

FLORIDA FINANCIAL IMPACT ESTIMATING CONFERENCE
Amendment to Limit Government Interference with Abortion
Serial Number 23-07
November 16, 2023

FINANCIAL IMPACT STATEMENT

The proposed amendment was analyzed late in the 2023 calendar year. At that time, litigation was pending before the Florida Supreme Court challenging the Legislature's 2022 enactment of a prohibition on most abortions being performed if the gestational age of the fetus is more than 15 weeks. If the Court upholds the 2022 law, a 2023 law further reducing the 15 weeks to 6 weeks will take effect 30 days later. This could lead to additional litigation. In order to measure the proposed amendment's impact on state and local government revenues and costs, a reasonable expectation of what the state of the law will be at the time of the election is required. Because there are several possible outcomes related to this litigation that differ widely in their effects, the impact of the proposed amendment on state and local government revenues and costs, if any, cannot be determined.

SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT

One year prior to the election, it is impossible to predict with any reasonable certainty what the legal landscape will be when the proposed amendment is on the ballot in November 2024. When this proposed amendment was analyzed, litigation was pending before the Florida Supreme Court challenging the Legislature's 2022 enactment of a prohibition on most abortions being performed if the gestational age of the fetus is more than 15 weeks. If the Court upholds the 2022 law, a 2023 law further reducing the 15 weeks to 6 weeks will take effect 30 days later. This could lead to additional litigation.

At least four possible outcomes could occur from these events. Not knowing which outcome will be in place makes a material difference to the financial impacts of the proposed amendment, if any. At a minimum, there is a significant difference in the number of abortions that occur up to and including 6 weeks and 15 weeks. This is because the number of abortions by weeks of gestation are skewed towards fewer weeks of gestation. For this reason, budgetary or revenue effects that are limited or undetectable at 15 weeks may be much stronger at 6 weeks.

- With respect to abortions themselves, prior case law in Florida indicates that the state does not have an obligation to pay for them. The Florida Legislature has made no changes to its policies regarding state abortion funding under either the 15-week or 6-week prohibitions. Future legislative changes, if any, in response to the passage of the proposed amendment are unknown.
- Some state programs may be affected by differences in the number of live births in the state. With respect to the education system and health and human services, if the 15-week prohibition is upheld by the Florida Supreme Court, regardless of whether the 6-week prohibition goes into effect, it is probable that the state will experience cost savings because of the proposed amendment. Alternatively, if the 15-week prohibition is not upheld, there would be no savings as the baseline policy would be essentially equivalent to the proposed amendment.
- At least one government program may be affected by the proposed amendment's requirement that no law shall prohibit, penalize, delay, or restrict abortion. If the 15-week prohibition is upheld, regardless of whether the 6-week prohibition goes into effect, it is probable that there will be cost savings to the criminal justice system as certain criminal penalties are invalidated. Alternatively, if the 15-week prohibition is not upheld, there would be no savings within the criminal justice system as the baseline policy would be essentially equivalent to the proposed amendment.

- With respect to state and local revenues, the baseline for the analysis is uncertain. While increased travel to the state would be expected to result in higher sales tax collections, this result, if it occurred, would not be a direct effect of the proposed amendment.

SUBSTANTIVE ANALYSIS

A. Proposed Amendment

Ballot Title:

Amendment to Limit Government Interference with Abortion

Ballot Summary:

No law shall prohibit, penalize, delay, or restrict abortion before viability or when necessary to protect the patient’s health, as determined by the patient’s healthcare provider. This amendment does not change the Legislature’s constitutional authority to require notification to a parent or guardian before a minor has an abortion.

Article and Section Being Created or Amended:

Creates – Article 1, New Section

Full Text of the Proposed Amendment:

New Section, Amendment to Limit Government Interference with Abortion

Limiting government interference with abortion.— Except as provided in Article X, Section 22, no law shall prohibit, penalize, delay, or restrict abortion before viability or when necessary to protect the patient’s health, as determined by the patient’s healthcare provider.

B. Effective Date

Article XI, Section 5(e), Florida Constitution, states: “Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.”

Assuming the initiative is on the ballot in 2024, the effective date would be January 7, 2025.

C. Formal Communications to and from the Sponsor, Proponents, and Opponents

The Sponsor, Floridians Protecting Freedom, Inc., designated four representatives to speak on its behalf at meetings held by the Financial Impact Estimating Conference (FIEC): Kara Gross, Sara Latshaw, Pamela Burch Fort, and Michelle Morton.

D. Input Received from the Sponsor, Proponents, Opponents, and Interested Parties

The FIEC allows any proponent, opponent, or interested party to present or provide the conference with materials to consider. The FIEC received input from a designated representative from the Sponsor, both in writing and orally at the first workshop. Follow-up information was submitted by the Sponsor after each of the first two meetings for the FIEC's review and consideration.

In addition, a representative from an opponent, Susan B. Anthony Pro-Life America, presented to the FIEC and submitted written comments. Follow-up information was also submitted. In addition, materials were received from a proponent of the amendment, the Institute for Women's Policy Research, and one opponent of the amendment, The Heritage Foundation.

