TRACKING ABORTION LITIGATION

IN FEDERAL COURTS

Alabama

Planned Parenthood Southeast, Inc. v. Bentley, No. 2:13cv405-MHT, 2013 U.S. Dist. LEXIS 91045 (M.D. Ala. June 28, 2013)

- **Issue:** TRAP Laws (targeted regulation of abortion providers), requiring staff privileges
- **Status:** District Court Judge Myron H. Thompson granted a preliminary injunction enjoining Alabama's HB 57, the "Women's Health and Safety Act," which requires abortion providers to attain staff privileges at a local hospital, requires abortion clinics to meet the same standards as ambulatory centers, and would have the effect of closing three of Alabama's five licensed abortion clinics. The Act was set to take effect on July 1, 2013, but Judge Thompson agreed to delay that date for a year. Both parties filed motions for summary judgment—effectively asking the court to rule on the merits of the challenge without going through a trial. A hearing took place on Friday, February 7, 2014 to determine the potential impact were Judge Thompson to deny summary judgment. The law is set to go into effect on March 24, 2014, but Judge Thompson said he will make a ruling on the summary judgment motions before that date. If the judge were to deny the motions, the case would proceed to trial.
- **Last Updated:** March 11, 2014
- **News Link:** http://www.montgomeryadvertiser.com/article/20140208/NEWS02/302080020/Federal-court-hears-abortion-debate

Arizona

Planned Parenthood Arizona Inc. v. Betlach, 727 F.3d 960 (9th Cir. 2013) No. 12-17558, No. 13-15506

- **Issue:** Prohibiting health care providers who perform elective abortions from receiving Medicaid funding
- **Status:** In August 2013, Judge Marsha Berzon, writing on behalf of a unanimous three-judge panel of the Ninth Circuit, granted a permanent injunction blocking enforcement of Arizona House Bill 2800, which would prohibit Medicaid funding from going to clinics that provide elective abortions. In other words, it would bar patients enrolled in Medicaid from obtaining family planning services, which amounts to about 3,000 Arizonans, from

Planned Parenthood. Planned Parenthood argued that the law violates the federal Medicaid Act, which guarantees that patients have the freedom to choose their health-care provider. In November 2013, the state appealed to the Supreme Court, but on February 24, 2014, the Court refused to take the case. This leaves the Ninth Circuit decision in place.

- **Last Updated:** March 11, 2014
- **News Link:** http://www.azcentral.com/news/politics/articles/20131120arizona-again-asks-supreme-court-look-abortion-law.html

NAACP v. Horne, No. 2013-cv-01079-DGC, 2013 U.S. Dist. LEXIS 143306 (D. Ariz. Oct. 3, 2013)

- **Issue:** Discriminating against African American and Asian or Pacific Islander women in abortion decisions.
- **Status:** On October 3, 2013, U.S. District Court Judge David Campbell dismissed a challenge by the NAACP, ACLU, and National Asian Pacific American Women's Forum (NAPAWF) to an Arizona anti-abortion law on the technicality that no woman had yet suffered the kind of harm described by the groups. The groups challenged Arizona law HB 2443, which requires every abortion provider—under the threat of criminal penalties—to certify that the reason for the abortion is not related to the race or sex of the embryo or fetus, and, according to the ACLU, is based on harmful racial stereotypes that stigmatize the reproductive decisions of women of color. On March 12, 2014, NAPAWF and the NAACP filed an appeal to the Ninth Circuit to reinstate their challenge.
- **Last Updated:** March 13, 2014
- **News Link:** http://rhrealitycheck.org/article/2014/03/13/advocates-ask-ninth-circuit-reinstate-challenge-arizona-race-sex-selection-abortion-ban/

Isaacson v. Horne, 716 F.3d 1213 (9th Cir. 2013) No. 12-16670, Supreme Court No. 13-402

- **Issue:** Banning abortion after 20 weeks.
- **Status:** On May 21, 2013, the Ninth Circuit found an Arizona law that prohibited abortion after 20 weeks of pregnancy to be unconstitutional. It held that "Arizona may not deprive a woman of the choice to terminate her pregnancy at any point prior to viability," which would be out of line with Supreme Court precedent. It reversed the District Court's denial of declaratory and injunctive relief. The state, through Attorney General Tom Horne, has filed a cert petition to ask for the Supreme Court's review. The Supreme Court rejected the state's petition, leaving the Ninth Circuit's decision in place.
- **Last Updated:** January 30, 2014
- **News Link:** http://www.nytimes.com/2014/01/14/us/supreme-court-wont-hear-arizona-appeal-on-abortion-ban.html?_r=0

Planned Parenthood Arizona et al. v. Humble**,** No. 4:14-cv-01910-FRZ (D. Ariz. 2014)

- **Issue:** Regulating medication abortion

- **Status:** Planned Parenthood and the Center for Reproductive Rights filed a federal lawsuit on March 5, 2014, challenging Arizona's new regulations, scheduled to take effect on April 1, 2014, that target medication abortion. Similar to the medication abortion restrictions passed in Oklahoma and Texas, the regulation would require doctors to follow the outdated protocol for the distribution of medication abortion (like RU-486), rather than today's common practice among physicians that is safe, more effective, and less expensive than the original labeling. Plaintiffs are concerned that the medication abortion restrictions will effectively ban medication abortion in the state.
- **Last Updated:** March 13, 2014
  News Link: http://rhrealitycheck.org/article/2014/03/05/lawsuit-filed-challenging-arizona-regulations-medication-abortion/

