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Oklahoma Gov. Mary Fallin (R) [signed a bill into law Monday](#) that criminalizes a medical procedure used during second-trimester abortions and for miscarriage management.

That came weeks after Kansas Gov. Sam Brownback (R) [signed similar legislation](#), and now reproductive rights advocates are raising serious concerns about the lasting implications of these new, radically anti-choice laws.

“With this law, Oklahoma has joined Kansas in an alarming trend toward substituting politicians’ agendas for the judgment and expertise of doctors, and then threatening those doctors with criminal charges if they disagree,” Nancy Northup, president and CEO of the Center for Reproductive Rights, [said in a statement](#).

Targeting Specific Abortion Procedures

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The laws ban the [dilation and evacuation](#) (D and E) procedure, which is commonly used in second trimester abortion care. The procedure is a method of abortion during which a physician will dilate a woman’s cervix and remove the fetus using forceps, clamps, or other instruments. During the procedure, the fetus is usually removed in parts.

Prior to 14 weeks’ gestation, abortions are usually performed using suction aspiration, but after 14 weeks the D and E procedure must be used, [according to the American Congress of Obstetricians and Gynecologists](#).

Depending upon the specific language of the law, D and E abortion bans may effectively ban all surgical abortion past 14 weeks’ gestation.

The bills, [legislation](#) drafted by the National Right to Life Committee (NRLC), redefine the D and E procedure as “dismemberment” abortion. The new laws’ graphic and medically inaccurate language describing the D and E procedure is [key to NRLC’s strategy](#) to pass similar laws in other states.

Fallin, in a statement about the abortion restriction, called the procedure “[gruesome](#),” while a spokesperson for Brownback called the procedure “[horrific](#).”

And Carol Tobias, president of the NRLC, [told the New York Times](#) that the Kansas law is the first of what NRLC officials hope will be many state laws banning the procedure. “This law has the power to transform the landscape of abortion policy in the United States,” Tobias said.

The two states are the first in the country to legislate such bans on “dismemberment” abortions. Identical bans are pending in [two other states legislatures](#) and more bills to ban the procedure are [likely to be introduced](#) in other states.

The legislative language and the rhetoric used by anti-choice lawmakers and activists is part of a [decades-old strategy](#) by the anti-choice movement to target specific procedures used during abortion.

Using Dishonest Language to Push Anti-Choice Proposals

More than a decade ago, anti-choice activists, using similar rhetoric, lobbied congressional leaders to ban the intact dilation and extraction abortion procedure. The so-called partial-birth abortion ban, a term also coined by the NRLC, was passed by Congress and signed into law by President George W. Bush in 2003.

Caitlin Borgmann, former state strategies coordinator for the American Civil Liberties Union's Reproductive Freedom Project, [told the *Kansas City Star*](#) that the legislative language is designed to make it difficult for lawmakers to oppose the proposals.

"It's meant to try to create an inflammatory description that people are going to read and then support the bill because their instinct is that this sounds terrible," Borgmann said.

"This procedure is very hard to defend," Mary Spaulding Balch, director of state legislation for the NRLC, [told the *Kansas City Star*](#). "I want to talk about what happens to the unborn child during an abortion and more particularly during this type of abortion."

While the NRLC has been [increasingly referring](#) to D and E abortion as "dismemberment abortion," often while supporting legislation on the state and federal level to ban abortion after 20 weeks, the term has long been used by anti-choice activists.

After the 2007 U.S. Supreme Court ruling in *Gonzales v. Carhart* upheld the so-called partial-birth abortion ban, Cathy Ruse, a senior fellow for legal studies at the right-wing Family Research Council, [used the term](#) when discussing the possibility of banning D and E abortion.

"This Could Be a New Trend at the State Level"

Elizabeth Nash, senior state issues associate for the Guttmacher Institute, told *Rewire* that reproductive rights advocates have been waiting for "another shoe to drop." The attempt to ban D and E abortion care appears to be the first new type of abortion restriction introduced by anti-choice activist since the influx of anti-choice legislation began in 2011.

