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TRINITY COLLEGE

**Abortion in America After *Roe*: An Examination of
the Impact of *Dobbs v. Jackson Women's Health
Organization* on Women's Reproductive Health Access**

BY

Natalie M. Caffrey

A THESIS SUBMITTED TO THE FACULTY OF THE DEPARTMENT OF PUBLIC POLICY
AND LAW IN CANDIDACY FOR THE BACCALAUREATE DEGREE WITH HONORS IN
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ABSTRACT

This thesis will examine the limitations in access to abortion and other necessary reproductive healthcare in states that are hostile to abortion rights, as well as discuss the ongoing litigation within those states between pro-choice and pro-life advocates. After analyzing the legal landscape and the different abortion laws within these states, this thesis will focus on the practical consequences of *Dobbs* on women's lives, with particular attention to its impact on women of color and poor women in states with the most restrictive laws. The effect of these restrictive laws on poor women will be felt disproportionately due to their lack of ability to travel to obtain care from other states that might offer abortion services. And even if these women find a way to obtain access to abortions, there is now the real possibility of criminal prosecution for those who seek or assist women who obtain abortions post-*Dobbs*.

To compound the problem, the Court made clear in *Dobbs* that its decision to revisit the privacy rights issue signals the possibility of new limitations on protections previously taken for granted in the areas of In vitro fertilization, birth control, emergency contraception, and other civil rights such as gay marriage.

Finally, this thesis will examine the political and legal efforts of liberal states, private companies, and grassroots organizations attempting to mitigate *Dobbs*'s effects. These pro-choice actors have, to some extent, joined forces to protect access for women in the United States through protective legislation and expanding access in all facets of reproductive healthcare, particularly for minority women who will be disproportionately affected by abortion bans in conservative states. The current efforts to mitigate the legal and medical implications of *Dobbs* will determine the future of women's rights in America, not only regarding abortion but more broadly in terms of adequate reproductive care access.

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INTRODUCTION

The recent decision of the Supreme Court in *Dobbs v. Jackson Women's Health Organization*, 597 US __ (2022), has created social, legal, and political uncertainty regarding the right to obtain an abortion in the United States. Not only did *Dobbs* overrule *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), both landmark cases securing the constitutional right to abortion, it also delegated the issue of abortion to the states to decide for themselves. In states with restrictive abortion laws, it has placed women in an untenable situation that requires them to choose between legal jeopardy and their own private medical decisions that literally pose life and death risks.¹ The intrusion of government into the lives of women regarding this most personal decision will have serious consequences, some of which are predictable, and others which are harder to foresee.

First, the *Dobbs* decision will have practical consequences on women's lives, particularly on women of color and poor women in states with the most restrictive laws. To state the obvious, women who lack the resources to travel out of state to obtain an abortion will be most affected. To understand the larger impact of *Dobbs*, however, it is first necessary to understand its precedent in case law, specifically *Roe* and *Casey*. Once the legal framework is established, it is easier to understand how several states have been able to impose new severe limits to access abortion and related healthcare. Finally, while the news seems bleak for those who advocate for the right to abortion, there may be some hope that a countervailing movement in protective states

¹ This thesis will use the word "women" to refer to the group affected by *Dobbs* in order to be consistent with the terminology and much of the available literature and in case law. However, it is important to recognize that not all pregnant people or people with female anatomy identify as women, and they can be affected by *Dobbs* as well.

will mitigate some of these consequences by increasing access across state lines in a post-*Roe* America.

BACKGROUND IN CASE LAW

To understand the drastic changes in abortion law occurring in the U.S right now, it is important to begin with the seminal case itself. In *Dobbs*, the Court analyzed two landmark cases on abortion: *Roe*, and *Casey*. Both cases affirmed the constitutional right for women to have an abortion, protected under the Fourteenth Amendment. However, the *Dobbs* Court found substantial “errors” of logic in these decisions and reversed them. To understand the opinion of the *Dobbs* Court, one must first understand those two cases that it overruled.

Roe v. Wade

In 1970, a woman under the pseudonym Jane Roe sued Henry Wade, the District Attorney of Dallas, Texas, to challenge an abortion law that outlawed the procedure only with exception to save the mother’s life. Roe claimed that the law violated her constitutional rights, under the 1st, 4th, 9th, and 14th amendments. The case was appealed to the Supreme Court, where nine male justices were to decide if the right to an abortion was constitutionally protected. In a 7-2 decision, the Court affirmed that a woman does have a constitutional right to obtain an abortion within certain limits. See *Roe supra* at 166. In its reasoning, the Court weighed the importance of the “potentiality” of human life versus a woman's inherent right to privacy that is protected under the Due Process Clause within the Fourteenth Amendment. The Court held that a woman’s right to privacy outweighed the government’s interest in human life for most of the pregnancy, until the point of viability of the fetus. Under this ruling, the Court defined trimesters of pregnancy. In the first trimester, the fetus is not considered viable and therefore, the woman’s right to have an

abortion was protected. In the second trimester, states may impose some regulations, but they must be reasonably related to maternal health. Lastly, in the third trimester, states may prohibit abortion if they so choose but must make an exception for the mother's life in case of emergency. Following these new categories, abortion became a constitutional right and thus began a new era of women's reproductive health.

Planned Parenthood of Southeastern Pennsylvania v. Casey

In 1988 and 1989, about 15 years after *Roe*, Pennsylvania amended their abortion laws to include (3) provisions: (1) to require a 24-hour waiting period before the procedure, (2) to require a minor to get the consent of a parent before the procedure, and (3) to require a married woman to notify her husband of the procedure in advance. *Casey supra* at 844. The plaintiff challenged the legitimacy of these new provisions as violating the precedent established in *Roe*. The case was appealed to the Supreme Court in 1992. In a close 5-4 decision, the Court ruled that in some instances, abortion laws with such provisions may cause an "undue burden" to the woman who is seeking an abortion before the viability of the fetus. The Court held that laws that purposely place a substantial burden on women seeking an abortion without a rational state interest would violate the Constitution. Under this theory, the Court invalidated the requirement that a wife notify her husband because it imposed an undue burden, while the minor and 24-hour waiting provisions did not. *Casey supra* at 900. Additionally, the Court emphasized the importance of stare decisis in constitutional law, and how building a foundation of case law is imperative to reaffirming the past holding in *Roe*. While this case was less clear-cut than *Roe*, the Court reaffirmed the constitutional right to abortion and warned legislatures that laws which cause "substantial obstacles" for women are unconstitutional in these circumstances.

Dobbs v. Jackson Women's Health Organization

Until 2022, *Roe* and *Casey* guaranteed that a woman had a constitutional right to an abortion before fetal viability that could not be interfered with under state law. But in June of 2022, after 50 years of case law affirming that basic understanding, the Supreme Court reversed the long-standing precedent in *Dobbs*. The case involved a 2018 Mississippi law named the "Gestational Age Act," which banned abortion after 15 weeks of pregnancy. The state claimed it had a significant interest in a fetus after 15 weeks, because there is a chance for viability. Jackson Women's Health Organization challenged the law and eventually sued the state. The district court held that the law was unconstitutional because the state did not provide enough evidence that a 15-week-old fetus would be viable. The Fifth Circuit Court of Appeals affirmed, and the case was appealed to the Supreme Court. Much to the nation's surprise, the new conservative Court overruled *Casey* and *Roe*, setting a new precedent for abortion rights.

In the majority opinion, Justice Alito held that there is no inherent or explicit right to an abortion established in the Constitution. *Dobbs*. As a result, the Court found that *Roe* and *Casey* were both "egregious mistakes." *Id.* To the conservative justices on the Court, abortion is not included in the idea of "ordered liberty" nor is it an essential component of the nation's history. Moreover, they cited (5) major reasons that gave them the authority to overrule a 50-year precedent: (1) *Roe* and *Casey* "short-circuited" the democratic process; (2) the two cases lacked grounding in constitutional text; (3) the tests or trimesters established in *Roe* were not "workable"; (4) the two cases distorted concepts of law in other areas; and (5) overruling the precedent would not upend "concrete reliance interests." *Id.* For these reasons, the Court returned the question of the right to an abortion back down to the states.

And so, as of June 24, 2022, a woman's right to an abortion was no longer guaranteed.

Conservative states that had been waiting for this decision enacted their “trigger” laws – abortion bans that went into effect immediately after *Dobbs*. Many other states restricted abortion entirely or permitted the procedure only in a very narrow range of circumstances, leaving thousands of women without any option to control their own reproductive health. As a result, a generation of mothers whose right to an abortion was presumed must now watch their daughters grow up in a society with far fewer rights than they had. More tragically, the decision itself will cause disproportionate hardship on women of color, poor women, and women living in restrictive states. *Dobbs* overruled a precedent that many conservative Americans politically and morally disagreed with. But in doing so, the Court has placed an enormous burden on women whose choices are limited due to their socio-economic status. Further, the decision has already led to negative consequences, such as criminalizing abortion, and new limitations on maternal care, hospitals, birth control, and more. The decision might even influence the Court to overrule other precedents that were not “inherent to the nation’s history,” like gay marriage. Many Americans have been waiting for this decision. Cheered for this decision. Prayed for this decision. They got what they wanted. But at what cost?

Roadmap

This thesis will be split into three chapters that will examine the legal, political, medical, and socio-economic implications of *Dobbs*. Chapter 1 will examine the post-*Roe* legal landscape and the different laws enacted by states to either further restrict or protect abortion after *Dobbs*. I will also discuss ongoing litigation on abortion laws and the efforts of both pro-life and pro-choice groups to further their political agendas through legal action. In Chapter 2, I will discuss how these new laws affect minority groups of women disparately, such as Black women, poor

women, and women living in the most restrictive states. In addition to these implications, I will discuss other unforeseen consequences of *Dobbs*, such as the potential negative impact on IVF and birth control access, maternal care, and infant mortality rates. Lastly, Chapter 3 will cover potential solutions to mitigate the effects of *Dobbs* on these minority communities and for American women in general, including efforts undertaken by liberal state elected officials, private companies, and grassroot organizations.

CHAPTER 1: THE POST-*ROE* LEGAL LANDSCAPE

The United States has entered a confusing new legal landscape with the decision in *Dobbs*. Now that the constitutional right to abortion has been taken away, states are scrambling to establish basic laws that will govern the personal lives of their constituents. Some conservative states already have laws in place that were ready to go as soon as *Dobbs* was decided. These bans, or what are known as trigger laws, have created a harsh new reality for women living in these states, especially those who struggle to afford reproductive healthcare as it is. In more liberal states, legislatures are fighting to either legalize abortion or enshrine it into their state constitutions. While each state must make its own decision as to how they will proceed on this issue, the broad overview of the country's current state of abortion policy is both confusing and chaotic.

BROAD NATIONAL OVERVIEW

As noted above, the states are handling the impact of *Dobbs* in very different ways. Some states are attacking a woman's right to choose, while others are trying to protect it. Because each state is different, interstate relationships have become more complicated and more polarized on the issue. One in four American women will have an abortion at some point in their lifetime. But certain groups of women are more likely than others to need access to abortion, such as women from poor, uneducated backgrounds, women who already have children, and Black women.² Now, most of these women will have reduced chances of obtaining abortions as the states begin to restrict access. Within 60 days of the *Dobbs* ruling, abortion procedures fell by 6% at the

² Claire Cain Miller and Margot Sanger-Katz, "What Happens If *Roe v. Wade* Is Overturned?" *The New York Times*, June 27, 2022, <https://www.nytimes.com/2022/06/20/upshot/abortion-united-states-Roe-Wade.html>.

national level, representing a reduction of more than 10,000 abortions in just that short period of time.³ Going forward, the Network for Public Health Law estimates that there will be about 2,000 fewer abortions per month compared to the period pre-*Dobbs*.⁴ According to the Guttmacher Institute, many states are enacting new laws or bans that are designed to further reduce the number of abortions. As of November 2022, the South is the most concentrated area of strict bans on abortion.⁵ Thirteen (13) states have total or near-total bans on abortion, with very limited exceptions. Some of these states, such as Texas, Tennessee, Louisiana, and Oklahoma have civil and criminal penalties including fines and prison time under these laws that punish anyone who receives, performs, or aids an abortion procedure.⁶ Thirteen (13) other states have restrictions on abortions after strict gestational periods, usually between six and twenty weeks of pregnancy.⁷ Within states that are completely restrictive or very restrictive, Medicaid and private insurance are no longer options to pay for abortion services. The financial burden on women to pay for abortions will further restrict their access even in states that remain legal.

³ Margot Sanger-Katz and Claire Cain Miller, “Legal Abortions Fell Around 6 Percent in Two Months After End of *Roe*,” *The New York Times*, October 30, 2022, <https://www.nytimes.com/2022/10/30/upshot/legal-abortion-fall-Roe.html?smid=nytcore-ios-share&referringSource=articleShare>.

⁴ Jennifer L. Piat, J.D., and Erica N. White, J.D., “Abortion Post-*Dobbs*,” *The Network for Public Health Law and The New York Times*, PDF file, November 1st, 2022, <https://www.networkforphl.org/resources/post-Dobbs-abortion-access-routes-a-primer/>

⁵ “Interactive Map: US Abortion Policies and Access After *Roe*,” *Guttmacher Institute*, accessed December 29, 2022, <https://states.guttmacher.org/policies/>.

⁶ “Abortion Laws by State,” *Center for Reproductive Rights*, accessed December 28, 2022, <https://reproductiverights.org/maps/abortion-laws-by-state/>.

⁷ “Interactive Map” *supra* at footnote 5.

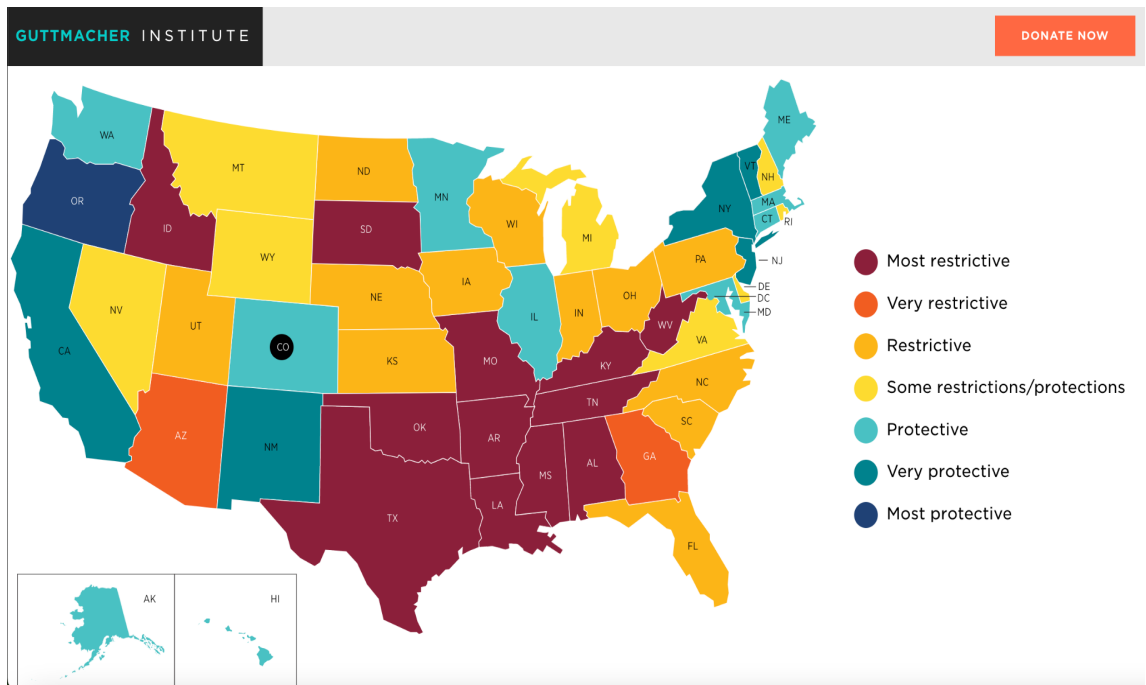


FIGURE 1: INTERACTIVE MAP: U.S. ABORTION POLICIES AND ACCESS AFTER ROE. SCREENSHOT, 2023. GUTTMACHER INSTITUTE, [HTTPS://STATES.GUTTMACHER.ORG/POLICIES/](https://states.guttmacher.org/policies/).

From an international perspective, the country’s reputation has suffered because of this reversal of rights. The United States will join sixty-six other countries that prohibit or restrict abortion. These countries have historically always been hostile towards abortion except for Poland, Nicaragua, and El Salvador, who have cracked down on abortion laws in recent years like the U.S.⁸ From the outside looking in, the fight for reproductive rights in America is grim. That said, there is some reason for optimism. Women are not surrendering without a fight and have filed lawsuits to challenge the most restrictive statutes. Some of these lawsuits are pertinent only to specific state laws, while others question the constitutionality of denying a woman’s right to an abortion. Additionally, there are protests happening throughout the states that will

⁸ Claire Cain Miller and Margot Sanger-Katz, “What Happens If *Roe v. Wade* Is Overturned?” *The New York Times*, June 27, 2022, <https://www.nytimes.com/2022/06/20/upshot/abortion-united-states-Roe-Wade.html>.

hopefully raise awareness of the issue at the state level. Several initiatives in liberal states both in the public and private sectors have been working to mitigate the limitations in access.

