

To: Legislative Leadership

From: Jeremiah Samples, Senior Advisor, Joint Committee

Date: 8/22/22 (Revised Draft)

Subject: Statistical Breakdown and Policy Options Related to Maternal/ Child Health and Adoption Policy in West Virginia

Purpose

The purpose of this document is to provide data and policy concepts for lawmakers related to maternal, child, and family health issues. The goal herein is to improve the health and well-being of all West Virginians, particularly mothers and babies.

Section I: Policy Concepts

1. Problem: Lack of available resources for adoptions

Solution 1: Restructure state agency contract to allow courts/families to use state home study services for private adoptions (South Dakota)

Solution 2: Allow WV CARES to be used for private adoption background checks

Solution 3: Expand refundable tax credit for adoptions beyond that in 11-21-10a to \$5,000. Only include qualified expenses to be permitted: reasonable and necessary adoption fees, child must be from WV unless related to adoptees, court costs, attorney fees, home study expenses, mental health services expenses, etc (Last version of SB3001 addressed in §11-21-10a) (Estimated fiscal impact of \$1.8M)

Solution 4: Expand those eligible for current WV adoption tax credit to include family members (Last version of SB3001 addressed in §11-21-10a)

*Note: There were two main concerns with 11-21-10a during Special Session. The first is whether the credit is refundable. House Finance clarified this in HB304 and amended the fix into SB3001. I asked the Tax Dept to do a second fiscal note following this change and it had a significant impact on their score, moving it from a net gain of \$300,000 to a net loss of \$1 million.

The second issue is around the “qualified adoption expenses” provision and the impact on foster care. While I do believe this language could be interpreted expansively, especially given that “other expenses” are included, the Tax Dept interprets this will have a much more narrowing impact on the credit. In other words, the amended credit would limit a taxpayer to actual expenses incurred. The current credit is not based on actual expenses (everyone gets \$4K even when there are no actual expenses). Given that roughly half of adoptions are performed through DHHR foster care programs with full subsidies the qualifying expenditure language negates access to the tax credit.

It appears that the most simplistic way to remedy the concern is to simply remove the “qualified adoption expense” language. Of note, this does not need to include the language around a “qualified child” whereas that language further incentivizes in-state adoptions.

2. Problem: Lack of post-adoption supports

Solution 1: Allow state employees paid family leave for adoptions/new child per HB4189 (2020 West Virginia Legislative Session)

Solution 2: Mandated coverage (public and private payer) of post-adoption counseling services for birth mother

Solution 3: Expand childcare subsidies to all adoptive parents

3. Problem: DHHR managed foster care kinship adoption timeframe

Solution 1: Increase size of Bureau for Social Services Adoption Unit and set mandatory timeframes for kinship/ non-family adoptions, following parental rights being severed

Solution 2: Study to analyze expenditures and potential cost savings of agencies completing all foster care adoptions (outcome of study to determine if WV should privatize kinship adoptions and additional responsibilities in agency adoptions with funding to private agencies)

4. Problem: Lack of public information/misconceptions on adoption process and cost. Lack of public information regarding safe site drop offs and how to manage the adoption process from the biological family's perspective.

Solution 1: Require DHHR to oversee a safe baby/adoption media campaign to break down stigma and misconceptions

Solution 2: Recraft training for community partners that would educate families on private and foster care adoptions based on historic Consider the Possibilities (<https://adoption.mclms.net/en/package/2924/course/1697/view>)

5. Problem: Lack of clarity in foster care adoption process

Solution 1: Rules related to diligence for relatives, interested parties or putative father registries (Last version of SB3001 addressed in §48-11-101)

Solution 2: Revamp training for CPS workers/ agencies on what info needs to be in court orders if they are going to adoption

Solution 3: Development of checklist on what needs completed for adoption by each party with timeframe for how long it should take that all parties have

Solution 4: Clarification in rule or statute regarding adoption records

6. Problem: Agency managed foster care adoption timeframe

Solution 1: Place performance-based measures/expectations into child placement agency contracts to speed up and increase speed of agency managed adoptions from foster care system

Solution 2: Ensure that agency working with potential adoptive parent receives court information (Last version of SB3001 addressed in §49-5-101) (Consider strengthening)

Solution 3: Rule/ statute changes that agency staff can request information from vital statistics, hospitals, and court (Last version of SB3001 addressed in §49-5-101) (Consider strengthening)

Solution 4: Give child placement agencies access to state managed child welfare system (FACTS/ PATH) and authority to pull records and process adoption paperwork after parental rights have been severed (Last version of SB3001 addressed in §49-5-101) (Consider strengthening)

7. Problem: Lack of support for mothers considering adoption

Solution 1: Require maternity case management services be covered by private insurance (expand Medicaid/ CHIP policies to commercial insurance per SB564, WV Legis. 2019)(see Maine 2022 legislation)

Solution 2: Create pregnancy case management/adoption support hotline and mandate development of resource lists, educational information to address FAQs that expectant mothers have, and actively link expectant moms to OB/GYN and mental health services for case management support (Last version of SB3001 addressed in §16-63)

Solution 3: Require Executive Branch to make requirement of all subgrantee Family Support Centers, Family Resource Centers, Family Resource Networks, and Starting Points to coordinate pregnancy resources and supports with Pregnancy Help Organizations

8. Problem: Lack of resources and care for mothers and babies

Solution 1: Expand midwife services by eliminating regulatory prohibitions and aligning scope of practice to that set forth by the American College of Nurse-Midwives

Solution 2: Develop contraceptive incentives and eliminate barriers for individuals that suffer from substance use disorder (SUD) and have high risk of pregnancies where the baby would be drug exposed to use long-acting contraceptives

Solution 3: Due to complications that occur late in pregnancies due to drug addiction, including complications that lead to abortions, clarify in statute that mental hygiene process can be leveraged in situations where expectant mother refuses treatment, suffers from SUD, and is at least 15 weeks pregnant or later

Solution 4: Require fathers to pay child support, subject to confirmed paternity test, while mother is pregnant (based on Georgia legislation) (Last version of SB3001 addressed in §48-11-101)

Solution 5: Enhance support for Drug Free Moms and Babies (Last version of SB3001 addressed in §16-5K-7)

Solution 6: Solution 5: Create fetal tax credit, thus allowing families to claim child tax credit prior to January first (Last version of SB3001 addressed in §11-21-16)