The FIEC requested and received input and/or materials for staff analysis from the following state agencies: the Agency for Health Care Administration (AHCA), the Department of Children and Families, the Department of Corrections, and the Department of Management Services. A representative from AHCA's Division of Health Care Policy & Oversight also submitted materials and presented to the FIEC on two occasions.

Representatives for both the Florida League of Cities and the Florida Association of Counties were contacted, but no response was received from either organization.

Documentation of all written comments and materials received by the FIEC can be found in the EDR Notebook on the website at: <http://edr.state.fl.us/Content/constitutional-amendments/2024Ballot/LimitGovernmentInterferencewithAbortionNotebook.pdf>

In addition, the public meetings were recorded and archived by The Florida Channel. These recordings may be viewed at: <https://thefloridachannel.org>.

E. Background (Summary of Current Law)

In 2022, the Legislature passed HB 5 (ch. 2022-69, L.O.F.) prohibiting a physician from performing an abortion if the physician determines the gestational age of the fetus is more than 15 weeks.¹ The bill became law and maintains medical exceptions² to the prohibitions that were in effect under prior law while creating a new exception for fatal fetal abnormalities.^{3,4} Shortly before the law was to take effect on July 1, 2022, various abortion providers filed a legal challenge to the 15-week prohibition. The case is currently pending before the Florida Supreme Court in *Planned Parenthood of Southwest and Central Florida v. State of Florida*.⁵ The law is not enjoined and remains in effect throughout the duration of the pending litigation.

In 2023, the Legislature passed SB 300 (ch. 2023-21, L.O.F.) prohibiting abortions if the gestational age of the fetus is more than 6 weeks. The bill retains the medical and fatal fetal abnormality exceptions and adds exceptions for rape, incest, or human trafficking if the gestational age of the fetus is less than 15 weeks and

¹ 15 weeks is calculated based upon the first day of the woman's last menstrual period.

² The medical exception applies if two physicians, or one physician in the case of an emergency, certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition.

³ A "fatal fetal abnormality" is a terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter.

⁴ Section 390.0111, F.S.

⁵ The Florida Supreme Court heard oral arguments on September 8, 2023, but to date has not rendered an opinion in this matter.

the pregnant woman provides specified documentation. However, the provisions of SB 300 only take effect if specified events occur that change Florida’s jurisprudence on the privacy clause in the state constitution, which include:

- The Florida Supreme Court:
 - Recedes from its decision in *In Re T.W.*⁶ or its progeny; or
 - Determines that the Florida Constitution’s privacy provision does not include abortion; or
 - Rules in favor of the state in the current case challenging the 15-week abortion prohibition (*Planned Parenthood of Southwest and Central Florida v. State of Florida*).

or

- Florida voters adopt a state constitutional amendment clarifying that the right to privacy does not include abortion.

To date, none of these events have occurred, and the provisions of HB 5 remain in effect.

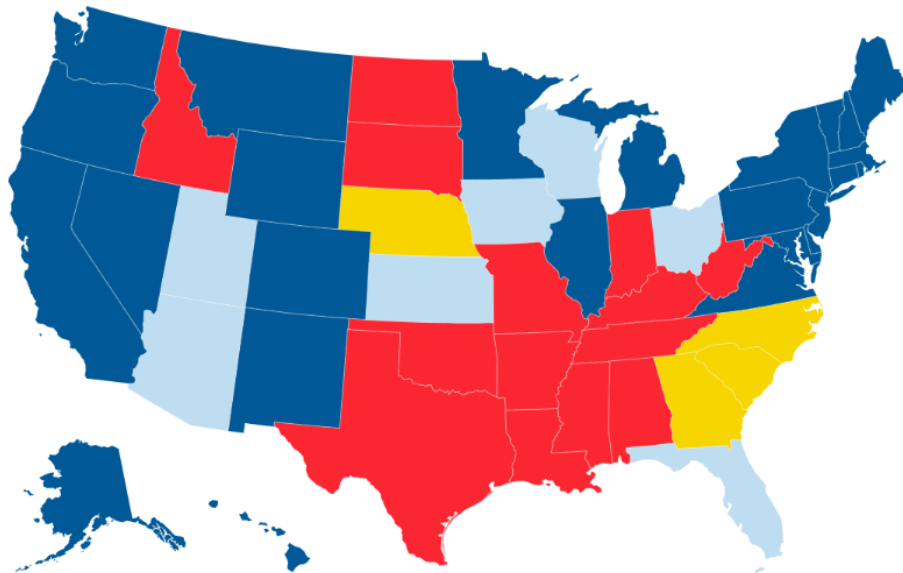
Below is a map showing the status of abortion bans in the United States as of October 24, 2023. This map was extracted from the KFF website on that date and can be found at <https://www.kff.org/womens-health-policy/dashboard/abortion-in-the-u-s-dashboard/#state>⁷.

As the map displays, Florida was one of seven states that had an abortion ban with a gestational limit between 15 and 22 week LMP (last menstrual period).

