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## Contraception is already restricted in many states, and it could be the next battleground. Here's what you need to know.

Andrea Michelson Jun 28, 2022, 11:51 AM EDT



State laws banning abortion "from the moment of fertilization" could interfere with access to emergency contraception, such as the Plan B pill. Darin Oswald/Idaho Statesman/Tribune News Service via Getty Images

**The Supreme Court has removed federal protections on the right to abortion.**

**Access to the morning-after pill and IUDs may be at risk in states with restrictive abortion laws.**

**States could also move to protect access to contraception with proactive legislation.**

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Since the Supreme Court overturned *Roe v. Wade* and left the right to safe and legal abortions up to states, access to contraception has become a more pressing issue than ever for Americans of child-bearing age.

Demand for online reproductive-health services has surged in the days since the decision became official, providers told [Insider](#). CVS and Walmart have both limited purchases of over-the-counter emergency contraceptive pills, which were already in short supply, [The Wall Street Journal](#) reported.

[Choix](#), a telehealth provider that offers emergency contraception and multiple birth-control options, as well abortion pills in a few states, said visits to its website spiked 600% on the day of the ruling. [The New York Times](#) reported that demand increased similarly for morning-after pills sold online by [Stix](#), and 72% of those customers were stocking up on multiple doses.

The court's decision to restrict abortion access has no bearing on other precedents related to reproductive health and privacy — at least according to the [majority opinion](#).

But in a separate explanation of the decision, Justice Clarence Thomas called for a revisiting of [Griswold v. Connecticut](#), the landmark case that protected access to contraception.

"The time to ring alarm bells is now," Andréa Becker, a medical sociologist and reproductive-health researcher at the University of California, San Francisco, told Insider via email following the court's decision.

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"The attack on abortion rights is one piece of a broader attack on reproductive health; presently, no one with the capacity to get pregnant has full reproductive autonomy," Becker continued.

Emergency contraception, such as the Plan B pill, and some IUDs could be the first birth-control methods under restriction, solely based on the language of state laws that outlaw abortion "from the moment of fertilization." It is now up to state legislators to either protect or chip away at the right to contraception, which has the potential to widen existing disparities in access.

## **Many states already limit access to contraception**

Access to contraception was already under threat before the recent ruling on abortion, Becker told Insider. Employers can legally refuse to cover the cost of contraception in employee health-insurance plans, said a 2020 Supreme Court ruling on a religious-freedom case.

Some states have crafted laws that also allow providers' religious or moral objections to preempt patients' protected access to birth control, including the emergency contraceptive pill.

Also known as Plan B, the morning-after pill prevents pregnancy and is the "gold standard" of treatment for rape victims who seek medical care, said Michele Goodwin, a chancellor's professor of law at the University of California, Irvine. Twenty states and the District of Columbia require hospital emergency rooms to provide information about emergency contraception to sexual-assault victims, the Guttmacher Institute said.

Conversely, at least 12 states permit some healthcare providers — including doctors, hospitals, and pharmacists — to refuse patients contraceptive services, including Plan B, Guttmacher said.

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**9 states allow doctors and nurses to refuse to provide services related to contraception:**

- Arizona
- Arkansas
- Colorado
- Florida
- Idaho
- Illinois
- Maine
- Mississippi
- Tennessee

**8 states allow healthcare institutions to refuse to provide services related to contraception:**

- Arizona
- Arkansas
- Colorado\*
- Illinois
- Maine\*
- Massachusetts\*
- Mississippi
- Tennessee\*

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*\*Private institutions only.*

## **6 states allow pharmacists to refuse to dispense contraceptives:**

- [Arizona](#)
- [Arkansas](#)



- [Idaho](#)
- [Mississippi](#)
- [South Dakota](#)
- [Colorado, Florida, Illinois, Kansas, Maine, and Tennessee](#) have broad refusal clauses that may apply to pharmacists.

## **Plan B and IUDs are the next battleground, according to some lawmakers**

The emergency contraceptive pill does not terminate a pregnancy. It either stops the release of an egg from the ovary or prevents sperm from fertilizing the egg, depending on where you are in your cycle. That's why it's important to take Plan B within 72 hours after having unprotected sex — the pill won't work if a fertilized egg has already implanted in the uterine lining.

But some legislators have conflated the emergency contraceptive pill with abortion pills, which have the power to stop a pregnancy after an egg has implanted. While these medications work differently from Plan B, lawmakers, such as Idaho state Rep. Brent Crane, have used the Supreme Court decision as an opening to consider banning emergency contraception.

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Intrauterine devices could also be at risk since some IUDs work by making the lining of the uterus inhospitable to fertilized eggs. A proposed Louisiana law that equated abortion to homicide could have criminalized both IUDs and Plan B, but the bill failed to pass.

## **Access to contraception remains protected — for now**

In four states, physicians are legally obligated to fill valid prescriptions for emergency contraception: California, New Jersey, Washington, and Wisconsin, [Guttmacher](#) said. That's especially important in Wisconsin, where abortions are no longer legally available because of a pre-Roe state abortion ban dating back to 1849.

Becker said state legislators should start passing proactive legislation to preserve the right to all forms of contraception immediately. (In at least eight states, pharmacists have the right to dispense the Plan B pill even if a doctor refuses to prescribe it.)

"Sanctuary states" may also end up being havens for access to emergency contraception, Goodwin added. Planned Parenthood has moved some clinics to the border of trigger states, including a new facility in Illinois, less than 15 miles from Missouri.

"It's important to not lose sight of what the possibilities are, even if we're to be realistic about it," Goodwin said. "But for the poorest and most vulnerable of women who were hit by this, it's going to be very difficult in some instances to get to those places."

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