



**Testimony of Mini Timmaraju, President and CEO of Reproductive Freedom for All
U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution
Chaos and Confusion: Examining the Patchwork of Abortion Restrictions
Across America Since *Dobbs*
June 25, 2024**

Thank you for the opportunity to submit a statement to the Senate Judiciary Committee Subcommittee on the Constitution on this critical issue, and for highlighting the chaos and confusion resulting from the *Dobbs v. Jackson Women's Health Organization* and ongoing attacks on abortion rights and access. Reproductive Freedom for All, formerly NARAL Pro-Choice America, is a national advocacy organization dedicated to protecting and advancing reproductive freedom. For over 50 years, Reproductive Freedom for All has fought to protect and advance reproductive freedom at the federal and state levels, including access to abortion care, birth control, pregnancy and post-partum care, and paid family leave. Through education, organizing, and influencing public policy, Reproductive Freedom for All and our 4 million members from every corner of the country—including our chapter in Arizona, where we have 75,000 members—work to guarantee every individual the freedom to make personal decisions about their lives, bodies, and futures, free from political interference.

Abortion rights and access are facing a crisis in the United States. Despite overwhelming public support for the legal right to abortion, we're in the midst of an all-out assault on reproductive freedom. Two years ago, the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* overturned *Roe v. Wade*, ending the constitutional right to abortion as we know it and signaling an ominous sign for the future of abortion rights in this country.

As a result, millions of people across our country are suffering the dangerous ramifications of extremists' abortion bans. Twenty-one states and counting have already eliminated or restricted access because of abortion bans,¹ forcing some people to travel hundreds of miles to other states to access an abortion and leading many blocked from care to live through horrific situations. According to the Guttmacher Institute, nearly one in five patients are being forced to travel to other states to obtain abortion care, which is double the number of patients traveling to access care in 2019.² People should be able to easily access care in their own states and communities, without having to navigate increasingly high financial and logistical barriers.

The patchwork of legal abortion in our country means that people's freedom to build the family and life they want is determined by where they live, how much money they have, and their ability to travel. Bans on abortion and restrictions on reproductive freedom especially harm those already marginalized by our systems and institutions. The National Partnership for Women and Families found that 15.4 million reproductive-age women of color live in states that have banned or are likely to ban abortion.³ Black and Native American women are most

likely to live in these states; and disabled and veteran women and those who are economically insecure are disproportionately likely to live in these states.⁴

It is important to note that, while the Court's egregious decision in *Dobbs* is nothing short of devastating, the protections of *Roe* were never a reality for far too many. In the decades leading up to the *Dobbs* decision, lawmakers seeking to advance their agenda of power and control had passed hundreds of state-level attacks on abortion access to make care extremely difficult, if not impossible, to access for many people across the country. According to the Guttmacher Institute, in 2022 alone, 563 provisions to restrict abortion access were introduced at the state level.⁵ Federal policies like the Hyde Amendment—an abortion coverage ban that has passed annually as an anti-abortion rider in many appropriations bills—also were designed to push access out of reach for millions of people even before the constitutional right to abortion was overturned.

We know that those hostile to abortion never intended to stop at overturning *Roe*. Extremists have only been emboldened by the Supreme Court's disregard for the health and well-being of millions of Americans. Anti-abortion lawmakers are using the Supreme Court's decision in *Dobbs* as a green light to build upon restrictive abortion laws, further infringing on people's bodily autonomy, undermining their right to travel to access care, and criminalizing pregnant people seeking abortion care and those who help them, including their doctors.

People seeking abortion and those who help them are already being prosecuted for pregnancy outcomes including pregnancy loss, self-managed abortion care, or even the suspicion of it.⁶ Just last month, Louisiana Governor Jeff Landry signed a bill to classify medication abortion as a schedule IV drug, with incarceration and fines for possession of medication abortion without a prescription, gravely impacting those who choose to self-manage their abortion and people who may assist others to access abortion care.⁷ Criminalizing people for having an abortion, experiencing a miscarriage or stillbirth, or any other pregnancy outcome only exacerbates racial inequities and is just one of the many ways that Black, Indigenous, and other people of color have been criminalized. The anti-abortion movement's goal has always been to control and criminalize women and pregnant people.

Anti-abortion lawmakers in Texas have taken severe measures to restrict abortion access, which include efforts to restrict travel and punish those who help others seek care. A growing number of counties have passed ordinances that attempt to prohibit the provision of abortion services within city limits, including language prohibiting transportation of abortion-seeking individuals to care facilities outside of the city, and even attempting to restrict travel to other states where abortion is still legal.⁸ Additionally, the state's S.B. 8 abortion ban, while not explicitly restricting travel, extends liability to anyone assisting a pregnant person in the process of accessing an abortion, and these county ordinances, drafted by the same anti-abortion extremists that wrote S.B. 8, depend on the same kind of enforcements, allowing private citizens to sue individuals they believe assisted in travel for abortion care.⁹ Not only are these restrictions eroding health care access for pregnant people, increasing the rates of

maternal mortality and creating health care deserts, they are also generating an atmosphere of chaos, fear, and confusion.