Solution 7: Ensure mental/behavioral health service access for all adopted babies (Last version of SB3001 addressed in §16-5K-7)

9. Ensure appropriate training and fair access for adoption attorneys

Solution 1: Require that courts develop and maintain active list of adoption attorneys willing and able to provide adoption services statewide and by circuit district

Solution 2: Prohibit state officials from recommending a specific attorney beyond offering list of attorneys and mandate that the Bureau for Social Services use a rotation of approved adoption attorneys as set forth in an open access contract

10. Prevent circumstances that lead to abortions

Solution 1: Mandate public and private insurance coverage for contraceptives

Solution 2: Mandate public and private insurance coverage for sterilization (Last version of SB3001 addressed in §5-16-7h; §33-15-4; §33-16-3ww; §33-24-7x; §33-25-8u; §33-25A-8x)

Solution 3: Mandate statewide availability of birth control (Last version of SB3001 addressed in §16-58-4)

Solution 4: Expand where birth control can be accessed freely (Last version of SB3001 addressed in §16-58-7)

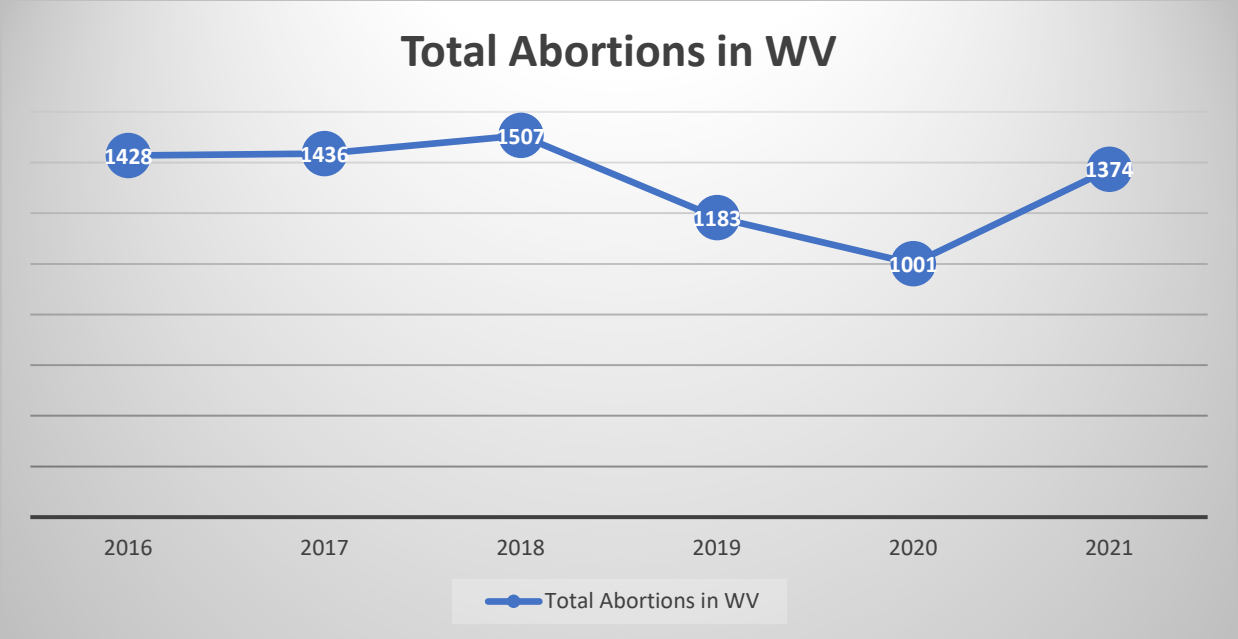
Solution 5: Expand education on pregnancy prevention (Last version of SB3001 addressed in §16-58-7)

Solution 6: Create state support for Pregnancy Help Organizations (Last version of SB3001 addressed in §16-63)

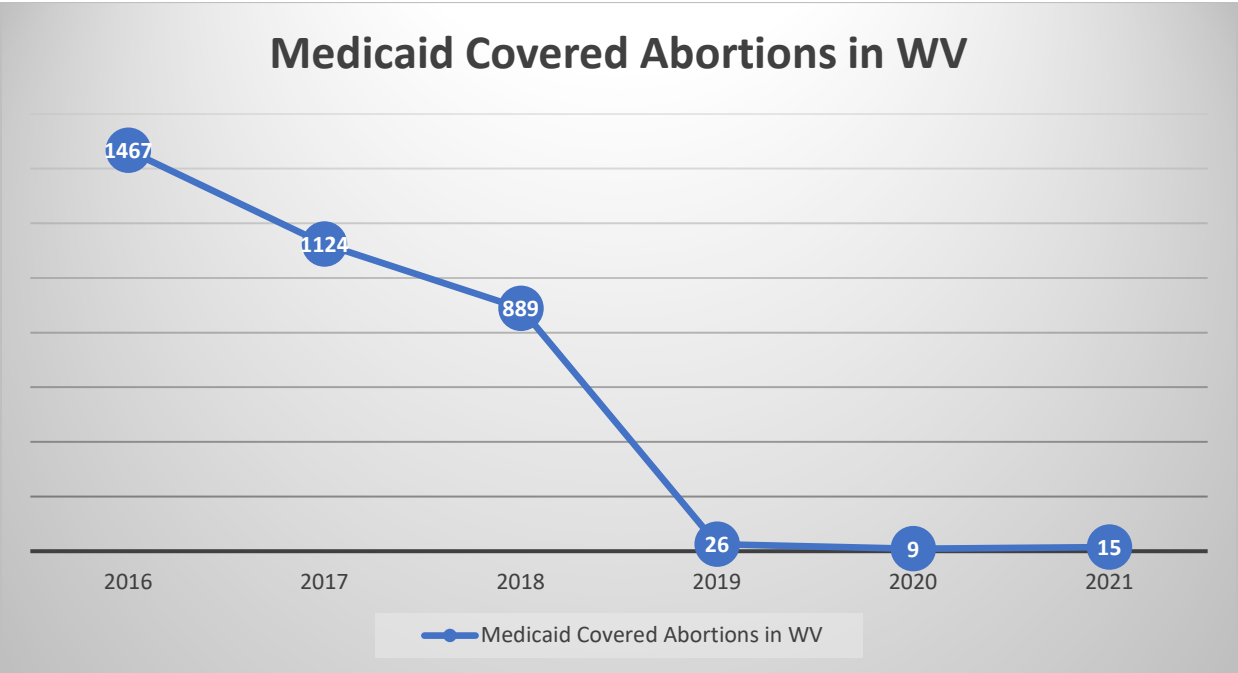
Section II: Statistical Breakdown

The following represents a breakdown of various maternal/ child health and adoption related statistics.

