways to improve women's reproductive health is to repeal harmful laws. Toward this end, advocates have worked both to repeal such laws and to update outdated and unconstitutional laws still on the books.

Over the last few years, anti-choice lawmakers in many states passed bans on insurance coverage for abortion in various kinds of insurance plans. In 2014, women's health champions in both Michigan and Virginia fought back, introducing legislation to repeal these bans. In Michigan, a broad coalition of more than 40 organizations and elected officials used House Bill 5697 as a platform for organizing support, hosting press conferences, creating a social media campaign, and establishing a new web site, http://www.restoremicare.com, for people to learn about the bill and express their support.

In Virginia, Senate Bill 618 passed the Senate's Committee of Education and Health but was rejected in the full Senate by only a few votes. Undeterred, Virginia activists continued this strategy, taking on the harmful and medically unnecessary ultrasound and 24-hour waiting period requirements with Senate Bill 617, which passed the Senate in a major victory for advocates before being blocked by anti-choice lawmakers in the House. A broad coalition of reproductive health, rights, and justice advocates and anti-poverty activists in California took a similar tack by supporting a repeal of harmful policies in determining aid for California families. Senate Bill 899, which would have repealed the Maximum Family Grant that denies some infants basic needs assistance, passed the Senate Human Services committee but did not move further.

Advocates and lawmakers in Massachusetts, New York, and Vermont worked to repeal unconstitutional laws from their books. All three states have laws passed prior to *Roe v. Wade* that unconstitutionally prohibit some or all abortions within the state. In Massachusetts, companion legislation, House Bill 1630 and Senate Bill 641, would have repealed the unconstitutional laws but unfortunately died in committee before receiving a vote. In New York, a large coalition made up of a wide range of advocacy groups worked on behalf of the Women's Equality Act, one portion of which would have effectively repealed New York's pre-*Roe* abortion law. Although the bill passed the State Assembly, the State Senate refused to bring the full Women's Equality Act to a floor vote.

Vermont advocates celebrated a major success this year when the legislature repealed a decades-old, unconstitutional prohibition on abortion. At the signing of Senate Bill 317, Governor Peter Shumlin remarked that "with this bill, Vermont is showing the rest of the country that we can move forward, rather than backward, when it comes to reproductive rights."[8]

Enhancing Insurance Coverage of Reproductive Health Care

Two states moved to ensure equitable coverage for HIV patients. The **Louisiana** legislature passed and Governor Bobby Jindal signed Senate Bill 403, ensuring that recipients of the Ryan White Premium Assistance Program, a program for those living with HIV, could continue to use those federal assistance funds with all health insurers in the state. In **Massachusetts**, House Bill 4141 would have required insurance coverage for the treatment of lipodystrophy, a sometimes debilitating condition resulting from early HIV medications. Thanks to advocacy from the Massachusetts LGBTQ and HIV/AIDS communities, the bill passed the Joint Committee on Health Care Financing before the legislature adjourned.

At least 15 states already require some level of coverage for infertility treatment or testing for those who wish to become parents but face medical obstacles to achieving pregnancy. This year, legislation that would expand that coverage was introduced in at least two of those states. Both **Connecticut** and **Hawaii** considered legislation that would add insurance coverage for some fertility preservation procedures for patients diagnosed with cancer to the lists of treatment that are already required by law. Connecticut House Bill 5245 and Hawaii House Bill 2061 each passed one committee, but did not move further this session. Hawaii's legislature also considered a bill that would have required all insurance plans in the state to cover multiple rounds of in vitro fertilization. A version of this bill (House Bill 2355/Senate Bill 2909) passed both the House and Senate Health Committees but did not receive a floor vote before the end of session. Finally, Hawaii's Senate and two Hawaii House Committees passed Senate Concurrent Resolution 35, which would have required the state auditor to assess the social and financial effects of requiring coverage for infertility treatment. However, that bill failed to pass the second house before a key deadline and so did not become law this session.