Status of Abortion Bans in the United States as of October 24, 2023

Hover over state for more details

- Abortion Banned (14 states)
- Gestational limit between 6 and 12 weeks LMP (4 states)
- Gestational limit between 15 and 22 weeks LMP (7 states)
- Abortion legal beyond 22 weeks LMP (25 states & DC)



NOTE: LMP = Last Menstrual Period. For more information on state policies, please see our briefs on state actions to protect abortion, states without laws protecting or restricting abortion, our brief on the *Dobbs* case, our KFF State Health Facts page on abortion policies, our brief on legal challenges to state abortion bans, and our brief on abortion ban exceptions. Since the *Dobbs* decision, 25 states have tried to implement a complete ban or a pre-viability ban. In 5 states, these laws are currently blocked by courts. The 25 states are: AL, AZ, AR, FL, GA, ID, IN, IA, KY, LA, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, UT, WV, WI, and WY.

KFF

SOURCE: KFF analysis of state policies and court decisions, as of October 24, 2023. • Embed • PNG

⁶ The Florida Supreme Court held in *In re T.W.* that the express right to privacy contained within Article I, s. 23 of the Florida Constitution “is clearly implicated in a woman’s decision whether or not to continue her pregnancy”.

⁷ Formally known as the Kaiser Family Foundation.

F. Discussion of Impact of Proposed Amendment

Potential Conflicts with Current Statutes

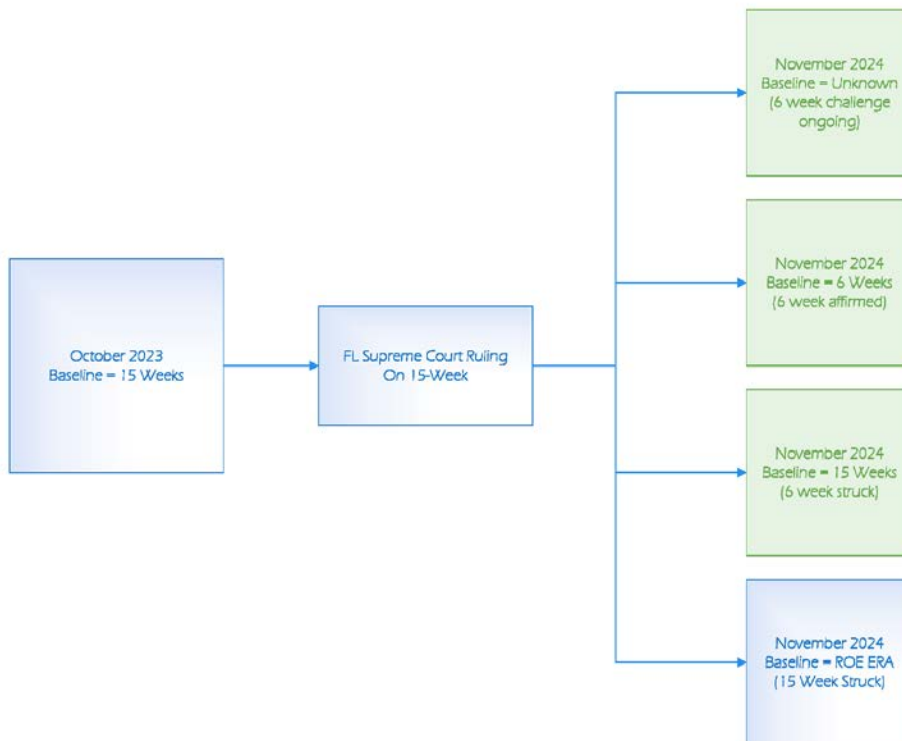
The proposed constitutional amendment would supersede many provisions in Chapter 390, F.S., which are directly related to abortion procedures.

Potential Impact of the Amendment

At the time this analysis was prepared, the 15-week prohibition was in effect. Relative to the 15-week prohibition, the proposed constitutional amendment has the potential to affect the state's costs, primarily through savings. Likewise, the state's revenues may be affected.

The major programs and revenues are described in the remainder of this document; however, to calculate the proposed constitutional amendment's financial impacts, the appropriate baseline for measurement must first be determined. This baseline represents the status quo or pre-change condition. The difference estimated to result from the proposed change (positive or negative) is then determined by measuring the post-change condition against the baseline. An increased cost would be expected to increase or a savings would be expected to decrease the state's budget in the future, while an increase in tax or fee collections would be expected to increase the state's revenue and the opposite would be expected to decrease it in the future. In the case of the proposed amendment, at the time this analysis was prepared, the appropriate baseline for November 2024 was unclear.

The graphic below illustrates both the uncertainty and complexity of the legal landscape that will be in place when the amendment is on the ballot in November 2024.



This legal uncertainty makes a material difference to the potential financial impacts of the proposed amendment. For example, there is a significant difference in the number of abortions that occur up to and

including 6 weeks and 15 weeks. The table below shows the number of reported abortions in Florida by known week of gestation during different calendar years. The 2020 calendar year uses the most recent published data from CDC, while 2021 and 2022 use unpublished data from the Agency for Health Care Administration. The weeks of gestation starting July 1, 2022 use a revised state definition that is calculated from the first day of the pregnant woman’s last menstrual period. Prior to this, the calculation was based on the clinician’s estimate.