"This could be a new trend at the state level," Nash said. "It does fall right in line with some of the trends we've been seeing over time. From states restricting access to post-viability abortion to the trend of 20-week abortion bans."

Some anti-choice activists say this latest abortion ban was likely after the U.S. Supreme Court upheld the so-called partial-birth abortion. "Abortion attorneys on both sides knew that this bill was the next step," Kathy Ostrowski, legislative director of Kansans for Life, [told the *Kansas City Star*](#). "It was inevitable this was coming. It was a matter of timing."

Bills to ban the D and E procedure have also been introduced in [Missouri](#) and [South Carolina](#), and anti-choice activists in Arkansas have said that similar legislation is [likely to be introduced](#) during the state's next legislative session in 2017.

Reproductive rights advocates are concerned about the possibility of a ban being passed in Missouri, where state lawmakers have, in recent years, aggressively sought to restrict reproductive rights.

"I'm not sure what the impact will be or how we would comply because the bill is written with non-medical language, and it's not written by doctors. It's written by politicians," Mary Kogut, president and CEO of Planned Parenthood of the St. Louis Region and Southwest Missouri, told *Rewire*. "Our concern is that this seems to be part of a broader strategy that is trying to ban safe and legal abortion in Missouri."

Planned Parenthood provides reproductive health-care services at several clinics across Missouri, and operates the state's lone clinic that provides abortion services. The clinic has been [under siege by state lawmakers over the past few years](#), as dozens of bills have been introduced targeting the clinic in an attempt to force its closure.

“Substituting Political Decisions for Medical Decisions”

The bans on D and E abortion will almost certainly face legal challenges from reproductive rights advocacy groups. Supporters of the legislation are confident in their constitutionality, and the NRLC believes the Roberts Court would uphold the new laws.

“We believe we have five votes that would allow us to ban this particular procedure,” said the NRLC’s Mary Spaulding Balch.

Ryan Kiesel, executive director of the ACLU of Oklahoma, told *Rewire* that there are deep concerns about the constitutionality of the new Oklahoma law, and similar laws like it in other states.

“Any time you have politicians putting their political judgements ahead of the medical judgements and medical recommendations made by a woman’s doctor, it is deeply concerning,” Kiesel said. “The Constitution has routinely held that substituting political decisions for medical decisions is not the way that we should be practicing medicine in the United States.”

Kiesel said that the use of non-medical and often inflammatory language found in bans on D and E abortion, and many other types of anti-choice legislation, are an attempt to impose a political agenda in the practice of medicine.

“The inflammatory non-medical language isn’t an accident; it’s on purpose and very deliberate,” Kiesel said. “It underscores that these bills are not about medicine, they’re not about health care, they’re not about protecting women, they’re not about protecting children. These bills are about politics.”

The impact the D and E bans will have on reproductive health care remains to be seen, but abortion providers and women in need of abortion care in Kansas and Oklahoma will soon feel the impact. The Kansas law goes into effect July 1, and the Oklahoma law goes into effect November 1.

Physicians and health-care professionals have made their concerns known about the consequences of these bans.

A letter signed by 20 doctors [opposing the ban](#) was submitted to the chairman of the Kansas House Federal and State Affairs Committee, Steve Brunk, when lawmakers were considering the ban in the GOP-dominated Kansas legislature.

“We are alarmed at the unprecedented attempt of Kansas legislators to dictate how physicians should perform a safe, common, and evidence-based surgical procedure,” the letter said. “This bill would restrict the safest and most expeditious way to terminate a second-trimester pregnancy. ... This legislation could also force physicians to provide substandard care to second-trimester abortion patients.”

Dr. Jennifer Wider, a physician who specializes in women’s health, [told Yahoo Health](#) that the D and E procedure is typically performed for miscarriage management or in abortions due to fetal deformities or a danger to the mother’s health.

“Some women opt for second trimester abortions electively, but studies show that these women tend to be younger and of lower socioeconomic groups with less access to healthcare,” Wider said.