Abortions in West Virginia

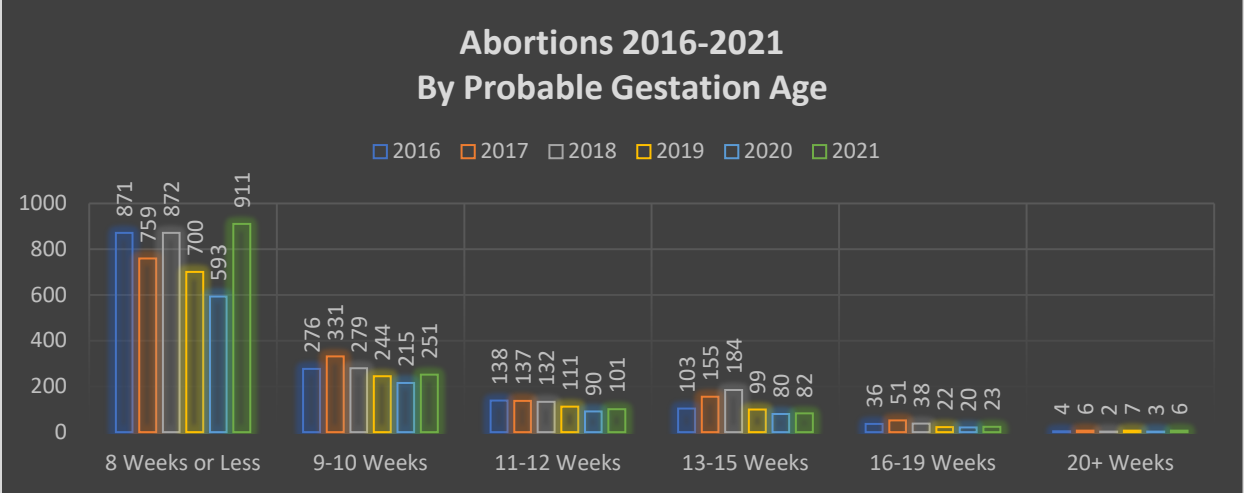


Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2016-2021

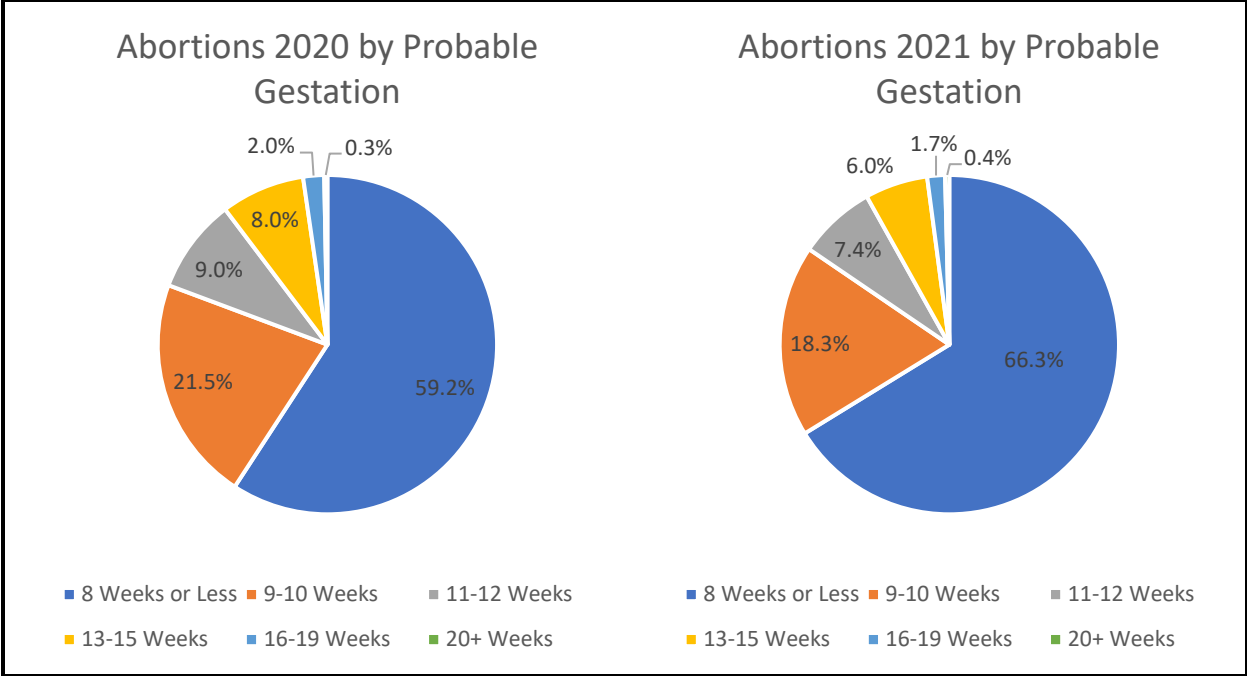


Source: Bureau for Medical Services, August 2022

Note: On November 6, 2018 West Virginia voters ratified West Virginia Constitutional Amendment 1, which states: “Nothing in this Constitution secures or protects a right to abortion or requires funding of abortion.” This amendment in turn abrogated the holding by the West Virginia Supreme Court in *Women’s Health Center of West Virginia, Inc. v. Panepinto* (1993) that West Virginia Code §9-2-11, which limits Medicaid funds paying for pregnancy terminations to several limited circumstances, is unconstitutional.



Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2016-2021



Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2015-2021

Method of Termination					
Year	Surgical			Medical (Non-Surgical)	Total WV Occurrences
	Dilation and Curettage (D&C)	Dilation and Evacuation (D&E)	Total Surgical		
2016	1,062	100	1,162	266	1,428
2017	1,000	4	1,004	432	1,436
2018	1,006	7	1,013	494	1,507
2019	684	10	694	489	1,183
2020	478	9	487	514	1,001
2021	609	8	617	757	1,374

Source: Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2015-2021

Abortions 2021 by County of Residence

County	2021	County	2021
Barbour	6	Mineral	0
Berkley	3	Mingo	19
Boone	20	Monongalia	34
Braxton	11	Monroe	3
Brooke	1	Morgan	1
Cabell	117	Nicholas	6
Calhoun	2	Ohio	5
Clay	6	Pendleton	0
Doddridge	3	Pleasants	2
Fayette	43	Pocahontas	3
Gilmer	5	Preston	9
Grant	1	Putnam	31
Greenbrier	14	Raleigh	75
Hampshire	1	Randolph	11
Hancock	0	Ritchie	6
Hardy	0	Roane	4
Harrison	51	Summers	5
Jackson	30	Taylor	4
Jefferson	1	Tucker	1
Kanawha	339	Tyler	3
Lewis	16	Upshur	12
Lincoln	11	Wayne	23
Logan	29	Webster	4
Marion	33	Wetzel	3
Marshall	0	Wirt	4
Mason	18	Wood	63
McDowell	10	Wyoming	9
Mercer	40	Total	1151*

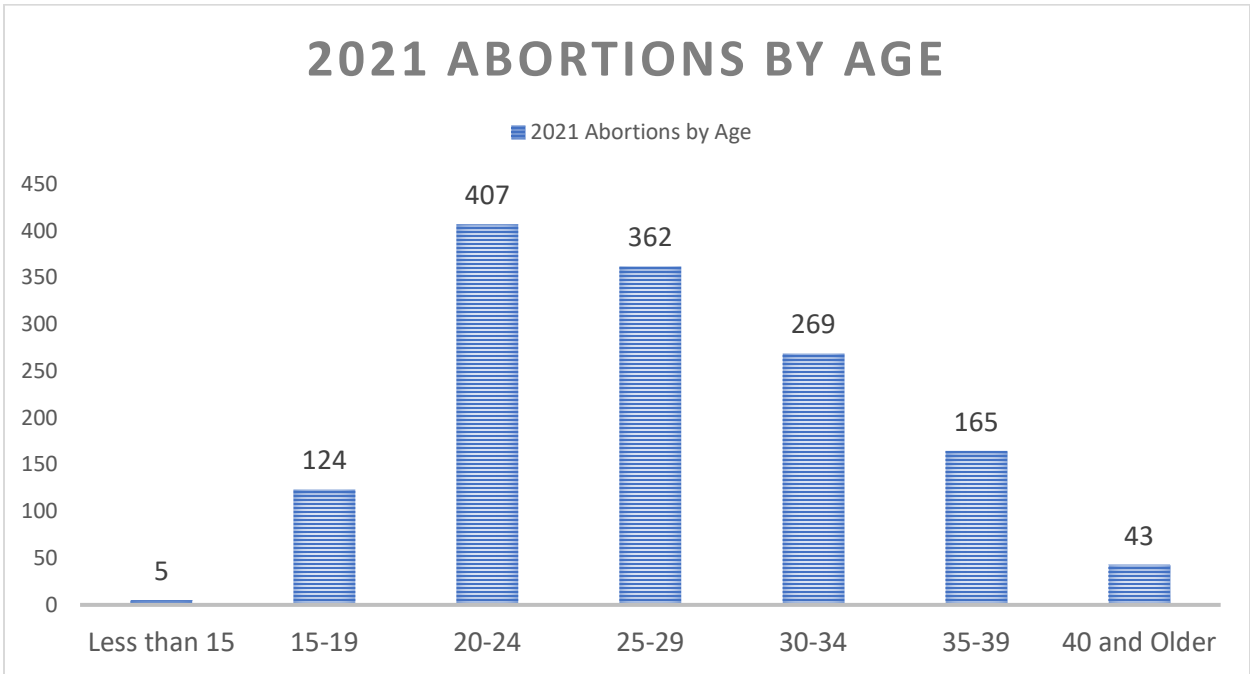
Source: Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2016-2021

*Two counties of residence are unlisted in reports and 222 abortion in WV were of residents from other states

Abortions Performed in WV by State of Residence

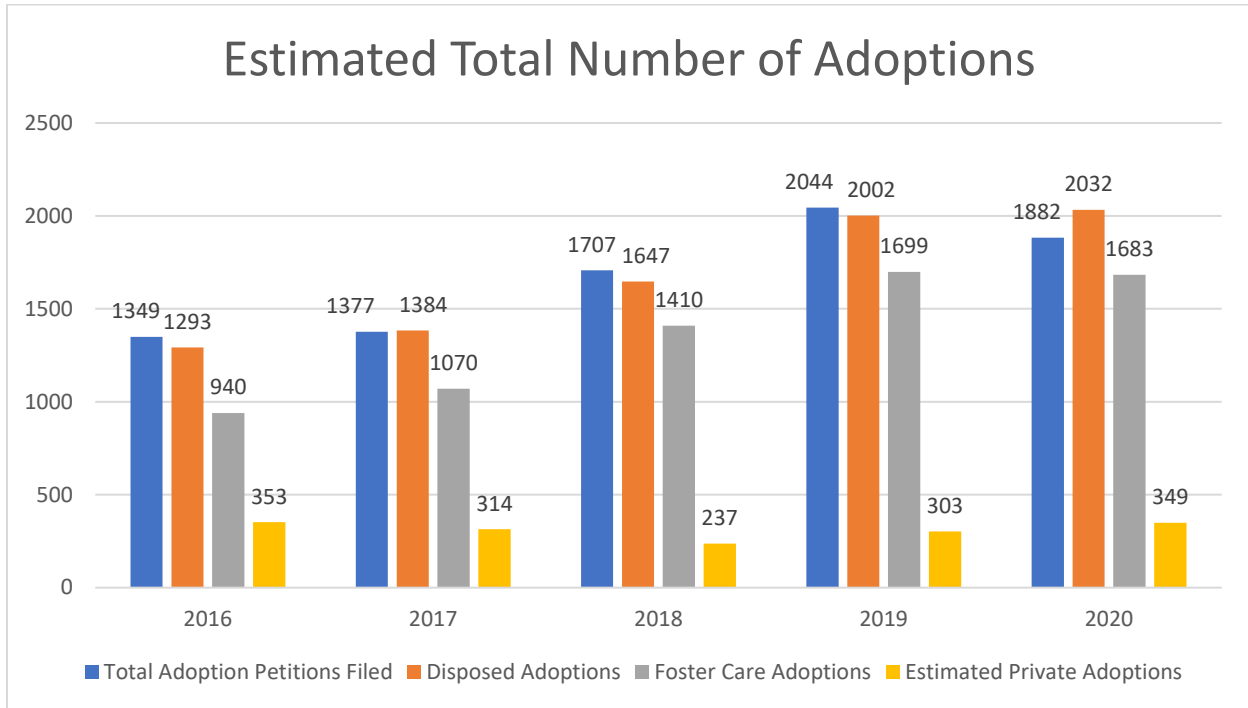
State of Residence	2021
Florida	2
Georgia	2
Kentucky	95
Maryland	5
Missouri	1
North Carolina	2
New Mexico	1
Ohio	98
Pennsylvania	7
South Carolina	3
Tennessee	1
Texas	2
Virginia	3
West Virginia	1153

Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2021



Source: Bureau for Public Health, Induced Termination of Pregnancy Report, 2021

Adoptions in West Virginia



Source: West Virginia Court Improvement Program, Division of Children and Juvenile Services. Note: There is recognized nominal variation in the total number of foster care adoptions as pulled from AFCARS by source.

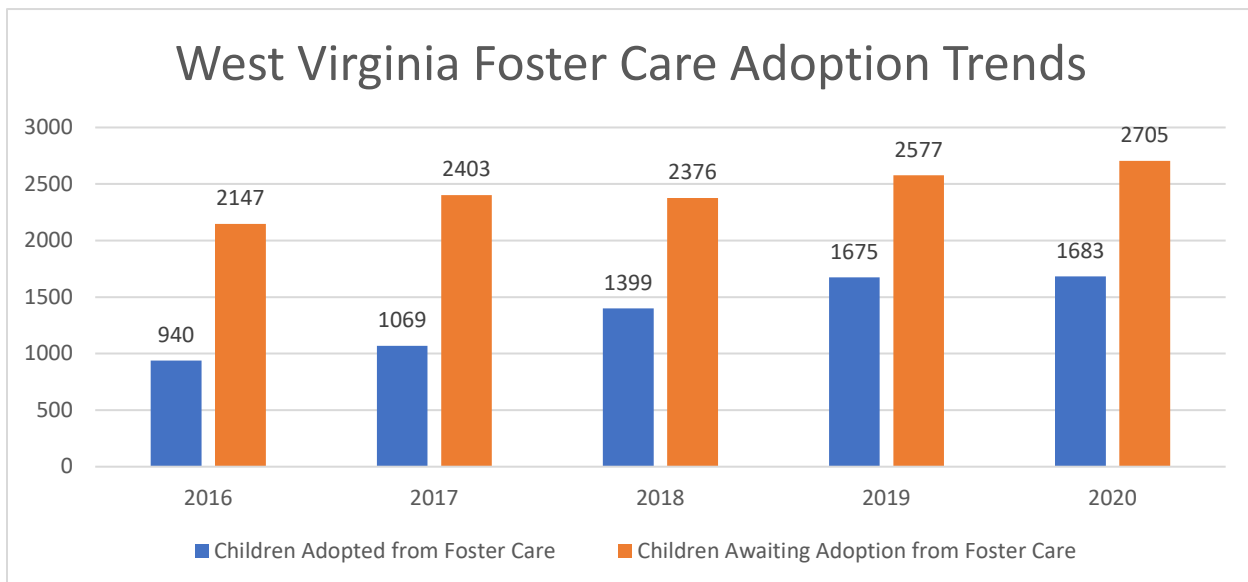
Note: Definitions-

Total Adoption Petitions Filed- These are new petitions for adoptions filed in the given time frame.

Foster Care Exits to Adoption- This is the number of foster care defined children in West Virginia who reach permanency in the reporting time frame through adoption.

Disposed Adoptions- These are adoptions cases that are finalized during the reporting period. Adoption cases are considered statistically disposed once the order of adoption is entered by the court.

Estimated Private Adoptions- This number, reflected as "Difference" in the Court report, represents the difference between all disposed cases during the reporting period minus those cases wherein the child exited foster care through achieving permanency through adoption.



Source: Annie E. Casey Kids Count, Adoption and Foster Care Analysis and Reporting System (AFCARS)

West Virginia Children in Foster Care Awaiting Adoption by Time Waiting						
Time Waiting	Data Type	2016	2017	2018	2019	2020
< 12 months	Number	809	815	673	685	707
	Percent	38%	34%	28%	27%	26%
12-23 months	Number	774	962	997	1078	1148
	Percent	36%	40%	42%	42%	42%
24-35 months	Number	350	356	424	486	479
	Percent	16%	15%	18%	19%	18%
3-4 years	Number	144	189	207	243	274
	Percent	7%	8%	9%	9%	10%
5 or more years	Number	67	78	74	85	97
	Percent	3%	3%	3%	3%	4%
Total	Number	2144	2400	2375	2577	2705

Source: Annie E. Casey Kids Count, Adoption and Foster Care Analysis and Reporting System (AFCARS)

West Virginia Children in Foster Care Awaiting Adoption by Age Group						
Age	Data Type	2016	2017	2018	2019	2020
< 12 months	Number	182	191	144	153	178
	Percent	8%	8%	6%	6%	7%
1-5 years	Number	806	925	872	939	955
	Percent	38%	38%	37%	36%	35%
6-10 years	Number	575	624	659	700	743
	Percent	27%	26%	28%	27%	27%
11-15 years	Number	440	507	531	607	626
	Percent	20%	21%	22%	24%	23%
16-20 years	Number	144	156	170	178	203
	Percent	7%	6%	7%	7%	8%
Total	Number	2144	2400	2375	2577	2705

Source: Annie E. Casey Kids Count, Adoption and Foster Care Analysis and Reporting System (AFCARS)

West Virginia Children in Foster Care Adoptions by Pre-Adoptive Relationship

Relationship	Data Type	2016	2017	2018	2019	2020
Adopted by Foster Parent	Number	549	561	742	746	823
	Percent	58%	52%	53%	45%	49%
Adopted by Non-Relative	Number	3	6	12	33	24
	Percent	<.5%	1%	1%	2%	1%
Adopted by Relative	Number	388	501	642	894	832
	Percent	41%	47%	46%	53%	49%
Adopted by Stepparent	Number	NA	1	3	2	4
	Percent	NA	<.5%	<.5%	<.5%	<.5%

Source: Annie E. Casey Kids Count, Adoption and Foster Care Analysis and Reporting System (AFCARS)