Arkansas

Edwards v. Beck, No. 4:13-cv-00224-SWW, 2014 U.S. Dist. LEXIS 33399 (E.D. Ark. Mar. 14, 2014)

- **Issue:** Banning abortion 12 weeks into pregnancy.
- **Status:** In May 2013, U.S. District Court Judge Susan Webber Wright granted a preliminary injunction to enjoin an Arkansas law—the "Arkansas Human Heartbeat Protection Act"—that banned most abortions 12 weeks into pregnancy. On Friday, March 14, 2014, Judge Wright permanently blocked the 12-week abortion ban. Other aspects of the law, including the requirement that a woman undergo an ultrasound prior to abortion, remain intact.
- **Last Updated:** March 21, 2014
- **News Link:** http://rhrealitycheck.org/article/2014/03/17/federal-court-strikes-arkansas-12-week-abortion-ban/

Colorado

Little Sisters of the Poor Home for the Aged v. Sebelius, No. 13A691, 2014 U.S. LEXIS 791 (2014)

- **Issue:** Affordable Care Act's contraception coverage requirement
- **Status:** As Circuit Justice for the Tenth Circuit, in December 2013 Justice Sotomayor issued a temporary order delaying implementation of one aspect of the Affordable Care Act's (ACA) birth control coverage requirement as it applies to the Little Sisters nursing home, which is a religious organization. Even though the ACA already exempts religious organizations from its coverage requirement, those organizations must fill out and file a form so that whatever entity manages its health insurance can provide for those services, without charge, to the organization's female employees. Although the government

argues that this process puts a gap between the religious organization and access to birth control for its employees, Little Sisters argues that signing and filing the form itself is a violation of its religious freedom, since it is the first step towards inevitably covering contraception.[1] On January 24, 2014, the Supreme Court issued an order barring enforcement of the contraception mandate as it applies to Little Sisters while the case is being appealed to the Tenth Circuit. Although the Court stayed the requirement to sign and file the form at issue, it did require Little Sisters to tell the government in writing that they are nonprofits "that hold themselves out as religious and have religious objections to providing coverage for contraceptive services." The Court stressed in its order that the order does not constitute a decision on the merits.

- **Last Updated:** January 30, 2014
- **News Link:** http://www.scotusblog.com/2014/01/partial-win-for-little-sisters/

District of Columbia

Gilardi v. US Dept of Health and Human Services, No. 13-5069, 2013 U.S. App. LEXIS 22256 (D.C. Cir. Nov. 1, 2013).

- **Issue:** Health care coverage of contraception.
- **Status:** Plaintiffs are brothers and owners of Freshway Foods and Freshway Logistics in Sidney, Ohio, which are both secular, profit-making companies. The plaintiffs object to the Affordable Care Act's requirement that employer health care cover birth control based on their Roman Catholic beliefs. In November 2013, a divided DC Circuit Court ruled in their favor, finding that although the company itself cannot exercise religion under the Religious Freedom Restoration Act (RFRA) and therefore did not have the ability to sue under the law, the plaintiffs themselves—as individuals—could challenge the requirement under RFRA. The DC Circuit Court remanded the case back to the lower court for further consideration.
- **Last Updated:** November 11, 2013
- **News Link:** http://rhrealitycheck.org/article/2013/11/04/d-c-circuit-court-of-appeals-muddies-water-in-contraception-mandate-litigation/

Idaho

McCormack v. Hiedeman, 900 F. Supp. 2d 1128 (D. Idaho 2013), No. 4:11-cv-00433-BLW

- **Issue:** Criminalizing and banning abortion after 20 weeks.
- **Status:** In August 2011, the U.S. District Court in Idaho granted a temporary restraining order of Idaho's 1972 "fetal pain" law that criminalized and banned abortion after 20 weeks. The Ninth Circuit affirmed the District Court's opinion in September 2012, and

[1] Lyle Denniston, *Analysis: The Little Sisters case and EBSA Form 700*, SCOTUSBLOG (Jan. 4, 2014, 10:43 PM), http://www.scotusblog.com/2014/01/analysis-the-little-sisters-case-and-ebsa-form-700/.

in March 2013, the District Court Judge Lynn Winmill struck down the 20-week ban along with other abortion-related laws, such as requiring abortions to be performed by a physician in a hospital.