The D and E abortion procedure accounts for about 8 percent of abortions from 2002 through 2011, [according to the Center for Disease Control](#).

In 2013, there were 7,479 abortions performed in the Kansas, with 89 percent performed before 12 weeks’ gestation, [according to a Kansas Department of Health report](#). Among the 807 abortions that took place after 12 weeks, 584 were performed using D and E.

Women in those states seeking second-trimester abortions may need to undergo an alternative, nonsurgical method, during which a physician would medically-induce labor to expel the fetus and placenta. This

type of abortion care is more painful and can be more dangerous for women.

Kathleen Morrell, an OB-GYN and a fellow of Physicians for Reproductive Health, [told the New York Times](#) that this type of abortion care can involve significant periods of waiting and may require access to hospital facilities.

“When it is safe to offer a choice of induction or D and E,” she said, “my patients overwhelmingly choose D and E. They are able to be asleep and comfortable for the procedure and then can go home to their own beds at night.”

“I Don’t Recall Calling My Congressman to Have Him Weigh In”

The public discussion about D and E bans has primarily consisted of political debates between lawmakers and activists. The voices of the physicians who provide abortion care and the women and families who have sought a second-trimester abortion have mostly been absent.

The public is generally supportive of allowing abortion early in pregnancy, [according to Gallup](#). However, the majority of Americans do not support allowing abortion past the second trimester of pregnancy, despite the fact that the majority of abortions taking place later in pregnancy are due to reasons such as severe fetal anomalies.

When public opinion surveys ask about whether or not people support allowing abortion to remain legal in specific circumstances, such as when a woman’s life is in danger or when the fetus may have mental or physician disorders, [there is overwhelming support for reproductive rights](#).

“There’s a lot of education we need to do around the need for abortion, around women’s decision making, around access,” Nash said.

“There’s lots of reasons why women end up having abortions later than 8 or 10 weeks of pregnancy,” she continued. “We have to make sure that we have services available to them, and that the public is aware of these needs and understands that we need to maintain access.”

Women who have had pregnancies terminated through the D and E procedure shared their experiences with *Rewire*. Some of them spoke on the condition of anonymity. All of them shared grave concerns about the consequences of these bans.

“This choice, if taken away, leads to a slippery slope for other decisions not only for women but for all Americans,” said one woman. “If we are forced to carry dying children to term, who is going to pay for the extensive medical interventions required to care for them or keep them alive? Who decides what interventions are appropriate for such children, or how far doctors should go to keep them alive?”

April Salazar, who has shared her experience having a D and E abortion with the [New York Times](#) and [Mother Jones](#), told *Rewire* that she wants women to be able to choose the care that is best for them.

“I think it’s outrageous that politicians, with no medical expertise in women’s health, can outlaw medical procedures that have been proven to be safe, thereby forcing women into potentially life-threatening procedures,” Salazar said.

Julie Bindeman, a psychologist who specializes in pregnancy loss, told *Rewire* about her experience terminating a pregnancy through a D and E abortion. During her pregnancy the fetus showed indications of brain anomalies, and further testing confirmed that the brain was not forming normally.

Bindeman, at 18 weeks of pregnancy, had a D and E abortion performed.

“It was in a hospital with a wonderfully generous physician,” she said. “I felt cared for and safe, despite these heartbreaking circumstances.”

Bindeman echoed the statements of other reproductive rights advocates for the need for the public to understand that these abortions typically occur because of dire circumstances. “These choices are not made on a whim or

lightly,” Bindeman said.

Supporters of these bills, Bindeman said, have never been in her shoes, and don’t understand that for her, abortion was a life-saving procedure that gave her the opportunity to have a family. The laws do provide a sole exception in which a D and E abortion can be performed to prevent “death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function” of the pregnant person.

“The decision was a heart-wrenching one and anything but simple,” she said. “We had the counsel of our physicians, family, and clergy. ... I don’t recall calling my congressman to have him weigh in.”

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