

CORE RESEARCH BRIEF

Ideological Bias in Abortion-Related Legislation and Public Hearings in Wisconsin

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October 2021



Executive Summary

The legislative fight over abortion is now occurring primarily at the state level, with the introduction of hundreds of bills in 2021 alone in state legislatures across the nation which seek to limit access to reproductive healthcare services.¹ In many states, including Wisconsin, bills are supposed to receive a public hearing when they reach a legislative committee. However, in practice this does not always happen. An analysis of all abortion-related legislation introduced in Wisconsin from 1995-2020 demonstrates that over this 25-year period, as well as in each individual legislative session, anti-abortion legislation constituted the majority (73%) of abortion-related policies introduced in the legislature, irrespective of party control of the legislature and the governorship. A review of public hearings from this same period reveals that 71% of anti-abortion bills received a public hearing, compared to only 6% of the bills that sought to ensure access to reproductive services. This disparity in the introduction of reproductive health policies, as well as their chances of receiving a public hearing, is concerning; by not receiving a hearing, both supporters and opponents of legislation are prevented from engaging in dialogue with legislators, in turn damaging public confidence in the legislative process. This imbalance also leads to a limited and biased public discourse surrounding reproductive rights, which focuses primarily on how the anti-abortion movement frames the debate over abortion.

Public Hearings Are a Critical Part of the Legislative Process

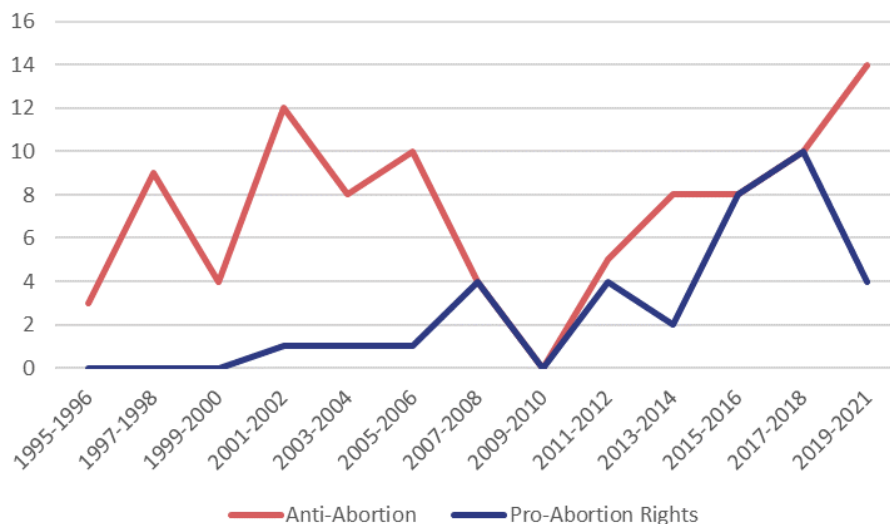
Public hearings, an initial stage of the legislative process, are the only part in which experts, advocates, and members of the general public are able to publicly voice their opinion before a legislative committee. This process includes both those invited to testify and others who attend out of a desire to participate. Such participation—including the presentation of scientific evidence by medical experts—does not necessarily translate into a change in voting patterns of legislators.^{2,3} Nevertheless, participation is crucial for the democratic process, increasing citizens' involvement as well as public support for and the legitimacy of the state and its institutions.⁴ The importance of this process is recognized by many states, including Wisconsin, with statutes and practices to ensure access by the public during this stage of the legislative process.⁵

The Majority of Abortion-Related Bills in Wisconsin Restrict Access to Abortion

Between 1995-2020 Wisconsin legislators introduced 130 abortion-related bills.ⁱ Ninety-five (73%) of these sought to restrict access to abortion by introducing medically unnecessary waiting periods, gestational limits, and state-mandated counseling, as well as prohibiting the use of state funds for abortion services. The remaining 35 bills aimed to protect access to abortion and abortion clinics, as well as support abortion facility employees and patient rights.