- **Last Updated:** October 17, 2013
- **News Link:** http://www.politico.com/story/2013/03/idaho-fetal-pain-abortion-law-is-struck-down-88596.html

Illinois

Life Ctr., Inc. v. City of Elgin, Ill., No. 13 C 1759, 2013 U.S. Dist. LEXIS 111526 (N.D. Ill. Aug. 8, 2013)

- **Issue:** Mobile crisis pregnancy centers
- **Status:** At issue in this case is a city zoning ordinance that required mobile facilities to obtain permits and to operate for a maximum of four temporary uses per year. City Life Center, a faith-based organization that operated a mobile "ultrasound bus," challenged the law as being overly broad and vague, and as violating the Center's Fourteenth Amendment rights. Judge Samuel Der-Yeghiayan permanently enjoined the ordinance, even though it was not directed at LifeCenter. The City of Elgin plans to appeal.
- **Last Updated:** October 17, 2013

Korte v. Sebelius, Nos. 12-3741, 13-1077, 2013 U.S. App. LEXIS 22748 (7th Cir. Nov. 8, 2013)

- **Issue:** Healthcare coverage for contraception.
- **Status:** A divided Seventh Circuit decided that two Illinois profit-making companies and their Roman Catholic owners are likely to win their constitutional challenges to the birth control coverage requirement in the Affordable Care Act. Although other circuit courts have decided in favor of either a company's or an individual owner's religious objections trumping the ACA's coverage requirement, this was the first decision finding that both companies *and* owners with religious objections may be exempt. The court interpreted the Religious Freedom Restoration Act (RFRA) broadly to find that the statute, in prohibiting the government from placing a substantial burden on a "person's exercise of religion," applies to secular, profit-making companies. Where the companies are closely held, according to majority author Judge Diane Sykes, the religious preferences of corporations and their owners are protected.

  With the Seventh Circuit's decision, five circuit courts have ruled on similar challenges; the Third and Sixth rejected the challenge to the ACA, and now the Seventh, Tenth, and DC Circuit Courts have ruled in favor of the profit-making corporation and/or individual owners.
- **Last Updated:** November 11, 2013
- **News Link:** http://www.scotusblog.com/2013/11/broad-bar-to-birth-control-mandate/

Indiana

Planned Parenthood of Indiana and Kentucky, Inc., v. Commissioner, Indiana State Department of Health et al., No. 1:13-cv-1335-JMS-MJD, 2013 U.S. Dist. LEXIS 167823 (S.D. Ind. Nov. 26, 2013)

- **Issue**: TRAP (Targeted Regulation of Abortion Providers)Laws, surgical standards
- **Status:** ACLU of Indiana on behalf of Planned Parenthood sued the state in the Southern District of Indiana, requesting declaratory and preliminary injunctive relief from Act 371, which was passed in 2013 and requires clinics that administer medical abortion (via RU-486) to meet the same standards as surgical centers. Such standards include separate procedure, recovery and scrub rooms. The law could force one of Planned Parenthood's main offices in the state—the Lafayette clinic—to close, even though the clinic does not provide surgical abortions. Plaintiffs therefore are arguing that the law unconstitutionally targets the clinic. The requirements were scheduled to go into effect on January 1, 2014, but on November 26, 2013, U.S. District Judge Jane Magnus-Stinson temporarily blocked the law from taking effect. A trial date has been set for June 1, 2015.
- **Last Updated:** January 30, 2014
- **News Link:** http://www.usatoday.com/story/news/nation/2014/01/29/indiana-planned-parenthood-abortion-law-trial/5029497/

Planned Parenthood of Indiana, Inc. v. Comm'r of Indiana State Dep't Health, 699 F.3d 962 (7th Cir. 2012) cert. denied, 133 S. Ct. 2736, 186 L. Ed. 2d 193 (U.S. 2013) and cert. denied, 133 S. Ct. 2738, 186 L. Ed. 2d 193 (U.S. 2013), No. 11-2464

- **Issue:** Prohibiting state contracts with and grants to abortion providers, and informed consent
- **Status:** Planned Parenthood filed suit against Commissioner of Indiana State Department of Health and others challenging the constitutionality of an Indiana law that prohibited state agencies from contracting with or making grants to any entity that performed abortions and which modified informed consent law. Essentially the law would have defunded Planned Parenthood in the state. The Seventh Circuit affirmed the District Court's temporary injunction as far as the Medicaid provision was concerned, finding that the law violated Medicaid's "freedom of choice" provision by excluding healthcare providers that also provided abortions from receiving Medicaid for reasons unrelated to provider qualifications. However, the Seventh Circuit found the other aspects of the law constitutional. Petition for cert from the Supreme Court was denied.
- **Last Updated:** October 22, 2013

Kansas

Hodes & Nauser, MDs, P.A. v. Moser, No. 2:11-cv-02365-CM-KMH, 2011 U.S. Dist. LEXIS 112186 (D. Kan. Sept. 29, 2011)

- **Issue:** TRAP laws
- **Status:** A Kansas law, SB 36, makes it unlawful to operate an abortion clinic in Kansas without possessing a valid license issued by the Kansas Department of Health and Environment (KDHE), but the KDHE acted in ways that made it impossible for existing medical practices to obtain a license by the effective date. In July 2011, the District Court issued a preliminary injunction, enjoining defendants from enforcing the temporary regulations and licensing procedures. The defendants did not file a notice of appeal; the American Association of Pro-Life Obstetricians and Gynecologists attempted to intervene in the case on August 1, 2011 and appeal the preliminary injunction, but their intervention request was denied.
- **Last Updated:** October 17, 2013

ACLU of Kansas and Western Missouri v. Praeger, 917 F. Supp. 2d 1179 (D. Kan. 2013), No. 11-2462-JAR