Weeks of Gestation	2020		2021		2022 <i>(definitional change)</i>	
	Number	Percent	Number	Percent	Number	Percent
≤6	55,834	74.6	58,136	72.8	46,011	55.7
7–9	11,686	15.6	13,436	16.8	24,015	29.1
10–13	4,768	6.4	5,321	6.7	9,384	11.4
14–15	1,005	1.3	1,140	1.4	1,859	2.3
16–17	652	0.9	734	0.9	527	0.6
18–20	704	0.9	764	1.0	572	0.7
≥21	219	0.3	286	0.4	213	0.3
Total abortions reported by known gestational age	74,868		79,817		82,581	

Percentages may not add to 100.0 due to rounding.

The number of abortions by weeks of gestation are skewed towards fewer weeks of gestation. For this reason, budgetary or revenue effects that are limited or undetectable at 15 weeks of gestation may be much stronger at 6 weeks of gestation.

State and Local Costs:

A. Criminal Justice System

Under current law, there are four felonies related to abortion that exist under Chapter 390, F.S. Section 390.0111, F.S., includes a Level 1, 3rd degree felony for “any person who willfully performs, or actively participates in, a termination of pregnancy in violation of the requirements of” how pregnancies should be terminated, including when it is permitted to terminate a pregnancy after the gestational age of 15 weeks, and when a partial-birth abortion or experimentation on a fetus is permitted. A Level 4, 2nd degree felony is also included for “any person who performs, or actively participates in, a termination of pregnancy in violation of this section or s. 390.01112, F.S., which results in the death of the woman.” Additionally, it includes a Level 1, 3rd degree felony for a person who violates the requirements that an infant “born alive during or immediately after an attempted abortion” be treated like “any other child born alive in the course of natural birth.” Section 390.01112, F.S., states that “no termination of pregnancy shall be performed on any human being if the physician determines that, in reasonable medical judgment, the fetus has achieved viability,” with exceptions. Section 390.01114, F.S., includes a Level 1, 3rd degree felony for “a physician who intentionally or recklessly performs or induces, or attempts to perform or induce, a termination of a pregnancy of a minor without obtaining the required consent” from a parent or legal guardian.

Given the data available from the Florida Department of Corrections, there have been no commitments to prison for any of the felonies described above—either before or after the enactment of the 2022 legislative change to 15 weeks (ch. 2022-69, L.O.F.).⁸ It should be noted that the 15-week language just went into effect last year, and given the time it would take from arrest to adjudication, it is likely that

⁸ The data series from the Florida Department of Corrections begins in 1979.

few, if any, current or future offenders would have moved through the criminal justice system at this point.

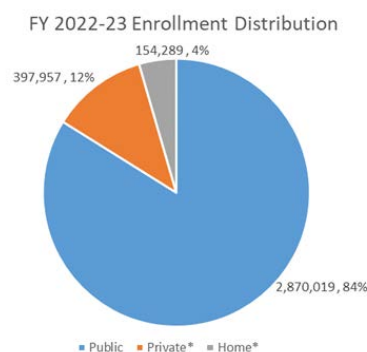
Conclusion: As previously noted, the baseline for the analysis is uncertain. As illustrated in the graphic in Section F of this document, there are scenarios where either a 6-week prohibition or a 15-week prohibition could be in effect in November 2024. In either event, it is probable that there will be cost savings to the criminal justice system. The magnitude of those savings will differ depending on which prohibition (15-week or 6-week) is in effect. Alternatively, if the 15-week prohibition is not upheld, there would be no savings within the criminal justice system as the baseline policy would be essentially equivalent to the proposed amendment. Without knowing these answers, the impact is indeterminate.

B. Education Services

Florida resident births directly influence the state’s future preschool and school age populations. The initial effects of policies that impact birth rates may be seen in the school system beginning three to four years following the change. The first educational setting that could experience differences would be Florida’s Exceptional Student Education programs, including public schools and the Family Empowerment Scholarship Program for Students with Unique Abilities. In 2022-23, these two programs for three and four year olds with additional needs for learning support served roughly 15 percent of this age group. The next program preschoolers can participate in is Florida’s universal Voluntary Prekindergarten Program (VPK), which serves 65.7 percent of four year olds.

The full-effect of policies that influence birth rates and their interactions with Florida’s schools would begin five to six years following the policy change, once students reach the age of compulsory education. Florida’s school choice landscape would result in the effects of the policies being felt across public, private, and home education settings beginning in Kindergarten. Once students are eligible for Kindergarten, impacts are cumulative – stretching across 13 grades from Kindergarten to 12th grade. After 18 years of policy change, all 15 years of education across three settings (public, private, and home), two key scholarship programs (Family Empowerment Scholarship and Florida Tax Credit Scholarship programs) and five major funding programs (Florida Education Finance Program, VPK within the General Appropriations Act, Florida Tax Credit Scholarship Program, Hope Scholarship Program, and Sales Tax Credit Scholarship Program) would ultimately feel the full effect of policies influencing birth rates.

