

How Abortion Ban Exemptions Play Out in a Post-Roe World

State restrictions have exceptions to protect the health of the mother, but patients with pregnancy complications may be denied care.

August 15, 2023 By Christopher O'Donnell, Tampa Bay Times and KFF Health News

This pregnancy felt different.

After the heartache of more than a dozen miscarriages, Anya Cook was 16 weeks along. She and husband Derick Cook spent a Sunday last December sharing the news with his parents and looking at cribs.

As they left a restaurant in Coral Springs, Florida, that evening, Cook's water broke. Her husband rushed her to the nearest emergency room.

Cook, 36, still believed the baby they had nicknamed "Bunny" could be saved. Doctors told her she would miscarry in the next 24 hours, she said, and that the fetus was too premature to survive.

The early rupturing of her amniotic sac left Cook at risk of infection and complications including hemorrhaging. But her pregnancy was beyond Florida's then-15-week restriction on abortion and an ultrasound showed the fetus still had a detectable heart rate, according to hospital records Cook shared with the Tampa Bay Times.

Though Florida's law allowed abortions to protect the health of the mother, Cook said, a doctor told her he would be risking his license if he induced labor, essentially performing an abortion. He gave her two antibiotic injections to reduce the risk of infection and sent her home, she said.

"I told him, 'You're leaving me to die,'" she said.

Every state that bans or restricts abortions has an exception to protect the health of the mother. Allowing abortions in such cases — or in the case of rape or incest — makes abortion legislation more palatable to a majority of the American public, who, [polls show](#), don't support outright bans. When Florida lawmakers this year approved tightening the 15-week ban to a six-week limit, they added exceptions for rape, incest, and human trafficking to the existing exemptions to protect the health of the mother.

But recent history in other states suggests that few women will be able to take advantage of such exceptions if Florida's new law, on hold while tied up by legal challenges, is upheld by the state Supreme Court. There is also concern that patients with pregnancy complications are being denied care.

In Alabama and Mississippi, which adopted stricter bans with some exceptions following the U.S. Supreme Court's overturning of *Roe v. Wade* in June 2022, no abortions have been reported since July 2022, according to WeCount, a reporting effort organized by the abortion rights group [Society of Family Planning](#). The project uses data from clinics, hospitals, and telemedicine providers and excludes from its tally cases in which women traveled to other states for abortions or obtained abortion pills.

In Texas, 13 women who had pregnancy complications sued the state's medical board after being denied abortions, [testifying the state's strict restrictions](#) put their lives in jeopardy.

Women's health advocates fear Florida is headed in the same direction — and that more expectant mothers' lives will be put at risk.

"Exceptions are a rhetorical trick, really," said Laurie Bertram Roberts, executive director of the [Mississippi Reproductive Freedom Fund](#), a group that supports abortion rights. "They're essentially a tool for Republican lawmakers to say, 'There, those of you who worry that so-called good abortions won't be available to you.'"

State Sen. Erin Grall, a Republican who sponsored the bill for Florida's six-week ban, said that her legislation has exceptions "to acknowledge some women experience unexpected pregnancy due to the heinous criminal acts committed by others, and to suggest the exceptions are window dressing is factually incorrect."

Data Doesn't Tell the Full Story

More than 82,000 abortions were performed in Florida last year, according to [data compiled](#) by the Florida Agency for Health Care Administration.

Those included 115 cases in which rape was cited as the reason for the abortion and seven that cited incest. No reported abortions were linked to human trafficking.

If Florida's six-week ban moves forward, rape and incest victims would have to provide their doctor a copy of a restraining order, police report, medical record, court order, or other documentation to get an abortion after that window.

However, two-thirds of sexual assault victims do not report the crime, [studies show](#), meaning no police report would exist. An estimated 8 in 10 rapes are committed by [someone known to the victim](#), often leaving victims afraid of reprisals if they report the crime.

Florida has a long-established law allowing abortions when a fetus has fatal abnormalities. But no exceptions exist for serious genetic defects, deformities, or abnormalities, which were cited as the

reason for 578 abortions in the state last year.

Roughly 60% were done in the second trimester, when tests like fetal echocardiograms or maternal serum screens [are typically performed](#). The result of those tests would arrive too late if Florida's six-week ban is upheld.

It's not clear how many women who had abortions last year in Florida would have had their health endangered if their pregnancies had continued.