- **Issue:** Prohibiting insurance coverage of abortion and abortion-related services
- **Status:** A 2011 Kansas law, HB 2075, prohibited insurance coverage of elective abortions services. In January 2013, District Court Judge Julie Robinson allowed the law to go into effect, finding that it was not enacted for the improper purpose of infringing on women's right to abortion.
- **Last Updated:** October 17, 2013

Comprehensive Health of Planned Parenthood of Kansas & Mid-Missouri, Inc. v. Templeton, No. 2:13-cv-02302-KHV-KGG, 2013 U.S. Dist. LEXIS 91587 (D. Kan. June 30, 2013)

- **Issue:** Forcing doctors to speak for the government.
- **Status:** Planned Parenthood has challenged a Kansas law, HB 2253, which requires abortion providers to give women seeking abortion information on "fetal pain" after 20 weeks of pregnancy, and requires certain language and web links to be placed on the abortion providers' websites. In June 2013, District Court Judge Kathryn Vratil denied injunctive relief to stop the fetal pain part of the law, which has since gone into effect, but in August 2013 she approved an agreement to narrow Planned Parenthood's challenge to the law. The challenge now focuses on whether requiring abortion providers' websites to include a link to state website about abortion and fetal development—along with a statement that the state's materials are "objective" and "scientifically accurate"—is constitutional.
- **Last Updated:** October 17, 2013

Planned Parenthood of Kan. & Mid-Missouri v. Moser, No. 11-2357-JTM, 2011 U.S. Dist. LEXIS 120442 (D. Kan. Oct. 18, 2011)

- **Issue:** Restricting funding to abortion providers.
- **Status:** In October 2011, District Court Judge Thomas Marten granted a preliminary injunction to prevent the enforcement of a Kansas law, HB 2014, that restricted Title X funding to women's health clinics that provide abortion care. At the time of the decision, Kansas Attorney General Derek Schmidt indicated that he will appeal the ruling.
- **Last Updated:** October 24, 2013

Louisiana

K.P. v. LeBlanc, No. 12-30456, 2013 U.S. App. LEXIS 18423 (5th Cir. Sept. 4, 2013)

- **Issue:** Privatizing abortion by allowing suits against abortion providers despite informed consent.
- **Status:** In an appeal following a District Court's grant of a permanent injunction, the Fifth Circuit, in September 2003, upheld the enforceability of Act 825, which allows women who receive abortions to sue their abortion providers for up to 10 years subsequent to the abortion, despite having consented to the abortion in writing. The law also denies abortion providers access to a medical malpractice review process, operated by the state, that would help pay malpractice judgments.
- **Last Updated:** October 17, 2013

Maine

Fitzgerald v. City of Portland, No. 2:14-cv000053-NT (D. Maine)

- **Issue:** Challenging buffer zones
- **Status:** On February 12, 2014, the Thomas More Center filed a federal lawsuit to challenge Portland's recently-passed buffer zone law. The Center, filing on behalf of an evangelical couple who regularly protest the Portland Planned Parenthood, argues that the buffer zone is unconstitutional and should be permanently blocked from enforcement. The buffer zone ordinance creates a 39-foot buffer zone around the entrance of reproductive health care facilities. An organizer for Planned Parenthood of Northern New England has said that the ordinance "has made a tremendous difference in the ability of our patients to access health care free of harassment and intimidation . . . ."
- **Last Updated:** March 13, 2014
- **News Link:** http://rhrealitycheck.org/article/2014/02/19/federal-lawsuit-filed-challenging-portland-buffer-zone/

Massachusetts

McCullen v. Coakley, 708 F.3d 1 (1st Cir. 2013) cert. granted, 133 S. Ct. 2857 (U.S. 2013), No. 12-1168

- **Issue:** Buffer zones around abortion clinics
- **Status:** The Supreme Court heard arguments in *McCullen* on Wednesday, January 15, 2014. Massachusetts passed a law mandating a 35-foot buffer zone in front of entrances to abortion clinics to ease women's access to clinics while maintaining their safety from protestors when entering and leaving the clinic. Opponents argue that the law is in violation of their First Amendment free speech rights. The Supreme Court previously held in a similar case, *Colorado v. Hill* (2000), that a 100-foot buffer zone in Colorado was constitutional. *Hill* was decided 6-3, with a strong dissent written by Justice Kennedy, and with Chief Justice Rehnquist and Justice O'Connor in the majority; Chief Justice Roberts has since replaced Rehnquist on the bench, and Justice Alito has since replaced O'Connor. Opponents of the buffer zone law in Massachusetts are urging the Supreme Court to overturn *Hill*.
- **Last Updated:** January 30, 2014
  News Link: http://www.scotusblog.com/2014/01/argument-recap-buffer-zones-maybe-yes-but-how-big/

Michigan

Autocam Corporation v. Sebelius, No. 12-2673, 2013 U.S. App. LEXIS 19152 (6th Cir. Sept. 17, 2013)