Legislatures are enacting protective laws or adding state constitutional provisions to enshrine the right to an abortion. Some have passed laws to protect women who live in restrictive states from being targeted by their home states if they obtain an abortion out of state. Private healthcare companies are providing telehealth appointments and prescribing birth control and abortion pills to women across the country regardless of whether they live in conservative states or not. Even individuals have started grassroots initiatives to help women who are traveling outside of their state to get an abortion, by providing shelter, transportation, and emotional support throughout the process.

In some ways, these different attempts at navigating the new legal landscape give the country hope. And yet, the limitations in access are already harshly affecting women and changing the trajectory of their lives. To better understand the hardships faced by these women, one must closely examine the states where the most restrictive laws have been passed.

CONSERVATIVE STATES

The South and Midwest states have most severely limited abortion access. Many of these states had restrictive laws in effect long before *Dobbs* that essentially worked around the standard created in *Roe*. For example, many states used TRAP laws, or Targeted Regulation of Abortion Providers, to limit access. TRAP laws single out physicians who provide abortions and impose burdensome regulations on them that are almost impossible to adhere to. TRAP laws can insist that a provider perform an abortion in a specific location with specific qualifications, such

as the dimensions of the operating room being up to code. These laws are designed to be frivolous and counter-productive, and overall do not improve or protect a patient's health at all.

Like TRAP laws, states used pre-viability laws to restrict access both before and after *Dobbs*. Pre-viability gestational bans place a time limit on when a woman can receive an abortion based on either her last menstrual cycle or fertilization. These periods are short spans where most women might not even realize they are pregnant. Other examples of laws that limit access are parental involvement and consent laws. Women under the age of 18 who obtain an abortion must provide documentation of their parent or guardian's approval before the procedure. These laws often restrict underage women from getting abortions because they must notify their parents, who often do not agree or allow their children to have the procedure. Similarly, consent laws work to limit access by making the time between pre-operation and operation longer than usual. For example, a person might visit their doctor to go over the abortion procedure and then be required to wait a designated period of 24-48 hours or longer to do the procedure. These waiting times create an unnecessary burden for women, especially those who travel out of state or long distances to receive care. Post-*Roe*, more conservative states have imposed these types of laws on their constituents and have negatively impacted abortion rates across the country. More and more women are forced to travel out of state, placing a bigger burden on understaffed healthcare facilities that still offer abortions, thus creating long waiting periods that many women cannot afford to withstand.

Texas has historically passed laws that severely restrict access to abortion. Immediately after *Dobbs*, the state quickly banned abortion in all cases except to save the mother's life. In addition, the several policies that were created before *Dobbs* are still in effect. Texas has a strict

consent law that requires every patient to visit the doctor once for in-person counseling and then second for the abortion after a 24-hour waiting period. State Medicaid and private insurance cannot be used to fund the abortion, and patients may only seek medication abortion at in-person appointments since telehealth is banned in Texas. These policies work simultaneously to create impossible barriers for women to overcome, forcing them to travel out of state even if they cannot afford it. In other words, Texas has consistently been hostile to reproductive rights, adopting policies like TRAP laws, and more recently S.B. 8 or the “heartbeat” law, which went into effect in September of 2021. S.B. 8 bans all abortions after six weeks of pregnancy, a period in which most women do not know they are pregnant. According to medical providers from Texas, 85 to 90 percent of abortions are performed after the six-week period.⁹ After its implementation, S.B. 8 caused the abortion rates in Texas to drop more than 46% in a 4-month period.¹⁰ Further, the law allows for people who aid patients in getting an abortion to be sued, meaning doctors, providers, nurses, and other innocent people are at risk of losing their licensing or being financially penalized. Critics of S.B. 8 sued the state and appealed to the Supreme Court, who refused to review the law. Now that Texas has been able to ban abortion completely, S.B. 8 remains an example of the legal limitations conservative states took to restrict access even before *Dobbs*. Texas continues to enact laws that are clearly hostile to abortion and to women’s reproductive healthcare more broadly.

⁹ Maggie Astor, “Here’s What the Texas Abortion Law Says,” *The New York Times*, September 9, 2022, <https://www.nytimes.com/article/abortion-law-texas.html>.

¹⁰ Mandi Cai, “Before *Roe v. Wade* Was Overturned, at Least 50,000 Texans Received Abortions in the State Each Year. Here’s a Look behind the Numbers,” *The Texas Tribune*, May 9, 2022, <https://www.texastribune.org/2022/05/09/texas-abortions-by-the-numbers/>.

Texas led the crusade against abortion as Governor Greg Abbott infamously attempted several times to limit access to abortion while it was still a constitutional right. Now, other states have modeled their laws after Texas, taking an extreme approach to restricting access and effectively shutting down abortion clinics across the South. Mississippi has followed Texas in this effort, as Jackson Women’s Health Organization was the plaintiff in *Dobbs*, suing the state for its unconstitutional “Gestational Age Act” which bans abortion after 15 weeks of pregnancy. Jackson Women’s Health was one of the only providers of abortion in Mississippi at the time, and the law significantly affected their practice and patients’ health. As was previously discussed in the introduction, the *Dobbs* decision did, in fact, find that the Mississippi law was constitutional as abortion is not an inherent right derived from the Constitution itself. After the Supreme Court decision, Mississippi lawmakers worked quickly to ban abortion in all circumstances except to save the mother’s life, like Texas and many other conservative states. While there is no concrete data available yet on the rate of abortions in Mississippi after *Dobbs*, it is likely that these trigger bans coupled with the laws that were already restricting access will further limit women’s access to abortion. Other conservative states have enacted trigger bans to restrict abortion access in their states entirely. Louisiana, Arkansas, South Dakota, Missouri, and Kentucky have all enforced trigger bans that were in place before *Dobbs*.¹¹ While some of the provisions in respective states are enjoined for now, such as Louisiana’s admitting privilege

¹¹ “Abortion Laws by State,” *Center for Reproductive Rights*, accessed December 28, 2022, <https://reproductiverights.org/maps/abortion-laws-by-state/>.

requirement, most bans are almost entirely in effect and have already begun to unravel abortion access in the South.

While conservative states begin to enforce trigger bans or TRAP laws to restrict abortion, legal chaos has ensued in other states. Most notably, South Carolina has had trouble defining their laws since the *Dobbs* decision. In 2021, the state passed a fetal heartbeat law that bans abortions after a detectable heartbeat.¹² The law was enjoined by a federal district court shortly after it was signed into law, but then was lifted 3 days after the *Dobbs* decision was released. However, in August of 2022, the South Carolina Supreme Court enjoined enforcement of the Act, once again prohibiting the law from going into effect. This stop and start of South Carolina's abortion law has caused legal chaos in the state, as abortion providers, doctors, and patients struggle to keep updated on the unraveling case. Such mass confusion within a state could lead to bigger issues, as abortion providers might miss an opportunity to save a patient's life simply because they are unsure whether abortion is illegal or not and are too afraid to take the chance and operate. For example, a hospital in Missouri denied stabilizing a woman whose water broke at 18 weeks because they claimed that "current Missouri law supersedes [their] medical judgement" and were afraid of potential legal liability.¹³ Refusing a patient in a medical emergency is a violation of federal law, but the Missouri doctors were more afraid of their own state laws than being investigated by the federal government. Either way, real lives are at risk.

¹² Alice V. Harris and Sara S. Rogers, "South Carolina Abortion Laws: Where Things Stand in the Fall of 2022," *Maynard Nexsen*, December 14, 2022, <https://www.nexsenpruet.com/publication-south-carolina-abortion-laws-where-things-stand-in-the-fall-of-2022>.

¹³ Selena Simmons-Duffin, "Doctors who want to defy abortion laws say it's too risky," *NPR*, November 23, 2022, <https://www.npr.org/sections/health-shots/2022/11/23/1137756183/doctors-who-want-to-defy-abortion-laws-say-its-too-risky>.

Allowing state legislatures to decide for themselves how to regulate abortion has led to severe consequences and different results that are affecting women's lives.

TRIGGER LAWS AND OTHER LEGAL LIMITATIONS

Even before *Dobbs*, states which were against abortion were creative in their use of legal strategies to limit access in their states. Millions of women have been impacted by the *Dobbs* decision, whether they receive birth control, are pregnant, are looking for an abortion, or even need basic maternal care. An issue as salient as abortion creates a tricky legal situation for states as well as hospitals and other abortion providers when tasked with creating laws that dictate a woman's control of her own body. Currently, the country is in a legal gray area, where no one really knows what laws are applicable federally, across other state lines, and even in their own respective states. There is confusion at almost every turn. Some conservative state legislatures have been preparing for this decision by passing trigger laws, or statutes written in advance to go into effect if the Supreme Court decided to overturn *Roe*. In fact, 13 states had these laws ready to go, while many more followed suit right after the decision. Most of these laws outlaw abortion with only the exception of saving the mother in a life-or-death circumstance. Most if not all these states have quickly criminalized abortion both for a woman who undergoes the procedure and for the doctors and other third parties involved. For example, Arkansas passed a law criminalizing abortion that could lead to up to 10 years in prison, or over \$100,000 in fines.¹⁴ In April of 2023, Idaho criminalized the act of minors leaving the state to get an abortion without parental

¹⁴ Jesus Jiminez, "What Are Trigger Laws and Which States Have Them?" *The New York Times*, May 4, 2022, <https://www.nytimes.com/2022/05/04/us/abortion-trigger-laws.html>.

consent.¹⁵ The penalty is two to five years in prison for anyone who helps a person under the age of 18 obtain an abortion. The law is meant to combat what Idaho Governor Brad Little calls “abortion trafficking.”¹⁶ Not only will the law impose criminal penalties on those who seek an abortion but will allow the state to file lawsuits against the doctors who perform the abortions out of state. While Idaho is one of the most restrictive states for abortion, the law itself may inspire other states to follow suit, which could cause greater legal chaos across the country. According to the Guttmacher Institute in their 100 days post-*Roe* study, at least 66 clinics across 15 southern states were shut down. Before this, the 15 states had a combined 79 clinics. Now, only 13 are left in Georgia. This was a quick response to the decision, most likely caused by the trigger laws that went into effect on June 24, 2022. Combined, these state laws affect nearly 22 million women of reproductive age (15-49) that will now have to find care elsewhere.¹⁷ Trigger laws not only affect people living in those states, but the providers as well. The word “trigger” describes the nature of these laws very clearly: immediate. Normally the law does not take effect as quickly as trigger laws do, meaning that many women were denied access or thrown into legal chaos before they knew the law was even in place. This left providers, hospitals, and other institutions scrambling for direction on how to proceed with their patients in real time.

The Guttmacher Institute has been the leading score keeper for abortion law tracking since the *Dobbs* decision. Many states have different legal limitations to abortion based on

¹⁵ David W. Chen, “Idaho Bans Out-of-State Abortions for Minors Without Parent’s Consent,” *The New York Times*, April 6, 2023, sec. U.S., <https://www.nytimes.com/2023/04/05/us/idaho-out-of-state-abortions-minors-ban.html>.

¹⁶ *Id.*

¹⁷ Marielle Kirstein et al., “100 Days Post-*Roe*: At Least 66 Clinics Across 15 US States Have Stopped Offering Abortion Care,” *Guttmacher Institute*, October 6, 2022, <https://doi.org/10.1363/2022.300216>.

different criteria such as gestational period, insurance coverage, counseling, parental involvement, and waiting periods. As of November 2022, Guttmacher found that more than 43 states have gestational limits on abortion procedures, meaning that providers may not operate after a specific week in the pregnancy. 32 states require abortion to be performed by a licensed physician, while 19 states require the abortion to take place in a hospital. In terms of funding, 16 states use their state Medicaid funds to pay for abortions when needed and 33 states prohibit use of state funds except for when it is federal money. 12 states restrict probate insurance to cover abortions. 45 states allow for healthcare providers to individually refuse to participate in abortions while 42 states allow institutions to refuse to perform abortions. Finally, in terms of counseling, 17 states mandate counseling before the procedure in at least some capacity, 24 states require patients to wait for a specific period between the consultation and the operation itself, and 36 states require some form of parental involvement in a minor's decision to have an abortion.¹⁸ Overall, the U.S is strict in terms of its limitations on abortion, both before and after *Dobbs*. The biggest legal changes, however, are the outright bans in certain states.

Harrowing personal accounts from women across the country share the emotional trauma of what it is like to have life-threatening pregnancy complications. These issues were only exacerbated by the leaked *Dobbs* opinion, which forced many women in untenable life and death situations to decide what was best for their fetus and for their family. In May of 2022, one month before *Roe* was officially overturned, Elizabeth Weller, a resident of Texas, suffered premature ruptures of membranes, a rare and dangerous complication regarding limited amniotic fluid in

¹⁸ "An Overview of Abortion Laws," *Guttmacher Institute*, accessed December 29, 2022, <https://www.guttmacher.org/state-policy/explore/overview-abortion-laws>.

the sac.¹⁹ One consequence of this condition is that the fetal heartbeat could die at any minute, making it very unlikely that her baby would survive outside the womb. To make matters worse, Elizabeth had to make a life-altering decision within a matter of days, as both she and the fetus were now at risk of a uterine infection known as chorioamnionitis. Elizabeth and her OB-GYN decided that the most merciful option for the fetus was to terminate the pregnancy. Once her doctor began to arrange the procedure, they ran into several legal complications due to Texas's heartbeat law that prohibited abortion once fetal cardiac activity is detected. As a result, Elizabeth and her doctor became embroiled in a legal battle as well as a life-threatening emergency, which would only get worse the longer they had to wait. The hospital ordered Elizabeth to wait out her pregnancy until the fetal heartbeat died on its own, or until a panel of unidentified doctors decided whether her case was grounds for termination or not. Not only is this an extremely emotional process, but her health began to quickly decline as she was becoming infected. In the end, the panel of doctors granted termination of her pregnancy and she was able to save her own life.²⁰ But her story is not uncommon in this new legal landscape. Her experience is emblematic of the legal complications women will face in lieu of *Dobbs*. Many women will be forced to experience the medical trauma that Elizabeth went through to receive her abortion. Panels of lawyers and doctors will now make these personal decisions for a woman and will force these patients to wait in agony. Elizabeth was lucky. She was saved in time. But

¹⁹ Carrie Feibel, "How Texas Abortion Law Turned a Pregnancy Loss into a Medical Trauma," *NPR*, July 26, 2022, <https://www.npr.org/sections/health-shots/2022/07/26/1111280165/because-of-texas-abortion-law-her-wanted-pregnancy-became-a-medical-nightmare>.

²⁰ *Id.*

another woman will not be as lucky, and her blood will be on the hands of legislators who forced restrictive, medically unsound laws on their constituents.

LEGAL BATTLES WITHIN THE STATES

Dobbs has limited access to abortion and other necessary reproductive healthcare across the country. The political landscape of the United States has shifted in the Midwest and the South, where legislators quickly responded to this change and banned abortion in their respective states. Liberal states are feeling the impact of these bans, as more and more women struggle to find abortion providers and must travel to states where it is still legal. As was mentioned earlier, states that want to limit access to abortion are doing so by installing a legal framework that restricts access and even criminalizes abortion procedures. As new laws begin to limit access, lawyers and proponents of abortion rights are taking their concerns to the courts. Since June 24, 2022, hundreds of cases have been filed in state courts questioning the legality of abortion bans. Notable pro-choice groups like the Center for Reproductive Rights and Planned Parenthood have exhausted their own legal resources to litigate these issues. For example, the Center for Reproductive Rights has filed several lawsuits to block abortion bans post-*Roe*. The Center has filed lawsuits in nine different states challenging trigger bans and restrictive abortion laws, claiming that the laws in effect violate state constitutional rights of equal protection, individual right to privacy, and bodily autonomy.²¹ With these, the Center hopes to block the bans at least

²¹ “Recent Case Highlights,” *Center for Reproductive Rights*, accessed December 29, 2022, <https://reproductiverights.org/our-work/case-highlights/>.

temporarily from taking effect within these states, so that women can still receive care for as long as possible.

Similarly, Planned Parenthood has filed several lawsuits as well, including requests to block abortion bans in eleven different states within the first week *Roe* was overturned. The American Civil Liberties Union, Center for Reproductive Rights, and Planned Parenthood have filed several joint lawsuits that have temporarily blocked bans in five different states. These organizations seek to slow the implementation of the bans to allow women and their providers to prepare for their long-term effects. The states with the most restrictive laws, where the litigation is most aggressive, also tend to be the states in which the law seems to be constantly changing depending on which side has won a temporary victory in the courts. For example, the Superior Court of Georgia recently blocked the state's six-week abortion ban, but the Supreme Court of Georgia granted a stay of the injunction meaning the ban is back in effect as the appeal process continues. This back and forth between the courts has caused confusion among providers and hospitals in Georgia, who actually had to turn away patients at the door once the injunction was stayed.²² Similarly, the Center for Reproductive Rights sued Arizona in October of 2022, claiming that the state's laws were contradictory and were unclear to the point that doctors refused to give abortions regardless of the law since they were afraid of criminal prosecution. The Center asked the court to specify the laws and clearly state the gestational periods doctors were allowed to perform abortions. Arizona announced it will not be enforcing their pre-*Roe* bans until 45 days after the final decision is issued from the court, giving providers and women

²² *Id.*

in need a transitional period.²³ Lawsuits like these that pertain to emergency situations and affect thousands of people carry a lot of weight not only for the state but for the individuals who are in desperate need of a clear answer.