Pregnancy and labor carry serious health risks such as hypertension, hemorrhaging, and blood clots. More than 1,200 women [died from](#) causes related to pregnancy or childbirth in the United States in 2021. In Florida in 2020, 21 pregnancy-related parental deaths occurred for every 100,000 live births — and the rate of death among pregnant Black expectant mothers was more than double.

A [May study](#) by the Texas Policy Evaluation Project at the University of Texas-Austin identified dozens of cases in 14 states, including Florida, where poor care due to abortion restrictions led to preventable complications and hospitalizations. Some of those patients nearly died.

"Health care providers described feeling moral distress when they were unable to provide evidence-based care, and some reported considering moving their practices to a state where abortion remains legal," the study states.

The American College of Obstetricians and Gynecologists in 2022 warned that doctors must be able to [make evidence-based decisions](#) without "fear of prosecution, loss of license, or fines."

Grall, the GOP state senator, said Florida has long-established laws to protect the life of the mother so there should be no confusion when an abortion is necessary.

"Florida should always be a state in which the life of the mother is protected and any doctor, hospital, or lawyers who seek to take a crystal-clear statute and try to muddy its interpretation to score political points should face the appropriate punishment," she said.

A [June KFF poll](#) found that 61% of OB-GYNs who practice in states with abortion restrictions are concerned about the legal risk when deciding whether to perform an abortion.

"It doesn't make any medical sense," said Jennifer Griffin, a Tampa physician who provides abortions. "These politicians are not making policy based on science; they're based on religion."

'I Went to a Really Dark Place'

Cook, the woman whose water broke 16 weeks into her pregnancy, barely slept that night, she said, after being refused treatment at Broward Health Coral Springs hospital.

The more she read online about her condition, the more convinced she became that she was going to die.

“I went to a really dark place,” she said.

Her miscarriage came when she was at a late-morning hair salon appointment. She rushed to the bathroom.

“I put my hands on my knees and I heard my daughter hit the toilet,” she said. Cook couldn’t bring herself to look down.

Her husband called 911. She told him she needed help to deliver the placenta she felt hanging from her womb.

He pulled some of the organ out with his bare hands, she said. There was a pop when the umbilical cord came away, Cook said.

Blood was gushing over the white porcelain toilet. A nurse who happened to be at the salon told Cook to squeeze her body as tightly as she could.

An ambulance rushed Cook to Memorial Hospital Miramar. Part of her placenta was still inside her. When doctors removed it, she began bleeding profusely, hospital records show. Doctors estimated she lost more than half a gallon of blood, an amount that can be fatal.

Cook ended up in intensive care. She needed four units of blood and was put on a ventilator, records show.

Doctors feared they would have to remove her uterus, which would mean she could never have a child, Cook said. Instead, they blocked some of the blood vessels and inserted a medical balloon to stem bleeding.

She stayed in the hospital for five days.

In May, Cook said, she was interviewed by officials from the Florida Agency for Health Care Administration and recounted her story about the limited care she received at Broward Health Coral Springs the night her water broke. She said they told her they are reviewing the hospital’s handling of her emergency. Spokesperson Bailey Smith said the agency cannot comment on ongoing investigations.

Jennifer Smith, Broward Health’s vice president for corporate communications and marketing, said in an email that the hospital’s handling of the case was appropriate. She said that the emergency physician contacted Cook’s OB-GYN, who recommended the antibiotic treatment. Cook was instructed to see her doctor that day or return to the emergency room if her condition worsened, Smith said.

“We empathize with Ms. Cook and the millions of women who annually suffer the unimaginable loss of miscarriage; however, we cannot speculate on whether Ms. Cook complied with the discharge instructions to see her private OB-GYN physician the same day of her discharge,” Smith

said.

But Cook said she had already called her OB-GYN before she went to the hospital initially and it was after 2 a.m. when she was discharged. She miscarried around midday later that day.

“It’s absurd how they’re still trying to defend it,” she said.

Bunny was conceived through in vitro fertilization. That pregnancy was the furthest along Cook had ever been.

“To make it this far and lose her like that, it was really traumatic,” she said.

Cook has a stepson, but she isn’t ready to give up trying to have a biological child. She is still angry about her experience.

“I think about my niece and my future children,” said Cook, who is the oldest of six sisters. “I can’t imagine my sisters or any female family members having to go through this.”

This article was produced in partnership with the [Tampa Bay Times](#).

[This story](#) was published by KFF Health News on July 31, 2023. It is republished with permission.