In FY 2023-24, the typical VPK cost is \$2,839 per student. As of July 2023, the FY 2023-24 statewide funds per unweighted PreK-12 FTE was \$8,668, with average scholarship amounts ranging from \$7,800 for a private school scholarship to \$10,900 for a unique abilities scholarship. Further, costs across the public school setting and scholarship programs depend on the grade, level of needs, and residence of each student.



*Private and Home education settings include FES and FTC scholarship students

FY 2022-23 through FY 2028-29 Unweighted FTE and Scholarship Forecast							
	FY 2022-23 SE* 4/14/2023	FY 2023-24 Forecast 8/7/2023	FY 2024-25 Forecast 8/7/2023	FY 2025-26 Forecast 8/7/2023	FY 2026-27 Forecast 8/7/2023	FY 2027-28 Forecast 8/7/2023	FY 2028-29 Forecast 8/7/2023
Total PreK-12 FEFP FTE (Excl. Scholarships)	2,832,246	2,867,520	2,871,840	2,872,278	2,861,645	2,862,123	2,865,229
Family Empowerment Scholarship (FES)	155,183	219,790	274,265	324,878	364,761	402,109	437,073
FES-Education Opportunity (EO)	87,402	126,433	156,128	181,194	195,326	206,443	214,744
FES-Unique Ability (UA)	67,781	93,357	118,137	143,684	169,435	195,666	222,329
Florida Tax Credit Scholarship (FTC)	94,518	134,891	114,576	101,721	100,377	99,111	97,840
	* FY 2022-23 SE = recalibrated survey 3 (February 2023) data excluding scholarship FTE, with adjustments to reflect scholarship payment data						

Conclusion: As previously noted, the baseline for the analysis is uncertain. As illustrated in the graphic in Section F of this document, there are scenarios where either a 6-week prohibition or a 15-week prohibition could be in effect in November 2024. In either event, it is probable that there will be cost savings to education services. The magnitude of those savings will differ depending on which prohibition (15-week or 6-week) is in effect. Alternatively, if the 15-week prohibition is not upheld, there would be no savings within education services as the baseline policy would be essentially equivalent to the proposed amendment. Without knowing these answers, the impact is indeterminate.

C. Health and Human Services

Florida offers a wide range of social services to support residents with medical, food, and cash assistance that are partially dependent on Florida’s population and birth rate. While there are programs that are purely federally funded, many programs use a mix of state and federal funding. An example of the latter is the Medicaid program that provides medical assistance to individuals and families to cover or assist in the cost of services that are medically necessary. Another example is the Temporary Cash Assistance program that provides financial assistance to pregnant women in their third trimester and families with dependent children to assist in the payment of rent, utilities and other household expenses. As many of these programs serve children as well as new or expecting mothers, any changes in Florida resident births affect the number of people potentially eligible for these various social services for both the birthed and the birthing.

For children in Florida needing medical assistance, the state offers Medicaid and Kidcare (Title XXI Children’s Health Program—CHIP). Children from birth until their first birthday are eligible for Medicaid if the household income is below 200 percent of the Federal Poverty Level (FPL). After their first birthday, the household income threshold drops to 133 percent of the FPL. Those children remain Medicaid eligible up until their nineteenth birthday (there are special programs for 19 and 20 years old based on a fixed income dollar amount). If household income is above 133 percent but below 300 percent of the FPL, children are eligible for Medikids Title XXI. If household income is above 300 percent, children are eligible for Medikids Full Pay. Eligibility for both Medikids programs covers children until their fifth birthday. From ages 5 to 18 years old, under the same FPL thresholds, children are eligible for Florida Healthy Kids Title XXI or Full Pay. Children in income eligible households with special healthcare needs that require extensive preventive and ongoing care are eligible for the Children’s Medical Services health plan (CMS).

Florida Medicaid and CHIP Income Requirements (Children)	
Medicaid	
Children Under Age 1	200% FPL
Children ages 1 through 18	133% FPL
Parents, Caretakers, Children ages 19-20	Fixed dollar amount
Children's Health Insurance Program (CHIP)	
Medikids (Ages 1-4)	
Title XXI	133% up to 300%
Full Pay	300%
Florida Healthy Kids (Ages 5-18)	
Title XXI	133% up to 300%
Full Pay	300%
CMS	133% up to 300%

With coverage beginning as early as birth, the effects of any changes to the birth rate can be cumulative and varying. Medicaid covers almost one-half of the births (45.47 percent CY 2021) in the state. They maintain that coverage until their first birthday is reached and their eligibility is reassessed. Many remain on Medicaid, move to a CHIP program, or are able to find health insurance elsewhere. As of August 2023, 47.4 percent (2,490,633) of the 5.3 million Medicaid enrollees were under the age of 18 with ages from 0 to five years making up approximately 33 percent of the total under 18. CHIP covers a further 138,293 children under the age of 18 with Medikids covering 12,281, Healthy Kids covering 118,281 and CMS covering 7,731. It should also be noted that the federal Public Health Emergency (PHE) significantly affected enrollment leading into this period. The tables below show current enrollment as of August 2023 and December 2019, the month before the PHE retroactively went into effect (the PHE began in March 2020 but continuous enrollment was retroactive to January 1, 2020).

