

The New York Times

A WOMAN'S RIGHTS: PART 3

The Cost of Complacency About Roe

BY THE EDITORIAL BOARD

It would be easy to assume that unjust abortion restrictions that endanger women's lives are a problem only in deep red states. But laws that restrict the rights of women exist in even the bluest bastions of the country.

They don't get much attention, and many people might not know they're even on the books. Until the moment when the law steps between patient and doctor.

Erika Christensen and her husband were at her obstetrician's office on Manhattan's Upper East Side, a few blocks from Central Park, when they were given news that broke their hearts.

If delivered, their baby would choke to death minutes after birth. "We knew immediately that we would do anything to avoid that," Ms. Christensen recalled.

Then came the second blow: To have an abortion, they were told, was illegal in New York. State law bans abortions after 24 weeks of pregnancy unless a woman's life is in danger. Ms. Christensen was 30 weeks pregnant and healthy.

Before abortion was legalized nationwide in 1973, women from around the country found refuge in New York, where the procedure was legal. In 2016, Ms. Christensen found herself having to flee New York for a more progressive health care system in Colorado.

She describes a surreal journey. Airport security officers wished Ms. Christensen, who was visibly pregnant, a happy Mother's Day. "Is this your first?" she recalls one asking cheerily.

The clinic of Dr. Warren Hern operates behind bulletproof glass in Boulder, Colo. — anti-abortion activists have threatened him for years. Ms. Christensen was given a shot that stopped the fetus's heart. Then she and her husband, Garin Marschall, flew back home to New York, where she labored for 30 hours until she delivered a stillbirth.

Ms. Christensen says the ordeal cost the couple roughly \$11,000, a third of it covered by insurance. Many women pay thousands more.

"You can't imagine any other medical care being treated this way," said Ms. Christensen, who first told her story, anonymously, to Jezebel in 2016. She has since become an abortion-rights advocate. "It was like the twilight zone."

This is the reality of abortion access in New York, a state that has an abortion law that fails to meet the full protections established under Roe v. Wade.

When the state's law was enacted in 1970, it was the most progressive in the nation, and tens of thousands of women traveled to New York to safely obtain the procedure. But once Roe was decided, just a few years later, the statute immediately became outdated.

The 1970 law was passed by a Republican legislature and signed into law by Gov. Nelson Rockefeller, also a Republican.

But as the Republican Party veered sharply rightward in the decades that followed, support plummeted among Republican state legislators for abortion. The Catholic Church and lobbyists on its behalf advocated against efforts to update the law. Democrats didn't press the issue.

Geography and gerrymandering helped keep Republicans in control of Albany's upper chamber nearly uninterrupted for nearly 50 years, and attempts to expand abortion rights, or even codify Roe v. Wade into state law, went nowhere.

At the same time, abortion-rights groups did not challenge the constitutionality of the state's abortion law. Such cases take a significant toll on the women and providers involved, and require deep pockets and large legal teams. With abortion rights under attack across the country, especially in more conservative states, national attention went elsewhere.

Democrats and abortion-rights advocates didn't push hard enough for women's rights in New York. Now, they have a chance to get it right.

When Donald Trump won the presidency, it became clear that *Roe v. Wade* was in peril.

New York voters suddenly tuned into state politics, realizing that liberal policies in their own state, including abortion rights, were stymied by State Senate Republicans and Albany's deeply entrenched, party-machine politics. In November, more than half of active voters in the state showed up to the polls, the highest turnout in more than 20 years. The electorate delivered a seven-member Democratic majority to the State Senate with a mandate for change.

New York's current abortion law carries criminal penalties for physicians. The law includes a narrow exemption for an abortion after 24 weeks if a woman's life is at stake but offers no such exemption if her health is merely at risk, a contingency that *Roe* is supposed to guarantee. That omission leaves some pregnant women, like Ms. Christensen, unprotected — and often surprised.

"This is New York. This is America. There's *Roe v. Wade*. But nobody reads the fine print," said State Senator Liz Krueger, a lead sponsor of New York's proposed Reproductive Health Act.