- **Issue:** Health care coverage of contraception
- **Status:** The Sixth Circuit, in a unanimous decision authored by Judge Julia Smith Gibbons, ruled that a for-profit corporation cannot have a religious faith, and so cannot be exempted from the Affordable Care Act's requirement to cover contraception in health insurance plans. Autocam claimed that the law violated its religious faith because the company's owners are religious. Judge Gibbons noted that the Supreme Court has consistently held that only individuals and nonprofit organizations have religious liberties, and that therefore profit-making companies do not. Autocam has petitioned the Supreme Court to appeal its case, but the Court has instead agreed to hear two other similar cases in March 2014.
- **Last Updated:** January 30, 2014
- **News Link:** http://thinkprogress.org/justice/2013/09/18/2643261/bush-appointed-appellate-judge-smacks-anti-birth-control-lawsuit/

Means v. United States Conference of Catholic Bishops, 2:13-cv-14916 (E.D. Mich. 2013)

- **Issue:** Ensuring that women are given the full range of legal reproductive options in a hospital setting.
- **Status:** On November 29, 2013, the ACLU filed suit in Michigan federal court against the United States Conference of Catholic Bishops for their Ethical and Religious Directives for Catholic Health Services. The ACLU argues that the Directives create a guideline for Catholic hospitals to provide substandard care to women in need of abortions, even if the woman's health or life is threatened. The case centers around the plaintiff, Tamesha Means, who was 18-weeks pregnant when her water broke and she was taken to Mercy Health Partners Hospital, where she was refused the therapeutic abortion she would have received at a non-Catholic Hospital. Mercy Health Partners also did not inform her that the fetus had little chance of surviving, that the pregnancy was putting her at risk, and that the safest course of action would be to terminate the pregnancy—advice that would constitute basic medical care. Instead, she gave birth to a premature baby, who died after a few hours.
- **Last Updated:** December 4, 2013
- **News Link:** http://www.npr.org/blogs/health/2013/12/02/248243411/aclu-sues-u-s-bishops-says-catholic-hospital-rules-put-women-at-risk

Mississippi

Jackson Women's Health Organization and Willie Parker v. Mary Currier and Robert Shuler Smith, No. 3:12cv436-DPJ-FKB, 2013 U.S. Dist. LEXIS 53510 (S.D. Miss. Apr. 15, 2013)

- **Issue:** TRAP laws, admitting privileges
- **Status:** Mississippi is appealing to the Fifth Circuit a decision by District Court Judge Daniel Jordan that the state cannot close Jackson Women's Health Organization—Mississippi's lone remaining abortion clinic—while it still has a federal lawsuit pending. The clinic challenged a 2012 state law that requires the clinic to attain admitting privileges at a local hospital, which the clinic has so far been unable to do. Although the law went into effect in July 2012, Judge Jordan blocked the state from closing the clinic while it attempts to get admitting privileges. Oral arguments in the Fifth Circuit are slated for the week of April 28, 2014.
- **Last Updated:** March 13, 2014
- **News Link:** http://djournal.com/news/u-s-court-hear-arguments-miss-abortion-law/

North Carolina

Stuart et al v. Huff, 706 F.3d 345 (4th Cir. 2013), No.12-1052

- **Issue**: Requiring an ultrasound four hours prior to performing abortion.
- **Status**: On October 25, 2011, District Court Judge Catherine Eagles issued a preliminary injunction that enjoined enforcement of North Carolina's "Women's Right to Know Act."

The law requires physicians to provide women with an ultrasound at least four hours prior to performing an abortion, to describe the images from the ultrasound, and ensure that the images are in view of the patient. There is no exception for abortion in cases of rape, health of the mother, or fatal fetal abnormalities. The law also requires providers to offer the opportunity to hear the fetal heartbeat.

On January 17, 2014, Judge Eagles struck down the law as unconstitutional, writing that under the First Amendment, a state does not have "the power to compel a health care provider to speak, in his or her own voice, the state's ideological message in favor of carrying a pregnancy to term." On February 5, 2014, Governor Pat McCrory announced that he opposes appealing Judge Eagles' ruling; however, that decision ultimately will be made by the attorney general.

- **Last Updated:** March 13, 2014
- **News Link:** http://rhrealitycheck.org/article/2014/02/05/north-carolina-governor-opposes-appeal-ultrasound-ruling/

Planned Parenthood of Central North Carolina v. Cansler, 877 F. Supp. 2d 310 (M.D.N.C. 2012) No. 1:11CV531

- **Issue:** Prohibiting state funding to Planned Parenthood.
- **Status:** In June 2012, District Court Judge James Beaty granted a permanent injunction, blocking a North Carolina law that would have prohibited North Carolina's Department of Health and Human Services from providing state or state-administered funds to Planned Parenthood affiliates.
- **Last Updated:** October 17, 2013

ACLU of North Carolina v. Tata, No. 13-1030, 2014 U.S. App. LEXIS 2573 (4th Cir. Feb. 11, 2014), *aff'g* ACLU of North Carolina v. Conti, 912 F. Supp. 2d 363 (E.D.N.C. 2012)

- **Issue:** "Choose Life" license plates
- **Status:** On February 11, 2014, the Fourth Circuit in a 3-0 decision found that North Carolina's law that allowed for the production of "Choose Life" license plates while rejecting proposals for pro-choice license plates is unconstitutional. The Fourth Circuit, in an opinion written by Judge James Wynn, stated that North Carolina was seeking to "privilege speech on one side of the hotly debated issue—reproductive choice—while silencing opposing voices."
- **Last Updated:** March 11, 2014
- **News Link:** http://www.huffingtonpost.com/2014/02/11/choose-life-license-plate_n_4768502.html