On another note, pro-life groups are using this opportunity to pursue further legal action in their favor. Between June 2022 and March 2023, four new lawsuits have been filed in federal courts on the Food and Drug Administration (FDA) regulation of medication abortion. The more notable suit, *Alliance for Hippocratic Medicine v. FDA*, brings into question whether the federal courts can reverse FDA decisions on abortion medication, and whether states can then impose more bans on those medications. In this specific case, AHM called into question (3) actions from the FDA that they claim are unlawful. The first question asks whether the FDA approval of mifepristone, the first abortion drug used in medication abortions, was legal under the Comstock Act.²⁴ The plaintiffs argued that the FDA did not act within its authority under the 1873 law, which prohibits the sale of any medication used for abortion purposes. Second, AHM claimed that the FDA used “Subpart H,” an accelerated process of approval for lifesaving drugs.²⁵ AHM argued that the FDA lacked authority to fast-track the approval of mifepristone under Subpart H because the medication did not treat a life-threatening illness. However, the FDA challenged that claim, citing that mifepristone was not approved for four years after initial submission, meaning that they did not fast-track the drug at all. Lastly, the plaintiffs argue that they have evidence of

²³ Virginia Sobol, “Center Lawsuit Seeks to Restore Abortion Access in Arizona by Blocking a Civil War-Era Abortion Ban,” *Center for Reproductive Rights*, October 4, 2022, <https://reproductiverights.org/arizona-lawsuit-civil-war-era-abortion-ban/>.

²⁴ Laurie Sobel and Mabel Felix, “Legal Challenges to the FDA Approval of Medication Abortion Pills,” *KFF* (blog), March 13, 2023, <https://www.kff.org/womens-health-policy/issue-brief/legal-challenges-to-the-fda-approval-of-medication-abortion-pills/>.

²⁵ *Id.*

women treated in Texas for complications with medication abortions, directly relating to the use of mifepristone and the adverse effects on women, particularly in the pediatric population. However, mifepristone has been FDA-approved since 2000, and has served at least 5.6 million people with a 99.6% success rate of safe termination, according to the Kaiser Family Health Foundation.²⁶

In April of 2023, the U.S District Court for the Northern District of Texas ruled on the matter, invalidating the 2000 FDA approval of mifepristone.²⁷ Judge Matthew Kacsmaryk, a Trump appointee, stated that not only will the 2000 approval of mifepristone be invalidated, but any subsequent FDA decisions that approved mifepristone as well. Judge Kacsmaryk stayed his injunction for seven days to allow for the FDA to appeal the decision to the U.S Court of Appeals for the Fifth Circuit.²⁸ While the decision will not immediately take effect, this case has broader legal implications at a national level, as the FDA is a federal organization. Reproductive rights experts worry that this lawsuit will not only threaten access to abortion pills across the country, but that they will limit “the FDA’s authority to continue to regulate mifepristone [and] a wide range of other drugs that could be perceived controversial today and in the future.”²⁹ After this ruling in the district court, the case will either be taken up in the U.S Court of Appeals or be appealed directly to the Supreme Court. While it is impossible to know exactly how either court would rule, it is likely that this case will cause controversy within the courts and will be one of

²⁶ *Id.*

²⁷ Pam Belluck, “Two Federal Judges Issued Opposing Rulings on Abortion Pills. Here’s What’s Going On,” *The New York Times*, April 8, 2023, sec. Health, <https://www.nytimes.com/2023/04/08/health/mifepristone-abortion-pills-ruling-judges.html>.

²⁸ *Id.*

²⁹ Sobel and Felix, “Legal Challenges.”

the biggest cases since *Dobbs* on abortion access. The subsequent rulings will be critical to either expanding or restricting abortion access at the federal level.

Catholic pro-life groups are taking the *Dobbs* decision one step further, seizing their opportunity of a right-leaning Court to decide questions of fetal personhood. Fetal personhood, according to pro-life advocates, considers an unborn child to possess the same constitutional and human rights as a living human. Essentially, enacting a law that recognizes fetal personhood would not only outlaw abortion under any circumstance, and equate it to murder, but further restrict a pregnant person's right to bodily autonomy. In some ways, this concept would overrule a mother's choice not only for abortion but for other human rights and maternal care necessities. Americans United For Life, a staunch pro-life group, has proposed the Lincoln Proposal, an executive order for the President that would recognize fetal personhood and give unborn children the same rights as living people. Within this proposal, the AUL argues that fetuses are already born, or naturalized citizens as described within the Constitution because life – in their opinion – begins at conception.³⁰ Following this logic, fetuses would then be protected under the Fourteenth Amendment Due Process Clause that provides Americans with essential expansive civil protections. The Lincoln Proposal is just one example of how pro-life groups intend to build upon the *Dobbs* decision to further restrict abortion access.

Additionally, other legal pursuits have been made by religious influences to outlaw abortion beginning at conception. Gary Click, a pastor serving as a U.S Republican

³⁰ Catherine Glenn Foster M.A J.D, Chad Pecknold PhD, and Joshua Craddock J.D, "Lincoln Proposal," *Americans United for Life*, accessed December 29, 2022, <https://aul.org/law-and-policy/lincoln-proposal/>.

representative in Ohio, proposed legislation that would ban abortion in all circumstances. His “Personhood” bill is another example of attempts to recognize fetal personhood into law. However, opponents of his bill have expressed concern that the law would drag other rights like the right to receive medication for auto-immune diseases, and the right to In vitro fertilization (IVF) into question.³¹ While the Supreme Court has recently declined to hear cases on fetal personhood, the sentiment of even having pro-life groups believe they are able to influence legislation to this degree poses a threat to American culture and the way Americans look at women’s rights versus fetal rights.³² At the same time, some women have challenged restrictive state laws based on their religious beliefs that might require an abortion or do not recognize a fetus as a living being. In December of 2022, an Indiana judge blocked an abortion ban that would outlaw the procedure in most circumstances. Several Muslim, Jewish, and non-Christian women sued the state, claiming that a ban infringes on their religious freedom.³³ Like pro-life groups, abortion activists also seem to be using religious freedom as a legal angle to challenge abortion bans.

2022 MIDTERM ELECTIONS

As the country navigates a post-*Roe* legal landscape, the 2022 Midterm elections became a turning point for many voters in states with the potential of restricting abortion access. While most Republican political candidates made a point to avoid addressing abortion issues,

³¹ Tyler Buchanan and Alissa Widman Neese, “Latest Ohio Bill Would Ban Abortions from Conception,” *Axios*, July 14, 2022, <https://www.axios.com/local/columbus/2022/07/14/ohio-bill-ban-abortions-conception>.

³² Erin Doherty and Oriana Gonzalez, “Supreme Court Declines to Hear Case on Fetal Personhood,” *Axios*, October 11, 2022, <https://www.axios.com/2022/10/11/supreme-court-fetus-constitutional-rights>.

³³ Daniel Trotta, “Judge Blocks Indiana Abortion Ban on Religious Freedom Grounds,” *Reuters*, December 2, 2022, <https://www.reuters.com/legal/judge-blocks-indiana-abortion-ban-religious-freedom-grounds-2022-12-03/>.

Democrats used it to their advantage. Notable conservative candidates such as Herschel Walker of Georgia, Don Bolduc of New Hampshire, and Tim Michels of Wisconsin, avoided the subject of abortion during their campaigns.³⁴ Historically, Republican candidates have used abortion as a predictable rallying cry to gather support from right-leaning voters. However, now that the issue of abortion has been delegated to the states, conservative candidates found it hard to create a political stance on abortion that would appeal to a broader set of constituents. In most cases, Republican candidates refused to speak on *Dobbs* or make official statements on the matter simply because of how divisive the issue has been on both sides of the aisle. Democrats, on the other hand, used *Dobbs* to motivate voters.

Abortion access was a lightning rod issue in November of 2022, and motivated many Democratic women, women of reproductive age, and Democratic voters in several states where abortion is currently illegal, to go out and vote. According to a Kaiser Family Foundation Poll taken in October of 2022, more than 44% of women aged 18-49 said they were more motivated to vote in 2022 than any other year due to the recent reversal of abortion rights.³⁵ Additionally, 49% of voters total said that they were more motivated to vote in 2022 than previous elections. Particularly among Democrats, the urge to vote in the 2022 midterms was largely due to the issue of abortion access in conservative states. One male Democrat from Georgia reported to the Kaiser Family Foundation that he was most motivated in 2022 to vote to “help protect women’s

³⁴ Lisa Lerer and Katie Glueck, “Abortion Is Motivating Voters, but Republicans Would Rather Change the Subject,” *The New York Times*, October 12, 2022, sec. U.S., <https://www.nytimes.com/2022/10/12/us/politics/abortion-republicans.html>.

³⁵ Lunna Lopes et al., “KFF Health Tracking Poll October 2022: The Issues Motivating Voters One Month before the Midterm Elections,” *Kaiser Family Foundation*, October 12, 2022, 1–25. <https://www.kff.org/report-section/kff-health-tracking-poll-october-2022-the-issues-motivating-voters-one-month-before-the-midterm-elections-methodology/>

rights.”³⁶ It is now apparent that many Americans believed the midterm elections were important events that would determine the future of reproductive rights in the United States post-*Roe*. Those results are now clear months later, and voter sentiments on the abortion issue were reflected in the midterm results. In 2022, there were six ballot measures addressing abortion. In California, Michigan, and Vermont, voters approved ballot measures to codify abortion into state law or state constitutions. Voters in Kansas and Kentucky voted “no” to ballot measures stating that abortion was not a fundamental state right.³⁷ Montana voters also rejected a law that would ban abortion entirely. All six of the abortion ballot measures were decided in favor of abortion access, illustrating a general trend in the U.S that American voters understand the implications of *Dobbs* which jeopardize women’s reproductive choices and their bodily autonomy. Voter sentiments are a huge determinant of national political sentiment, meaning that the 2022 midterm elections may have signaled to both conservative and liberal state legislatures that the country itself is not in favor of anti-abortion laws.

The outcomes of the 2022 midterm elections foreshadowed similar outcomes for judicial elections in 2023. Wisconsin, a state that elects their judges to their state supreme court, experienced a contentious race between a conservative pro-life judge who has served on the bench before, and an outspoken, liberal, pro-choice challenger. Janet Protasiewicz, the liberal challenger, won the election in April of 2023 by an 11-point margin.³⁸ Her campaign ran on the

³⁶ *Id.*

³⁷ “2022 Abortion-Related Ballot Measures,” *Ballotpedia*, accessed December 28, 2022, https://ballotpedia.org/2022_abortion-related_ballot_measures.

³⁸ Reid J. Epstein, “Liberal Wins Wisconsin Court Race, in Victory for Abortion Rights Backers,” *The New York Times*, April 5, 2023, sec. U.S., <https://www.nytimes.com/2023/04/04/us/politics/wisconsin-supreme-court-protasiewicz.html>.

highly debated topics in Wisconsin regarding pro-choice legislation, and fixing gerrymandering in major cities that had traditionally given seats to Republican legislators. With her liberal voice on the bench, the court may rule in favor of democratic ideals rather than traditional republican ideals, including overruling the 1849 abortion ban re-established after *Dobbs*. The Wisconsin Attorney General, Josh Kaul, has already challenged the law, beginning a long legal battle that will likely reach the State Supreme Court in late 2023.³⁹ Protasiewicz's win represents a shift in public opinion regarding controversial issues like abortion and voting laws. Like the 2022 midterm elections, the Wisconsin judicial race was vital to determine the political direction of the state, and the future of abortion rights. It will be interesting to see if Wisconsin, along with the other historically conservative states such as Kansas and Kentucky, will develop new laws that protect rather than restrict the right to an abortion.

This chapter covered the developing legal landscape of the post-*Roe* nation. Some of the data used in this chapter may be subject to change due to the nature of ongoing litigation in the states. In any case, it is important to understand the legal basis for the abortion bans in restrictive states, and how those bans will likely play out in court proceedings. On either side of the aisle, pro-choice and pro-life advocates are fighting to advance their causes, causing much confusion and disagreement within the states. Questions regarding broader subjects like fetal personhood and the legality of FDA-approved mifepristone will determine the future basis for reproductive laws at the federal level. The next chapter will look at how these legal limitations will disproportionately affect minority groups of women in the short-term and long-term, and how

³⁹ *Id.*

limited access to abortion can cause bigger complications in communities than pro-life legislators realized.

CHAPTER 2: THE CONSEQUENCES

The discussion in Chapter 1 revealed a multitude of limitations that will be or have resulted from *Dobbs*, and the consequential decisions of many states to limit protections on abortion access. Some of these limitations include decreased access to reproductive healthcare, shutting down of abortion-providing facilities, criminal penalties, and several lawsuits from both pro-choice and pro-life advocates. While it is important to understand the legal evolution of these limitations, it is even more vital to understand their consequences, specifically how these will impact certain groups of women. Chapter 2 will attempt to address the known consequences of these limitations and restrictive laws, and the impact on Black women, poor women, and women living in conservative states. Additionally, even though there are some consequences we can foresee, there are others that we cannot predict as readily. These might include the potential impacts on IVF, medication access, birth control and contraception, and other consequences. Lastly, it is important to note that *Dobbs* does not only affect women who need or want abortions, but also extends to all women who are pregnant or of reproductive age. Indeed, according to experts, the impact will affect many facets of reproductive healthcare, necessary medical procedures, and worsen maternal care deserts.

ECONOMIC IMPLICATIONS FOR POOR WOMEN

As states begin to implement harsher, more restrictive laws on abortion access, the barriers to obtaining an abortion have become more arduous. As noted in Chapter 1, in many states that once had abortion facilities available, women can no longer access the care they need. For women who are poor or do not have the financial means for travel, their efforts to get an abortion are made far more difficult. Women living in restrictive states must now not only plan for the abortion procedure itself, but the travel, time, and expenses associated with the procedure.

Even before *Dobbs*, a 2014 study by Jerman et al. concluded that 90% of U.S counties lacked an abortion clinic, and 7% of women were forced to obtain one out of their home state.⁴⁰ On average, patients had to travel more than 30 miles to obtain care, and 6% traveled more than 100 miles. Finally, 75% of abortion patients in 2014 were low-income individuals. The Guttmacher Institute reported that over 49% of women receiving abortions in 2014 were below the federal poverty level.⁴¹ This data, when compiled together, illustrates the difficulty for poor women to obtain an abortion when travel is an added barrier.

This travel issue has only been exacerbated by *Dobbs*, as most conservative states have shut down their abortion facilities completely. In the South, 66 clinics across 15 states have closed, as was mentioned in Chapter 1. The remaining 13 open clinics of those original 79 are left in Georgia, and North Carolina has become a new safe haven for abortions up to 20 weeks, as their rate of abortions jumped 37 percent in the eight months after *Dobbs*.⁴² While Georgia and North Carolina have become abortion destinations, travel is a necessary cost for women living in surrounding conservative states looking for an abortion.⁴³ Even when able to afford the travel for the procedure, many women face backlash and possible termination by their employers. Taking time off work is an added burden, and the recovery time or mental health services that might be needed afterwards must factor into this equation. Additionally, states hostile to abortion rights like Texas and Louisiana have threatened to impose sanctions on

⁴⁰ Jenna Jerman et al., “Barriers to Abortion Care and Their Consequences For Patients Traveling for Services: Qualitative Findings from Two States,” *Perspectives on Sexual and Reproductive Health* 49, no. 2 (June 2017): 95, <https://doi.org/10.1363/psrh.12024>.

⁴¹ “Demographics,” *Guttmacher Institute*, accessed March 1, 2023, <https://www.guttmacher.org/united-states/abortion/demographics>.

⁴² Kate Kelly, “How the Fall of *Roe* Turned North Carolina Into an Abortion Destination,” *The New York Times*, March 4, 2023, sec. U.S., <https://www.nytimes.com/2023/03/04/us/abortion-north-carolina.html>.

⁴³ Marielle Kirstein et al., “100 Days Post-*Roe*: At Least 66 Clinics Across 15 US States Have Stopped Offering Abortion Care,” *Guttmacher Institute*, October 6, 2022, <https://doi.org/10.1363/2022.300216>.

employers who allow or aid their employees to get an abortion, as well as to criminalize the procedure entirely. For instance, Texas can attempt to extradite a woman who received an abortion in Massachusetts simply because her home state is Texas. Some pro-choice advocates worry that restrictive states might also resort to using private health databases to find women who have had abortions by threatening their healthcare companies to release the information under criminal penalties.⁴⁴ The ways in which states are actively looking for women to arrest under their new anti-abortion laws is a perfect example of how travel has already become a necessary part of obtaining an abortion. Women have fled to liberal states for protection, even with the added risk of extradition. However, the associated costs of travel place an added financial burden for poor women, which often deters them from seeking the reproductive healthcare that they need.

The trigger bans and new laws announced after *Dobbs* drastically affected women seeking abortions at the time of the decision. The *New York Times* reported that legal abortions fell around 6% almost immediately after the decision was announced.⁴⁵ This could be for many reasons, but most likely can be attributed to both women's uncertainty about what the new laws actually ban, and doctors' uncertainty about what is permitted and their reluctance to perform abortions.

Another reason, undoubtedly, is the financial barrier for women living in the South to travel to the Northeast or Northwest to obtain an abortion. Still, numbers increased in states where abortion remains legal, and these states have been bombarded with an influx of patients

⁴⁴ Christine Vestal, "Experts: Abortion Travel Benefits Run into Privacy, Stigma Concerns," *CT Mirror*, October 6, 2022, <http://ctmirror.org/2022/10/06/companies-abortion-travel-pay-for-privacy-stigma-Roe-v-Wade/>.