In addition to bringing New York's abortion law up to today's federal standard, the Reproductive Health Act would permit nurse practitioners, physicians assistants and midwives to provide nonsurgical abortion care, reducing wait times. It would also remove the abortion law from the state's penal code and put it in the health code, where it belongs. Advocates say the legislation would re-establish the state as a national leader in abortion access and a place where women from more restrictive states could travel to get the care they need.

Gov. Andrew Cuomo of New York has vowed to approve the legislation within the first 30 days of the new session, which begins in January.

It helps that some of the bill's strongest supporters will be in charge. Andrea Stewart-Cousins, one of the original sponsors of the Reproductive Health Act, will lead the State Senate as majority leader. Ms. Krueger will be chairwoman of the powerful Senate Finance Committee. They will be joined by women like Alessandra Biaggi, 32, a Democrat and State Senator-elect who fought for the bill as a former aide to Governor Cuomo. "We will raise hell to make this happen," Ms. Biaggi said.

Democratic lawmakers and abortion rights advocates say they believe they have the votes but take nothing for granted. That's part of what led the National Institute for

Reproductive Health and its action fund, a group that has supported the bill for years, to sponsor a television ad campaign in recent weeks to help push the legislation over the finish line.

Some advocates want more. Oregon, for instance, has no state laws restricting abortion at all. And regardless of what New York's law may say, access to abortion often comes down to geography and money.

There are 218 health care centers offering abortion services in New York. But about 10 percent of the state's population live in counties with no abortion provider, according to 2014 data from the Guttmacher Institute. That's better than the national average of 39 percent. But as Laura McQuade, president and chief executive of Planned Parenthood of New York City, put it, "The general state of abortion in New York is not what it should be and not what the general public thinks it is."

In subtle ways, access to abortion statewide can be surprisingly restrictive. Some hospitals, particularly those that are religiously affiliated, don't perform abortions at all. In other hospitals, most doctors will perform abortions only in or around the first trimester, according to obstetricians who practice in the state. These physicians say that after 16 weeks, the number of doctors willing or able to perform abortions at hospitals in New York falls precipitously.

Abortions in New York commonly take place at private clinics, like Planned Parenthood, and in the city's public hospitals, like Bellevue. "In New York, a lot of doctors will say, 'Of course we support a woman's right to choose, we just don't do that here,'" said Dr. Bibi Telzak, a physician who performs abortions at Bellevue Hospital, which provides them up to 24 weeks.

Sangeet Raj, who lives in Yonkers, said the tight security at her local Planned Parenthood was understandable but unnerving. In 1998, Barnett Slepian, a Buffalo doctor who performed abortions, was shot dead in his kitchen by a sniper. Abortion clinics in other parts of the country have been bombed, and other abortion providers harassed and even shot.

"You're sliding your I.D. under a window like it's a jail, like you've done something wrong," Ms. Raj said. "You know about the protests. You've heard about the bombings. So you realize, we are under attack. This right, even though I'm exercising it, is under attack."

As in the rest of the country, most abortions in New York — nearly 90 percent — take place in the first 12 weeks of

pregnancy. But women seek abortions later in pregnancy for a variety of reasons, including, as in Ms. Christensen's case, because they discover the fetus they are carrying has severe anomalies.

Colleen Kortendick was one of those women. She also traveled from New York to Colorado for an abortion. She was 30 weeks pregnant at the time. Ms. Kortendick and her husband, who live in the Catskills and are small-business owners, had to come up with more than \$20,000 for the procedure and travel-related costs in a matter of days. They got about \$6,500 from the National Network of Abortion Funds, a nonprofit that helps women defray the cost of abortion and provides logistical support for those who need to travel to get the procedure. They used some money from their savings, and the rest they put on a credit card.

Ms. Kortendick said that being forced to leave her home state to seek medical treatment made her feel as though she was doing something criminal. "We have to save women from being turned into villains and monsters," she said.

Even its staunchest supporters acknowledge that the Reproductive Health Act won't address all of those issues, but it is a good starting point. "It's pretty radical, right?" Ms. Christensen said of the bill. "For women to come together and assert our rights as people."