Florida Medicaid Enrollment by Age Group and Date				
Group	8/31/2023		12/31/2019	
	Enrolled	% of Total	Enrolled	% of Total
Ages 0-5	827,024	15.7%	769,120	19.9%
Ages 6 -10	661,289	12.6%	543,814	14.1%
Ages 11-18	1,002,320	19.1%	770,549	19.9%
Total 0-18	2,490,633	47.4%	2,083,483	53.9%
Total	5,254,460	100.0%	3,868,723	100.0%

Florida Children's Health Insurance Program (CHIP) Enrollment by Age Group and Date					
	MK XXI	MK Full Pay	HK XXI	HK Full pay	CMS
	9/30/2023				
Ages 1-5	9,014	3,267	-	-	574
Ages 6-10	-	-	28,709	8,540	2,458
Ages 11-18	-	-	67,614	13,418	4,699
12/31/2019					
Ages 1-5	31,830	8,847	-	-	1,196
Ages 6-10	-	-	63,334	6,939	4,102
Ages 11-18	-	-	129,784	9,614	8,227

While children under the age of 18 make up almost one-half of the Medicaid enrollees, they account for approximately a quarter of the total Medicaid expenditure. In SFY 2021-22, children were 49.06 percent of enrollees and 24.5 percent of expenditures. The 2023 Rate Year (October 2022 – September 2023) statewide average MMA capitation rate for a child between the age of one month and eleven months without a serious mental illness (SMI) was \$274.25 per month (\$3,291.00 per year). For a similar child between a year and 13 years old, that rate was \$134.86 per month (\$1,618.32 per year). There are

circumstances where the expenditure on a child is higher than these statewide averages. Children on the CMS plan typically have higher per person per month expenditures, but they account for a small portion of the total children on Medicaid.

As mentioned above, Medicaid covers a significant number of the births in Florida (see table below). There is also pre- and postnatal public assistance for the mothers. Medical assistance for pregnant women is available through various Medicaid programs. A pregnant woman who is eligible for regular Medicaid (income below 185 percent FPL) for at least one month, including a retroactive month, is eligible to receive Medicaid throughout her pregnancy and until the end of the 12th month after the birth (postpartum period). The family planning waiver program covers family planning services to eligible women, ages 14 through 55. Services are provided up to 24 months. Eligibility is limited to women with family incomes at or below 191 percent of the FPL who have lost or are losing Florida Medicaid State Plan eligibility and are not otherwise eligible for Medicaid, Children’s Health Insurance Program, or health insurance coverage that provides family planning services.

Recipients losing SOBRA (pregnancy Medicaid) eligibility will have passive enrollment during the first 12 months of losing Medicaid. Non-SOBRA women have to actively apply for the first year of benefits at their local county health departments. All women enrolled in the family planning waiver have active re-determination of eligibility through their local county health departments after 12 months of family planning waiver eligibility. In order to receive the second year of benefits, recipients must reapply at their local county health departments.

As of August 2023, there were 333,510 individuals receiving Medicaid or the Family Planning waiver to assist with the pregnancies. Of the total, 150,546 receive Pregnant Women Medicaid and 182,964 utilize the Family Planning Waiver.

CY	Medicaid	Total	Rate
2017	109,225	223,579	48.85%
2018	106,695	221,508	48.17%
2019	102,636	220,010	46.65%
2020	98,018	209,645	46.75%
2021	98,297	216,189	45.47%

	SOBRA PREGNANT WOMEN UP TO 100% FPL	SOBRA PREGNANT WOMEN OVER 100% OF FPL UP TO 185% OF FPL	Family Planning Waiver	Total
8/31/2023	114,432	36,043	182,964	333,439
% of Total	34.32%	10.81%	54.87%	100.00%
12/31/2019	67,810	19,124	69,250	156,184
% of Total	43.42%	12.24%	44.34%	100.00%

The Temporary Assistance for Needy Families – Temporary Cash Assistance (TCA) program provides cash assistance to families with children under the age of 18 or under age 19 if full time secondary (high school) school students. The program helps families become self-supporting while allowing children to remain in their own homes. Pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy. Eligibility for the TCA program is similar

to Medicaid eligibility with a few other technical requirements. Gross income must be less than 185 percent of the FPL and countable income cannot be higher than the payment standard for the family size. Individuals get a \$90 deduction from their gross earned income. Some people must participate in work activities unless they meet an exemption. Regional Workforce Boards provide work activities and services needed to get or keep a job. Individuals who receive TCA are eligible for Medicaid. Individuals who are eligible for TCA, but choose not to receive it, may still be eligible for Medicaid. Florida law creates four categories of families who may be eligible for TCA. While many of the basic eligibility requirements apply to all of these categories, there are some distinctions between the categories in terms of requirements and restrictions:

- **Child-Only Families:** These families include situations where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.
- **Relative Caregiver Program:** A specialized program for child-only families where the child has been adjudicated dependent due to abuse or neglect and has been placed with a grandparent or other relative by the court. These relatives are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care
- **Single-Family Parents with Children:** Parents with children can receive cash assistance for the parent and the children.
- **Two-Parent Families with Children:** Are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours or 55 hours if childcare is subsidized) than required for single-parent families (30 hours).

