

# LIBERATE ABORTION

## Policy Strategies for States in the “Middle” on Abortion

*Refer to Liberate Abortion’s [messaging guidance](#) on abortion. State and local advocates know their communities best: be sure any policy efforts are pursued in collaboration with them. The following ideas are policies that have been introduced or initiated in some states or localities, but each state or municipality should do independent research to ensure compliance with relevant laws.*

*In a state in the “middle” on support for abortion access, statewide elected officials and state and local lawmakers may have a range of stances on abortion. Although not all of these policies may be possible for every “middle” state, this resource is inclusive so advocates and electeds can explore what is achievable in their unique state or local environment.*

### **Statewide Officials (including governors, attorneys general, and health commissioners)**

*Statewide officials are uniquely situated to work across agencies and branches of government to secure protections and access for abortion for both people in their state and those coming to their state for care, including undocumented people, incarcerated people, and people in immigration detention facilities. Using the powers available to them, statewide officials should also aim to advance the policies listed under the “state and local lawmakers” section. Additional strategies include:*

- Make abortion access information widely available, such as via a landing page and/or non-internet sources where those seeking abortion can find accurate information, including where to get an abortion within the state (via [INeedAnA.com](#) and [AbortionFinder.org](#)), how to access support such as funding or transportation (via [National Network of Abortion Funds](#)), how to discern an abortion provider from a crisis pregnancy center, and resources for emotional and spiritual support.
- Make clear all the ways abortion access and rights are protected in the state. For example attorneys general can issue opinions that make clear that a state constitution protects the right to abortion or opinions that clarify existing state law, such as that a minor has the right to independently consent to abortion or that advanced practice clinicians can provide abortion.
- Make abortion affordable, such as by incorporating abortion access needs into the state budget, establishing abortion coverage under Medicaid, improving Medicaid reimbursement rates, streamlining the process for providers to register to accept Medicaid, and ensuring telehealth parity.

- Remove barriers to abortion and expand access, including calling on state lawmakers and agencies to remove abortion restrictions from agency regulations.
- Protect abortion providers, people who have abortions, and people who help others access abortions. Ways to do this include:
  - Making clear that prosecutions for pregnancy outcomes are prohibited due to lack of authority and that your office will not prosecute pregnant people under abortion bans;
  - Making clear that the state will not cooperate with out-of-state investigations regarding abortions that are lawful in your state; and
  - Creating or calling for a state reproductive rights and justice working group that identifies strategies to expand access to abortion, and protect patients, providers, and helpers from those seeking to impede access to abortion care.
- Put pressure on employers to include abortion access in their internal worker policies and healthcare plans, including by offering paid sick and family leave, creating emergency assistance and wellness programs, providing comprehensive health insurance that includes abortion coverage, reimbursing travel costs for out-of-state or long-distance travel to access abortion for both the employee and companion, covering childcare costs, and creating an emergency fund for costs associated with accessing abortion. Employers should minimize data collection of private health care information in these endeavors.
- Mitigate the harms of crisis pregnancy centers (CPCs), such as by increasing public education efforts and consumer protection warnings on the dangers of CPCs, including lack of medical professionals and misleading and deceptive practices; auditing their funding streams and halting public funding; and protecting the private information of people who visit CPCs.

### **State and Local Lawmakers**

*State and local lawmakers should work to secure protections and access for abortion for both people in their state and those coming to their state or locality for care, including undocumented people, incarcerated people, and people in immigration detention facilities. These policies include:*

- Repealing existing abortion restrictions, such as parental consent and mandatory delay laws for minors, gestational abortion bans, physician-only laws, bans on the use of telehealth for abortion care and other telehealth restrictions, restrictions on medication abortion, and unnecessary reporting requirements.
- Removing funding barriers by:

- Allocating funds to help in-state and out-of-state abortion patients pay for abortion care or practical support for abortion care, using state or local funds or American Rescue Plan Act (ARPA) funds, and working with state and local partners to determine how to distribute those funds;
  - Creating state grants to train abortion providers;
  - Increasing insurance coverage of abortion care, including for those historically excluded such as undocumented persons, via:
    - Medicaid: covering abortion care in Medicaid; improving Medicaid reimbursement rates; and streamlining the process for becoming a state-Medicaid eligible provider and for billing and reimbursement of claims, and
    - Private insurance coverage: mandated abortion coverage, including in student health plans; gap coverage for patients lacking coverage for abortion and abortion-related care, including those that are uninsured or underinsured; eliminating cost-sharing for abortion-related services, including telehealth; and eliminating “reason-based” distinctions for abortion in coverage, limits on number of covered abortions, and limits on coverage for out-of-network abortion care;
  - Mandating reimbursement for translation services for in-person and telehealth;
  - Mandating insurance coverage of mailing medications to a patient; and
  - Ensuring telehealth parity.
- Ensuring the right to abortion is enshrined in state law, including in statute or in a constitutional amendment. While all of the recommendations in this document should be considered in light of your state’s access needs and unique environment, this is *especially critical* if considering a constitutional amendment. A constitutional amendment is typically *not the most effective way to improve access* and - given the high financial cost and capacity needs - should not be advanced without long-term planning and buy-in from state, local, and national partners. When considering a constitutional amendment, drafters should consider whether a broad framework could be used to protect a range of rights, not just abortion.
  - Protecting pregnant people and those who have abortions from criminalization, including decriminalizing self-managed abortion and decriminalizing any pregnancy outcome, including removing mandatory drug testing of pregnant people and mandatory reporting.
  - Protecting people who have abortions, abortion providers, and those who assist people in getting abortions from states hostile to abortion, such as by:
    - Prohibiting out-of-state subpoenas or extradition to a hostile state;
    - Refusing to participate in other state’s investigations of pregnancy outcomes and abortions that are legal in the state;
    - Prohibiting medical malpractice insurance companies from taking any adverse action against a reproductive health care provider who provides reproductive health care that is legal in their state;