⁴⁵ Margot Sanger-Katz and Claire Cain Miller, "Legal Abortions Fell Around 6 Percent in Two Months After End of *Roe*," *The New York Times*, October 30, 2022, <https://www.nytimes.com/2022/10/30/upshot/legal-abortion-fall-Roe.html?smid=nytcore-ios-share&referringSource=articleShare>.

desperate for help, but whose facilities do not have enough resources or staff to handle it. For example, the Wisconsin Planned Parenthood shut down, causing its patients to seek help across the state border in Illinois. The Illinois Planned Parenthood was overwhelmed with patients, creating wait times and delays in procedures simply because they were unequipped for the surge. According to Kristen Schultz, chief strategy officer for Planned Parenthood of Illinois, the number of patients from Wisconsin traveling across the border has increased more than ten times over.⁴⁶ However, Illinois has tried to mitigate the travel surge by employing Wisconsin providers who obtained their licenses to practice in Illinois and need employment. While it is still early, the U.S will likely continue to see a migration of southern and midwestern providers moving to states where their practice remains legal. Like women needing abortions, abortion providers have experienced a feeling of displacement now that their practice is illegal in many states.

Researchers have predicted the types of women that will be most affected by *Dobbs*. In general, women seeking abortions happen to be younger, with an estimated 60% of abortions obtained by women in their twenties.⁴⁷ Additionally, abortion patients are likely to have one child already, if not several. While there is not yet concrete data on the situation, the Guttmacher Institute predicts that travel barriers will prevent between 93,500 to 143,500 women from access to abortion care.⁴⁸ We will continue to see how travel prevents or determines access to vital reproductive healthcare in this country.

⁴⁶ Hope Kirwan, “Wisconsin Planned Parenthood Doctors Traveling to Illinois to Continue Care for Patients,” *Wisconsin Public Radio*, July 14, 2022, <https://www.wpr.org/wisconsin-planned-parenthood-doctors-traveling-illinois-continue-care-patients>.

⁴⁷ Demographics,” *Guttmacher Institute*, accessed March 1, 2023, <https://www.guttmacher.org/united-states/abortion/demographics>.

⁴⁸ “Induced Abortion in the United States,” *Guttmacher Institute*, September 2019, <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>.

This information adds to the burdens associated with getting an abortion, particularly when considered all together. Imagine a 24-year-old single mother from Texas who already has two children and is working a part-time job at a local grocery store. She finds out she is pregnant and cannot afford to support another child. She decides she wants an abortion, but knows she must travel out of state, most likely far north. This could take time depending on transportation. She would need to ask for leave off work, find childcare, and above all, be able to afford the associated costs and procedure. Since she is part-time, her job might fire her for taking too many days off. She might not have the money to spend on an abortion, let alone a plane ticket or gas for the car. Perhaps her children are in school and should not be missing learning and she does not have childcare provided for her. These problems, when illustrated clearly, become more tangible and real, even for those who are not in the same situation. The sad reality is that this will happen to poor women throughout the South and Midwest because of *Dobbs*. These women will be forced to travel out of state if they can even afford that to begin with. Those who cannot, however, will be forced into a reality they did not choose for themselves.

IMPLICATIONS FOR WOMEN OF COLOR

Abortion procedures are a financial burden for many individuals, but more often for poor women and women living below the federal poverty line. For these women, travel creates an added barrier of access to abortions, which only exacerbates their situations and leaves many women unable to receive care at all. However, another issue that intersects with these consequences is race. Black women, along with other women of color, are the most likely to need access to abortions. The Kaiser Family Foundation found that in 2019, Black women made

up almost 4 in 10 (38%) of total abortions in the U.S, higher than any other race or ethnicity.⁴⁹ There are many potential explanations as to why Black women and women of color are more often in need of abortions, including lack of adequate reproductive healthcare and access to birth control. In fact, use of contraception is highest among white women in the U.S (69%), compared to only (61%) of Black women. This gap is attributed to the obvious lack of resources in poor, rural areas with people of color, and systemic sexual health discrimination against people of color in general. The U.S has a sinister history of sexual experimentation on Black women, including forced sterilization, pregnancy experimentation, and reduction of midwifery.⁵⁰ This history of systemic racism against Black people in medical settings continues today. For instance, Black women are already affected more by pregnancy-related complications than their white counterparts. According to Axios, Black women and Native American women are 2 to 3 times more likely to die from a pregnancy-related complication. Black women are 3.5 times more likely to die from a late maternal death compared to white women.⁵¹ Many factors make pregnant Black women more at risk of death than white women, including the systemic racism in medical care and lack of proper care. Too often, medical providers do not believe or listen to Black women advocating for themselves when they are in pain.⁵² Many doctors believe an extremely racist stereotype that Black people have higher pain tolerances than white people, and often lie to doctors to get drugs for illicit use. As a result of these stereotypes, many women die

⁴⁹ Samantha Artiga et al., “What Are the Implications of the Overturning of *Roe v. Wade* for Racial Disparities?,” *Kaiser Family Foundation*, July 15, 2022, <https://www.kff.org/racial-equity-and-health-policy/issue-brief/what-are-the-implications-of-the-overturning-of-Roe-v-Wade-for-racial-disparities/>.

⁵⁰ *Id.*

⁵¹ Shawna Chen, “Report: Pregnant People Face ‘Systemic’ Barriers in States with Abortion Restrictions,” *Axios*, July 18, 2022, <https://www.axios.com/2022/08/25/abortion-economic-security-states>.

⁵² Black Maternal Health Federal Policy Collective, “Overturning *Roe* Will Exacerbate the Black Maternal Mortality Crisis. It’s Time for Our Leaders To Act,” *Ms. Magazine*, August 23, 2022, <https://msmagazine.com/2022/08/23/overturn-Roe-black-women-maternal-mortality/>.

because they are not provided the necessary medical care. This lack of care for Black women, whether during pregnancy, after pregnancy, and in general adds to the need for increased abortion access among this group.

Unsurprisingly, economics and race are often related, meaning that Black, poor women are the most likely to be affected by these barriers to access. According to an Axios report, women of color are more likely to hold unstable or part-time jobs that do not pay well nor are good for physical health.⁵³ Lack of attention to quality healthcare and protecting abortion compounded with a lack of economic justice leaves these women in an untenable position. To make matters worse, states hostile to abortion access are usually poorer than states that protect abortion, which only exacerbates the situation for many women living in restricted states.

While it is too early to establish concrete data about post-*Dobbs* abortion access, researchers have drawn on previous data to predict that race will constitute an added barrier for Black women and other women of color. Researchers have predicted that states that do not have abortion access will suffer greater maternal and pregnancy-related deaths.⁵⁴ A study from the Global Health Data Exchange and CDC Wonder took data from 1995 to 2017 on maternal mortality in the U.S. The study found that restrictive states have a significantly higher maternal mortality ratio than protective states. Additionally, Black and Native American women living in restrictive states were disparately burdened than their white counterparts.⁵⁵ The study found a concrete connection between geography and racial and ethnic disparities. Women that live in poorer, most often conservative states are more likely to be burdened by lack of access to

⁵³ Chen, “Pregnant People.”

⁵⁴ Nisha Verma and Scott A. Shinker, “Maternal mortality, abortion access, and optimizing care in an increasingly restrictive United States: A review of the current climate,” *Seminars in Perinatology*, available at ScienceDirect, 2020, <https://doi.org/10.1016/j.semperi.2020.151269>

⁵⁵ *Id.*

abortion. This issue is even more prevalent for Black women who live in restrictive states. And if a woman happens to be poor and Black, she is unlikely to find any abortion access.

MATERNAL CARE DESERTS

Undeniably, women living in states hostile to abortion will feel the weight of *Dobbs* more so than those who are protected in liberal states. Within restrictive states, many counties classify as maternity care deserts, or a county that does not have a hospital or birth center with obstetric providers.⁵⁶ According to the 2022 annual report from The March of Dimes Foundation, five percent of counties nationwide are now classified as having little to no access to proper maternal care, affecting over 6.9 million women and almost 500,000 births.⁵⁷ In total, maternity care deserts affect 2.2 million women and 150,000 babies. Within these deserts, women are at a higher risk of death and pregnancy complications. It is important to add that many women of color and poor women, or both, live in these areas, worsening their already limited ability to gain proper access to adequate reproductive healthcare. In fact, 12.8% of Native American women who gave birth in 2020 lived in maternity care deserts, and 1 in 6 Black babies, or 16.3% were born in areas of limited maternity care access. This data is especially jarring considering that most women living in maternity care deserts are non-Hispanic white women.⁵⁸ The figure below provided by the March of Dimes Foundation shows that there is a concentrated area of maternity care deserts mostly in the South and Midwest. It is no coincidence that these deserts are mostly in states that are conservative and restrict access to abortion, among other vital reproductive healthcare.

⁵⁶ Stacey D. Stewart and Dr. Zsakeba Henderson, “Nowhere to go: Maternity care deserts across the U.S, 2022 report,” *March of Dimes Foundation*, 2022.

⁵⁷ *Id.*

⁵⁸ *Id.*

Figure 1: Maternity Care Deserts, 2020

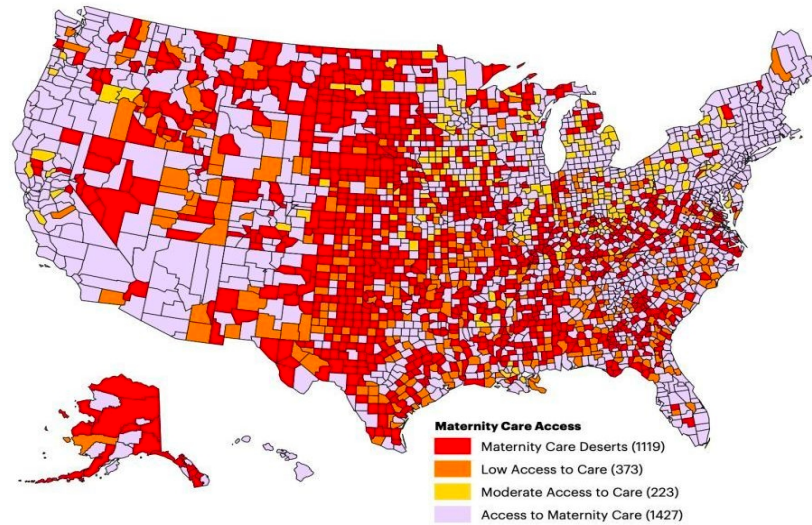


FIGURE 2: MATERNITY CARE DESERTS, 2020. SCREENSHOT, 2023. NPR AND MARCH OF DIMES FOUNDATION, [HTTPS://WWW.NPR.ORG/2022/10/12/1128335563/MATERNITY-CARE-DESERTS-MARCH-OF-DIMES-REPORT](https://www.npr.org/2022/10/12/1128335563/maternity-care-deserts-march-of-dimes-report).

Seemingly, maternity care deserts continued to increase between 2020 to 2022. Of the 247 counties that changed maternity care classification, 94 increased their access while 153 decreased access in some way. 56 of those counties with a decrease in access were due to lack of obstetric providers in the area, decrease in hospitals, or a combination of both.⁵⁹ Decreased availability of obstetric providers and hospitals could be related to restrictive laws passed in states hostile to abortion access, which affects maternal care overall. Additionally, data from the March of Dimes suggests that obstetric providers, family physicians, and hospitals with qualified obstetricians are highly concentrated in the Northeast and Northwest, leaving large gaps of care in the South and Midwest, where most maternity care deserts are now located.

A large contribution to a county classifying as a maternity care desert is the concentration of women living in that county who are uninsured. Quality reproductive healthcare as well as

⁵⁹ *Id.*

maternal care is especially important for pregnant women in case of complications or emergencies. Access to high quality care is usually available only through insurance, which most poor women do not have. In 2020, 11% of women in the U.S were uninsured. 67% of maternity care deserts had a higher proportion of uninsured women than counties with adequate medical care.⁶⁰ There is a strong correlation between adequate medical and prenatal care and having insurance. Similarly, it is highly probable that a woman living in a maternity care desert lives in a conservative state with little to no access to abortion services, and even with Medicaid insurance, it typically does not include abortion services in conservative states. Clearly, the barriers to access are interrelated and when put together, can become insurmountable for women living in regions with restrictive laws.

OB-GYNs around the country are sounding the alarms about *Dobbs*. Many providers or trained reproductive healthcare professionals regard access to abortion as a vital and inherent part of maternal care. The *New York Times* interviewed several OB-GYN specialists from across the country who recounted their experiences with patients at the time *Dobbs* was announced, and what it will mean for their maternal care practices. Dr. Ana Tobiasz of North Dakota defines abortion as a procedure to terminate a pregnancy before viability for any reason, including pregnancy complications where the woman's life is in danger. Dr. Rebecca Cohen of Colorado sees abortion and maternal care as closely intertwined. Many patients that are expecting and excited for the birth of their baby come across lethal fetal diagnoses that require a doctor to abort the baby.⁶¹ Now, these decisions for mothers are not only more complicated, but in some states, illegal. As we know, many states have enacted laws that ban abortion with few exceptions,

⁶⁰ *Id.*

⁶¹ Nilo Tabrizy et al., "Video: 'Do No Harm': OB-GYNs Weigh the Legal Impact of Abortion Bans," *The New York Times*, September 10, 2022, sec. U.S., <https://www.nytimes.com/video/us/100000008489880/abortion-bans-maternal-health.html>.

including complications during pregnancy. Most abortion bans include “affirmative defenses,” as exceptions to the law. For example, a doctor that performs an abortion to save the mother’s life may still have to go to court to prove their innocence under the defense of acting to save a mother’s life.⁶² In other words, these states are acting on a “guilty until proven innocent” basis. Because of this, many hospitals have considered or are already implementing teams of lawyers who are on stand-by to help advise doctors decisions in emergency situations, where abortion might be the only viable option for the mother.⁶³

In effect, the laws of restrictive states have turned the justice system on women. The abortion restrictions enabled by *Dobbs* will not only affect women actively seeking abortions but expecting mothers as well. Above all, these laws place trained doctors in very difficult positions, where they must stop providing a necessary aspect of maternal care to their patients who may be in dire need.

OTHER UNFORESEEN CONSEQUENCES

As a variety of abortion laws go into effect across the country, some dating back to the 1800s, the consequences are becoming more visible to the public. In some states, abortion laws are beginning to raise medical, legal, and moral questions that were unforeseen by lawmakers, whether decades ago or since the *Dobbs* decision in 2022. For instance, most abortion laws ban the use of medication abortion as well as a surgical procedure. Medication abortion involves taking two different medicines, or abortion pills, to stop and eliminate the pregnancy entirely. A pregnant woman will first take mifepristone, which stops the fetus from growing. Within 48

⁶² *Id.*

⁶³ Kate Zernike, “Medical Impact of *Roe* Reversal Goes Beyond Abortion Clinics, Doctors Say,” *The New York Times*, September 10th, 2022, <https://www.nytimes.com/2022/09/10/us/abortion-bans-medical-care-women.html?searchResultPosition=7>.

hours, a woman will take misoprostol, which causes cramping and bleeding in the uterus.⁶⁴ Taken together these medications will cause severe blood clots and symptoms similar to an early miscarriage. Since 2021, medication abortions can be provided through mail, with telehealth appointments, and are usually done in the comfort of your own home. Self-managed abortions are a plausible choice for many women seeking abortions who either do not have the means to travel to get one or are early enough in their pregnancies to not need a surgical procedure. Now that states are beginning to restrict abortion in all facets, whether at home or procedural, the medicines used in abortion pills are becoming scarce. Not only does this affect women seeking self-managed abortions, but it has larger consequences as well that perhaps many conservative lawmakers did not foresee. For example, the medication methotrexate is used to treat a number of health conditions such as cancer, lupus, arthritis, and psoriasis.⁶⁵ Sometimes, methotrexate is used to treat miscarriages and ectopic pregnancies. Even though methotrexate is not used for medication abortions like mifepristone and misoprostol, lawmakers in conservative states commonly ban all the medications, resulting in restrictions on methotrexate use. Because of the legal uncertainty under state laws such as the anti-abortion laws in Texas, many insurance providers and pharmaceutical companies are choosing not to provide methotrexate at all for fear of prosecution. However, these decisions now affect more than just women in need of abortions, but every patient who uses methotrexate for different illnesses.

The confusion surrounding methotrexate will affect more than 500,000 people who use it either for miscarriages or health conditions. Some pharmacies such as CVS and Walgreens are

⁶⁴ “How Does the Abortion Pill Work?” *Planned Parenthood*, accessed February 13, 2023, <https://www.plannedparenthood.org/learn/abortion/the-abortion-pill/how-does-the-abortion-pill-work>.

⁶⁵ Jen Christensen, “Women with Chronic Conditions Struggle to Find Medications after Abortion Laws Limit Access,” *CNN*, July 22, 2022, <https://www.cnn.com/2022/07/22/health/abortion-law-medications-methotrexate/index.html>.

starting to require that patients in restrictive states provide a signed document from their doctors clarifying what their need for prescription methotrexate is for to avoid liability under anti-abortion laws.⁶⁶ Sadly, methotrexate is not the only drug that will be under scrutiny by medical professionals under new anti-abortion laws. Misoprostol, which does help induce an abortion, can often be used to prevent gastric ulcers. Now, people who are prescribed the medication might be affected even if their usage is totally unrelated to pregnancy.