We are already seeing anti-abortion extremists taking advantage of these kinds of laws to target people who access abortion care. For example, former Texas Solicitor General—and anti-abortion zealot—Jonathan Mitchell is representing a Texas man who is suing a woman he dated for traveling from Texas to Colorado to access an abortion.¹⁰ In a statement about the case, Mitchell argued that “(f)athers of aborted fetuses can sue for wrongful death in states with abortion bans, even if the abortion occurs out-of-state. They can sue anyone who paid for the abortion, anyone who aided or abetted the travel, and anyone involved in the manufacture or distribution of abortion drugs.”¹¹

Similarly, in September 2022, Alabama Attorney General Steve Marshall threatened to deploy the state’s “conspiracy” and “accessory” laws to prosecute those who assist people seeking out-of-state abortion care, jeopardizing both individuals and organizations like abortion and practical support funds that provide logistical and financial support for people seeking to access care.¹²

In Idaho, lawmakers are actively trying to revive a law that would make helping a minor cross a state line to receive abortion care without a parent’s consent a criminal offense.¹³ This law is being pushed by extremists in a state that has a total abortion ban, with the narrow and unworkable exception of if a pregnant person is near death. Should a person be convicted of helping a minor travel for abortion care under this law, they would face up to two years in prison. Tennessee also passed a law set to go into effect on July 1 that criminalizes individuals that help young people travel out of state for abortion without parental consent.¹⁴ Targeting trusted adults, family members, and helpers who assist minors in accessing abortion care has a chilling effect and harms young people’s ability to access the support of those they trust during a time when they need it the most.

In Arizona, abortion is currently banned at 15 weeks, with additional restrictions on accessing abortion care. These include medically unnecessary restrictions on medication abortion, a requirement that medication abortion to be dispensed in person, a ban on telemedicine for medication abortion, a 24-hour mandatory delay, mandated in-person counseling, and more. These restrictions on abortion in Arizona are designed to push care out of reach and harm those who are already marginalized, including women; Black, Latina/x, Asian American, Native Hawaiian, Pacific Islander, and Indigenous people; those working to make ends meet; the LGBTQ+ community; immigrants; young people; those living in rural communities; people with disabilities; and other historically oppressed communities.

In April of this year, the Arizona Supreme Court ruled that an 1864 ban on abortion—a ban that was enacted more than 50 years before Arizona became a state and decades before Arizona women could vote—could be enforced. However, due to the hard work of the governor and reproductive freedom champions in the legislature, a repeal of the law was passed and signed in May by Gov. Katie Hobbs. The repeal of the ban will take effect September 14. Due to legal

appeals taken by Attorney General Kris Mayes, the Supreme Court ruling was stayed until September 27, meaning that the 1864 ban on abortion will not take effect in Arizona, so long as current court orders remain in place. This means Arizonans can still access abortion care and providers can still provide legal abortion care up to 15 weeks without being prosecuted. Despite this outcome, the Arizona Supreme Court's decision generated chaos and confusion, leaving some Arizonans believing they are unable to access care in their state.

The fear, uncertainty, and possible loss of access to abortion care in Arizona this past spring underscores the importance of the Arizona Right to Abortion Initiative. The right to abortion is not currently protected in the Arizona Constitution or in state statutes. The initiative would establish a fundamental right to abortion in the Arizona constitution. The Arizona for Abortion Access campaign has already collected over 500,000 signatures, surpassing the 383,923 signatures needed by July 3 in order to qualify for the ballot. This effort is in line with the 9 in 10 Arizonans who believe in the legal right to abortion.¹⁵

While we are facing a crisis, we have seen that the American people will not tolerate attacks on their reproductive freedom, and have made that clear time and again. Since the Supreme Court overturned *Roe v. Wade*, voters have gone to the polls seven times to directly weigh in on abortion—and all seven times, they have cast their ballots to protect and expand reproductive freedom.

However, our work to protect our fundamental rights does not end there. Anti-abortion extremists know how unpopular their agenda is so they use the courts to push through extreme legal theories to decimate reproductive freedom and ban abortion nationwide—just as we're seeing this term with the medication abortion and emergency abortion care cases before the Supreme Court.

