



PROACTIVE REPRODUCTIVE HEALTH AND RIGHTS LEGISLATION IN THE STATES

GAINING GROUND

EXECUTIVE SUMMARY
JANUARY 2020

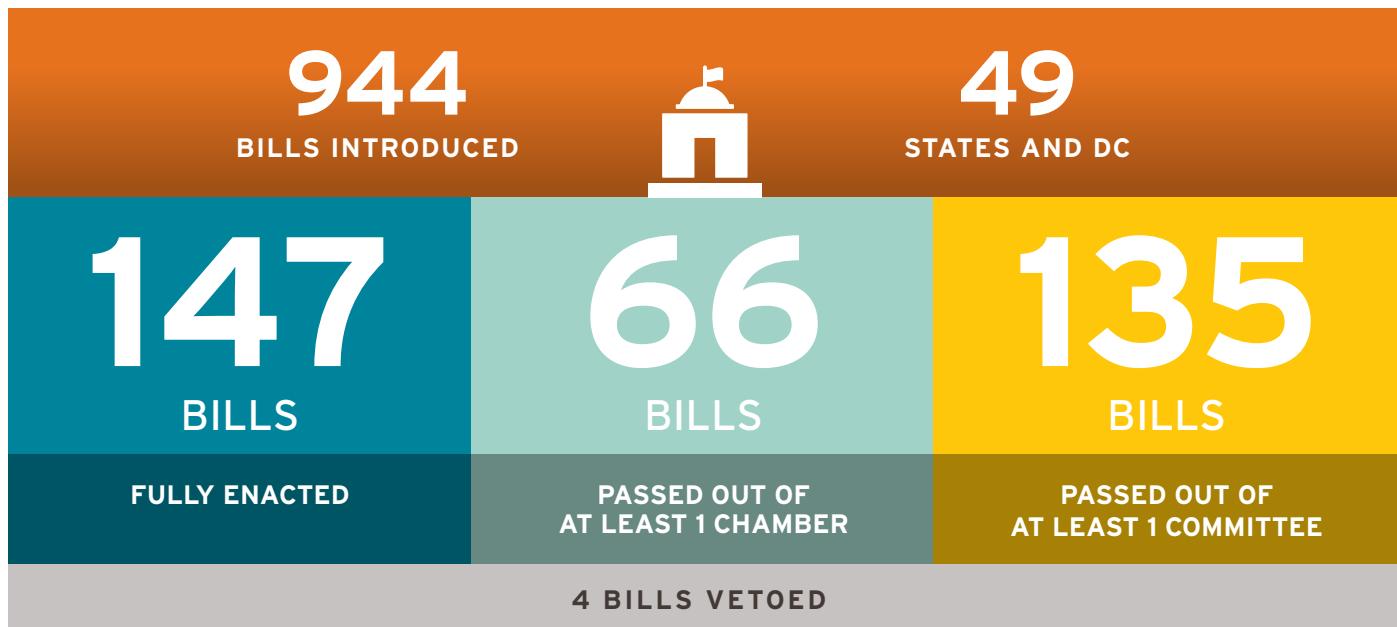
YEAR IN REVIEW 2019

A REPORT OF THE NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH

The National Institute for Reproductive Health's 2019 report, *Gaining Ground: Proactive Reproductive Health and Rights Legislation in the States*, documents the tremendous work of advocates, legislators, and governors to protect and advance reproductive freedom, particularly abortion access, in 2019. Despite, and in some cases in response to unprecedented efforts by state governments to restrict or eliminate access to abortion, 38 states and the District of Columbia enacted a record **147 bills to protect and expand reproductive freedom in 2019 - more than each of the previous five years.**

Gaining Ground tracks legislation across six policy areas: expanding access to abortion, improving access to contraception, increasing access to pregnancy care, promoting comprehensive sexuality education for all young people, supporting parents and families, and prohibiting interference with reproductive health care.

PROACTIVE LEGISLATION PROTECTING REPRODUCTIVE HEALTH, RIGHTS, AND JUSTICE



To read the full report, visit nirhealth.org

GAINING GROUND: YEAR IN REVIEW 2019

A RECORD NINE STATES ENACTED LEGISLATION TO PROTECT AND EXPAND ABORTION RIGHTS AND ACCESS.

- **Illinois, New York, Rhode Island, and Vermont** enacted laws that codify a fundamental right to make reproductive health care decisions, including the decision to have an abortion. **Nevada** decriminalized self-managed abortion so that women do not risk prosecution for ending a pregnancy.
- Four other states enacted laws to advance access to abortion care. **California** will require public universities to provide medication abortion at on-campus student health centers. **Connecticut** established a council to respond to federal legislation that could impact women's health care in the state. **Maine** enacted legislation that requires abortion coverage through Medicaid and allows advanced practice clinicians to provide abortion care within their scope of practice. **New Jersey** enacted an address confidentiality program, allowing patients and providers to request that their addresses be kept confidential and thus helping them stay safe in their homes.