Anti-abortion proposals constituted the majority of abortion-related bills in every legislative session during these 25 years.ⁱⁱ The legislative sessions with the greatest number of anti-abortion bills occurred during sessions with Republican control of both the Assembly and the Senate (2013-2014 through 2019-2020 sessions). The sessions with the greatest number of pro-abortion rights bills introduced (2015-2016 and 2017-2018) were those with a Republican trifecta—Republican control of both legislative chambers and the governorship. During the three legislative sessions from 1997-2002, only one pro-abortion rights bill was introduced, despite the fact that Democrats, who are more likely to support abortion rights, maintained control of the Senate. Additionally, in the 2009-2010 session, in which a Democratic trifecta was in place, no abortion-related bills were introduced.

Figure 1: Number of Anti-Abortion and Pro-Abortion Rights Bills Introduced in the Wisconsin State Legislature, 1995-2020



Abortion Bills Less Likely to Receive Public Hearing

In most states—including Wisconsin—after referral to a legislative committee, a bill usually receives a public hearing. There are a few exceptions to this, including bills related to spending, revenue, and taxation. These bills are immediately referred to the Joint Committee on Finance, which holds informational hearings with invited testimony from state agency heads and staff. At the discretion of the chair, the Joint Committee may then choose to hold public hearings, usually at sites across the state.^{6,7} All other types of bills must go through a public hearing

ⁱ Abortion-related legislation was identified through the search engine on the Wisconsin State Legislature website beginning in the 1995-1996 legislative session through the 2019-2020 session. See “Advanced Search” at <https://docs.legis.wisconsin.gov/search>.

ⁱⁱ In the 2009-2010 session, there were no abortion-related bills introduced, neither anti-abortion nor pro-abortion rights.

prior to passage out of committee. If a committee chair wants to effectively kill a bill—for either strategic or ideological purposes—they can prevent a public hearing from occurring, thereby preventing the bill from progressing through the legislative process.

Of the 130 abortion-related bills introduced from 1995-2020, 69 (53%) received a public hearing. In comparison, 63% of all bills introduced to the Wisconsin legislature over the same period received a public hearing before an Assembly or Senate committee, or both. The lower rate of public hearings for abortion legislation is striking and potentially concerning, especially in light of the high level of polarization around this issue in the US, in general and in Wisconsin, in particular.⁸

However, this landscape looks different when comparing anti-abortion proposals to abortion-rights proposals. Of the 95 anti-abortion bills introduced in the Wisconsin legislature between 1995-2020, 67 (71%) received a public hearing. That means that a large majority of anti-abortion bills provided the public an opportunity to testify as well as to learn about the specific legislation. Anti-abortion bills were 12 times more likely than pro-abortion rights bills to have a public hearing. Ten anti-abortion bills were passed into law, with an additional eight bills passed through both chambers of the legislature but vetoed by the governor. The legislature did not overrule any of the vetoed bills.

Only two (6%) of the 35 pro-abortion rights bills were granted public hearings. Both bills were introduced in the 2007-2008 legislation session. One of these bills passed out of committee and made it to the floor of the chamber for a vote, while the second bill did not make it out of committee.

Table 1: Number of Abortion-Related Bills Granted Public Hearings and Signed into Law, by Anti-Abortion and Pro-Abortion Rights Status, Wisconsin State Legislature, 1995-2020

| | Total | Anti-Abortion | Pro-Abortion Rights |
|---------------------------------|-------|---------------|---------------------|
| Bills introduced | 130 | 95 | 35 |
| Bills receiving public hearings | 69 | 67 | 2 |
| Bills signed into law | 10 | 10 | 0 |

Impact of Ideological Bias in Public Hearings

The imbalance in bills introduced and those that do (or do not) receive a public hearing illustrates a significant problem with the legislative process in Wisconsin. First, the failure to hold hearings on almost all abortion rights bills denies the public the opportunity to engage in a pluralist and democratic dialogue around reproductive rights.ⁱⁱⁱ Second, the failure to provide such an opportunity can affect media communication about abortion. Without representation from citizens who support abortion access, these hearings can be covered in news outlets in ways that focus predominantly on anti-abortion aspects of the debate.