North Dakota

MKB Management, Inc. v. Burdick, No. 1:13-cv-00071-DLH-CSM, 2013 U.S. Dist. LEXIS 102620 (D.N.D. July 22, 2013)

- **Issue**: Banning abortion beginning at six weeks into pregnancy.
- **Status**: In July 2013, District Court Judge Daniel Hovland granted a preliminary injunction stopping the country's most restrict abortion law, HB 1456, which would have banned abortions at the sixth week of pregnancy. Plaintiffs run the only abortion clinic in North Dakota.
- **Last Updated:** October 17, 2013
- **News Link:** http://www.huffingtonpost.com/2013/07/22/north-dakota-abortion-ban_n_3635386.html

Ohio

Planned Parenthood Southwest Ohio Region v. DeWine, 696 F.3d 490 (6th Cir. 2012) No. 11-4062

- **Issue:** Restricting medication abortion.
- **Status:** The Sixth Circuit upheld restrictions on the use of mifepristone for medication abortion in October 2012, finding that the restrictions did not place an undue burden on a woman's right to choose abortion. In doing so, it affirmed the District Court's ruling.
- **Last Updated:** October 24, 2013
- **News Link:** http://verdict.justia.com/2013/01/09/the-u-s-court-of-appeals-for-the-sixth-circuit-upholds-restrictions-on-medical-abortion

Gilardi v. US Dept of Health and Human Services, No. 13-5069, 2013 U.S. App. LEXIS 22256 (D.C. Cir. Nov. 1, 2013).

- **Issue:** Health care coverage of contraception.
- **Status:** Plaintiffs are brothers and owners of Freshway Foods and Freshway Logistics in Sidney, Ohio, which are both secular, profit-making companies. The plaintiffs object to the Affordable Care Act's requirement that employer health care cover birth control based on their Roman Catholic beliefs. In November 2013, a divided DC Circuit Court ruled in their favor, finding that although the company itself cannot exercise religion under the Religious Freedom Restoration Act (RFRA) and therefore did not have the ability to sue under the law, the plaintiffs themselves—as individuals—could challenge the requirement under RFRA. The DC Circuit Court remanded the case back to the lower court for further consideration.
- **Last Updated:** November 11, 2013
- **News Link:** http://rhrealitycheck.org/article/2013/11/04/d-c-circuit-court-of-appeals-muddies-water-in-contraception-mandate-litigation/

Oklahoma

Cline v. Oklahoma Coalition for Reproductive Justice 2012 OK 102 __P.3d__ (Okla. 2012), Supreme Court Docket No. 12-1094

- **Issue:** Limiting access to medical abortions.
- **Status:** Oklahoma HB 1970 limits doctors' ability to prescribe drugs that cause medical abortion, such as RU-486, early in the first trimester, by requiring doctors to follow outdated label protocols rather than the modern, evidence-based, and widely accepted common practice. It could force women who could otherwise have received medical abortion to attain surgical abortions, and, moreover, the law could be interpreted to virtually ban the practice of medical abortion altogether.

  After accepting the case to its docket, the Supreme Court requested clarification from the state supreme court about the scope of the law, and to which medications the statute applies to before moving forward to schedule the case for argument. On October 9, 2013, Oklahoma Attorney General Scott Pruitt filed a brief to the Oklahoma Supreme Court arguing that the law does not represent a universal ban on medication abortion, but that the law would be constitutional even if it did.

  On October 29, 2013 the Oklahoma Supreme Court answered the US Supreme Court's inquiries by finding that the law prohibits the use of misoprostol to induce abortion, even when used in conjugation with another drug under a protocol approved by the FDA, effectively banning medication abortion in the state. The Oklahoma Supreme Court also found that the law prohibits the use of methotrexate to treat ectopic pregnancies. The law, according to the Oklahoma Supreme Court, is "completely at odds with the standard that governs the practice of medicine."

  On November 4, 2013, the United States Supreme Court dismissed the case as "improvidently granted," and so will not be hearing the case this term. Instead, it left the Oklahoma Supreme Court's decision in place that declared the law unconstitutional and so the law will not go into effect in the state of Oklahoma.
- **Last Updated:** November 8, 2013
- **News Link:** http://www.bloomberg.com/news/2013-11-04/abortion-case-dropped-as-high-court-leaves-law-voided.html

Nova Health Sys. v. Pruitt, 2012 OK 103 (Okla. 2012), Docket No. 12-1170

- **Issue:** Requiring ultrasounds before allowing abortion.
- **Status:** The Oklahoma Supreme Court struck down as unconstitutional the Oklahoma Ultrasound Act, which prohibits a woman from attaining abortion unless she first is given an ultrasound, sees the ultrasound image, and listens to her doctor describe the image in detail. The state appealed the ruling to the United States Supreme Court, but on

November 12, 2013, the Supreme Court refused to hear the appeal. This leaves the Oklahoma Supreme Court's decision in place.