A STRIKING 41 STATES AND THE DISTRICT OF COLUMBIA CONSIDERED LAWS TO IMPROVE MATERNAL HEALTH, INCLUDING:

- **Illinois, New Jersey, and New York** each enacted laws to improve birth experiences and overall maternal health outcomes, respect women's rights to autonomy and dignity in the health care setting, and reduce disparities among Black women and women of color by establishing maternity care standards and protocols and training health care providers and staff.
- A dozen states - **Arkansas, Colorado, Idaho, Maryland, Nevada, New Jersey, New Mexico, New York, Oklahoma, Rhode Island, Virginia, and Washington** - created or strengthened maternal mortality review commissions, triple the number that were created in 2018. Four more - **Arizona, Georgia, Maryland, New York** - created similar studies on maternal mortality.
- **Indiana, New Jersey, and Wyoming** enacted legislation to reform their Medicaid programs so pregnant women can have access to the provider of their choice, as well as support from doulas throughout pregnancy.

NINE STATES MOVED LEGISLATION TO ADVANCE REPRODUCTIVE HEALTH CARE AND RIGHTS FOR INCARCERATED PEOPLE, INCLUDING:

- **Arkansas, Nebraska, and Utah**, enacted laws to prohibit shackling during pregnancy, labor and delivery, and

postpartum recovery, totaling 32 states that now have such laws on the books. Arkansas' law went further to require correctional or detention facilities to provide women with prenatal nutrition, hygiene products, and access to prenatal and parenting classes.

- **Texas** enacted a comprehensive law that provides incarcerated women with information on prenatal care and parenting, promotes visitation between a mother and her child, and prohibits the solitary confinement of pregnant and postpartum women in county jails. **Georgia, Maryland, and New Jersey** enacted stand-alone policies to end solitary confinement during pregnancy and the postpartum period.
- **New Mexico** enacted laws to support incarcerated women's ability to parent by developing a breastfeeding and lactation policy and requiring courts to consider an individual's pregnancy and lactation status when determining eligibility for release, bond, or time served.

STATES LEVERAGED THE POWER OF ELECTORAL WINS TO ADVANCE PROACTIVE POLICY.

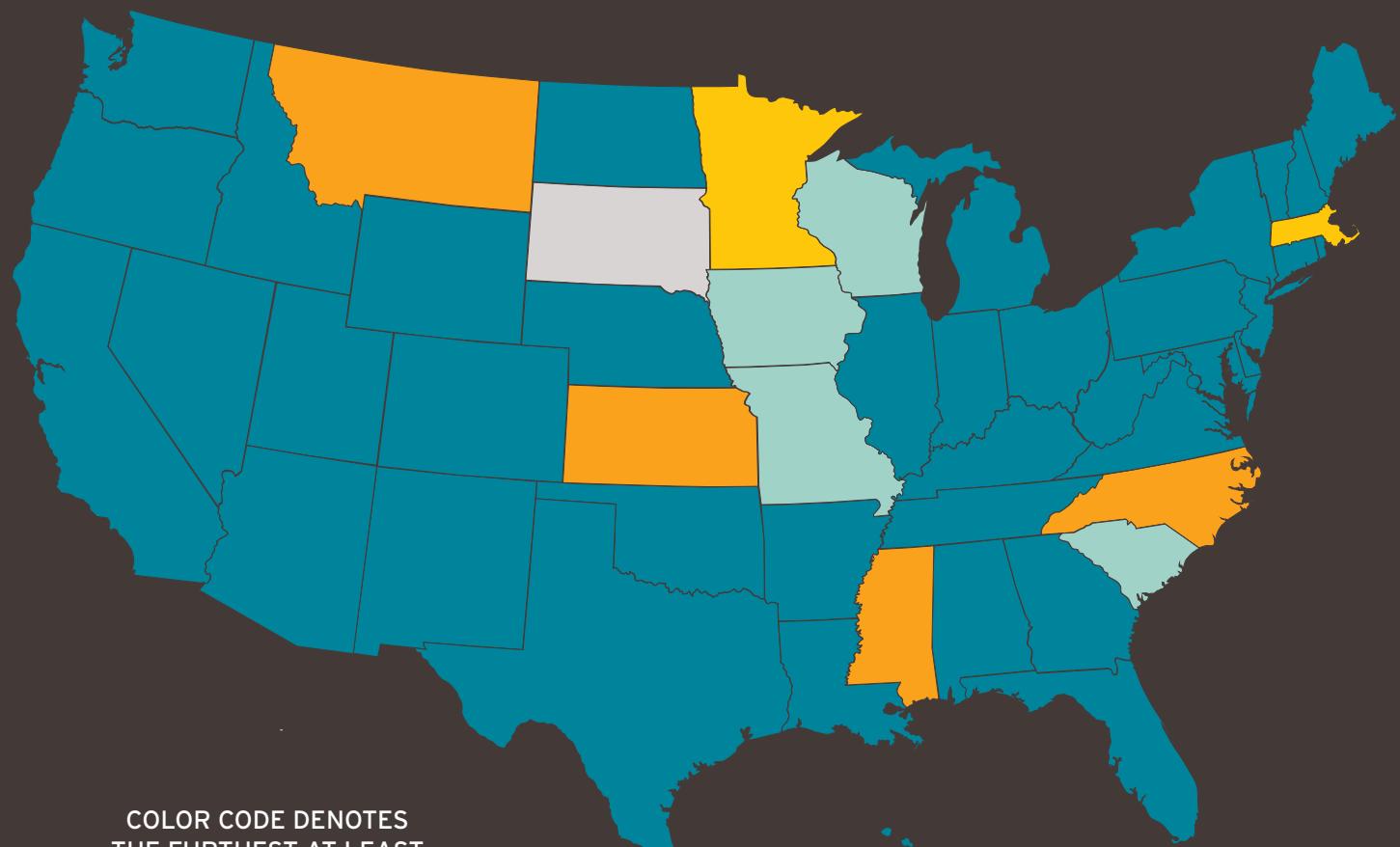
- Midterm electoral wins in 2018 flipped many state legislative seats and led to pro-choice governing trifectas in **Illinois, Maine, New York, and Nevada**, enabling those states to finally pass proactive legislation that improves access to abortion.
- In **Nevada**, where women comprised the majority of state legislators for the first time in U.S. history, reproductive rights and health soared to the top of the agenda as the state enacted four proactive bills addressing abortion access, contraception access, and maternal health.