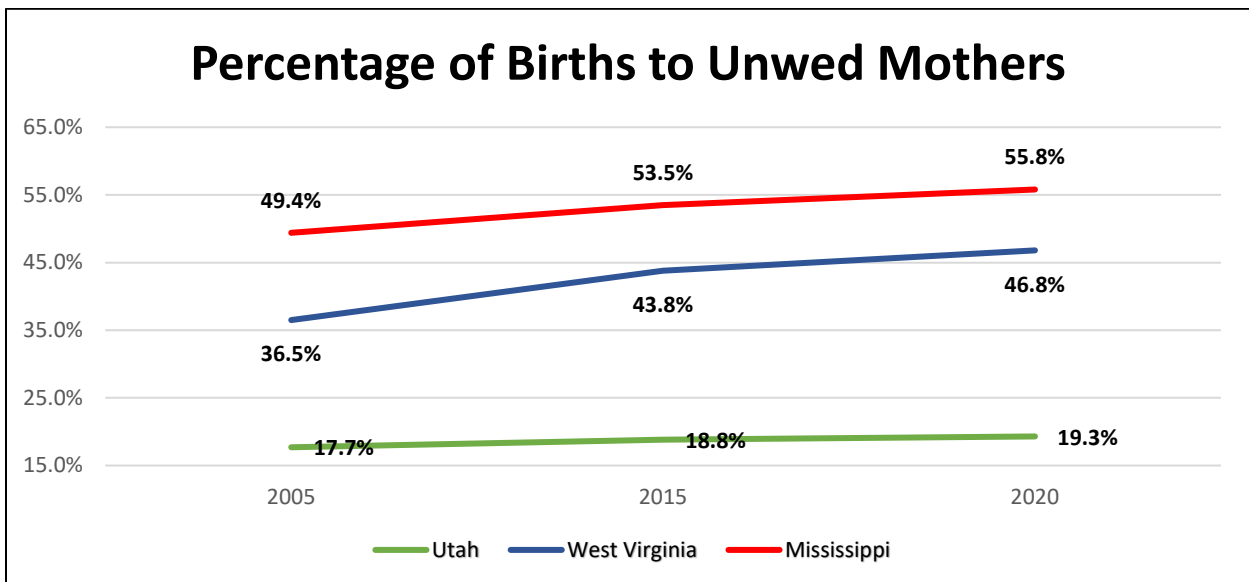
Adoption Cost Estimates

International Adoptions	Private Domestic Adoptions	Adoptions from Foster Care
\$15,000 to \$50,000	\$20,000 to \$50,000*	\$0 to Minimal Cost

Note: Sources indicate a wide variation of private adoption costs in West Virginia. The West Virginia Children's Home Society stated that they waive private adoption fees that would otherwise be charged by the agency, leaving only legal costs of approximately \$500 to 2,500.

Source: West Virginia KVC (Private Child Placement Agency)

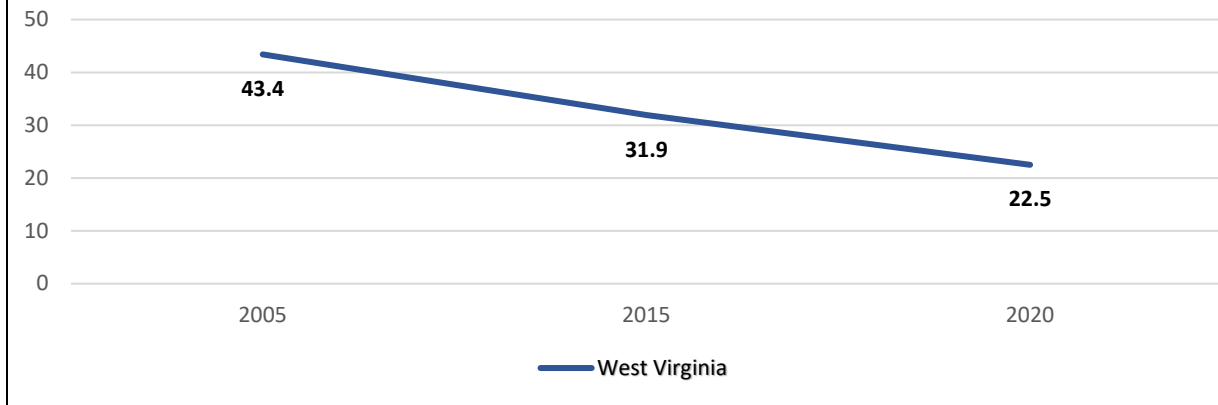
West Virginia Maternal, Child, and Family Health



Source: <https://wonder.cdc.gov>

Note: Utah consistently has the lowest unwed mother birth rate in the United States. Mississippi is consistently has the highest, or next to highest, unwed mother birth rate in the United States.

WV Number of Births Per 1,000 Women Aged 15-19



Source: <https://wonder.cdc.gov>

Select Maternal, Child, and Family Health Statistics

Measurement Title	Metric	Source
Teen Births, 2020	1,139	CDC Wonder: https://www.cdc.gov/nchs/data/nvsr/nvsr70/nvsr70-17.pdf
Total Births, 2020	17,323	CDC Wonder: https://www.cdc.gov/nchs/data/nvsr/nvsr70/nvsr70-17.pdf
Fertility Rate per 1,000 Women Aged 15-44, 2020	55.3	
High School Youth Ever Had Sexual Intercourse, 2019	48.9%	CDC YRBS: https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=WV
High School Youth with No Condom Use During Last Sexual Encounter, 2019	48.4%	CDC YRBS: https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=WV
High School Youth with No Condom, Birth Control Pill, IUD, Shot, Patch, or Birth Control Ring Before Last Sexual Encounter, 2019	57.7%	CDC YRBS: https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=WV
High School Youth Who Drank or Used Drugs Before Last Sexual Encounter, 2019	13.9%	CDC YRBS: https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=WV
High School Youth with Four or More Sexual Partners During Lifetime, 2019	11.7%	CDC YRBS: https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=WV

Number of Grandchildren Being Raised by Grandparents	33,000	Grandfamilies.org, WV Profile
Number of Grandparents Raising Grandchildren	22,053	Grandfamilies.org, WV Profile
Neonatal Abstinence Syndrome Percentage of Births, 2020	6.6%	West Virginia Office of Maternal Child and Family Health, December 2021
Intrauterine Substance Exposed Babies (Drug Exposed) Percentage of Births	14.2%	West Virginia Office of Maternal Child and Family Health, December 2021
Mothers Having Baby with Neonatal Abstinence Syndrome Having Had Previous Pregnancy	83.57%	West Virginia Office of Maternal Child and Family Health, December 2021