Finally, this imbalanced policy environment can skew the approach of the abortion rights movement in Wisconsin and the United States more generally. The pro-abortion movement is often criticized for being predominantly reactive to anti-abortion messaging and action, rather than being proactive in their policies and focus. This tendency has been identified by researchers,⁹ as well as advocates,¹⁰ who have wanted the abortion-access movement to proactively frame and control main legislative and cultural narratives about reproductive health and rights. For example, Cristina Page, a leader within National Abortion Rights Access League, has stated, "I don't think we've ever had the luxury of being on the offensive... I don't see the pro-choice movement

ⁱⁱⁱ On average, 76 participants attended public hearings on abortion-related proposals, indicating a strong desire among the public to engage in dialogue on this subject matter.

stepping up with any kind of inspired agenda other than protecting what we have. And that's been the case for a very long time."¹¹

Interviews with pro-abortion rights reproductive health experts in Wisconsin and other states reveal similar sentiments. Since most bills that receive public hearings are meant to limit access to abortion, they as experts are at a disadvantage when it comes to being prepared to resist these laws:

"[When a law] comes up, we don't agree with it. It's moving fast. We're trying to quickly formulate a letter to quickly find somebody to testify for it."

"When we're on the defense, we don't get a lot of notice that hearings are coming up. So, if your friends are in power inside the state Legislature, they'll give you, oh, we got a hearing coming up in two weeks. Can you try and get a doctor there?"

As a result, the pro-abortion rights movement is required to focus on responding to anti-abortion policies. This phenomenon may provide some explanation for the assertion that the anti-abortion movement controls much of the debate around reproductive rights.¹²

This imbalance in abortion-related proposals and subsequent public hearings calls for further research into the policy-making process and its effect on abortion policy in Wisconsin. Specifically, there is need for an in-depth analysis of the decision-making process and politics that result in so few proposals receiving a public hearing. A better understanding of this process will contribute to more equal representation of the public in the dialogue around reproductive rights and abortion, which will hopefully lead to a more pluralistic media coverage and discourse.

The authors thank Emma Romell of the University of Wisconsin-Madison for her assistance with data collection and analysis.

References

¹ Nash E, Cross L. [2021 is on track to become the most devastating antiabortion state legislative session in decades](#). The Guttmacher Institute. June 14, 2021.

² National Research Council. [Using science as evidence in public policy](#). The National Academies Press. 2012.

³ Woodruff K, Roberts S. ["My good friends on the other side of the aisle aren't bothered by those facts": US State legislators' use of evidence in making policy on abortion](#). Contraception. 2020;101(4): 249-255.

⁴ Copeland G, Patterson S, eds. [Parliaments in the modern world: changing institutions](#). University of Michigan Press. 1994.

⁵ Wisconsin State Legislature. [About the Legislature: Follow the Process](#).

⁶ Lang B, Barton L. [State budget process: informational paper 73](#). Wisconsin Legislative Fiscal Bureau. 2019.

⁷ Schmidt D. [Information memorandum: the budget process](#). Wisconsin Legislative Council. November 16, 2020.

⁸ Pew Research Center. [Views About Abortion Among Adults in Wisconsin](#).

⁹ Coffin S. [Pro-choice activists fight a losing fight](#). Harvard Political Review. February 16, 2011.

¹⁰ Allsbrook J, Ellmann N. [A proactive abortion agenda: Federal and state policies to protect and expand access](#). Center for American Progress. March 17, 2021.

¹¹ Israelsen-Hartley S. [No longer silent and incremental: the pro-life path to overturning Roe v. Wade](#). Deseret News. November 13, 2014.

¹² Israelsen-Hartley S. 2014.