- **Last Updated:** November 12, 2013
- **News Link:** http://www.reuters.com/article/2013/11/12/us-usa-court-abortion-idUSBRE9AB0QG20131112

Hobby Lobby Stores, Inc. v. Sebelius, 723 F.3d 1114 (10th Cir. Okla. 2013) No. 12-6294, Supreme Court Docket No. 13-354

- **Issue:** Whether profit-making companies owned by individuals with religious objections to contraception must be exempted from ACA contraception coverage requirement.
- **Status:** Under the Affordable Care Act, employers with more than 50 employees are required to provide health insurance coverage for various services related to reproductive health, including birth control. Although strictly religious organizations are exempted from this requirement, profit-making businesses are not. Hobby Lobby is a profit-making business owned by a religious family that wants to be exempt from covering birth control under the ACA. The Tenth Circuit struck down the contraception coverage requirement based on the Religious Freedom Restoration Act. The Obama Administration appealed the case to the Supreme Court, and Hobby Lobby also asked the Supreme Court to review the case. On November 26, 2013, the Supreme Court said that it will hear the case—along with a similar Third Circuit case out of Pennsylvania called *Conestoga Wood Specialties Corp v. Sec'y of the United States HHS*—later this term. Oral argument is scheduled for March 25, 2014.
- **Last Updated:** January 28, 2014
- **News Link:** http://www.scotusblog.com/2013/11/court-to-rule-on-birth-control-mandate/

Pennsylvania

Conestoga Wood Specialties Corp. v. Sebelius, 724 F.3d 377 (3d Cir. 2013) No. 13-1144, Supreme Court Docket No. 13-356

- **Issue:** Whether profit-making companies owned by individuals with religious objections to contraception must be exempted from ACA contraception coverage requirement.
- **Status:** Conestoga Wood Specialties Corporation is a profit-making company that is operated by a Mennonite family that wishes to be exempted from the Affordable Care Act's requirement that the insurance they provide to their employees include birth control coverage. The corporation, like Hobby Lobby (see Oklahoma cases), challenged the ACA provision on First Amendment grounds and under the Religious Freedom Restoration Act. Unlike the Tenth Circuit, however, the Third Circuit rejected their challenge, finding that the birth control coverage requirement applies to the business as an entity and not to the family members operating it, and that the family's religious beliefs do not flow through to the profit-making corporation. Conestoga Wood Specialties appealed to the Supreme Court. On November 26, 2013, the Supreme Court

said that—along with *Hobby Lobby*—it will be hearing this case later in this term. Oral arguments are scheduled for March 25, 2014.

- **Last Updated:** January 28, 2014
- **News Link:** http://www.scotusblog.com/2013/11/court-to-rule-on-birth-control-mandate/

South Dakota

Planned Parenthood Minnesota, North Dakota, South Dakota v. Rounds, 686 F.3d 889 (8th Cir. 2012) Nos. 09-3231/3233/3362

- **Issue:** Forcing doctors to mislead women on the risks of abortion.
- **Status:** A South Dakota law from 2005 requires physicians to provide women with state-mandated statements including medically inaccurate information about the risk factors of abortion. Part of the law was upheld in 2008 by the Eighth Circuit, and in September 2011, the Eighth Circuit upheld the constitutionality of the rest of the law (reversing a lower court), except for a provision requiring that women be told that abortion leads to an increased risk of suicide. In July 2012, the Eighth Circuit upheld the portion of the law that required providers to tell patients that abortion increased suicidal thoughts.
- **Last Updated:** October 17, 2013

Planned Parenthood Minnesota, North Dakota, South Dakota v. Daugaard, 799 F. Supp. 2d 1048 (D.S.D. 2011), No. civ-11-4071-KES

- **Issue:** 72-hour waiting periods, requiring visits to crisis pregnancy center.
- **Status:** Planned Parenthood challenged a South Dakota law that required women to wait 72 hours between their initial visit with an abortion provider and the abortion, that required women to visit a crisis pregnancy center before receiving an abortion, and that required abortion providers to inform patients of false "risks" of abortion. The District Court granted a preliminary injunction of the law in June 2011, but in December 2012, Planned Parenthood dropped its challenge to the waiting period provision of the law. While it continues to challenge the crisis pregnancy requirements, in March 2013 South Dakota Governor Daugaard signed a measure increasing the waiting period by excluding weekends and holidays from the count.
- **Last Updated:** October 17, 2013
- **News Link:** http://www.reuters.com/article/2013/03/08/us-usa-abortion-southdakota-idUSBRE92711L20130308

Texas

***Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*,** No. 13-51008, 2013 U.S. App. LEXIS 22231 (5th Cir. Tex. Oct. 31, 2013)

- **Issue:** TRAP laws, limiting medical abortion, and banning abortion 20 weeks after fertilization
- **Status:** District Court Judge Lee Yeakel declared part of Texas's omnibus abortion law unconstitutional, preventing parts of HB 2 from going into effect. Judge Yeakel blocked the requirement that abortion providers attain admitting privileges at local hospitals. The judge did not, however, fully enjoin the part of the law that restricts medication abortion by requiring doctors to follow an outdated and no longer necessary protocol. Rather, he held that the limitation presented a substantial obstacle only to those women seeking abortion for whom surgical abortion is not a medically sound or safe option. Advocates did not challenge in this suit the 20-week abortion ban that is now in effect, nor did they challenge the requirement of abortion providers to follow the same standards as ambulatory surgical centers, which is set to go into effect in September 2014.