Section 3

Increasing Access to Sexual Health Care

Legislators and advocates in seven states and the District of Columbia worked to protect and improve sexual health through legislation—including expanding protections for patients accessing confidential health services, improving sexual health within the criminal justice system, and improving access to sexual health care.

Two states passed protections for patients accessing confidential sexual and reproductive health services. **California** enacted Assembly Bill 1898, which was supported by a broad array of medical and HIV/AIDS advocates. The new law adds protections for HIV patients when their status must be disclosed by law, ensuring that only the information necessary is disclosed, thereby allowing HIV patients to have greater privacy and control over their sexual health information. With strong support and advocacy by reproductive health advocates, **Maryland's** legislature unanimously passed Senate Bill 790, which provides a simple, uniform way for patients to compel their insurance companies to communicate with them in a confidential manner. Signed by Governor Martin O'Malley, this was designed as "emergency legislation" and went into effect immediately, which means that those who are endangered in some way by having their insurance information shared with others can now take easy steps to protect themselves.

California also passed several pieces of legislation aimed at improving the sexual health of people within the criminal justice system. Assembly Bill 966 requires the Department of Corrections to develop a five-year plan for condom availability in prisons, a step that will dramatically improve the sexual health of inmates and cut down on transmission of sexually transmitted diseases. This bill was supported by a large coalition of LGBTQ, reproductive health, prisoners' rights, and medical advocates who worked closely with lawmakers to ensure that this important public health measure passed. Senate Bill 1135 prohibits sterilization of inmates for the purposes of birth control. This legislation was created and enacted in response to Justice Now and other advocates' work documenting the widespread sterilization abuse that takes place in California prisons,[9] and was supported by many other reproductive health, rights, and justice organizations. The legislature also passed Assembly Bill 336, which changes court procedures in order to make it more difficult for police to use condoms as evidence in prostitution cases. This allows sex workers more freedom to practice safe sex without putting themselves in greater danger of prosecution and conviction. This legislation was also supported by a broad range

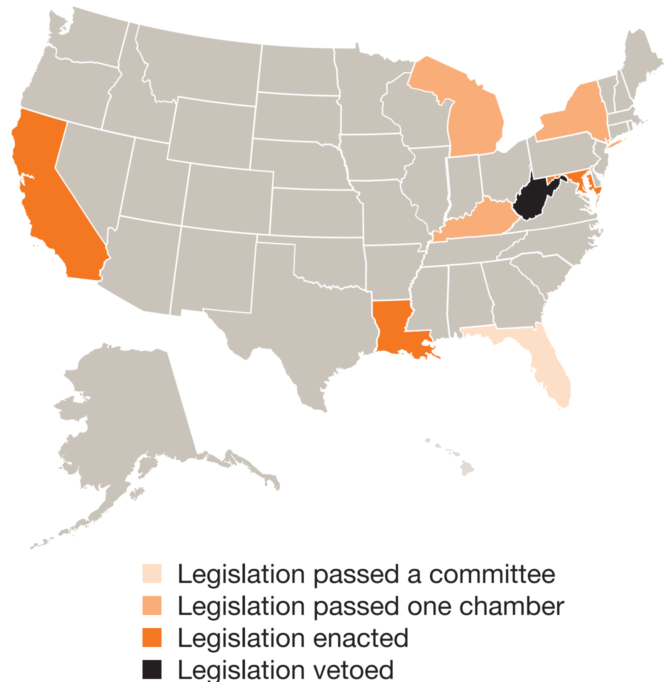
“The evidence is utterly clear that [expedited partner therapy] is effective in preventing reinfection.”

Bill Smith, executive director, National Coalition of STD Directors, upon passage of the District of Columbia’s Expedited Partner Therapy law (National Health Law Program Press Release, “Gov. Brown Signs SB 1053, Landmark Legislation to Expand Birth Control Access in California,” Sept. 26, 2014)

Increasing Access to Sexual Health Care

of human rights, LGBTQ, HIV/AIDS, and medical advocates. Similar legislation was introduced in New York, Senate Bill 1379, prohibiting the use of condoms as evidence in prostitution cases, but it did not move before the end of session.

