



HEALTH CARE LEGISLATURE

'Anything's on the table': Missouri legislature may revisit contraceptive limits post-Roe

The Missouri Senate voted last year to ban common forms of contraceptives from being paid for by the state's Medicaid program

BY: **TESSA WEINBERG** - MAY 20, 2022 9:00 AM



 Under current Missouri law, access to birth control in Missouri would not be affected if *Roe v. Wade* is overturned. But reproductive rights advocates expect it to be an area lawmakers will try to limit (Robin Bravender/States Newsroom).

By the time state lawmakers return to the Capitol next year, [nearly all abortions could be illegal in Missouri](#).

With a trigger ban already on the books that would go into effect if the U.S. Supreme Court overturns *Roe v. Wade*, the GOP supermajority that controls the Missouri legislature is already mulling what types of policy changes [they hope to pursue in a post-Roe world](#).

Reproductive rights advocates worry the next fight could be over access to contraceptives, which a group of conservative state senators unsuccessfully pushed to limit for Medicaid recipients last year.

“There are some that I think are okay and some that I don’t believe in,” state Sen. Denny Hoskins, R-Warrensburg, said of contraceptives, “especially the morning after pill and things that come after conception. So I think anything’s on the table.”

Under current Missouri law, access to birth control in Missouri [would not be affected](#) if *Roe v. Wade* is overturned.

Sam Lee, a longtime lobbyist with Campaign Life Missouri, said he has heard little desire of passing limits on access to birth control.

“I don’t see a ban on the use of contraceptives having any chance of passing in Missouri,” Lee said.

But the Missouri Senate [did vote last year to ban common forms of contraceptives](#), like levonorgestrel, commonly called the “morning after” pill, and some intrauterine devices, or IUDs, from being paid for by the state’s Medicaid program.

The vote took place as part of an effort to renew an essential tax on hospitals, nursing homes and pharmacies, known as the federal reimbursement allowance. After the amendment limiting access to contraceptives was passed, the bill was set aside. The federal reimbursement allowance [was ultimately renewed a few months later without the language targeting contraceptives](#).

A bipartisan coalition of the women of the Senate [were credited with coming together to find a path](#) forward and beating back the provisions targeting contraceptives. But half the Senate is up for election this year, and if *Roe* is overturned, a vote on contraception may not play out the same way, said Maggie Olivia, a policy manager with Pro-Choice Missouri.

“I can’t say with confidence that a similar kind of coalition would come together and do the right thing again,” Olivia said.

One of the senators who voted for the contraception amendment last year, but ultimately supported the FRA’s passage without that language, was non-committal about how that vote would turn out in the future.

“I think we’ll have to cross that bridge when we get there,” said Sen. Elaine Gannon, R-De Soto. “I support pro-life. I’ve always been pro-life. I’ll never change my position on that.”

Scope of restrictions

In the wake of [the leaked draft U.S. Supreme Court opinion](#), questions have swirled on how states will treat contraceptives, miscarriages and in vitro fertilization if Roe v. Wade is overturned and divisions have arisen within the anti-abortion movement [on just how far laws should go](#).

In Louisiana, the state's Right to Life chapter [opposed a law that would have allowed](#) those who receive an abortion to be criminally prosecuted and face life in prison if convicted. The legislation [was ultimately amended to remove](#) the provision and others that would have outlawed certain forms of birth control and criminalized parts of the in vitro fertilization process, according to the Louisiana Illuminator.

Missouri Right to Life was among over 70 organizations that [signed onto a letter last week](#) urging lawmakers nationwide to refrain from criminalizing those who receive an abortion.

Women in [Oklahoma](#) and [Texas](#) have been charged with manslaughter and murder after miscarriages and self-induced abortions. A [bill filed this session](#) by Sen. Mike Moon, R-Ash Grove, that did not gain traction would have allowed patients to be held criminally responsible "for the death or attempted death of her child" for receiving an abortion.

Reproductive rights organizations in Missouri have made clear that access to contraceptives would not be immediately limited if Roe v. Wade is overturned.

"We don't want folks to be so afraid that they start taking their own IUDs out," Olivia said, "or they don't go see a doctor when they maybe should out of fear about their birth control or emergency contraception or their fertility care."

It's a point Lee echoed, stressing [that the Missouri law that defines life begins at conception](#) has not been interpreted by courts to restrict access to contraceptives and in vitro fertilizations or impact miscarriages.

"It hasn't and it never will," Lee said, "And it didn't before Roe vs. Wade, when we had abortion laws on the books since 1825."

Missouri courts have upheld murder and manslaughter convictions and wrongful death judgments against third parties for causing the death of an unborn child, [such as in the cases of the murder of pregnant women](#).

In 2007, a Missouri Court of Appeals [upheld a lower court's dismissal](#) of a child endangerment charge after a woman's son tested positive for marijuana and methamphetamine after his birth, pointing to the provision of state law that bars women from being prosecuted, "for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care."

That same year, however, a [St. Charles County Circuit judge declined to dismiss a charge](#) of involuntary manslaughter after a woman's daughter was born with acute intoxication and died. The woman [ultimately pleaded guilty](#) and was sentenced to substance abuse treatment to avoid a seven-year prison sentence.

Olivia said it's an underlying fear that may hinder people from getting medical help when they need it.

“Even if these laws don't explicitly say, ‘We're coming after miscarriage management,’” Olivia said, “in effect, the fear is really what is so dangerous for these folks, and is gonna keep people from seeking care that they really need.”



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