West Virginia Women with Potential Need for Contraceptive Services

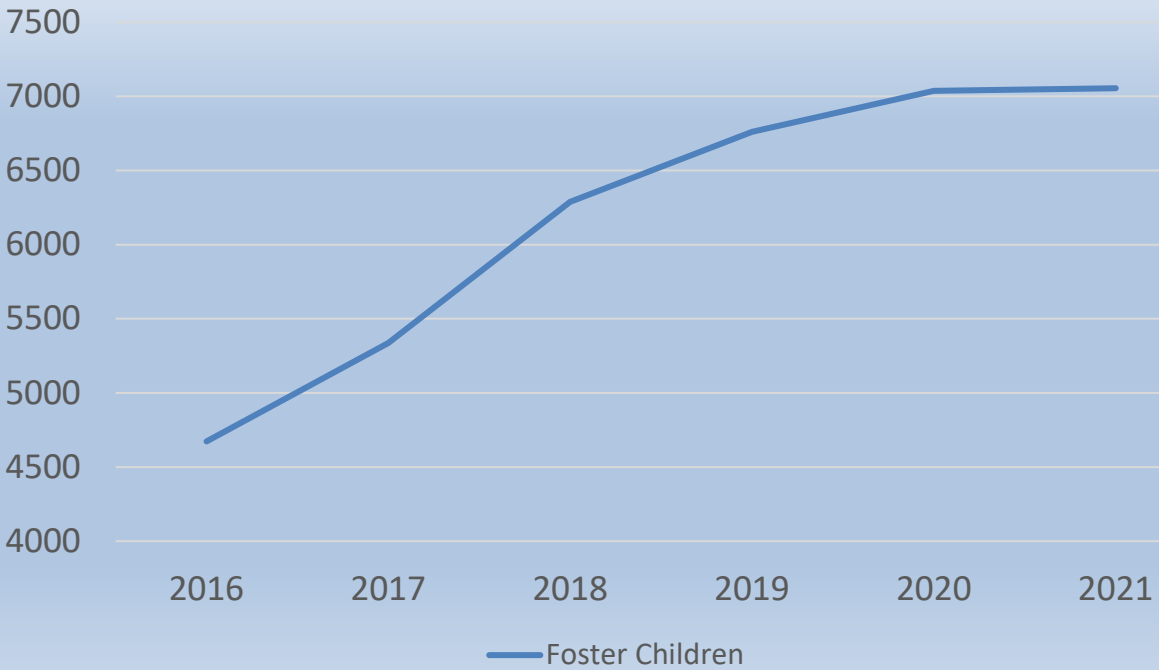
Women Aged 18-49				
Age Group	Total Number	Percent at risk for unintended pregnancy	Number and % who had ongoing or potential need for contraceptive services	
			Number	Percent
18-24	77,600	77.0%	58,800	75.8%
25-34	101,400	74.8%	59,500	58.7%
35-44	105,200	80.1%	42,500	40.4%
45-49	49,200	72.2%	14,000	28.4%

Notes:

- 1) Statistical confidence interval of 95%
- 2) Women considered to be at risk for unintended pregnancy unless they reported not being sexually active with a male partner, being currently pregnant or seeking pregnancy, not minding being pregnant, having had a hysterectomy.
- 3) Women with ongoing or potential need for contraceptive services were defined as women considered to be at risk for unintended pregnancy not using permanent contraception (female sterilization or male partner vasectomy).
- 4) Methodology created by the Centers for Disease Control

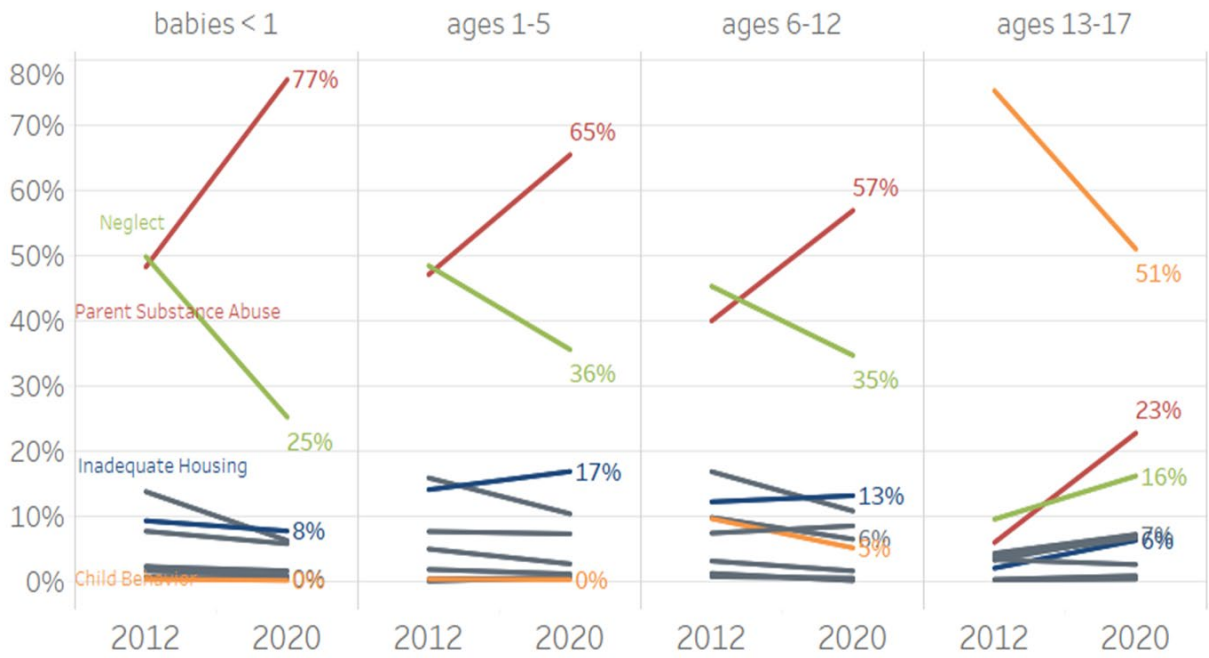
Source: Centers for Disease Control; West Virginia Behavioral Risk Factor Surveillance System 2019