STATES PREPARING FOR A POLITICAL SHIFT USED BILL INTRODUCTIONS TO BUILD A STRONGER MOVEMENT.

- Even in states that have not yet achieved pro-choice majorities, reproductive health champions were hard at work. Lawmakers in **Arizona, Minnesota, Texas, and Virginia** introduced a significant number of proactive reproductive health and rights bills, ranging from 23 bills in Arizona to 65 bills in Texas, demonstrating how activists are tirelessly building a movement toward reproductive freedom and are poised to make lasting change.

MOVEMENT OF PROACTIVE LEGISLATION FOR REPRODUCTIVE HEALTH, RIGHTS, AND JUSTICE

AS OF DECEMBER 15, 2019



- ENACTED LEGISLATION
- AT LEAST ONE CHAMBER PASSED LEGISLATION
- AT LEAST ONE COMMITTEE PASSED LEGISLATION
- INTRODUCED LEGISLATION
- VETOED LEGISLATION
- NO LEGISLATIVE ACTION



MOVING FORWARD: NINE POLICY IDEAS FOR 2020

As advocates and legislators determine their policy agendas for 2020 and look for ways to protect reproductive rights, improve access to reproductive health care, and change the public conversation about reproductive health, rights, and justice, NIRH suggests considering legislation to accomplish the following:

- 1. Protect the right to decide when and whether to become a parent, including the right to decide to have an abortion**, by codifying that right in state law.
- 2. Ensure that everyone who needs it can access abortion care**, by repealing state laws that restrict rights and access, such as waiting periods or bans on insurance coverage for abortion.
- 3. Ensure that no one who becomes pregnant will be investigated, prosecuted, or imprisoned for managing their own abortion** by repealing laws that criminalize self-managed abortion and enacting legislation that makes it clear that no one can be prosecuted or jailed for ending their own pregnancy.
- 4. Improve the health of women and families** by enacting legislation providing insurance coverage for the full range of reproductive health care, including contraception and abortion, prenatal care, postpartum care, and breastfeeding support and supplies.
- 5. Expand access to the full range of contraceptive options** by mandating that insurance companies must cover all forms of contraception without additional barriers and by allowing patients to obtain a year's worth of birth control with one prescription.
- 6. Keep abortion patients and providers safe** by ensuring that employees, volunteers, or patients of reproductive health providers can request that their private, personal information – including where they live and information about their children – is kept off the internet and away from those who seek to harass and harm them.
- 7. Protect and promote the health of women, transgender men, and other people who can become pregnant who are incarcerated** by prohibiting shackling during pregnancy, requiring prisons and jails to meet prenatal and postnatal health and nutrition standards, creating lactation and breastfeeding support programs, requiring courts and prosecutors to strongly consider alternatives to incarceration for anyone who is pregnant or lactating, and following through on all of those guarantees.
- 8. Support the ability of pregnant and parenting young people to stay in school** by ensuring that pregnant students can take time off to get pregnancy care or abortion care by requiring schools to help students catch up when they return and providing young parents with sick days specifically to take care of sick children without requiring a doctor's note.
- 9. Ensure that no one's reproductive decisions are coerced by the government** by prohibiting any court or other state entity from making a benefit from the state – such as a reduced sentence – contingent on agreeing to use contraception, be sterilized, or make any other decision about one's reproductive life.