Four states and the District of Columbia considered or enacted legislation to allow for expedited partner therapy (EPT), a clinical practice where doctors provide treatment for some kinds of sexually transmitted infections (STIs) for both the patient and the patient's sexual partner without also examining the partner. EPT helps make treatment more accessible to those who need it and cuts down on STI transmission rates. In **Washington, D.C.**, Bill 343 passed, allowing for EPT for diagnoses of chlamydia, gonorrhea, or trichomoniasis. In **Michigan**, House Bill 4736 passed both houses and as of December 31st was on its way to the Governor's desk, where he is expected to sign it. This broad bill allows EPT for all sexually transmitted infections for which the federal Centers for Disease Control recommends EPT until such time as the Michigan Department of Health comes up with its own list of sexually transmitted infections. House Bill 4736 was backed by a large coalition of medical organizations in Michigan, led by the Michigan Section of the American Congress of Obstetricians and Gynecologists and the Michigan Medical Society, who worked over several years to advance this bill in the legislature. In **Kentucky**, House Bill 146 would have allowed EPT for chlamydia and gonorrhea diagnoses and passed the House of Representatives before the legislature adjourned. New York's Assembly Bill 1919 would have expanded New York's existing EPT law, adding all sexually transmitted infections for which the CDC recommends EPT to the current allowed diagnoses of chlamydia and gonorrhea. The bill passed the Assembly but did not receive a vote in the Senate. The **West Virginia** legislature passed Senate Bill 12, which would have allowed EPT for all sexually transmitted disease diagnoses, but Gov. Earl Ray Tomblin vetoed the bill, citing a technical error in the legislation's drafting.



Three states considered or took steps to improve access to sexual health care. **Louisiana** passed Senate Bill 309, which requires doctors to offer HIV and syphilis testing to pregnant women in their third trimester. The **Florida** Senate Health Policy Committee passed SB 1470, which would have made it easier to provide HIV testing both in and outside of a clinic setting, but the bill ultimately failed to pass before the legislature adjourned. Finally, **Kentucky** legislators introduced House Bill 311, which would have added the HPV vaccine to the types of vaccines about which parents are given information by their children's elementary schools. The bill passed the House before the end of the legislative session.

Section 4

Improving the Reproductive and Sexual Health of Youth

In 13 states, lawmakers worked to advance the sexual and reproductive health of youth by improving sexuality education, addressing teen pregnancy, and expanding youth access to health care.

A number of states considered or passed bills to improve the content of sex education in schools. Twelve states passed legislation adding age-appropriate information about sexual assault, abuse, and trafficking to the already required sexuality education frameworks. The sexual assault, abuse, and trafficking components are called "Erin's laws" after the woman whose own sexual abuse experiences motivated her to campaign for nationwide laws requiring schools to teach children how to recognize and report sexual abuse. The 10 states to enact Erin's laws this year were: **California** (Senate Bill 1165), **Connecticut** (Senate Bill 203), **Louisiana** (House Bill 733), **New Hampshire** (Senate Bill 348), **New Mexico** (House Bill 92), **Pennsylvania** (House Bill 1559), **Rhode Island** (Senate Bill 2058), **South Carolina** (House Bill 4061), **Tennessee** (Senate Bill 2421), and **Utah** (House Bill 286). All of these laws passed with strong support from sexual assault advocates. Erin Merryn, the advocate behind these laws, has successfully lobbied 19 states to pass these laws and intends to continue her campaign until every state has such a law.

Connecticut also considered additional curriculum changes with Senate Bill 282, which would have added information about teen dating violence to already required sexuality education frameworks; it passed one committee before the legislature adjourned. **South Carolina's** teen pregnancy prevention advocates also worked in support of House Bill 3435, which would have added the term "medically accurate" to the current sexuality education curriculum requirements. The bill passed the House of Representatives and a Senate committee but was blocked from receiving a full vote in the Senate by one conservative lawmaker who used a procedural mechanism to stop the bill.

