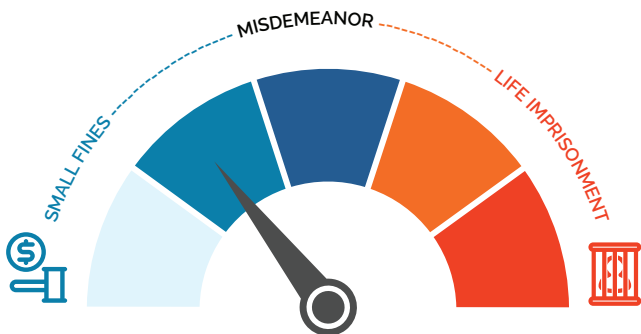


Abortion is no longer federally protected since of the *Dobbs v. Jackson Women's Health Organization* decision in 2022, so states throughout the country are now able to freely limit abortion, with 14 states implementing total bans on the procedure.<sup>1</sup> Outlawing abortion goes beyond disallowing the procedure. States are passing laws that criminalize people involved in abortion procedures. While some of these tactics are being reviewed by the judicial system and may not all survive scrutiny, noted here are some of the laws across the United States today.

## RESTRICTIONS AND PUNISHMENTS FOR ABORTION PROVIDERS

### *Performance of Abortions:*

The most common means by which abortion is criminalized throughout the United States is by outlawing the provision of abortion procedures and imposing criminal penalties on those who violate the statute—namely, healthcare professionals. The specifics of these statutes vary greatly. Some states ban abortion altogether, some after a certain number of gestational weeks, and some provide “exceptions” to the bans. Some states disallow all forms of abortion, others only certain kinds. Additionally, the range in possible penalties is great: some states impose small fines, misdemeanor charges, and a few months jail time, while others impose \$100,000 fines, felony charges, and the possibility of life in prison.<sup>2</sup>



### *Loss of Medical License*

Doctors who perform abortions in states where it is banned often risk losing their medical license and livelihood. Examples include Arizona, Idaho, Missouri, Texas, and North Carolina where violations of state

abortion laws lead to suspension and/or revocation of medical licenses.<sup>3</sup>

### *Civil Penalties*

Multiple states have created civil causes of action against abortion providers. In Louisiana, parents of the fetus (or grandparents of the fetus if the parents are minors) can sue abortion providers for wrongful death.<sup>4</sup> Kansas allows certain people related to the fetus to seek monetary damages against an abortion provider.<sup>5</sup>

## RESTRICTIONS AND PUNISHMENTS FOR INDIVIDUALS SEEKING ABORTIONS

While it's less common, a few states punish the individuals seeking abortions in addition to providers.

### *Chemical Endangerment*

In Alabama, a criminal statute prohibits the “chemical endangerment” of a child. The state Attorney General has weaponized this law to punish individuals seeking abortions in conjunction with a state Supreme Court decision<sup>6</sup> that interprets the word “child” in the statute to include unborn fetuses.<sup>7</sup>

### *Abusing a Corpse*

A criminalization effort attempted in Ohio was charging Brittany Watts with allegedly “abusing a corpse” after she miscarried in her bathroom at home.<sup>8</sup> Ultimately, a grand jury chose not to indict Watts.<sup>9</sup>

## RESTRICTIONS AND PUNISHMENTS FOR THIRD PARTIES

---

### *Bounty Hunter Laws*

Texas enacted “bounty hunter laws” which they provide a private right of action for citizens to sue anyone who aids or abets in the performance or inducement of an abortion, with penalties of up to \$10,000.<sup>10</sup> This opens the door for lawsuits against parents, friends and family, even employers who reimburse for travel costs for employee's abortions. Oklahoma passed a similar law and other states have plans to do the same.

### *Abortion Trafficking*

Last year, Idaho passed the first “abortion trafficking” law (currently on hold pending a legal challenge), which creates criminal penalties for any adult aiding a minor in receiving an out-of-state abortion, whether through a prescription for medication abortion or by crossing state lines to receive care.<sup>11</sup>

### *Conspiracy and Accomplice Liability*

Alabama's Attorney General has stated that to help someone get abortion care out of the state constitutes criminal conspiracy.<sup>12</sup> Similarly, before *Roe v. Wade*, those who aided in the procurement of abortions where the procedure was illegal faced liability as an accomplice,<sup>13</sup> and this charge could resume again now that *Roe* was overturned.