Further, these medication misunderstandings illustrate the mass confusion created by hastily enacted, vague anti-abortion laws that do not clarify important medical details, which in turn affect far more people than just women looking for abortions. It is clear that conservative lawmakers did not foresee that their outright bans on abortion would affect the health choices of people other than pregnant women. And yet, their failure to distinguish between the uses of these medications have adverse effects on their own constituents.

IMPACTS ON IVF AND BIRTH CONTROL

Similar to the unforeseen consequences regarding multi-use medications like methotrexate and misoprostol, many laws concerning abortion restrictions will also affect people's access to contraception such as birth control and emergency contraception like Plan B. This is not to say that all conservative lawmakers are unaware of the impact this will have, as some have clearly stated that banning contraception is part of their ongoing battle against reproductive freedoms. Historically, lawmakers have conflated forms of contraception and labeled them as abortifacients, even when they clearly are not.⁶⁷ According to *New York Times*

⁶⁶ *Id.*

⁶⁷ Jessica Valenti, "I Write About Post-Roe America Every Day. It's Worse Than You Think," *The New York Times*, November 5, 2022, sec. Opinion, <https://www.nytimes.com/2022/11/05/opinion/election-abortion-Roe-women.html>.

writer Jessica Valenti, women in Missouri have already had trouble accessing emergency contraception since a chain of hospitals stopped providing it in fear of the newly enacted laws that threaten criminal prosecution for providers. Unsurprisingly, lack of access to contraception will disproportionately affect people of color and rural communities who already have added barriers to accessing abortion. Now, lawmakers and judges in conservative states are threatening birth control access next, taking the *Dobbs* ruling a step further. For example, a Texas federal judge announced in December of 2022 that the Title X family planning program, a longstanding federal program which offers affordable birth control and other sexual reproductive health necessities, is unlawful.⁶⁸ This program has helped millions of young low-income Americans gain access to contraceptives and prevent pregnancy and STDs. This decision is one of the first, and certainly not the last, of coordinated efforts from pro-life advocates to restrict birth control in the same way they restricted abortion. While many people were reassured contraception would not be at risk after hearing the *Dobbs* decision, lawmakers in conservative states have made it abundantly clear their plans to attack the next crucial part of reproductive freedom.

To effectively restrict birth control and emergency contraception, many pro-life advocates define birth control and emergency contraceptives to function as abortifacients. By medical definition, birth control and abortion medication are two completely different medicines. Birth control is used to prevent pregnancy before fertilization, while abortion pills end pregnancy after fertilization. However, lawmakers who view abortion and birth control in the same light may purposefully choose to restrict access to birth control and claim it is an abortifacient. But the concern here is not just within states that have created restrictive abortion laws post-*Dobbs*. The

⁶⁸ “Federal Judge Threatens Birth Control Access for Young People,” *Planned Parenthood*, accessed March 1, 2023, <https://www.plannedparenthood.org/about-us/newsroom/press-releases/federal-judge-threatens-birth-control-access-for-young-people>.

problem also lies at the federal level. In his Supreme Court concurring opinion in *Dobbs*, Justice Thomas made an insidious reference to other cases that were at risk of being overturned now that *Roe* was considered moot. He mentions the landmark case *Griswold v. Connecticut*, 381 U.S. 479 (1965), which secured the right for married couples to have access to birth control without interference from the government, a privacy right within the penumbra established under the First, Third, Fourth, and Ninth Amendments. *Griswold supra* at 381. This case laid the groundwork for reproductive rights activists to secure birth control and emergency contraception for everyone. Justice Thomas's opinion in *Dobbs* has given anti-choice activists hope that the Court will also strike down landmark cases in other areas of sexual and reproductive rights such as *Griswold*, *Eisenstadt*, and more.

Federal lawmakers have made similar references to outlawing contraception. Several congressmen have been on record saying that they believe abortion and contraception are the same and have even proposed amendments to bills to further conflate the two. For example, Representative Rosendale (R-MT) made a comment in 2021 to the House of Representatives that drugs such as "Plan B and Ella are not contraception, they are abortifacients" when stating his opposition to a bill that would allow veterans to have access to birth-control for free.⁶⁹ Marjorie Taylor Greene (R-GA), another prominent anti-abortion representative from Georgia, has made similar comments about Plan B being an abortion pill. Not only are these lawmakers blatantly wrong in their statements, but they also threaten a very serious aspect of reproductive health that has become even more vital after the *Dobbs* decision. By conflating abortion and birth control, they are weaponizing their voters' lack of knowledge about reproductive health to introduce restrictions on contraception. Unfortunately, this is not an unlikely prospect, and women are

⁶⁹ "Don't Be Fooled: Birth Control Is Already at Risk," *National Women's Law Center*, accessed February 21, 2023, <https://nwlc.org/resource/dont-be-fooled-birth-control-is-already-at-risk/>.

preparing for the worst-case scenario. Nurx, an online pharmaceutical company that prescribes birth control and emergency contraception, reported a 300% increase in demand for emergency contraceptives, and 3-4 times more requests for birth control following the *Dobbs* decision.⁷⁰ In fact, pharmacies received so many inquiries about emergency contraception that major providers like Amazon and Walgreens had to put a limit on how many emergency contraceptives one could buy at the same time. Clearly, women saw their reproductive freedoms taken away and decided to stock up on contraceptives in case worse came to worse.⁷¹

In addition to women stocking up on emergency contraception, Planned Parenthood has reported a 21% increase in birth control appointments and a 41% increase for IUD (intrauterine device) appointments just a few months after *Dobbs*.⁷² Many women are looking to switch their methods of birth control, usually from the pill to an IUD simply because of the likelihood that birth control pills would be the first restricted method of birth control if conservative lawmakers went after that next. Some people are taking even more extreme steps to prevent unwanted pregnancy in the wake of *Dobbs*, such as sterilization.

The rate of sterilization, a permanent form of birth control, has greatly increased in both men and women directly after *Roe* was overturned. In fact, just days after *Dobbs* was announced, Innerbody Research, a telehealth company, reported an increase of over 850% in internet searches like “where can I get a vasectomy?,” with the most searches from internet users in Florida and Texas.⁷³ Historically, male sterilization has been a more uncommon practice in

⁷⁰ Virginia Langmaid, “Contraception Demand up after *Roe* Reversal, Doctors Say,” *CNN*, July 6, 2022, <https://www.cnn.com/2022/07/06/health/contraceptives-demand-after-Roe/index.html>.

⁷¹ *Id.*

⁷² Tara Law, “21% of Women Reported Switching Their Birth Control Method Post-*Roe*,” *Time Magazine*, July 26, 2022, <https://time.com/6200542/women-birth-control-switching-methods-abortion/>.

⁷³ Kate Morgan, “Vasectomy: The US Men Embracing Permanent Birth Control,” *Time Magazine*, October 26, 2022, <https://www.bbc.com/worklife/article/20221024-vasectomy-the-us-men-embracing-permanent-birth-control>.

American medicine as women tend to undergo sterilization almost twice as often as men.⁷⁴ The most common form of sterilization for women is tubal ligation which cuts or blocks the fallopian tubes to prevent pregnancy, more commonly known as having one's "tubes tied." However, since *Dobbs*, men across the country have been speaking out about their decisions to undergo the vasectomy procedure to protect their spouses from becoming pregnant while living in states hostile to abortion. A study published in the National Institute of Health Journal studied vasectomy trends pre-*Dobbs* and post-*Dobbs*. Researchers found that post-*Dobbs*, more men completed vasectomies compared to pre-*Dobbs*.⁷⁵ Additionally, the post-*Dobbs* group contained younger, more unmarried men than pre-*Dobbs*, suggesting that for some men, a vasectomy has become a more secure and desirable form of birth control.⁷⁶

While vasectomies are not the only solution to preventing pregnancy post-*Dobbs*, the procedure is less likely to be considered an abortifacient by conservative politicians who view female birth control in that way. Additionally, the rise in vasectomies indicates substantial support for women's reproductive rights and continues to be a safe and viable option for people who do not want children. As we continue to navigate birth control access and emergency contraceptive use post-*Dobbs*, it is important to remember that these decisions are not solely left to women, and men can have a significant supportive role in preventing unwanted pregnancy as well.

Another grim possibility following *Dobbs* is the off-chance that lawmakers would begin to restrict IVF or in vitro-fertilization procedures for families who cannot reproduce naturally. In

⁷⁴ Jamie Ducharme, "Vasectomies," *Time Magazine*, May 23, 2022, <https://time.com/6178287/vasectomy-sterilization-Roe-v-Wade/>.

⁷⁵ Raevti Bole et al., "Rising Vasectomy Volume Following Reversal of Federal Protections for Abortion Rights in the United States," *International Journal of Impotence Research*, February 14, 2023, 1–4, <https://doi.org/10.1038/s41443-023-00672-x>.

⁷⁶ *Id.*

vitro-fertilization requires the removal of an egg from a woman's ovary and sperm from a man. The egg is mechanically fertilized in a laboratory, and then is placed back into the woman's womb as an embryo.⁷⁷ During this process, patients often select to remove several embryos to test for viability and chromosome abnormalities.⁷⁸ These types of genetic testing increase the chance of survival for a healthy embryo and can make the actual pregnancy easier on the woman. Many people who want children opt for IVF procedures depending on their circumstances. Most often, a woman who is infertile might choose IVF as an option to create an embryo with her own egg and then plant that embryo in a surrogate who can get pregnant. Sometimes, women who choose to have children later in life will freeze their eggs until they are ready for IVF. They will unfreeze their eggs and try to become pregnant at an older age that may be riskier had they not frozen their eggs young. A lot of homosexual couples also choose IVF to have biological children. Lastly, some people choose IVF if they want to screen for genetic abnormalities to reduce the possibility of their child being born with severe physical or mental disabilities. For example, a woman from West Virginia, by the pseudonym of Emily, was featured on a podcast from Slate. In her episode, she discusses her choice to undergo IVF for her second child, after her first one was born with severe chromosomal abnormalities, rendering him unable to speak, walk on his own, and has had eight surgeries in his short four years of life.⁷⁹ Emily and her husband did not want to take the chance that another one of their children would be born of similar abnormalities. Emily decided that IVF would be the safest option for them to screen her eggs for possible chromosomal abnormalities before pregnancy. But unfortunately for Emily,

⁷⁷ "IVF," *NHS*, October 20, 2017, <https://www.nhs.uk/conditions/ivf/>.

⁷⁸ Mary Harris, "What Next: Transcript - The Future of IVF Post-Roe," *Slate* (podcast), May 12, 2022, <https://slate.com/transcripts/MVJVRy9VRDNBYjdJalNaRmo0QWRYc29qM014QmFTVkkwWVZTVEJPElcvcz0=>

⁷⁹ *Id.*

and so many other people undergoing IVF, the future legality of IVF is uncertain in states that are hostile to abortion.

To better understand the current situations of people like Emily, Slate interviewed Dr. Natalie Crawford, an OB-GYN and reproductive endocrinologist from Texas. Right now, the main concern for IVF patients and their doctors is the possibility that their states will recognize fetal personhood.⁸⁰ This concept raises issues in the reproductive health community because if a fetus is declared a person who has rights, then an embryo in an IVF procedure would legally be considered a person. However, IVF is a complicated procedure that may require several embryos to be created, which a doctor will then choose the most viable and discard the rest.⁸¹ To the pro-life community, this process sounds like an unnecessary murder of a potential life. But for doctors, it is a standard practice. Crawford stresses her concerns however, that many states are moving towards creating fetal personhood laws which would in turn affect IVF as a procedure, stopping millions of families from having children. In fact, Senator Rand Paul (R-KY) introduced a Life at Conception Bill to Congress in 2021 that would protect fetal personhood under the Fourteenth Amendment of the U.S. Constitution.⁸² The problem for Crawford and so many other doctors is that this is no longer a pipe dream for pro-life advocates. *Dobbs* has opened the floodgates for conservative legislators to change the way this country regulates and limits reproductive choice. The definitions of personhood in some state abortion laws, including those with trigger bans, list fertilized eggs as constituting a pregnancy, without specifying whether that fertilized egg must be in the human body.⁸³ While *Dobbs* does not explicitly

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Senator Rand Paul (R-KY), “Text - S.99 - 117th Congress (2021-2022): Life at Conception Act of 2021,” Legislation, January 28, 2021, <http://www.congress.gov/>.

⁸³ Neelam Patel, “Abortion ‘Trigger’ Ban Statutes: Impacts on Plan B, Birth Control, and IVF Treatments,” *Georgetown University Law School: The Georgetown Journal of Gender and the Law*, no. 3 (2022),

mention IVF in the majority opinion, the often overly broad statutory language within these laws written by conservative legislators have consequently included language about fetal personhood that could threaten IVF in the future.⁸⁴

IVF is one of many Artificial Reproductive Technologies (ATF) that are at risk of being restricted or banned simply due to broad statutory language that leave room for pro-life advocates to argue the inclusion of fetal personhood. An estimated 2% of the entire American population has been conceived through IVF or reproductive technology.⁸⁵ While this might seem like a small percentage, IVF is a relatively new technology perfected over the last 40 years and is gaining more popularity among families as a potential option for having children. Without procedures like IVF, many Americans will lose their chance to have children completely. Other fertility procedures such as artificial insemination, donor eggs, and surrogacy might be possible options for some, but not for all. Additionally, these procedures could very well be under the scrutiny of anti-abortion lawmakers as well simply for the mechanical rather than “natural” methods. Even if doctors were to somehow work around these vague statutes by trying to implant fresh embryos or multiple embryos into the uterine lining at once, it would lead to severe risk of complication and increased costs.⁸⁶ In addition, as IVF is an already costly procedure, many fertility patients might be unable to front the extra associated costs of travel or long-term stay in states that will continue to offer IVF treatment if their own state restricts access.

<https://www.law.georgetown.edu/gender-journal/online/volume-xxiii-online/abortion-trigger-ban-statutes-impacts-on-plan-b-birth-control-and-ivf-treatments/>.

⁸⁴ “State Abortion Laws Potential Implications for Reproductive Medicine,” *ASRM*, [June 29, 2022](https://www.asrm.org/news-and-publications/asrms-response-to-the-Dobbs-v-jackson-ruling/Dobbs/state-law-summaries/)

<https://www.asrm.org/news-and-publications/asrms-response-to-the-Dobbs-v-jackson-ruling/Dobbs/state-law-summaries/>.

⁸⁵ Mary Harris, “What Next: Transcript - The Future of IVF Post-Roe,” *Slate* (podcast), May 12, 2022, <https://slate.com/transcripts/MVJVRy9VRDNBYjdJalNaRmo0QWRYc29qM014QmFTVkkwVWZTVEJPElcvcz0=>

⁸⁶ Maressa Brown, “How Overturning *Roe v. Wade* Will Affect Fertility Treatment and Trying to Conceive,” *Parents*, September 15th, 2022. <https://www.parents.com/pregnancy/overturing-Roe-v-Wade-will-affect-fertility-treatment-and-trying-to-conceive/>.

IVF and other assisted procedures are at risk of being restricted or banned completely in states that restrict abortion. The implications of this may not have been obvious to Americans right away but remain a growing threat. By analyzing trigger laws and the statutory language within these laws, there is a definite possibility that pro-life advocates will use this language to advance the cause for recognition of fetal personhood. For many women and people trying to have children, restrictions on IVF will be yet another unforeseen consequence of *Dobbs* that we were not prepared for.

THE UPCOMING “BABY SURGE”

Access to birth control and even methods of assisted pregnancy technologies are at risk of being restricted now that abortion has been banned in several states. These are consequences that many pro-choice activists and academics were able to predict, even if conservative lawmakers did not. However, there are some implications of this decision that will negatively affect us all but are not yet apparent. For instance, some scholars predict a surge in birth rates within states that have banned abortion. These states ironically have some of the worst maternal and reproductive healthcare in the country, meaning that an increase in pregnancies will only exacerbate the weaknesses of their outdated and underfunded insurance programs, hospitals, and providers. According to Melissa Jeltsen, a journalist for *The Atlantic*, an estimated 50,000 extra births will occur within the next year (December 2022-December 2023).⁸⁷ In 2021, there were 3.4 million births in the U.S. 50,000 extra births, or 1.4% increase, does not seem like a significant increase for the size of the U.S population. However, Caitlin Knowles Meyers, an economics professor at Middlebury College, believes this surge will concentrate in poor,

⁸⁷ Melissa Jeltsen, “We Are Not Prepared for the Coming Surge of Babies,” *The Atlantic*, December 16, 2022, <https://www.theatlantic.com/family/archive/2022/12/abortion-post-Roe-rise-in-births-baby-care/672479/>.

southern, conservative states where abortion is now illegal.⁸⁸ Because of the lack of reproductive care or social services in these states, the country will begin to see these states suffer financially and have no support systems for children in poverty or their parents who cannot afford to raise them but were forced to birth them. In addition to the population surge, these states will experience many pregnancy complications and related deaths. On average, pregnancy is 14 times deadlier than an abortion procedure.⁸⁹ Now, women who get pregnant and seek abortions are at a higher risk of maternal mortality, and their fetuses have an increased chance of infant mortality. An increase in birth rate inevitably leads to an increase in premature births and high-risk births. While concrete data is not available on this yet, a healthcare consulting firm, Sg2, estimates that around 18,500-19,500 births could be preterm, requiring extensive care for the newborn and surveillance of the health of the mother.⁹⁰

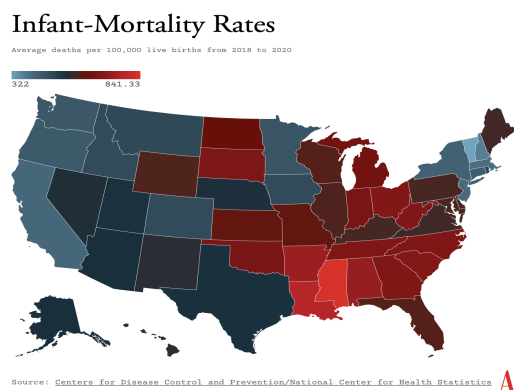


FIGURE 3: *INFANT-MORTALITY RATES*. IMAGE, 2022. *CENTER FOR DISEASE CONTROL AND THE ATLANTIC*. [HTTPS://WWW.THEATLANTIC.COM/FAMILY/ARCHIVE/2022/12/ABORTION-POST-ROE-RISE-IN-BIRTHS-BABY-CARE/672479/](https://www.theatlantic.com/family/archive/2022/12/abortion-post-roe-rise-in-births-baby-care/672479/).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Mary Kekatos, “More than 150,000 Births Could Occur in the US Every Year Following the Reversal of *Roe v. Wade*, Report Predicts,” *ABC News*, June 27, 2022, <https://abcnews.go.com/Health/150000-births-occur-us-year-reversal-Roe-Wade/story?id=85795552>.