In November 2022, a newly formed group of anti-abortion doctors and dentists filed *Alliance for Hippocratic Medicine v. the Food and Drug Administration*, aimed at eliminating medication abortion with mifepristone—the most common method of abortion care. They filed their radical, baseless suit specifically in Amarillo, Texas, where it was guaranteed to be ruled on by a Trump-appointed, known anti-abortion ideologue: Matthew Kacsmayk. The group argued they were harmed by mifepristone because they were personally against abortion and thus opposed to mifepristone, despite never having dispensed mifepristone themselves nor having treated anyone experiencing extremely rare side effects of the drug. The case made its way to a panel of known anti-abortion judges on the Fifth Circuit, who allowed mifepristone to remain available but imposed unnecessary restrictions that would severely limit access. The case was appealed to the Supreme Court which, on June 13, 2024, unanimously held that the anti-abortion group bringing the case did not have standing and returned the case to the lower courts. The threat posed by this case is far from over as it will return to Judge Kacsmayk, who now has new claims from at least three anti-abortion state attorneys general (Kansas, Missouri, and Idaho) to use as another avenue to attack mifepristone access.

At the time of this writing, we are waiting for the Court's decision in the second abortion case this term, *Idaho v. United States*, which could drastically impact whether pregnant people will be able to receive crucial emergency abortion care. The case involves a Reagan-era law called the Emergency Medical Treatment and Active Labor Act (EMTALA), which requires hospitals to provide stabilizing care to patients experiencing emergencies who present themselves at a hospital for care. Idaho argues that the state's near-total abortion ban should preempt this decades-old federal law and that, despite EMTALA's clear statutory language and historical interpretation, Idaho hospitals should be able to deny providing potentially life-saving abortion care.

Both of the cases this term highlight how anti-abortion extremists, including their allies on the Supreme Court, never intended to stop at *Dobbs*. Despite Justice Alito's assurance in the *Dobbs* opinion that the issue of abortion would be returned to the states¹⁶, we see from these two cases—and will see in other challenges to come—that they will not stop until abortion is banned nationwide.

We did not get here by accident. Like much of the anti-abortion movement's strategy, the stacking of the federal courts with anti-abortion ideologues has been decades in the making. For years, opposition to abortion has become a litmus test in far-right circles for a host of political and judicial positions. Conservative activists have never been shy about the fact that their takeover of the federal judiciary is part of a broad strategy to quell the majority and cement minority rule, but the election of Donald Trump took this tactic to new heights. In May 2016, Trump pledged to only nominate anti-abortion judges, a promise he doubled down on in 2020.¹⁷ And with the help of Mitch McConnell, Trump installed anti-abortion federal judges—and Supreme Court justices—with lifetime appointments at a breakneck pace.

The anti-abortion justices on the Supreme Court are aided in advancing their ideological agendas by the lack of a statutory code of conduct, congressional oversight, and mechanisms to enforce ethics standards. Ongoing revelations about the conservative justices' ethical scandals, as well as anti-abortion extremists' and conservative billionaires documented work to infiltrate and influence the Court, underscore the urgent need for investigations and court reform. From colluding with anti-abortion activists¹⁸ to accepting millions of dollars in gifts from an extremist GOP mega-donor,¹⁹ the conservative justices cannot be trusted to hand down fair and impartial decisions—especially as it relates to reproductive freedom. The Supreme Court's anti-abortion majority and Trump-appointed MAGA judges throughout the federal judiciary pose a major and urgent threat to both reproductive freedom and our democracy itself.

Eight in 10 Americans, including two-thirds of Republicans, agree that decisions on abortion should be made by a pregnant person and their health care provider—not the government.²⁰ Two-thirds of Americans support a nationwide law guaranteeing access to legal abortion.²¹ Congress must continue to prioritize reproductive freedom and pass a federal right to abortion. Congress must also expand access to abortion care by eliminating abortion coverage bans

from annual spending bills and taking steps to ensure health care access—including reproductive health care—for immigrants and their families. Congress must confirm judicial nominees committed to upholding our fundamental freedoms and pass court reform to restore the legitimacy of our judiciary. Thank you for your leadership and work to ensure that all of us have the freedom to make our own decisions about our lives, bodies, and futures.

¹ *Interactive Map: US Abortion Policies and Access After Roe*, Guttmacher Institute, (May 29, 2024), https://states.guttmacher.org/policies/?gad_source=1&gclid=CjwKCAjwzN-vBhAkEiwAYiO7oIQvHxVeB5YEsEnxOxIWogXtFWoBRThsiD61eqmpJ-X2iNXW1jeZhoCB4wQAvD_BwE.

² Guttmacher Institute, *High Toll of US Abortion Bans: Nearly One in Five Patients Now Traveling Out of State for Abortion Care*, <https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care> (Dec. 2023).

³ National Partnership for Women & Families, *State Abortion Bans Harm Women of Color*, <https://nationalpartnership.org/report/state-abortion-bans-harm-woc/> (2023).