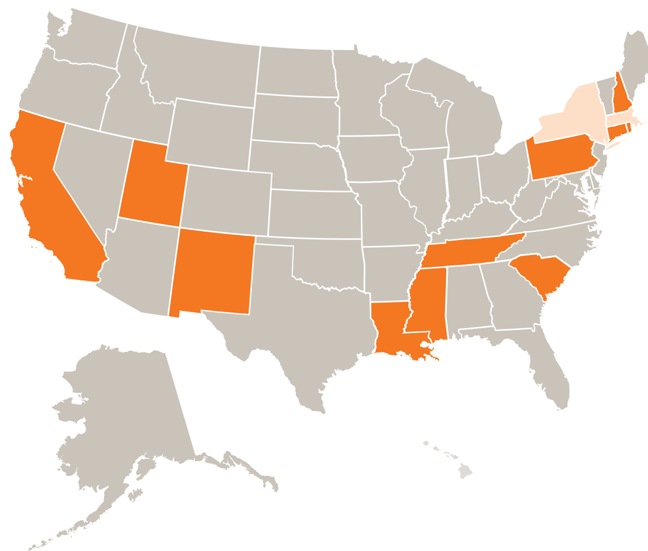
Along with the efforts to improve education, two states considered bills that would have required comprehensive sexuality education. In **Massachusetts**, Senate Bill 209 would have required comprehensive sexuality education to be taught if sexuality education is provided. A broad coalition of reproductive health advocates supported this bill, which was approved by the Joint Committee on Education before the legislature adjourned. In **New York**, Senate Bill 1291 would have required a comprehensive sexuality education curriculum to be developed and then taught in grades one through 12; it was approved by the Senate Committee on Education before the legislative session ended.

“We have to teach kids the difference between a safe touch and an unsafe touch, a safe secret and an unsafe secret. Without it, kids get one message, and it’s from their perpetrator who is victimizing them.”

Erin Merryn, advocate (quoted in “New State Laws Require More Sex-Abuse Training in Schools,” *Education Week*, April 2, 2014)

Improving the Reproductive and Sexual Health of Youth

Two states also took up the issue of teen pregnancy directly through legislation aimed at improving teen pregnancy prevention efforts. In **Louisiana**, House Bill 1068 passed the legislature and was signed by the Governor, requiring the Department of Children and Family Services and the Department of Health to cooperate on a study of teen pregnancy and teen HIV transmission. House Bill 1068 will increase public health and education officials' understanding of teen sexual behaviors and allow them to begin to address barriers in knowledge and access. House Bill 393 would have contributed to the success of that effort by allowing a survey of risk behavior of students to be undertaken by the Department of Education, but the bill was ultimately rejected by the full House. **Mississippi** enacted a similar bill, Senate Bill 2563, which requires the Commissioner of Higher Education and the Executive Director of the Community College Board to develop a plan of action for addressing teen pregnancy. This bill is specifically aimed at younger college students, who face high rates of unintended pregnancy in the state.



Section 5

Promoting Healthy Pregnancies, Healthy Parents, and Healthy Babies

Legislation was considered or enacted in more than a dozen states this year intended to expand women's access to reproductive health care during pregnancy and to improve maternal and infant outcomes at and immediately after birth.

HEALTHY PREGNANCY

In 2014, advocates and legislators at the state and local level made huge strides toward improving pregnant women's health and economic stability. Some legislation focused on improving the lives of pregnant workers, others broke new ground in protecting the health and well-being of incarcerated women, and some legislation was focused on increasing access and health care quality for parents, babies, and families. Overall, this year saw the introduction or enactment of a range of bills intended to improve the health and lives of pregnant women.