An increase in births does not correlate to an increase in family support, or maternal care. Conservative, anti-abortion legislators have made that abundantly clear. But the women who are forced to remain pregnant and birth their children will be at risk of more than just pregnancy and maternal complications alone. A journal article published by the American Medical Association details the adverse implications of poor women who are forced to remain pregnant. On average, women who seek abortions and are denied the procedure have a continued risk of living in poverty, experience with domestic violence, and serious health problems. The barriers in access that were discussed in Chapter 1, coupled with these likely implications, emphasize the lack of birth equity in this country. Birth equity refers to the commitment and assurance of an optimal

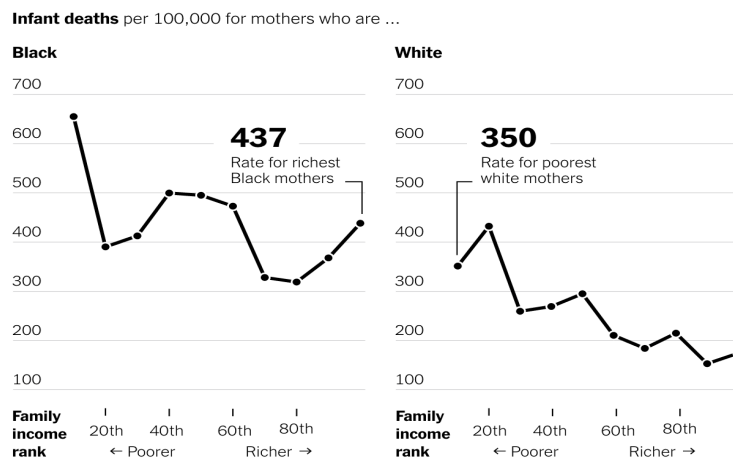


FIGURE 4: *INFANT DEATHS PER RACE*. SCREENSHOT, 2023. *THE NEW YORK TIMES*, [HTTPS://WWW.NYTIMES.COM/INTERACTIVE/2023/02/12/UPSHOT/CHILD-MATERNAL-MORTALITY-RICH-POOR.HTML](https://www.nytimes.com/interactive/2023/02/12/upshot/child-maternal-mortality-rich-poor.html)

birth for everyone, with special attention to social inequities that make it difficult for certain groups to access the level of care they deserve.⁹¹

⁹¹Joia Crear-Perry, MD; Asha Hassan, MPH; Sara Daniel, MPH, “Advancing Birth Equity in a Post-*Dobbs* US,” *JAMA Network*, November 1, 2022, doi:10.1001/jama.2022.19468, https://jamanetwork.com/journals/jama/article-abstract/2797860?casa_token=8rTFhjTLVpEAAAAA:PigFD-46AO5iEsZSbBOlnsW9v10jnILkQxEvsFr4PuZG-vRFChCejNzNz-hQwCKp31uOnWCoYw.

it was because they cannot learn nor practice the level of care that is required for their profession. Indeed, many of these students are scared that if they were to practice in states like Florida or Texas, they would have to decline terminating a pregnancy despite their medical opinion. While their reasons are valid, the declining number of OB-GYN students in restrictive states will most likely affect the total number of practicing OB-GYNs of those states in the future. In other words, the decision is deterring people from practicing reproductive medicine in states where women and babies need it the most. Further, obstetrics and gynecology do not seem to be the only field affected by *Dobbs*. The Association also reported seeing a decline in applications for emergency medicine, where most life-threatening pregnancy complications are seen first.⁹⁵ This news is deeply troubling for the country, as it shows how *Dobbs* affects almost every facet of the medical field and the future of practicing OB-GYNs and doctors. This is one of many developing implications that will deeply affect reproductive care for women in the future.

Evidently, the U.S is facing a grim reality post-*Dobbs*. Chapter 1 discussed the limitations caused by trigger bans and abortion laws, and the ongoing legal battles between conservative pro-life governments and pro-choice advocates trying to protect 50 years of precedent. Chapter 2 discussed the realities and implications of these limitations, specifically the effect these laws will have on women of color, poor women, and women living in conservative states. Additionally, it is important to note that while there are implications we could easily predict because of *Dobbs*, there were some that were not as predictable. Issues like a related increase in births in southern states, restrictions on medications, birth control access, and concerns for the future of assisted reproductive technologies are all examples of consequences

⁹⁵ *Id.*

that were not as evident pre-*Dobbs* than they are now post-*Dobbs*. Chapter 3 will focus on how the country can move forward, even with these grave consequences looming over the future of reproductive rights. Action from private companies, liberal states, and the federal government will be crucial to how the U.S responds to the current crises in reproductive freedoms.

CHAPTER 3: SOLUTIONS

Chapter 1 examined the limitations of the anti-abortion laws passed after *Dobbs*. Most conservative states enacted trigger bans and restricted abortion laws to either limit the period in which a person can have an abortion or take away the right entirely. In either case, these laws directly or indirectly affected all women in the United States. Chapter 2 highlighted the effects of these laws on marginalized groups of women, such as Black women, poor women, and women living in restrictive states. Among the increased barriers to reproductive healthcare access, these women will face financial hardship, pregnancy and maternal complications, decreased access to birth control and medication abortions, and possible restrictions to assisted reproductive technologies (IVF). The two previous chapters describe the grim future women seeking reproductive care are likely to face. However, Chapter 3 focuses on the potential mitigating strategies, if any, to these scenarios and how both liberal state governments and even private groups are seeking to change the ominous future for women of reproductive age in the U.S. The purpose of this chapter is not to deny the harsh reality of what is to come. Rather, it is to focus more on the policies that are being considered and adopted to ensure that women receive the reproductive healthcare they need.

LIBERAL STATE INITIATIVES

While the response to *Dobbs* in restrictive states has been hostile and dangerous for women seeking abortions, liberal states have taken a different approach. Particularly in the Northeast and on the West coast, states such as California, Massachusetts, Connecticut, and Washington have attempted to mitigate the impacts of abortion bans in restrictive states by providing expanded access to care within their own states. Many Democratic-led states have taken precautionary measures to ensure that any woman seeking an abortion from another state

will be protected from extradition on criminal abortion charges. Other states have promised to codify abortion into state law or ratify it as a right within their state constitution. Overall, the responses of these states have reflected the opinions of their constituents, suggesting that the decision to overturn *Roe* was neither popular among the public, nor among liberal legislators. More importantly, the responses of liberal states will be crucial in determining how devastating an effect anti-abortion law will have on the country as a whole. It is vital, for the protection of women in both conservative states but also pro-choice states, that liberal politicians take a stand against the anti-abortion laws enacted across the country and take steps within their own governments to expand maternal care, abortion access, and other relevant services in this time of need.

One way liberal states have already begun to address the *Dobbs* decision is to make interstate pacts pledging their allegiance to each other and to the longevity of abortion access within their states. For example, the governors of California, Oregon, and Washington announced a multi-state commitment to the protection of abortion access on the West coast directly after *Dobbs* was announced.⁹⁶ Each governor stated their shock and disappointment in their political colleagues for using the decision for political advantage. Governor Gavin Newsom of California stated definitively that “we refuse to go back, and we will fight like hell to protect our values,” referencing the trigger bans that swept the nation and left more than 33.6 million women's reproductive rights in jeopardy.⁹⁷ Not only did each governor pledge their support, but they also individually proposed initiatives to their respective state legislatures to expand access within

⁹⁶ Gavin Newsom, “West Coast States Launch New Multi-State Commitment to Reproductive Freedom, Standing United on Protecting Abortion Access,” *Office of Governor Gavin Newsom*, June 24, 2022, <https://www.gov.ca.gov/2022/06/24/west-coast-states-launch-new-multi-state-commitment-to-reproductive-freedom-standing-united-on-protecting-abortion-access/>.

⁹⁷ *Id.*

their states. For instance, Governor Gavin Newsom proposed a \$125 million Reproductive Health Package for women coming to California from other states and signed legislation eliminating copays for abortion services.⁹⁸ California has also enshrined the right to contraception and abortion within their state constitution.⁹⁹ Similarly, Oregon already made history by passing the most comprehensive reproductive health legislation in the U.S. The Reproductive Health Equity Act in 2017 expanded abortion access across the state and codified abortion into state law.¹⁰⁰ Governor Brown invested an additional \$15 million in abortion services that cater to low-income communities, rural communities, and communities of color. Finally, Washington also already signed abortion and contraception rights into state law through the Reproductive Parity Act.¹⁰¹ Governor Inslee additionally signed a Protecting Pregnancy Act in 2021 that allowed doctors to bypass ethical and religious rules in Catholic-run hospitals to provide abortion to patients when medically necessary. In 2022, Inslee signed the Affirm Washington Abortion Access Act to provide care to all patients who seek abortions in Washington from out of state. Washington also protects abortion patients and their doctors from harassment, and has state funding for Title X clinics, a federal program, to ensure that patients are provided the option for an abortion if they seek care at a Title X facility. Each of these initiatives, whether enacted before or after *Dobbs*, will be crucial to assist women in need of adequate reproductive care, whether they are residents of that state or reproductive health refugees from another state. Governor Michelle Lujan Grisham of New Mexico signed an

⁹⁸ Newsom, “West Coast States.”

⁹⁹ Gavin Newsom, “Historic California Constitutional Amendment Reinforcing Protections for Reproductive Freedom Goes Into Effect,” *Office of Governor Gavin Newsom*, December 21, 2022, <https://www.gov.ca.gov/2022/12/21/historic-california-constitutional-amendment-reinforcing-protections-for-reproductive-freedom-goes-into-effect/>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

executive order in 2022 allocating \$10 million of state funds to build a reproductive healthcare clinic on New Mexico's border with Texas.¹⁰² The clinic will serve as a closer destination for the influx of women traveling from Texas to New Mexico, alleviating some of their travel costs while also taking the burden off other New Mexico clinics for the expected increase in patients.

Other liberal states have implemented similar laws and initiatives like their West coast allies. For example, New England states have all either codified abortion into state law or have expanded access to abortion before viability or throughout an entire pregnancy.¹⁰³ Massachusetts, for example, allows abortion until 24 weeks.¹⁰⁴ After that, it is only permissible in cases to save the mother's life or if the fetus would not survive outside the womb. While their actual abortion law is somewhat more restrictive for a traditionally liberal state, Massachusetts includes several provisions to protect access to abortion before 24 weeks, such as providing safeguards in private insurance law so that abortion coverage may not be limited, providing funds for essentially all or most medically necessary abortions, and not requiring all abortions to be done in hospitals, which protects clinics and their ability to perform the procedure more freely.¹⁰⁵ The legislature also introduced the Shield Law in 2022, which enacted statutory protections for anyone who helps or obtains an abortion from out-of-state legal prosecution, as well as allows anyone from out of state to sue for damages if they receive an abortion in

¹⁰² Algernon D'Amassa and Wyatte Grantham-Philips, "New Mexico Governor Commits \$10 Million to Building New Abortion Clinic near Texas Border," *USA TODAY*, accessed March 28, 2023, <https://www.usatoday.com/story/news/nation/2022/09/01/new-mexico-abortion-clinic-texas-border/7960745001/>. <https://www.usatoday.com/story/news/nation/2022/09/01/new-mexico-abortion-clinic-texas-border/7960745001/>

¹⁰³ "Abortion Policy in the Absence of *Roe*," *Guttmacher Institute*, accessed April 9, 2023, <https://www.guttmacher.org/state-policy/explore/abortion-policy-absence-Roe>.

¹⁰⁴ "Interactive Map," *supra* at footnote 5.

¹⁰⁵ "Massachusetts," *Center for Reproductive Rights*, accessed April 16, 2023, <https://reproductiverights.org/maps/state/massachusetts/>.

Massachusetts and are prosecuted as a result.¹⁰⁶ Governor Maura Healey also signed an executive order in June 2022 that was later added into the law, prohibiting executive officials from cooperating in any out of state investigations pertaining to the Massachusetts abortion provisions. Additionally, as of April 2023, Governor Healey signed another executive order that protects the dispensary, use, and prescription of medication abortions that involve mifepristone and misoprostol.¹⁰⁷ The executive order was in response to the Texas District Court Judge’s ruling that the FDA’s approval of mifepristone is unlawful, therefore putting the use of mifepristone at risk nationally.

Connecticut, like Massachusetts, protects the right to an abortion up to 24 weeks of pregnancy.¹⁰⁸ Abortion is allowed after that period only if the mother’s life is in danger or if the fetus would not survive on its own. Additionally, Connecticut does not require parental consent for minors to receive an abortion. However, any patient under 16 must undergo counseling before the procedure.¹⁰⁹ Rhode Island, Delaware, and New Hampshire have more restrictive laws. Each state bans abortion after fetal viability (24-26 weeks) and bans state Medicaid coverage of abortion except in special circumstances. Minors must also have parental consent to obtain an abortion.¹¹⁰ However, each of these states is also somewhat protective. Delaware protects abortion patients from harassment and has a shield law that protects abortion providers from being investigated by other states. New Hampshire and Rhode Island, as well as Delaware

¹⁰⁶ *Id.*

¹⁰⁷ “No. 609: Protecting Access to Medication Abortion Services in the Commonwealth,” *Massachusetts Government (Mass.gov)*, April 10, 2023, <https://www.mass.gov/executive-orders/no-609-protecting-access-to-medication-abortion-services-in-the-commonwealth>.

¹⁰⁸ “Interactive Map,” *supra* at footnote 5.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

all allow for abortions to be performed by different healthcare professionals, not solely physicians.¹¹¹

Other states like New Jersey, New York, and Vermont, have more protective abortion policies. All three states allow state Medicaid to fund abortion, and New York and New Jersey have protective laws that prohibit other states from investigating abortion providers who operate on out-of-state patients.¹¹² Additionally, New York requires private insurance to cover abortion funds, and has special state funds allocated to support abortion payments for those who cannot afford it. However, New York still bans abortion after fetal viability, whereas New Jersey and Vermont do not have a gestational limit on abortion. Vermont has enshrined the right to an abortion into their state constitution.¹¹³ States in the Northeast, like their allies on the West Coast, differ in the degree to which they protect abortion access. However, each of these states is a crucial part of the post-*Roe* legal landscape, as their protective strategies for abortion policies will be necessary to continuing access to abortion not only for their residents but for out of state patients as well.

As an additional layer of support, liberal states have banded together to create the Reproductive Freedom Alliance,¹¹⁴ a nonpartisan coalition of over 20 governors committed to expanding reproductive healthcare access in the wake of *Roe*. The Alliance sent a clear message to the nation when announcing their stance on abortion rights after *Dobbs*, turning their strategy from the defensive to the offensive. Governor Maura Healey of Massachusetts stated:

In this moment when abortion access is under threat across the country, Governors have a unique responsibility and opportunity to expand reproductive freedom in our states. I'm

¹¹¹ “Interactive Map,” *supra* at footnote 5.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ States in the Alliance are California, Arizona, Colorado, Connecticut, Delaware, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Washington, and Wisconsin.

proud to stand with my colleagues to send a clear message that we are not just playing defense but moving ambitiously forward to improve access to abortion and reproductive healthcare.¹¹⁵

The commitment to reproductive access and freedom from pro-choice states has cast a more positive light on this otherwise grim situation. As we continue to navigate our way through a post-*Roe* America, it will be interesting to see which states stick with their promises to abortion access and which do not.