- Prohibiting medical boards from taking adverse action against providers who provide abortions legal in their state.
- Improving security protections, such as by:
  - Expanding existing address confidentiality programs to include abortion providers;
  - Removing any statutory or regulatory requirements to ask for a patient's residence or location; and
  - Investing in clinic infrastructure and security, including by allocating money to clinics to invest in security enhancements.
- Protecting the data privacy of abortion seekers, abortion providers, and organizations that assist those seeking abortions.
- Creating nondiscrimination protections for abortion providers by specifically prohibiting hospitals and other health care employers from taking adverse actions against employees because of the employee's participation in abortion services.
- Expanding who can provide abortion care, including repealing any physician-only laws, making explicit that advanced practice clinicians can provide medication and surgical abortion, expediting the licensure of abortion providers (while retaining standards of care), and expanding access to abortion training.
- Expanding medication abortion access, such as requiring public universities to provide medication abortion.
- Expanding telehealth for medication abortion care access, such as by:
  - Improving broadband infrastructure in rural areas and affordability in urban areas;
  - Mandating coverage of different modalities of telehealth (i.e., audio-video, audio-only, asynchronous care), including payment parity where appropriate;
  - Eliminating any physical presence requirements that restrict the use of telehealth (including those related to ultrasound, Rh testing, in-person counseling and/or consent requirements), and deferring to clinical indication;
  - Investing in the technology clinics need to facilitate telehealth services; and
  - Providing public education on the use of telehealth to meet healthcare needs.
- Make abortion access information widely available, such as via a landing page and/or non-internet sources where those seeking abortion can find accurate information, including where to get an abortion within the state (via [INeedAnA.com](https://www.ineedana.com) and [AbortionFinder.org](https://www.abortionfinder.org)), how to access support such as funding or transportation (via [National Network of Abortion Funds](https://www.nationalnetworkofabortionfunds.org)), how to discern an abortion provider from a crisis pregnancy center, and resources for emotional and spiritual support.

- Mitigate the harms of crisis pregnancy centers (CPCs), such as by increasing public education efforts and consumer protection warnings on the dangers of CPCs, including lack of medical professionals and misleading and deceptive practices; auditing their funding streams and halting public funding; and protecting the private information of people who visit CPCs.
- Ensure workplaces support access to reproductive health care and justice, including by offering paid sick and family leave; creating emergency assistance and wellness programs; providing comprehensive health insurance that includes abortion coverage; reimbursing travel costs for out-of-state or long-distance travel to access abortion for both the employee and companion; covering childcare costs; and creating an emergency fund for costs associated with accessing abortion. Employers should minimize data collection of private health care information in these endeavors.
- Enact new laws to address denials of care, including ensuring that hospital mergers are not harmful to certain populations in the community, hospital policies are transparent and disclosed to patients, and patients receive care in urgent situations.

### **Special Considerations for “Middle” States**

- De-stigmatize abortion: Talk about abortion! It is important to keep up the drumbeat on abortion access, even in the absence of rallies or major events. For example, you can talk about abortion in public statements or op-eds.
- Local action may be best: Statewide action may not be possible in middle states. Pro-abortion municipal leaders may be better situated to pass abortion access bills for their locality. If local abortion access laws are impossible, municipal leaders can pass resolutions in support of reproductive rights and justice as a first step toward more substantive policy. However, it is important to be mindful that local efforts could invite additional hostile state-level legislation in response, so considerations about preemption and backlash should be discussed with local stakeholders.
- Message/vision legislation: If the chance of passing legislation seems unlikely, you may consider a messaging bill that lays out a vision of reproductive freedom. Even if the bill is unlikely to pass, such legislation creates a vision to build towards, organize around, and use as a tool for education.
- Continue to organize and engage supporters: Host legislator roundtables and town hall meetings to engage constituents and community leaders in the work.
- Participate in litigation: Look for opportunities to join state level litigation with providers and other plaintiffs.

- Ensuring the right to abortion is in state law may be particularly important for a “middle” state, because those states are susceptible to changes in leadership and the whims of anti-abortion politicians.
- Work with friendly offices where they exist: Find ways to partner with pro-abortion offices, such as writing regulations that impact abortion access.