Legislation was introduced this year in a number of states across the country that would allow pregnant workers to maintain their employment and support their families without endangering their health and pregnancies. These bills mandate that employers give pregnant employees the same types of accommodations permitted for other types of temporary disabilities unless the accommodation would cause the employer an "undue hardship." Frequently called "Pregnant Worker's Fairness Acts," these laws require employers to give their pregnant employees reasonable accommodations such as being assigned less heavy lifting later in pregnancy and the right to have a bottle of water at a work station to stay hydrated.

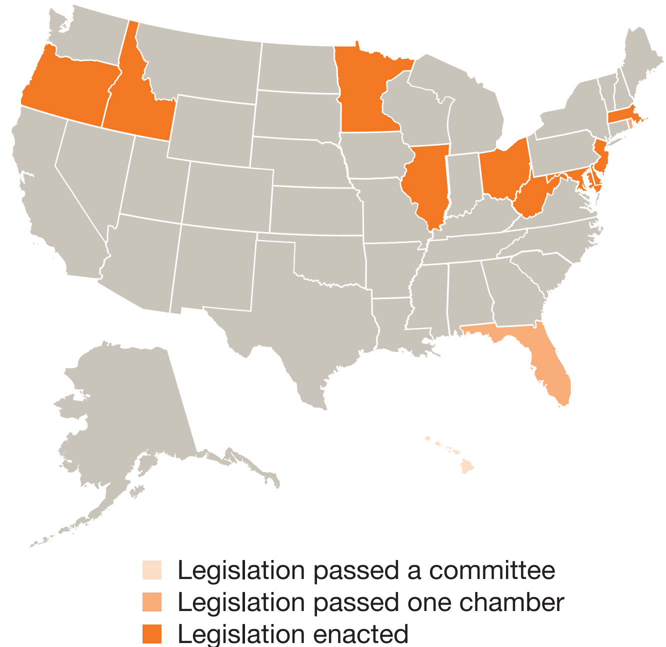
Similar bills were introduced or considered in at least 10 states and enacted in five. Three of the laws, **Delaware** Senate Bill 212, **Illinois** House Bill 8, and **West Virginia** House Bill 4284 were supported by a broad coalition of advocates and legislators, passed their respective legislatures unanimously, and were signed into law enthusiastically by the states' governors. **New Jersey** enacted Senate Bill 2995 in the first weeks of the 2014, with overwhelming support from legislators in both houses and the governor. **Minnesota** enacted its Pregnant Workers' Fairness Act as part of a larger bill, the Women's Economic Security Act, House Bill 2536. (See **"Women's Agendas"** Issue Highlight, page 23.) In **Rhode Island**, Senate Bill 2779 passed the Senate before

“I am incredibly proud that today the governor has signed Anti-Shackling legislation into law. Thanks to NARAL Pro-Choice Massachusetts, the ACLU, the entire Anti-Shackling Coalition, and [State] Senator Karen Spilka, we have established one uniform standard that protects the health of all pregnant and post-partum incarcerated women. We are reducing physical and psychological traumas in both mothers and children by providing all pregnant women with the appropriate medical treatment throughout their pregnancies, during delivery and in post-partum follow-up care.”

Representative Kay Khan, Newton, Mass. (Susan Petroni, “Massachusetts Becomes 20th State with Anti-Shackling Law,” *Framingham Patch*, May 16, 2014)

Promoting Healthy Pregnancies, Healthy Parents, and Healthy Babies

the end of the session, and similar bills were introduced in Georgia (Senate Bill 417), Missouri (House Bill 2102), New York (Senate Bill 5880/ Assembly Bill 8889), and Pennsylvania (House Bill 1892). On the local level, related ordinances were signed into law in **Philadelphia** and **Washington, D.C.** Finally, **Florida's** legislature considered Senate Bill 220/House Bill 105, which would have added pregnancy as a protected classification to the state's 1992 Florida Civil Rights Act prohibiting discrimination in education, employment, housing, or public accommodations. The bill passed the Florida Senate and three committees in the Florida House, but before the end of session, the Florida Supreme Court concluded that the Florida Civil Rights Act should already be considered to apply to pregnant women. The bills were still widely supported by women's rights advocates and pushed by the House's strongly pro-choice, pro-women's rights sponsor, but the Florida House leadership did not bring the bill up for a final vote, citing the court decision.