PRIVATE COMPANY INITIATIVES

As liberal states work together to ensure their commitment in providing expanded access to abortion care across the country, private companies are doing the same. Planned Parenthood has expanded its care nationwide. However, it was unprepared for the surge in out-of-state patients seeking abortions, which has resulted in longer wait times, overworked staff, and limited resources in its clinics. Like other clinics, Planned Parenthood facilities that border conservative states are seeing an influx of patients that they cannot handle with their regular staff. For example, the Planned Parenthood in Illinois experienced a surge in appointments after the *Dobbs* decision, crushing its staff and medical resources. 60% of its patients were from out-of-state, mostly from Wisconsin.¹¹⁶ To help ameliorate the influx of patients, medical staff from the Planned Parenthood of Wisconsin announced its partnership with the Planned Parenthood of Illinois, sending dozens of its staff across the state border to work in Illinois. The partnership not

¹¹⁵ “Governor Lamont Announces Connecticut’s Participation in Newly Launched Reproductive Freedom Alliance,” *Connecticut’s Official State Website*, February 21, 2023, <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2023/02-2023/Governor-Lamont-Announces-Participation-in-Reproductive-Freedom-Alliance>.

¹¹⁶ Kristen Schorsch, “Abortion Is Legal in Illinois. In Wisconsin, It’s Nearly Banned. So Clinics Teamed Up,” *NPR*, August 11, 2022, sec. Reproductive rights in America, <https://www.npr.org/sections/health-shots/2022/08/11/1114647820/illinois-wisconsin-abortions>.

only helped the Illinois location aid more patients, but it allowed for Wisconsin medical practitioners to practice medicine because they were no longer able to offer their services in Wisconsin with the new abortion bans. Partnerships between different clinics are a way for doctors in restrictive states to use their expertise in states protective of reproductive rights. In fact, the Illinois-Wisconsin partnership has sparked interests of abortion providers in other states such as Kentucky, Indiana, and Ohio to do the same. Other abortion clinics, such as the National Abortion Federation, have advertised new employment opportunities at their clinics in liberal states for medical providers in conservative states. The Federation hopes to match staff to different clinics that they can commute to easily. These private clinic initiatives have been helpful with the immediate effects of abortion bans by expanding their clinics with more staff and bigger spaces to provide more care to women in need.

The progressive initiatives of reproductive healthcare groups have been helpful in mitigating the effects of limited access to abortion across the country. But they are not alone in their efforts. Several private companies announced after *Dobbs* that they would set aside extra funds to help their employees afford travel costs, miscellaneous expenses, and treatment costs for abortion-related medical needs. Among these companies were Starbucks, Tesla, Airbnb, Netflix, Patagonia, JPMorgan Chase, Amazon, and more.¹¹⁷ Even Walmart, the biggest private employer in the U.S, has made a commitment to its employees to cover travel expenses and abortion costs. Most of these companies have thousands of employees across the country, including some that may live in states now hostile to reproductive rights. Their new employee health plans will cover the travel costs associated with going out of state for an abortion. Uber and Lyft, popular rideshare companies, announced that in addition to covering travel expenses for their employees,

¹¹⁷ Emma Goldberg, “These Companies Will Cover Travel Expenses for Employee Abortions,” *The New York Times*, August 19, 2022, sec. Business, <https://www.nytimes.com/article/abortion-companies-travel-expenses.html>.

they would also expand a legal defense commitment to any driver who might be prosecuted for bringing a person to their abortion appointment. The commitment from the private sector of American businesses to support their employees in need of abortion speaks not only to their moral values as companies responsible for the well-being of their employees, but also to the economic benefits of supporting universal reproductive healthcare. Sarah Jackel, the chief operating officer of Civitech stated in a *New York Times* article that large companies helping their employees obtain abortions “makes good business sense.”¹¹⁸ To Jackel, losing an employee due to an unwanted maternity leave is detrimental for both the employee and the employer. She argued that “there’s no reason we should be putting our employees in the position of having to choose between keeping their job or carrying out an unwanted pregnancy.”¹¹⁹ Jackel, and other executives, understand what abortion access means not only for their employees' individual lives, but the impact that it has on promoting a positive business culture and including women in the workplace who want to be in the workplace.

In addition to large companies taking the lead and supporting American women during this time, more and more grassroots organizations, including just private citizens on their own accord, have stepped in to help. Over the course of this year, fascinating stories have surfaced of women secretly helping other women obtain abortions or abortion pills. In some instances, the underground groups aiding women in the U.S are part of international efforts, such as the reproductive rights organization in Mexico working to supply women in the U.S with medication abortion drugs like mifepristone and misoprostol. These efforts are especially interesting considering that Mexico only decriminalized abortion in 2021, meaning that this process is

¹¹⁸ *Id.*

¹¹⁹ *Id.*

relatively new for both the Mexican suppliers and the American recipients.¹²⁰ One organization, Las Libres, functions with the help of ex-patriots who refer to themselves as the “Old Hippies.”¹²¹ The organization buys misoprostol, which is sold over the counter in Mexico, and finds suppliers for mifepristone which requires a prescription. The Old Hippies then pick up the medication at several pharmacies and bring it back to their home base, a house in Guanajuato, to unpack the medication into single doses. Las Libres is currently funded by American non-profits, who spread their information to women in need. Women often call the organization under pseudonyms, or coded messages, requesting abortion pills to be sent to them in the U.S. Las Libres then enlists the help of volunteers to run drugs from the Mexican border to the States, a very dangerous job that could result in criminal prosecution within states like Texas. However, once in the States with the medication, the women can begin to mail the abortion pills to recipients. In some cases, mailing pills can raise suspicion of postal officers, especially if there is no return address on the package. The Old Hippies and their volunteers decided to package the pills in small jewelry boxes. On the top of the box would be a pair of earrings from Mexico, and under the cotton pad that held the earrings would be the abortion medication. This way, the pills would go undetected in the mail and the recipient of the medication could easily hide the pills if she needed to from her husband or family. If a recipient did not want her pills mailed, the Old Hippies or “pill fairies” as they were called in their underground realm, would meet with the woman in unassuming locations for a drop-off. Most of these drop-offs happened in parks or open spaces where neither person could be traced. Anna, one of the distributors of Las Libres, had only once met a recipient at her home. The pregnant girl in need was in eighth grade and had

¹²⁰ Vanessa Romo, “Mexico’s Supreme Court Has Voted To Decriminalize Abortion,” *NPR*, September 7, 2021, sec. Latin America, <https://www.npr.org/2021/09/07/1034925270/mexico-abortion-decriminalized-supreme-court>.

¹²¹ Stephania Taladrid, “The Post-Roe Abortion Underground,” *The New Yorker*, October 10, 2022, <https://www.newyorker.com/magazine/2022/10/17/the-post-Roe-abortion-underground>.

traveled to Anna's with her grandmother for the pills. Anna's experience helping the young girl embodied the mission of Las Libres: women helping women. The risk Anna, the Old Hippies, and other volunteers of Las Libres take to provide abortion medication is undeniably heroic. Las Libres is one of the largest underground pill providers in Mexico right now, and it serves as a great example of the kind of initiative people are taking to expand access to safe abortions across the country, legally or illegally.

Some grassroots organizations like Las Libres are helping women in different ways. For example, the Midwest Access Coalition of Chicago and Haven Coalition of New York have enlisted volunteers they can call at a moment's notice to open their homes for a woman who needs to travel for an abortion. The volunteers pay for the patient's travel, hospitality, food, and emotionally support these women through their abortion procedures.¹²² Originally, nonprofits like these coalitions have relied on raising money to put women in hotels while they stay in the state for their procedure. But because of new state and federal laws that have complicated the legality of this process, more and more volunteers are opening their homes to women as a safer option that flies under the radar. Additionally, many clandestine organizations like Midwest Access have been a less popular choice for abortion care when *Roe* was still the precedent. Now, after *Dobbs*, their call centers have been overwhelmed with women asking for help, usually in states like Indiana and Texas. In fact, Midwest Access Coalition served more than 200 women in just July of 2022 alone, up from 40 clients in July of 2020.¹²³ Nonprofits like these will continue to support women in need on a case-by-case basis. As the country moves forward in a post-*Roe* America, it is unclear whether the volunteers opening their homes, or the Old Hippies who

¹²² Ronda Kaysen, "How Volunteers Open Their Homes to Women Seeking Abortions," *The New York Times*, October 15, 2022, <https://www.nytimes.com/2022/10/15/realestate/abortion-volunteer-homes.html?searchResultPosition=1>.

¹²³ *Id.*

smuggle abortion medication across the border, will be prosecuted by restrictive states for their efforts. However, their bravery and steadfast dedication to abortion access will not go unnoticed, and their heroic stories will be balanced against the post-*Roe* chaos which American women now must endure.

TELEHEALTH AND MEDICAL PROVIDER EFFORTS

Liberal states and several private companies have each taken steps to protect reproductive rights within their jurisdictions. States have been able to codify abortion into their state laws and make initiatives expanding access through state funded care. Private companies are supplementing the costs for travel expenses and exhausting their legal resources to protect their female employees who need an abortion. Individuals working in grassroots organizations are risking arrest, smuggling abortion medication across international borders to send to patients in dire need. But arguably, one of the most necessary forms of abortion access is provided by doctors in liberal states who offer reproductive healthcare to women who do not live in their state. They do so by using telemedicine. Telemedicine is an online platform that allows doctors to meet virtually with their patients. The practice became popular due to COVID-19 restrictions and many people continue to use it for quick chats with their health providers. But an additional advantage of telemedicine is the ability to see anyone, anywhere, at any time. Plus, doctors do not always have to confirm where their patient lives, making it easier for providers to prescribe pills to women who live in states with bans or limited access to abortion. While some services do check IP addresses to ensure their patients are in states where abortion is legal, a growing number of providers do not, specifically due to the extreme bans in states with limited access.¹²⁴

¹²⁴ Pam Belluck, “Abortion Pill Providers Experiment With Ways to Broaden Access,” *The New York Times*, September 3, 2022, sec. Health, <https://www.nytimes.com/2022/09/03/health/abortion-pill-access-Roe-v-Wade.html>.

Though the practice is a bit of a legal gray area in terms of providing abortion medication across state lines, telemedicine has been useful for women at all stages of pregnancy, such as women who are pregnant longer than the many 6-10 week gestational bans in restrictive states, allowing them to obtain an abortion in secret and without criminal penalty. It has also been a resource for women who are not pregnant yet but feel the need to have abortion medication on hand, should something go wrong in the future. In terms of waiting times in clinics, telemedicine has helped mitigate the surge of patients traveling out of state for an abortion, providing some relief to providers and staff in clinics. Another benefit of receiving medication abortion through telemedicine is the increased privacy for the patient. Medication abortions typically occur in the comfort of one's home and therefore requires less travel and less chance of being caught by law enforcement.

Obtaining a prescription for abortion medication through telemedicine is relatively uncommon, even though medication abortions account for more than half of all U.S abortions.¹²⁵ Most people understand an abortion as the procedure that is done surgically, but using medication is becoming more routine thanks to modern medicine and technology. In addition to increased privacy and less travel, online abortion pills, when prescribed correctly, are completely safe ways to induce an abortion. Many reproductive health doctors have supported telemedicine consultations, stating that it is a safe and cost-efficient way to be screened and prescribed by medical professionals.¹²⁶ In fact, according to a study conducted between 2018 and 2019, researchers found that of the 3,000 women who were measured in the study, 96.4% of them successfully ended their pregnancies via abortion pills without medical intervention. All

¹²⁵ Jones et al., "Medication Abortion Now Accounts for More Than Half of All US Abortions," *Guttmacher Institute*, February 22, 2022, <https://www.guttmacher.org/article/2022/02/medication-abortion-now-accounts-more-half-all-us-abortions>.

¹²⁶ Belluck, "Abortion Pill Providers Experiment."

participants received their medication via telemedicine consultations.¹²⁷ Even though the concept of telemedicine has only gained traction over the last few years, more and more medical professionals are using it to consult with patients, even regarding abortions.

Many telemedicine providers are exclusive medication abortion companies, such as Aid Access in Europe. Aid Access works with U.S providers to send abortion pills via mail to patients. Their website is extremely easy to navigate and requires just a quick online consultation before having the pills sent to your home. Groups like these have long supplied women with medication abortions even before *Roe* was overturned, as they “accounted for over half of U.S abortions in 2020.”¹²⁸ Before *Dobbs*, Aid Access reportedly received about 40 requests per day for medication. The week after the decision, that number skyrocketed to over 10,000 requests.¹²⁹ For patients in states where abortion is legal, the process for receiving the prescription is easier than for someone who lives in a restrictive state. For example, after completing the online consultation, a woman living in a liberal state will be sent a prescription from a pharmacy within the U.S. For women living in conservative states, they will receive their medication from an international supplier, such as pharmacies in India. For those who worry about their packages being intercepted by the postal service, providers suggest using what is called a “virtual mailbox”: “Plan C [an online medication abortion provider] recently added information about “virtual mailboxes” with commercial mail-forwarding companies: addresses in states where pills can legally be shipped and forwarded to patients in restrictive states. Forwarding companies are

¹²⁷ Abigail R. A. Aiken et al., “Safety and Effectiveness of Self-Managed Medication Abortion Provided Using Online Telemedicine in the United States: A Population Based Study,” *The Lancet Regional Health - Americas* 10 (June 1, 2022): 100200, <https://doi.org/10.1016/j.lana.2022.100200>, <https://www.sciencedirect.com/science/article/pii/S2667193X22000175>

¹²⁸ Belluck, “Abortion Pill Providers Experiment.”

¹²⁹ *Id.*

most likely unaware of the contents of the nondescript packages.”¹³⁰ Through this process women can safely access their prescriptions and have them sent to their own state rather than having to confirm their address in a liberal state or set up a P.O box. Again, the current methods for obtaining abortion medication while living in a restrictive state is legally gray. The chances of state laws being passed that limit the practice of telemedicine abortion consultations is very likely, and states may even begin to track a person’s IP address to criminally charge that person for seeking an abortion. However, the issue of data tracking raised constitutional privacy issues, which might derail conservative state efforts to ban telemedicine consultations as well. In fact, smartphone tracking companies are already being sued for selling sensitive geolocation information that could endanger a person’s privacy. In August of 2022, the Federal Trade Commission sued a smartphone geotracking company Kochava, for selling millions of people’s geolocation information.¹³¹ The FTC claims that the information Kochava was collecting was so specific, it included dates, times, and precise locations of a user’s smartphone, which created a security risk for people who were visiting sensitive locations like LGBTQ centers, domestic abuse shelters, and abortion clinics.¹³² If a state like Texas bought geolocation information from a company like Kochava, they could locate each person who sought an abortion in Texas and prosecute them. For now, at least, online medication abortion prescriptions are one of the only ways women in restrictive states can get safe access to abortions without having to leave the state.

¹³⁰ *Id.*

¹³¹ Natasha Singer, “FTC Sues Over Tracking Data That Could Expose Visits to Abortion Clinics,” *The New York Times*, accessed April 9, 2023, <https://www.nytimes.com/2022/08/29/business/ftc-lawsuit-tracking-data-abortion.html?searchResultPosition=7>.

¹³² *Id.*

NOTABLE REPRODUCTIVE HEALTH ORGANIZATIONS

Abortion access across the country is changing at the state level and is therefore hard to define at any one point in time. While a federal law could settle the issue once and for all, there is little chance of such a bill passing in our polarized Congress today. Without a federal law, the abortion issue must be addressed on a state-by-state basis. Of course, temporary solutions for this issue, specifically in blue states and within private companies, can expand access. Liberal states have made commitments to expanding care in their states, codifying abortion into law, and partnering with fellow states to ensure that there is consensus at least from the states that agree to protect abortion rights. Similarly, private companies can and should use their legal resources to protect their employees and allocate funds within the company to fund travel costs and paid absences for their employees to be able to travel out of state to receive abortion care. Even grassroots organizations, including the ones that take what are perhaps considered legally gray or illegal steps to provide abortion pills to women living in restrictive states, are doing what they can to help to provide much needed services. But all of these are slap dash remedies. The abortion issue has been and always will be an issue that requires a federal response. And while that process plays out, the discussion is happening within the younger generations.

The issue of access to abortion and contraception has been an ongoing conversation among younger audiences, specifically Gen Z and on college campuses. Some young people have taken to the streets, protesting *Dobbs*, and showing their contempt for the Supreme Court. Others have focused on a variety of efforts to motivate their communities, starting organizations and clubs that advertise voting efforts, philanthropy, and resources for women. One group, Advocates for Youth, is a U.S based but internationally focused organization that advocates for

youth rights in bodily autonomy and sexual health.¹³³ Their core missions surround the issues of abortion, contraception, transgender rights, racial equality, and sexual violence. The group has over 75,000 members internationally, on over 1,200 college campuses and within 120 countries.¹³⁴ On the topic of abortion, Advocates for Youth has several different projects to spread the word to young people about abortion access and the new legal landscape after *Dobbs*. Their website has medical resources and ways to get involved in their projects on campuses or individually. Advocates for Youth also has informational sheets and policy briefs on their website that cover TRAP laws, Title X contraception restrictions, parental notification laws, state abortion bans, and more.¹³⁵ Their biggest project, Abortion Out Loud, tells the stories of more than 1500 youths who have experienced getting an abortion.¹³⁶ The stories share powerful, personal accounts about the process of obtaining an abortion, and the emotional and mental toll it took on each person's health. Young people who share their story also share their motives for having an abortion, and how that decision has shaped who they are today. Several of the women share their passion for abortion access after having one because it allowed them to "keep [their] lives on track," and to pursue careers and goals they have without a child in the picture.¹³⁷ The project puts abortion to real faces and real names. It makes the issue more tangible and demystifies abortion as a procedure. For many, it depicts the raw reality of who is getting an abortion, and how universal the procedure is. It crosses all ages, economic boundaries, racial boundaries, and even gender boundaries in some cases. While it is important to recognize the

¹³³ "About Advocates for Youth," *Advocates for Youth*, accessed April 8, 2023, <https://www.advocatesforyouth.org/about/>.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ "Abortion Out Loud," *Advocates for Youth*, accessed April 8, 2023, <https://www.advocatesforyouth.org/abortion-out-loud/>.