WV Children in State Custody



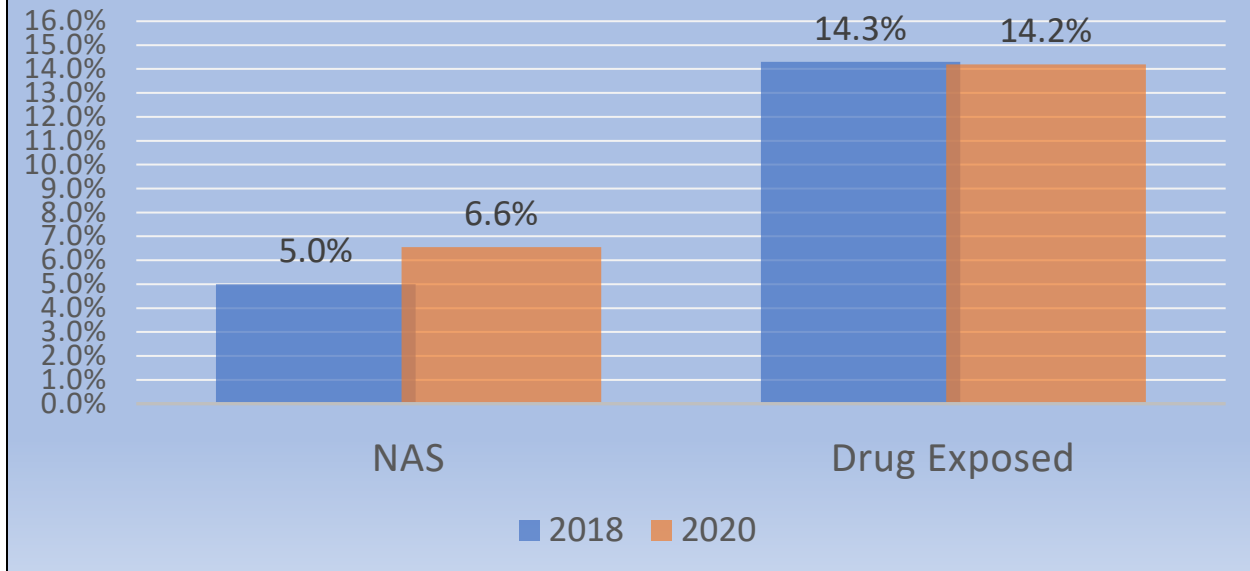
Source: West Virginia Legislative Foster Care Reports, 2016-2021

Reasons children enter care, by age



Source: Annie E. Casey Foundation, 2021

Growth in Neonatal Abstinence Syndrome and Drug Exposed Babies



Source: West Virginia Office of Maternal Child and Family Health, December 2021

Section III: Major Adoption, Contraceptive, Maternal Health Legislation in 2022

1. Extend leave to state employees who adopt
 - a. 2022 AL:

https://custom.statenet.com/public/resources.cgi?id=ID:bill:AL2022000S31&ciq=ncsl&client_md=6506aecea5ed64b106e83a2dd6c43612&mode=current_text
 - b. 2022 UT:

https://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2022000S100&ciq=ncsl&client_md=e35feb5da4585911474420209dc04508&mode=current_text
2. Adoption Tax Credit (\$2k for foster and private in-state and \$1k OOS)
 - a. 2022 AL:

https://custom.statenet.com/public/resources.cgi?id=ID:bill:AL2022000H487&ciq=ncsl&client_md=56b49bacbcbfd8940f37defcd87270b&mode=current_text
 - b. 2022 OK (clarifying legislation)

https://custom.statenet.com/public/resources.cgi?id=ID:bill:OK2021000H3088&ciq=ncsl&client_md=555ffb6adedd2525622dd058daa79d49&mode=current_text
3. Prohibition of religious discrimination of adoption agencies
 - a. 2022 AZ:

https://custom.statenet.com/public/resources.cgi?id=ID:bill:AZ2022000S1399&ciq=ncsl&client_md=c9b8e55d85c90c5df70969d058d14c2a&mode=current_text
4. Cost of Home Study Responsibility of the State

- a. 2022 SD:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:SD2022000H1133&ciq=ncsl&client_md=81ca5bfab98f7f11ddb6455457127ad&mode=current_text
5. Clarification of Court Responsibilities to Streamline Adoptions
 - a. 2022 VA:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:VA2022000H869&ciq=ncsl&client_md=58cefd182ad52bb60fa041ec1063c133&mode=current_text
6. Expand/ Reform Midwife Services
 - a. 2022 DC:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:DC2021000B143&ciq=ncsl&client_md=27f90777075a8f182911285573cc3ec3&mode=current_text
 - b. 2022 IL:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2021000H3401&ciq=ncsl&client_md=cc782ebc756bbf0c626855c35e22a0c1&mode=current_text
7. Study on Mental Health Services for Pre-Term and Postpartum Women
 - a. 2022 LA:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:LA2022000SR131&ciq=ncsl&client_md=fdecad653a0e8be6e1f2c514b481dc42&mode=current_text
8. Private Insurance Coverage of Postpartum Care
 - a. 2022 ME:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:ME2021010S443&ciq=ncsl&client_md=7be18fc5f726eb21a7303170a213160e&mode=current_text
9. Perinatal Mental Health Screening Expansion to APRNs
 - a. 2022 NE:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:NE2021000L905&ciq=ncsl&client_md=7ee6c9c4cdedaaf2c11ad3f3b2618001&mode=current_text
10. Designation of Opioid Settlement Funding for Services (includes pregnant and parenting women with SUD)
 - a. 2022 OR:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:OR2022000H4098&ciq=ncsl&client_md=a95d6f36f124d841cddbde095b7657141&mode=current_text
 - b. 2022 VT:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:VT2021000H711&ciq=ncsl&client_md=1a550c4526ecb14c52f358468d31f74b&mode=current_text
11. Reorganized Government Structure (programs dealing with services for pregnant women)
 - a. 2022 UT:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2022000S45&ciq=ncsl&client_md=e323e0e066c50c4fda8f4813bd99c5de&mode=current_text
12. Immediate Postpartum Contraception (LARC)
 - a. 2022 WA:
https://custom.statenet.com/public/resources.cgi?id=ID:bill:WA2021000H1651&ciq=ncsl&client_md=ae2e2e20d5eb79c3e3c892813537b5f7&mode=current_text