

Vermont's Abortion Rights Legislation

By: Nicole Dube, Principal Analyst
November 4, 2019 | 2019-R-0259

Issue

Provide a brief summary of Vermont's abortion rights legislation passed during the 2019 legislative session ([Act 47](#) and [Proposition 5](#)).

Summary

Vermont is one of [13 states](#) that have enacted laws affirmatively declaring a woman's right to choose an abortion. According to the [Guttmacher Institute](#), it is the only state, aside from Oregon, that codified the right to abortion without government interference throughout a woman's pregnancy, instead of only (1) prior to the viability of the fetus or (2) when necessary to protect the woman's health or life.

Specifically, on June 10, 2019, Vermont's governor signed into law [Act 47](#), which recognizes an individual's fundamental right to reproductive choice, including the right to (1) choose or refuse contraception or sterilization and (2) carry a pregnancy to term, give birth, or have an abortion. The new law expressly prohibits a governmental entity from denying, interfering, or prohibiting these rights. It also prohibits the state or law enforcement from prosecuting an individual for inducing or performing her own abortion or attempting such action. The act took effect upon passage.

In addition, during the 2019 session, the legislature adopted [Proposition 5](#) to amend the state constitution to expressly protect personal reproductive freedom and guarantee a woman's right to an abortion. Before the constitutional amendment is adopted, the legislature must pass the proposition again by a simple majority during the 2020 legislative session, and voters must then approve it on a November 8, 2022, ballot referendum. If adopted, Vermont would become the first state to amend its constitution to expressly protect a woman's right to choose an abortion.

Prior state law did not address abortion or impose any restrictions on a woman’s right to have the procedure. Licensed health care providers made determinations to provide safe and legal abortion within their scope of practice and in accordance with professional and ethical standards of care.

2019 Act 47

On June 10, 2019, Vermont’s governor signed into law [Act 47](#), An Act Relating to Preserving the Right to Abortion. The act recognizes an individual’s fundamental right to reproductive choice, including the right to (1) choose or refuse contraception or sterilization and (2) carry a pregnancy to term, give birth, or have an abortion.

Additionally, the act prohibits the state or law enforcement from prosecuting an individual for inducing or performing her own abortion or attempting such action. And it prohibits a governmental entity from:

1. denying or interfering with an individual’s fundamental right established by the act;
2. depriving, interfering, or restricting an individual’s choice to have an abortion; or
3. prohibiting or interfering with a licensed health care provider’s choice to perform an abortion, if doing so falls within the provider’s scope of practice.

The act also establishes a private right of action in Superior Court for a person injured as a result of a violation of the act. Thus, it would allow an individual who is denied an abortion the right to sue the person who denied it.

Prior law did not address abortion or impose any restrictions on a woman’s right to have the procedure. Licensed health care providers made determinations to provide safe and legal abortion within their scope of practice and in accordance with professional and ethical standards of care. The legislature noted that the intent of [Act 47](#) was to safeguard women’s existing right to access reproductive health services in the state by “ensuring those rights are not denied, restricted, or infringed, by a governmental entity.”

Proposition 5

Before enacting [Act 47](#), the legislature passed [Proposition 5](#) to amend Vermont’s constitution to protect personal reproductive freedom and guarantee a woman’s right to an abortion. Before the constitutional amendment is adopted, the legislature must pass the proposition again by a simple majority during the 2020 legislative session, and voters must then approve it on a November 8, 2022, ballot referendum.

If adopted, Vermont would become the first state to amend its constitution to expressly protect a woman's right to choose an abortion. The ballot measure would create Article 22 to [Chapter I](#) of the [Vermont Constitution](#) and include the following language:

Article 22. Personal Reproductive Liberty.

That an individual's right to personal reproductive autonomy is central to the liberty and dignity to determine one's own life course and shall not be denied or infringed unless justified by a compelling state interest achieved by the least restrictive means.

ND:kl