

**UCLA** School of Law  
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**Case Explainer: Northland Family Planning Center v. Nessel**

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Last week, a lower court in Michigan enforced the state Reproductive Freedom for All amendment (RFFA) by permanently [striking down](#) three state laws restricting abortion access as unconstitutional.

Michigan is one of ten states where, since *Dobbs* overturned the federal right to abortion, voters enacted ballot initiatives codifying the right to abortion (and beyond) in their state constitutions. While passage of these constitutional amendments is an important step towards reestablishing and reinforcing abortion rights, restrictions on access remain on the books in nearly all of these states. That makes last week's decision enforcing Michigan's constitutional promise of reproductive freedom for all big news.

In November 2022, Michigan voters approved the RFFA and enshrined a fundamental right to reproductive freedom in the state constitution. Importantly, the amendment protects reproductive freedom rights beyond abortion, including prenatal, miscarriage, childbirth, and postpartum care and family planning services such as contraception, sterilization, and infertility care.

The amendment also mandates a strict scrutiny standard for judicial review of any laws denying, burdening, or infringing upon the right to reproductive freedom. This means that any restriction must be justified by a compelling state interest and achieved by the least restrictive means. Further, the amendment limits the type of state interests that qualify as compelling to ones that protect the patient's health, consistent with accepted clinical standards of practice and evidence-based medicine, and ones that do not infringe on the individual's autonomous decision-making.

Despite the RFFA's passage and subsequent legislation to [repeal some restrictions](#), Michigan laws still imposed significant burdens on abortion care. Several of those laws were challenged as violating the RFFA [in \*Northland Family Planner Centers v. Nessel\*](#): a 24-hour waiting period, a mandatory counseling requirement, a ban on advanced practice clinicians (such as nurse practitioners and physician assistants) performing abortions, and a coercion screening requirement.

The court ruled that all but the coercion screening were unconstitutional. It applied strict scrutiny, as required by the RFFA, and squarely rejected the argument that the RFFA incorporated the prior federal standard from *Planned Parenthood v. Casey*, holding that the "undue-burden test . . . has no place in jurisprudence interpreting the RFFA." Applying RFFA's narrow tailoring requirement in a methodical analysis of the evidence related to each restriction, the court concluded that the 24-hour waiting period, mandated uniform counseling, and a ban on qualified clinicians providing abortion care do not protect patient health and are contrary to clinical standards of practice and evidence-based medicine.

This decision is already making an immediate difference for people seeking abortion care in Michigan who are now free of these unnecessary and burdensome restrictions on access. It also exemplifies the important role state courts have in enforcing the post-*Dobbs* reproductive freedom amendments. With at least [32 abortion restrictions](#) still on the books across ten states, more state courts will need to interpret and apply these new constitutional amendments. As the *Northland* decision shows, even state laws that have long been on the books, or been held constitutional under prior federal law, cannot continue to stand if they contravene these states' stronger constitutional guarantees for reproductive freedom.