In FY 2022-23, these four programs assisted 67,224 individuals (in FY 2019-20 that number was 61,260). Both the Child-Only Families and Relative Caregiver programs have experienced steady declines in terms of cases and persons served. The other two programs have seen increases over the last few fiscal years that are mostly driven by increased activity among non-citizens seeking assistance.

Temporary Cash Assistance by Program and Date		
Programs	FY 2022-23	FY 2019-20
Child Only Cases	13,840	19,191
Relative Caregiver	9,495	16,461
Single-Family Parents with Children	21,613	22,884
Unemployed Two-Parent Families with Children Parent	22,276	2,723
Total	67,224	61,260

Looking at the age groups served by the TCA programs, ages six and over represent the majority of those receiving assistance (approximately 70 percent). Children from birth to 5 years old make up a smaller proportion of TCA recipients, but are usually also receiving other forms of public assistance as well. While these individuals are treated separately from Medicaid, they are included in the total caseload counts reported each month.

Temporary Cash Assistance by Age and Date				
	9/30/2023		12/31/2019	
	Eligible	%total	Eligible	%total
Age 0 to 5	12,795	29%	16,014	32%
Age 6 to 12	18,755	42%	21,137	42%
Age 13 to 17	13,209	30%	12,989	26%
Total	44,759	100%	50,140	100%

Finally, the foster care system in Florida serves children from birth until their 18th birthday. There are specialty programs to extend foster care services to those older than eighteen, but the majority of those receiving these services are seventeen or younger. In 2022, 24,245 children (aged 0-17) received foster care services. These services are federally funded through Title IV of the Social Security Act with matching state funds (similar to Medicaid and CHIP). Title IV-E provides federal funding to help provide foster care, independent living services, adoption assistance, and guardianship assistance. Like all states that receive Title IV-E funds for foster care, independent living services, adoption assistance, and guardianship assistance, Florida must follow a Title IV-E State Plan.

Conclusion: As previously noted, the baseline for the analysis is uncertain. As illustrated in the graphic in Section F of this document, there are scenarios where either a 6-week prohibition or a 15-week prohibition could be in effect in November 2024. In either event, it is probable that there will be cost savings to health and human services. The magnitude of those savings will differ depending on which prohibition (15-week or 6-week) is in effect. Alternatively, if the 15-week prohibition is not upheld, there would be no savings within health and human services as the baseline policy would be essentially equivalent to the proposed amendment. Without knowing these answers, the impact is indeterminate.

D. Federal and State Funds for Abortion

First passed in 1976, the Hyde Amendment refers to annual funding restrictions that Congress has regularly included in the annual appropriations acts for the Departments of Labor, Health and Human Services, Education, and related agencies.

The most recently enacted version of the Hyde Amendment (P.L. 117-103. Div. H, §§ 506–507), applicable for federal fiscal year 2022, prohibits covered funds to be expended for any abortion or to provide health benefits coverage that includes abortion. This restriction, however, does not apply to abortions of pregnancies that are the result of rape or incest (“rape or incest exception”), or where a woman would be in danger of death if an abortion were not performed (“life-saving exception”).

As a statutory provision included in annual appropriations acts, Congress can modify, and has modified, the Hyde Amendment’s scope over the years, both as to the parameters of exceptions and the sources of funding subject to this restriction.

The Hyde Amendment would continue to restrict the use of federal Medicaid funds even with the adoption of the proposed Florida constitutional amendment. While some states have elected to provide coverage for abortions that are not medically necessary, these states do so through the use of state funds, not federal funds that are restricted by the Hyde Amendment.

In Florida, the issue of whether there is a state coverage obligation under the current privacy clause of the Florida Constitution was previously litigated - see, *Renee B. v. Florida Agency for Health Care*

Administration, 790 So. 2d 1036 (Fla. 2001). The Florida Supreme Court held that the Legislature’s choice not to fund abortions with state funds did not violate the right to privacy in the Florida Constitution, specifically noting: “[t]here is a big difference between a government making a decision not to fund the exercise of a constitutional right and doing something affirmatively to prohibit, restrict, or interfere with it” (quoting, *Renee B.*, No. 97–3983 (Fla.2d Cir.Ct. Oct. 9, 1998)).

Conclusion: Under current law, the state does not have an obligation to pay for abortions. The proposed constitutional amendment does not expressly create a new obligation for the state to pay for abortions. The Florida Legislature has made no changes to its policies regarding state abortion funding under either the 15-week or 6-week prohibitions. Future legislative changes, if any, in response to the passage of the proposed amendment are unknown.