Three states enacted legislation that prohibits the shackling of pregnant inmates during delivery and otherwise in later pregnancy. Twenty states have now enacted some version of this legislation, continuing a positive trend of prohibiting this cruel and inhumane treatment of pregnant women in detention centers, jails, and prisons across the country. **Maryland** enacted House Bill 27, which prohibits the shackling of pregnant inmates after the second trimester and in labor, delivery, and recovery, under most circumstances. **Massachusetts** enacted Senate Bill 2063, a broad bill targeted at improving the health of pregnant inmates in two main ways: first, the law mandates access to a range of different physical and mental health services for pregnant and post-partum inmates; second, it prohibits most restraints from being used on pregnant inmates beginning in the second trimester and any restraints at all while in labor and, in most circumstances, after delivery. This bill was promoted and supported by a wide and diverse coalition of advocacy groups and goes further than many of the laws enacted to promote healthy pregnancies and deliveries among incarcerated pregnant women. **Minnesota** enacted Senate Bill 2423, which generally prohibits the use of restraints on incarcerated pregnant women, provides access to educational materials about pregnancy and child-rearing and mental health treatment for pregnant and post-partum inmates, and creates an optional advisory council to consider the standards of evidence-based care for pregnant and recently post-partum incarcerated girls and women. In addition, this bill will allow incarcerated women access to doulas as long as the women pay for those services directly or the services are provided for free.

Hawaii also considered legislation designed to promote healthy pregnancies and healthy babies. The House Health Committee passed House Bill 2040, which would have created a maternal and child health quality improvement program within the Hawaii Department of Health and would have required the establishment of a strategic plan on

maternal and child health quality improvement. However, the bill did not move beyond the first committee.

HEALTHY PARENTS

Maryland took a step this year to improve child and parent health by enacting Senate Bill 737, which expands the protections guaranteed under the Federal Family and Medical Leave Act (FMLA) for parents who take unpaid leave to care for their newborn or adopted children soon after birth. Maryland's new law applies to employers with 15 or more employees, as opposed to the 50 or more required by the federal law, and ensures that parents who take unpaid leave for six weeks may return to their jobs or an equivalent position afterward. This bill was supported by advocates across a broad spectrum, including the Maryland Legislative Agenda for Women and many religious leaders.

Minnesota enacted a similar law as part of its broader Women's Economic Security Act, House Bill 2536. Minnesota's new law increases the existing state unpaid parental leave from six to 12 weeks and expands the protections of the law to include leave during pregnancy and for health conditions associated with childbirth. Minnesota's law applies to employers of 21 or more employees and is therefore more expansive than the federal FMLA. House Bill 2536 also expands upon existing state and federal law protections for nursing mothers in the workplace, requiring employers of even one employee to provide a private, non-bathroom location with an electrical outlet for lactating employees to express breast milk. (See **"Women's Agendas"** Issue Highlight, page 23.)

HEALTHY WOMEN AND FAMILIES

In an effort to provide broader access to health care for all women—and, in some cases, all people—five states considered or enacted legislation that would expand the scope of some medical practitioners' practice. Expanding the scope of practice for nurse practitioners and other advanced practice clinicians enables those health care professionals to provide more reproductive health care services to more women with fewer constraints. Some of these laws specifically targeted reproductive health care, such as those addressing midwives, while others expanded advanced practice clinician scope of practice across the board, increasing the field of available providers for all health care needs.

Oregon acted to remove barriers to advanced practice clinicians' scope of practice more generally. Oregon Senate Bill 1548 is a comprehensive bill that amends more than 70 sections of the Oregon code to expand the scope of practice for physician assistants and nurse practitioners, better reflecting their skills and expertise and expanding patients' access to care.