¹³⁷ *Id.*

disproportionate effects limited abortion access has on minority communities, Abortion Out Loud reminds us that all women, of all backgrounds, need access to this healthcare.

While Advocates for Youth is a great proponent of abortion access, that is not their only focus within the organization. Much of their effort is directed at other prevalent human rights issues within the U.S right now, and rightfully so. However, there are other grassroots movements, like Reproductive Equity Now, that uniquely focus on reproductive healthcare and therefore identify one goal in their mission. Sometimes, groups like these are more influential in policy and law because they are known by name for their cause. Like Planned Parenthood and other organizations specific to reproductive healthcare access, Reproductive Equity Now is a Boston-based organization that focuses their efforts on research and policy proposals to help expand access to contraception, abortion, and other services in Massachusetts.¹³⁸ While the state already protects most abortion laws, Reproductive Equity Now has introduced four new top priorities to the Massachusetts legislature concerning abortion and maternal care services. One of their proposed acts, “An Act Ensuring Access to Full Spectrum Pregnancy Care,” pushes to further break down cost barriers for pregnancy care at all stages rather than only for abortion services.¹³⁹ The act will eliminate cost-sharing plans for all related services, and require health insurance providers to fund prenatal, postnatal, and childcare in addition to abortion. This proposal, if acted on, could drastically reduce out-of-pocket costs and expensive co-payments for women in Massachusetts who need pregnancy care.

Reproductive Equity Now has proposed other bills that will address birthing justice, by further breaking down racial barriers women of color still face in reproductive care, as well as

¹³⁸ “What We Do,” *Reproductive Equity Now*, accessed April 9, 2023, <https://repRoequitynow.org/what-we-do>.

¹³⁹ “Legislative & Budget Agenda,” *Reproductive Equity Now*, accessed April 8, 2023, <https://repRoequitynow.org/legislative-and-budget-agenda>.

proposing a five-year plan to implement universal, affordable education on reproductive health and childcare for all ages and incomes. However, one initiative the organization has proposed seems relatively unique: access to doula care. Doulas are trained birthing professionals who provide physical and emotional care to people throughout their pregnancy. Their proposal, “An Act Relative to Medicaid Coverage for Doula Services,” would mandate that MassHealth cover costs of doula care during and after pregnancy.¹⁴⁰ According to the proposal, “the cost of doula care without insurance coverage can put this critical care out of reach for low-income pregnant, birthing, and postpartum people, many of whom are Black, Indigenous, and people of color. This bill is an essential tool for the Commonwealth to reduce insurance barriers to care, help combat the maternal health crisis, and address racial inequities for birthing people.”¹⁴¹ Doulas are increasingly involved in care during pregnancy because they are traditionally advocates for their pregnant patients during and after birth. Unlike doctors, doulas are hands-on emotional and physical care providers that are like therapists in some ways. Their job is primarily to ensure that their patient, the mother, experiences pregnancy the way she wants to. However, doulas are often paid for out-of-pocket, and are not typical care providers for low-income people. By expanding access to doulas, Massachusetts would be one of the first states to implement a universal insurance policy on pregnancy care, which would benefit minority groups in that state. If they successfully implement such a policy, other states could become inspired to do the same. Reproductive Equity Now’s policy proposals are informed by lofty but not impossible goals. Their efforts on the legislative side of the abortion debate are vital to securing equal reproductive healthcare access for all women.

¹⁴⁰ “Legislative & Budget Agenda,” *Reproductive Equity Now*, accessed April 8, 2023, <https://repRoequitynow.org/legislative-and-budget-agenda>

¹⁴¹ *Id.*

Another prominent organization that is working to expand abortion access is Ipas, an international group working to implement “abortion ecosystems” on all continents.¹⁴² Their mission is to establish abortion access in all communities that want it. They focus on training medical staff, educating the public, and working with political and legislative bodies to ensure there are protective laws for reproductive healthcare in place. They also advocate within those communities for high-quality services, and greater autonomy for the woman, particularly when self-managing abortion pills. Ipas designed its own template to illustrate what an abortion ecosystem looks like, which is depicted below.¹⁴³ To maintain an ecosystem, one of the most critical tools is de-stigmatization, a process that is not easy in a society that is already hostile to abortions. Ipas measures the effects of abortion stigma in communities and has developed tool-based learning to end that stigma. Their programs, which are on their website, begin with debunking myths and lies about abortion that are popularly circulated by opponents of reproductive choice. Then, they break down why the stigma exists in that community, from religion, to politics, to family beliefs. They then work to humanize abortion, by sharing stories of real women. Lastly, they speak on what laws and policies stigmatized abortion, whether it be a national influence, state influence, or small-town influence. Their programs are effective in educating on the science behind abortion but also in garnering sympathy from the public, thus creating a less harmful stigma surrounding abortion.

¹⁴² “About Us,” *Ipas*, accessed April 19, 2023, <https://www.ipas.org/about-us/>

¹⁴³ *Id.*

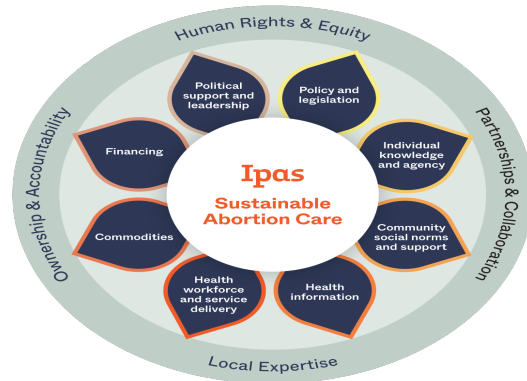


FIGURE 5: *IPAS ABORTION ECOSYSTEM TEMPLATE*. SCREENSHOT, 2023. *IPAS*.
[HTTPS://WWW.IPAS.ORG/ABOUT-US/STRATEGY/](https://www.ipas.org/about-us/strategy/)

Ipas has used this program across the globe, from Ghana, to Zambia, to Mexico, to the United States. While the organization is international, the U.S has been a priority target post-*Roe*. Their main goal is to empower legislators to listen to public opinion on abortion, and to expand access in states where it is still legal. Most importantly, Ipas is partnering with every major reproductive organization both nationally and internationally to come together and work on solutions for creating abortion ecosystems in the U.S post-*Roe*. According to Ipas, the policies within the U.S are affecting other communities internationally. They are working not only to mitigate the effects of abortion bans within the U.S, but also to prevent any other countries from following the U. S’s lead. According to the International Bar Association, *Dobbs* has made a global impact:

While the U.S has no official say on other countries’ abortion rights, its status as a global leader has meant its move as one of only four countries to repeal abortion rights since 1994 is having an influence. There’s a trickle-down effect in action, says Mark Stephens CBE, Co-Chair of the IBA’s Human Rights Institute (IBAHRI) and a partner at Howard Kennedy. ‘The big message that everybody took away was that it’s okay to restrict access to abortion, therefore, to restrict access to women’s healthcare.’¹⁴⁴

¹⁴⁴ Rebecca Root, “Abortion Rights: Global Repercussions Continue Six Months after US Supreme Court’s *Dobbs* Decision,” *International Bar Association*, accessed April 9, 2023, <https://www.ibanet.org/%20Abortion-rights-Global-repercussions-continue-six-months-after-US-Supreme-Court>.

Because the United States is such a big influence for the rest of the world, *Dobbs* has effectively given a green light for other countries' governments to restrict abortion as well. Pro-life advocates in India, Kenya, and east African countries have all made significant progress in advancing their regressive efforts after *Dobbs*. The director of Ipas Africa Alliance, Dr. Angela Akol, stated in an article with the International Bar Association that Ipas's efforts have been halted in African countries, and that bill proposals which were gaining traction before *Dobbs* within these legislatures, are no longer being spoken about. Akol noted that this "radio-silence" from African legislators is "in response to the global geopolitical politics that have taken place."¹⁴⁵ While Ipas continues to fight in the U.S for reproductive care access, their notable efforts abroad are also being impacted by the post-*Roe* landscape.

Reproductive health organizations like Ipas affect policy change at the international level. Organizations like Reproductive Equity Now and Advocates for Youth work at the national and state levels. But each of these group's missions is the same: to advocate for policy changes that protect bodily autonomy and reproductive healthcare access. While their approaches may be different and their outreach is directed at different networks, they are nonetheless equally important in expanding abortion access in the United States. It is organizations like these that will implement policy change one town, state, or country at a time.

Chapter 3 addressed an array of solutions and efforts that have been made by private and state interests to protect abortion access in the United States. Liberal states have started multi-state initiatives to expand access in areas where abortion is already protected, so that women living in restrictive states can cross state borders for care. Private companies have installed protections within their insurance policies and legal policies to ensure travel compensation for

¹⁴⁵ *Id.*

their employees, as well as legal representation should their employee be prosecuted by a state for their abortion. Private groups are committed to expanding abortion access even if it means breaking the law. Las Libres and other underground organizations have been taking the access issue into their own hands, smuggling abortion pills across the Mexican border into states where abortion is now illegal. Even less covert operations, like Midwest Access Coalition, have opened their homes to women in need of an abortion. These acts of kindness help women who cannot afford to travel obtain an abortion without breaking their banks. Lastly, there are organizations that work at the state, national, and international level as policy advocates for abortion access. Advocates for Youth and Reproductive Equity Now each have policy proposals for legislatures across the country on how to implement better contraceptive and abortion access in a post-*Roe* America. Even Ipas, an international organization, is working closely with American associations to bring abortion ecosystems into communities where reproductive healthcare remains limited. All these efforts are valiant and add to the cause in their own ways. They inspire others, whether it be citizens or politicians, to stand up. As a country, we need efforts like these to keep access to abortion available for women across the country who cannot navigate the maze of legal obstacles on their own. These organizations give us hope in times of darkness and help in times of need. It is our duty to support these initiatives and efforts so that women everywhere can access abortion safely.

CONCLUSION

The practical and legal consequences of the United States Supreme Court decision in *Dobbs v. Jackson Women's Health*, cannot be overstated. Not only did *Dobbs* overrule *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, two landmark cases that established the constitutional right to an abortion, the Supreme Court also abandoned nearly 50 years of precedent and the long-standing doctrine of *stare decisis*. In the process, the Court laid waste to half a century of progress made on the issue of women's reproductive rights.

In Chapter 1, I examined several state laws that restrict abortions, and limit other reproductive rights. Several states have enacted so-called trigger bans that prohibit abortion with few exceptions. Some states have imposed criminal penalties for doctors, patients, or people who aid a person who seeks an abortion either in-state or out-of-state. These states assess absurdly high monetary fines, and even threaten prison time for violators. To make matters worse, abortion laws are constantly changing within states, making it difficult for doctors and women in need of abortions to abide by state law even if they want to. Additionally, there is much ongoing litigation on these issues, with pro-choice advocates making different legal and medical arguments to prevent the laws from taking effect or requesting the courts to find them unconstitutional. Pro-life advocates, on the other hand, are using the court system to expand the holding in *Dobbs* to advance the anti-abortion cause even further. They assert that *Dobbs* supports the concept of "fetal personhood" – the idea that a fetus should be given the same fundamental rights as a living human. If such a claim is upheld, abortion could be deemed murder under state law, adding a criminal aspect to the abortion debate. While fetal personhood is a worrying part of the pro-life effort and certainly requires close attention, most pro-choice advocates have turned their attention to the issue of keeping abortion drugs safe and legal. Since

nearly half of all U.S abortions are medication abortions, banning or limiting the production and sale of these drugs would severely affect the entire country, not just one restrictive state. In April 2023, a Texas federal district court ruled that the FDA approved drug Mifepristone, one of the most common abortion drugs, could be banned due to its illegal approval in 2000. The case will likely be appealed up to the Supreme Court, where a decision could serve to uphold restrictive abortion laws across the country. While the case will not be decided before the conclusion of this thesis, I found it to be extremely timely and illustrative of the type of questions that will be discussed in state and federal courts. To me, the Texas court's decision is clear evidence of how far pro-life advocates will spin the abortion dilemma to ban it in every state.

Finally, Chapter 1 discusses the 2022 Midterm election and the impact of the abortion controversy on the political scene. Unsurprisingly, *Dobbs* served as a catalyst for more women, particularly young women, to vote in their state elections. Now that their reproductive rights are in jeopardy, many women saw these elections as an opportunity to take a stand against their government, or to support initiatives that protect abortion and reproductive rights. Overall, public opinion within the states, even those hostile to abortion, showed a clear distaste for the *Dobbs* decision and its impact on women's rights. This political sentiment in the 2022 elections carried into the 2023 judicial elections, where it was manifested in a landslide win by a liberal Wisconsin judge who ran on a pro-choice platform and ousted the conservative incumbent. Her win reflects the strong voter sentiments regarding abortion, even in a state that is historically restrictive such as Wisconsin. The political and legal developments examined in Chapter 1 set the stage as to how the country responds to *Dobbs*, and whether abortion will remain somewhat protected within the states or be restricted even more.

In Chapter 2, I addressed the legal and practical consequences of *Dobbs*, including those that are already severely limiting women’s reproductive health choices and others that are harder to foresee. I examined the barriers created by restrictive abortion laws, and how *Dobbs* will specifically impact minority groups of women. There can be little doubt that poor women, women of color, and women living in states hostile to abortion will be disproportionately affected by the decision. While we cannot know exactly how the future will unfold, it is reasonable to assume that these women will tend to experience greater social, financial, and medical difficulties because of this decision. Already, we have seen the real-world effects of these new laws in restrictive states. Poor women are unable to afford the costs associated with traveling out of state to receive an abortion in a protected state. They cannot take time off work, find childcare, pay for housing, transportation, and food let alone fund their own abortion procedure. Their inability to travel out of state will leave them desperate, and many will either be forced to have a child they cannot afford, or resort to dangerous or illegal measures to end the pregnancy. And even if they can afford an abortion, they may still be at risk of criminal prosecution and jail time. Like poor women, women of color, particularly Black women, will experience greater hardship in obtaining an abortion than their white counterparts. Historically, Black women often face discrimination in the medical system, and they are also the least likely to have adequate access to medical and reproductive care. Many Black women and poor women live in what are known as “maternity care deserts,” or counties that do not have a hospital or birth center with obstetric providers. Most commonly, maternity care deserts are also within states that restrict abortion and other types of reproductive healthcare, further limiting access for these women. The most heavily affected group will be the poor, Black women who live in these deserts, and have no proper access to basic contraception or sexual health information, let alone

obstetric providers and gynecologists. These women have few real options. There is no widespread access to care that can assist them, at least not yet. The future for these women is a grim reality, both financially and medically.

Dobbs will also affect out-of-state abortion providers and their clinic staff. There will be, and already has been, a surge of patients flooding into pro-choice states looking for abortion care, and clinics are not prepared to deal with it. The clinics' resources will be placed under pressure, creating longer waiting times for women who desperately need abortions. Lastly, *Dobbs* might even have a negative effect on other reproductive rights. Reproductive health experts predict that conservative states and pro-life groups will target contraception and even assisted reproductive technologies (IVF) next. *Dobbs* could lay a legal foundation for banning these procedures, which would only worsen the effects we already see happening.

In Chapter 3, the last part of this thesis, I examined the efforts and initiatives of liberal states, private companies, and grassroots organizations to help mitigate the effects of *Dobbs*. Some states responded to *Dobbs* by passing laws to protect the right to abortion, with a handful even writing it into their state constitutions. The governors of some states have issued executive orders that prohibit the extradition of patients living in restrictive states who are being hunted for criminal prosecution. All these efforts play a vital role for abortion access to continue in the U.S. Additionally, private companies, particularly large ones with thousands of employees across the country, have made significant strides in protecting their employees under contract. Corporations like Walmart, Amazon, Tesla, and more have all made public announcements that they will be supporting any of their employees who need an abortion, whether it be funding their travel, allowing for time off work, or even legal representation if the employee is prosecuted by restrictive states. The actions of large companies not only help their individual employees but

create a national sentiment that is hard to ignore. When the largest corporations weigh in on this type of issue, there can be no doubt that state governments must take notice.

Lastly, Chapter 3 discussed the mighty efforts of grassroots organizations both nationally and internationally that are working to expand access to abortion in the U.S. Whether an organization is running an underground abortion pill-smuggling operation or lobbying in state and federal legislatures for expanded abortion access, the combined effect of all these efforts is crucial to keeping abortion safe and legal. Every state, company, organization, or individual who wants to help provide and protect abortion access is a critical part of the cause and shall not go unnoticed.

This thesis was written almost a year after the *Dobbs* decision was announced. Much of the information used is subject to change, simply due to the evolving nature of the topic. Nonetheless, my hope is that after reading this, people are made aware of both the post-*Roe* legal landscape, and the adverse effects *Dobbs* will have on minority groups of women. The news is not all bad. Because of *Dobbs*, many people have been brought together to petition their government in ways that have unified some parts of the country. There is always hope, even in the darkest of days. Most importantly, however, I hope the reader will gain a greater understanding and sympathy for the women who will be most directly affected by *Dobbs*. As a democratic society that holds itself out to the world as a beacon of personal freedom, America has a moral imperative to provide safe abortion access to those who need it.

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