State and Local Revenues:

Revenue Impact from Out-of-State Abortions Occurring in Florida

In the post-Roe landscape, where many states have enacted stricter regulations on abortion, many people seeking an abortion are traveling across state lines to get the medical care they want. In 2020, approximately 9 percent of all abortions in the United States were obtained by individuals traveling across state lines.⁹ This percentage has increased dramatically. For example, in Illinois, where abortion laws are not restrictive, one abortion clinic reported a 700 percent increase in out-of-state abortions in the 11 months after *Roe vs Wade* was overturned.¹⁰ Illinois has seen a 28 percent increase in abortions from April 2022 to August 2022 for the entire state.¹¹ This documented increase in abortion travel has been witnessed in several states, including Colorado, Kansas, and New Mexico.

Geographically, the most restrictive region in the United States is the Southeast. A 2022 study of the estimated travel time to the nearest abortion clinic found Texas, Louisiana, Mississippi, Alabama, and Arkansas to have the longest travel times to the nearest abortion clinic that did post-6 week abortions.¹² For example, the study estimated that the nearest abortion clinic to a Louisiana resident was a 9.61 hour drive.¹³ With its 15-week threshold, Florida could be a destination for abortion travel since it is located within the Southeast region. To the extent that atypical travel to Florida has occurred or will occur, it generates additional sales tax collections.

In 2022, Florida reported 82,581 abortions.¹⁴ Of those 82,581 abortions, 6,726 were related to out-of-state individuals.¹⁵ When compared to 2021, total abortions increased by 3 percent, but out-of-state abortions increased by 38 percent. While this signals that more individuals are traveling to Florida for abortions, the total level of out-of-state abortions remains low. In comparison, Florida’s total visitors in 2022 reached approximately 137.6 million.¹⁶

⁹ <https://www.gutmacher.org/article/2022/07/even-roe-was-overturned-nearly-one-10-people-obtaining-abortion-traveled-across>

¹⁰ <https://www.plannedparenthood.org/reproductive-health-services-planned-parenthood-st-louis-region/press-releases/post-dobbs-planned-parenthood-sees-700-increase-in-abortion-patients-traveling-to-illinois-from-outside-the-bi-state-region-for-care>

¹¹ <https://ci3.uchicago.edu/il-abortion-stats/>

¹² Rader, Benjamin, “Estimated Travel Time and Spatial Access to Abortion Facilities in the US Before and After the *Dobbs v Jackson Women’s Health Decision*” Published: November 1, 2022. *Journal of American Medical Association*.

¹³ *Ibid.*

¹⁴ <https://ahca.myflorida.com/health-care-policy-and-oversight/bureau-of-central-services/frequently-requested-data>

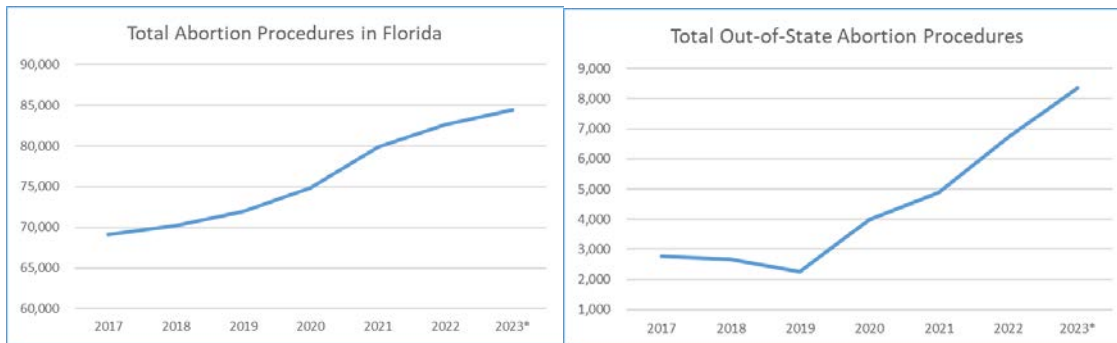
¹⁵ *Ibid.*

¹⁶ <https://www.visitflorida.org/resources/research/research-faq/>

For 2023, only nine months of data are currently available. To project the 2023 annual number, the growth rate between 2023Q1-Q3 and 2022Q1-Q3 was used to grow the 2022Q4 level, producing an estimate for 2023Q4. This estimate was then added to the data for the current year. The results indicate a small increase in total abortions (2 percent growth) and a significant increase in out-of-state abortions (24 percent growth). Charts and graphs of Florida’s abortion data can be found below.

Florida Abortion Statistics				
Year	Total	Growth	Out-of-State	Growth
2017	69,102	-	2,771	-
2018	70,239	2%	2,654	-4%
2019	71,914	2%	2,256	-15%
2020	74,868	4%	3,988	77%
2021	79,817	7%	4,873	22%
2022	82,581	3%	6,726	38%
2023*	84,263	2%	8,351	24%

* 2023 Data is a forecast based-on the first 9 months of data and an estimate of Q4 data.



The data from Florida is inconclusive. While the state has seen an increase in out-of-state abortions since Roe vs Wade was overturned, Florida also saw a significant increase in out-of-state abortions prior to that decision. It is not clear that the current increase is related to Florida’s position (legally and geographically) relative to the other states in the Southeast.

Conclusion: As previously noted, the baseline for the analysis is uncertain. While atypical travel to the state would be expected to result in higher sales tax collections, this result would not be a direct effect of the proposed amendment.