Two states expanded the scope of practice for a range of advanced practice clinicians, including nurse midwives. In **Minnesota**, lawmakers enacted Senate Bill 511 in order to improve access to health care by removing barriers that previously limited advanced practice nurses from practicing to the full extent of their training and experience. The bill specifically expands the scope of nurse midwives' practice, along with other advance practice nurses. Senate Bill 511 was supported by the Minnesota Advance Practice Nurses Coalition and many other advocacy groups. **Ohio** enacted a more limited piece of legislation, House Bill 139, which expanded the ability of a range of health care providers, including certified nurse midwives and certified nurse practitioners, to admit patients to a hospital when necessary.

Two additional states supported or enacted legislation to expand or clarify midwives' scope of practice and to allow for professional licensure of midwives. In **Idaho**, House Bill 438 reapproved a law that allows midwives in Idaho to become licensed; the law would otherwise have expired

ISSUE HIGHLIGHT

Women's Agendas

In the last two years, there has been increased interest on the state level in recognizing the connection among policies that advance women's economic stability, equality, and access to reproductive health care. Policymakers and advocates have recognized that a wide range of policy advances are integral to a woman's ability to live a healthy, equal, and stable life.

Because of this, some legislators have begun to consider linking individual policy ideas under one framework, with the goal of improving women's lives across many indicators. In New York, Governor Andrew Cuomo created the Women's Equality Act, a 10-point omnibus bill including policies relating to equal pay, sexual harassment, treatment of pregnant women in the workplace, intimate partner violence, and access to abortion. The Women's Equality Act was supported by many progressive advocates and passed by the State Assembly two years in a row, although it did not pass the State Senate. In Pennsylvania, the bipartisan Women's Health Caucus of the Pennsylvania legislature came together to announce the Agenda for Women's Health, a set of bills that will ultimately encompass more than 20 legislative proposals. Thus far, in 2013 and 2014, more than a dozen bills have been introduced as part of the Agenda for Women's Health, including a Pregnant Worker's Fairness Act, several bills that would improve access to reproductive health care, bills that will improve protections for victims of intimate partner violence, and bills designed to improve the living and working conditions of low-income mothers and families. Three of the proposed Agenda for Women's Health bills have already become law, including two bills protecting victims of intimate partner violence from further harassment from their abusers and from housing discrimination and a bill that will study solutions to administrative hurdles hindering low-income families with children from maintaining their child care subsidies and other assistance.

Legislators in Minnesota also enacted a Women's Economic Security Agenda, an expansive package of economic policies that will increase women's equality in the workplace and provide additional protections for parents and families. Supported and championed by a strong and broad-based coalition called the Minnesota Coalition for Women's Economic Security, this legislation encompassed critical workplace policies to improve women's economic stability, including equal pay legislation, expanded paid sick leave and unpaid family leave, protections for pregnant workers, and employment and housing protections for victims of intimate partner violence. Advocates across a spectrum of issues joined the lobbying on this effort, including groups focused on workplace policies, economic equality, and women's health. Passage of the Women's Economic Security Agenda was a huge step for women's economic stability, but limiting policy change to employment and other economic areas will not ensure full women's equality. Legislative packages that include policies intended to increase access to reproductive health care along with measures designed to improve women's economic security reflect the fact that women need the ability to control when and whether to have children in order to reach full equality and economic stability.

Joining policies that impact women's lives together under one framework gives both advocates and legislators the opportunity to address the full spectrum of women's lives, and to create new and dynamic coalitions that can support legislation while changing the public discussion around women's health, economic security, and equality.