  The state appealed immediately to the Fifth Circuit Court of Appeals, asking for an emergency stay to lift the District Court's injunction. On Halloween night, the Fifth Circuit granted the stay and reinstated the law, which nearly immediately forced numerous clinics across the state to close. The Fifth Circuit also reversed the District Court's "health exception" to the medication abortion limitation.

  On Monday, November 4, 2013, reproductive rights advocates filed an emergency request with the Supreme Court to at least temporarily block the admitting privileges portion of the law from taking effect. On November 19, 2013, the Supreme Court on a 5-4 vote refused to block the Texas law from taking effect. The Fifth Circuit—consisting of a panel of Judges Catharina Haynes, Jennifer Elrod, and Edith Jones—heard arguments on the merits of the case on January 6, 2014, but has not yet issued a decision.
- **Last Updated:** March 13, 2014
  News Link: http://rhrealitycheck.org/article/2014/01/06/texas-omnibus-anti-abortion-law-gets-fifth-circuit-hearing-monday/

Texas Medical Providers Performing Abortion Services v. Lakey, No. A-11-CA-486-SS, 2012 U.S. Dist. LEXIS 14721 (W.D. Tex. Feb. 6, 2012)

- **Issue:** Requiring the performance and description of ultrasounds before allowing abortion.
- **Status:** In January 2012, the Fifth Circuit, in an opinion authored by Judge Edith Jones, vacated and remanded a District Court decision that had granted a preliminary injunction enjoining a Texas anti-abortion law, and issued an order directing that the entire law take effect immediately. The law requires abortion providers to perform an ultrasound, place

the ultrasound images in view of the woman, describe the images to her, as well as make the fetal heart sounds audible where possible, and to describe the sounds to the woman regardless of whether she wants to see or hear any of it. On remand in February 2012, the district court, in an opinion authored by Judge Sam Sparks, vehemently disagreed with the Fifth Circuit's decision, but nonetheless denied the request for a permanent injunction because the court's hands were tied by the Fifth Circuit's decision. Later in February 2012 a request for an en banc hearing by the Fifth Circuit was denied.

- **Last Updated:** October 17, 2013

Washington

Stormans, Inc. v. Selecky, 854 F. Supp. 2d 925 (W.D. Wash. 2012) No. C07-5374RBL

- **Issue:** Religious objection to dispensing emergency contraception.
- **Status:** In February 2012, District Court Judge Ronald Leighton struck down a 2007 Washington law that required all pharmacies to "deliver lawfully prescribed drugs." The District Court found that the law, which would require pharmacists to deliver prescriptions of emergency contraception, violated individual pharmacists' right to object on religious grounds to dispensing emergency contraception.
- **Last Updated:** October 17, 2013

Wisconsin

Planned Parenthood of Wisconsin v. Van Hollen, No. 13-cv-465-wmc, 2013 U.S. Dist. LEXIS 115326 (W.D. Wis. Aug. 15, 2013)

- **Issue:** TRAP Laws, requiring admitting privileges
- **Status:** Judge William Conley of the Western District of Wisconsin granted a preliminary injunction enjoining part of Act 37, which would require every physician who performs abortions at a clinic to attain staff privileges at a hospital within 30 miles of the clinic. Such staff privileges are often nearly impossible to obtain due to factors such as the hospital's opposition to abortion, or a requirement that physicians seeking privileges admit a minimum number of patients to the local hospital, which is difficult for clinics to meet due to the safety of abortion procedures and thus the rarity of hospitalization. The law would have forced two of four health centers providing abortion in Wisconsin to close. On December 20, 2013, the Seventh Circuit upheld the district court's decision to block the law from taking effect. The law will therefore remain blocked pending trial on its constitutionality, scheduled for May 27, 2014.
- **Last Updated:** January 6, 2014
- **News Link:** http://rhrealitycheck.org/article/2013/12/21/appeals-court-upholds-decision-blocking-wisconsin-admitting-privileges-law/

Madison Vigil for Life, Inc. v. City of Madison, No. 14-cv-157-wmc, 2014 U.S. Dist. LEXIS 26221 (W.D. Wis. Feb. 28, 2014)

- **Issue:** Challenging buffer zones
- **Status:** On February 28, 2014, U.S. District Judge William Conley denied a request for a temporary injunction against the city of Madison's newly-passed buffer zone law. The buffer zone law creates a protective zone within 160 feet of any health care facility, and creates an eight-foot floating buffer zone around individuals on public sidewalks. The floating buffer zone prohibits an individual from approaching another person—inside or outside of the 160 feet—without consent within eight feet for the purpose of passing a leaflet or handbill, displaying a sign, or engaging in oral protest, education or counseling.
- **Last Updated:** March 13, 2014
- **News Link:** http://rhrealitycheck.org/article/2014/03/03/federal-court-refuses-block-buffer-zone-ordinance-madison-wisconsin/