⁴ *Id.*

⁵ Elizabeth Nash & Peter Ephross, *State Policy Trends 2022: In a Devastating Year, US Supreme Court's Decision to Overturn Roe Leads to Bans, Confusion and Chaos*, Guttmacher Institute, (Dec. 19, 2022), <https://www.guttmacher.org/2022/12/state-policy-trends-2022-devastating-year-us-supreme-courts-decision-overturn-roe-leads>.

⁶ *Texas Prosecutor Drops Murder Charge Against Woman Arrested for Self-Induced Abortion*, CBS News, (Apr. 10, 2022), <https://www.cbsnews.com/news/lizelle-herrera-abortion-texas-murder-charge-dropped/>.

⁷ *Louisiana is First State to Classify Abortion Drugs as Controlled Dangerous Substances after GOP Governor Signs Bill into Law*, CNN, <https://www.cnn.com/2024/05/24/politics/louisiana-abortion-drugs-controlled-substances-law/index.html> (May 24, 2024).

⁸ *Growing Number of Texas Cities and Counties Pass "Sanctuary for the Unborn" Ordinances*, Texas Public Radio, <https://www.tpr.org/government-politics/2023-10-24/growing-number-of-texas-cities-and-counties-pass-sanctuary-for-the-unborn-ordinances> (Oct. 24, 2023).

⁹ J. David Goodman, *Texas Abortion Travel Bans: A Growing Legal Battleground*, New York Times, <https://www.nytimes.com/2023/10/24/us/texas-abortion-travel-bans.html> (Oct. 24, 2023).

¹⁰ *Texas Man Sues Woman for Traveling to Colorado for Abortion*, CNN, <https://www.cnn.com/2024/05/05/us/texas-abortion-collin-davis-colorado/index.html> (May 5, 2024).

¹¹ *Id.*

¹² *Alabama AG: State May Prosecute Those Who Assist in Out-of-State Abortions*, Alabama Political Reporter, <https://www.alreporter.com/2022/09/15/alabama-ag-state-may-prosecute-those-who-assist-in-out-of-state-abortions/> (Sept. 15, 2022).

¹³ *Idaho Will Seek to Revive Abortion "Trafficking" Law in US Appeals Court*, Reuters, (May 7, 2024), [https://www.reuters.com/legal/idaho-will-seek-revive-abortion-trafficking-law-us-appeals-court-2024-05-07/#:~:text=May%20%20\(Reuters\)%20%2D%20A,judge%20had%20blocked%20in%20November](https://www.reuters.com/legal/idaho-will-seek-revive-abortion-trafficking-law-us-appeals-court-2024-05-07/#:~:text=May%20%20(Reuters)%20%2D%20A,judge%20had%20blocked%20in%20November).

¹⁴ *Tennessee Governor OKs Penalizing Adults Who Help Minors Receive Abortions, Gender-Affirming Care*, Associated Press, <https://apnews.com/article/abortion-gender-affirming-care-tennessee-governor-03402b59b437326cf733025cb170de13#> (2024).

¹⁵ *Reproductive Freedom for All, New Polling Shows 9 in 10 Voters in Arizona Support the Freedom to Decide*, <https://reproductivefreedomforall.org/news/new-polling-shows-9-in-10-voters-in-arizona-support-the-freedom-to-decide/> (2024).

¹⁶ *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. 215, 65 (2022).

¹⁷ *Trump Letter on Pro-Life Coalition*, Sept. 2016, <https://www.sba-list.org/wp-content/uploads/2016/09/Trump-Letter-on-ProLife-Coalition.pdf>; *Pro-Life Voices for Trump 2020*, Sept. 3, 2020, https://cdn.donaldjtrump.com/public-files/press_assets/pro-life-letter-potus.pdf. NARAL Pro-Choice

¹⁸ Jodi Kantor and Jo Becker, *Former Anti-Abortion Leader Alleges Another Supreme Court Breach*, New York Times, <https://www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html> (Nov. 19, 2022).

¹⁹ Joshua Kaplan, Justin Elliott and Alex Mierjeski, *Justice Clarence Thomas Acknowledges He Should Have Disclosed Free Trips From Billionaire Donor*, ProPublica, <https://www.propublica.org/article/clarence-thomas-gift-disclosures-harlan-crow> (June 7, 2024).

²⁰ Adriel Bettelheim, *Exclusive poll: Americans strongly back abortion pill access, FDA drug powers*, Axios, <https://www.axios.com/2024/03/29/abortion-pill-supreme-court-case-poll> (Mar. 29, 2024).

²¹ *Fox News Poll: Public Opinion on Abortion Pill Case*, Fox News, https://static.foxnews.com/foxnews.com/content/uploads/2024/03/Fox_March-22-25-2024_National_Topline_March-27-Release.pdf (Mar. 27, 2024).