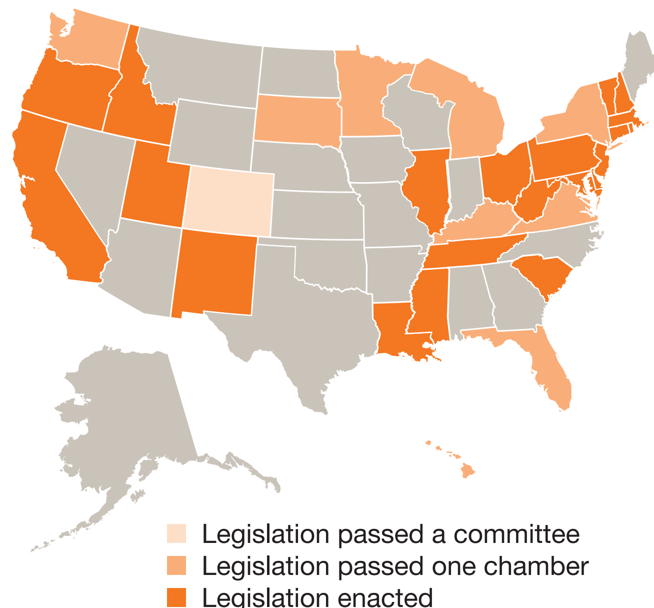
this year. This law also expanded the types of care licensed midwives can provide. The bill was strongly supported by the Midwifery Council, which had lobbied for the original licensure legislation in 2009 as a way to ensure that their skills were recognized and validated in the state. In **Massachusetts**, House Bill 3971 would have similarly created a new licensure process for midwives in the state; it passed one House committee but did not pass the full House. House Bill 3971 is supported by the Massachusetts Midwives Alliance and many other women's groups who pushed for the legislation to give women in the state greater access to midwives and to a range of birthing options.

Conclusion

In 2014, nearly two-thirds of state legislatures considered proposals to increase women's access to sexual and reproductive health care and protect their right to make their own reproductive decisions, and dozens of policies to expand access to these important health services became law.

Across the board, these laws were informed, supported, and championed by advocates who provided their expertise to bill sponsors, galvanized public support, and educated legislators and the media about the need for legislative change. In many places, new bills to promote reproductive health, preserve reproductive rights, or advance reproductive justice were introduced for the first time, and advocates began laying the groundwork for those bills to become law in the future. In other states, advocates continued to build legislative and public support for women's health and rights, even in the face of opposition.

With more than 30 states taking action on proactive bills, the sheer breadth and volume suggest that the tide is beginning to turn and that both advocates and elected officials are taking important steps toward doing what it takes legislatively to improve women's lives and reduce the harms caused by limited access to reproductive and sexual health care and the regressive political and policy environment that has characterized so many state legislatures in recent years. The National Institute applauds the many victories of 2014, and we look forward to continuing to support and partner with reproductive health, rights, and justice advocates across the country and to celebrating new successes in 2015 and beyond.



Endnotes

1 Reddy v. Foster, No. 14-cv-299-JL (D. N.H. filed July 23, 2014).

2 See Madsen v. Women's Health Center, Inc., 519 U.S. 357 (1994); Schenck v. Pro-Choice Network of Western N. Y., 519 U. S. 357, 376 (1996).

3 Hill v. Colorado, 530 U.S. 703 (2000).

4 McCullen v. Coakley, 134 S.Ct. 2518 (2014).

5 N.Y.C. Admin. Code § 8-803.

6 Id.at 2537-39.

7 Press Release, Gov. Brown Signs SB 1053, Landmark Legislation to Expand Birth Control Access in California, National Health Law Program, Sept. 26, 2014, http://www.healthlaw.org/news/press-releases/280-gov-brown-signs-sb-1053-landmark-legislation-to-expand-birth-control-access-in-california.

8 Teddy Wilson, Vermont Governor Signs Bill Repealing Unconstitutional Abortion Statutes, RH Reality Check, March 24, 2014, http://rhrealitycheck.org/article/2014/03/24/vermont-governor-signs-bill-repealing-unconstitutional-abortion-statutes/.

9 Hunter Schwarz, Following Reports of Forced Sterilization of Female Prison Inmates, California Passes Ban, Washington Post, Blog, September 26, 2014, http://www.washingtonpost.com/blogs/govbeat/wp/2014/09/26/following-reports-of-forced-sterilization-of-female-prison-inmates-california-passes-ban/.

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