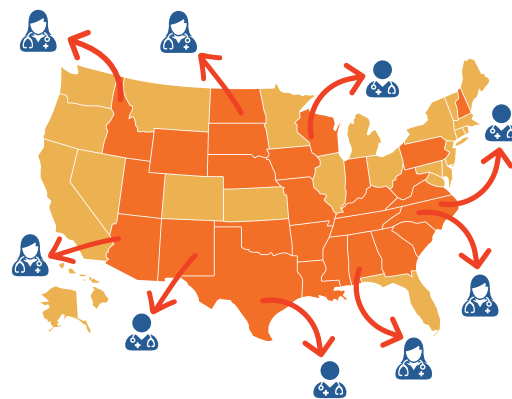
## INEFFECTIVE “EXCEPTIONS” TO ABORTION BANS

---

Many abortion bans are passed with so-called “exceptions” for cases of rape or a danger to the mother's health. Despite exceptions in the text of the laws, they do not protect abortion access because abortion bans create “care deserts” where it is difficult to find even general maternal healthcare, and doctors may fear civil and criminal penalties even when an abortion seemingly fits under an exception.<sup>14</sup>

The case of Kate Cox in Texas is a glaring example of this in practice: Cox, a Texas mother of two, sought an abortion after learning her baby was diagnosed with a genetic condition that caused severe developmental problems. Despite her doctor advising her an abortion was necessary for her health and future fertility, the Texas Supreme Court determined she was not eligible for the state's abortion ban exception intended to cover “a serious risk of substantial impairment of a major bodily function.” Cox fled the state to receive necessary medical care.<sup>15</sup>

The result of these laws is a growing lack of abortion care in states where it is outlawed. Even where there are exceptions to abortion bans or the bans only come into play after a certain number of gestational weeks, abortion providers are deterred from providing care due to the fear of punishment: fines, prison time, or loss of medical license and livelihood. **In fact, doctors studying to become OB-GYNs are now avoiding states where abortion is heavily restricted, creating greater gaps in all maternal healthcare, not just abortion care.**<sup>16</sup>



## ENDNOTES

---

- 1 *Abortion Laws by State*, Center for Reproductive Rights, <https://reproductiverights.org/maps/abortion-laws-by-state/>.
- 2 Alabama: Ala. Code § 26-23H-4. Other examples: Ariz. Rev. Stat § 36-2324; Ark. Code. Ann. §6-61-305; Fla. Stat § 390.0111 (10); 2022 GA. Code § 16-12-140. (This is a *non-exhaustive* list of the range in criminal penalties for abortion providers throughout the United States.).
- 3 Arizona: Ariz. Rev. Stat § 36-2325; Idaho: Idaho Stat. § 18-622; Missouri: Mo. Rev. Stat § 188.017(2); Texas: Tx. Health & Safety Code § 170A.007; North Carolina: N.C. Gen. Stat. § 90-21.88A.
- 4 LA Rev. Stat. § 40:1061.1.3(D)(1).
- 5 Kansas Rev. Stat. § 65-6724(g).
- 6 *Ex parte Hicks*, 153 So. 3d 53 (Ala. 2014).
- 7 Nathaniel Weixel, *Alabama AG Says Women Could Be Prosecuted for Taking Abortion Pills*, The Hill, <https://thehill.com/policy/healthcare/3809346-alabama-ag-says-women-could-be-prosecuted-for-taking-abortion-pills/>.
- 8 Julie Carr Smyth, *A Black woman was criminally charged after a miscarriage. It shows the perils of pregnancy post-Roe*, AP News, <https://apnews.com/article/ohio-miscarriage-prosecution-brittany-watts-b8090abfb5994b8a23457b80cf3f27ce>.
- 9 Kim Bellware and Anumita Kaur, *Grand Jury Declines to Indict Ohio Woman Who Miscarried of Abusing a Corpse*, Washington Post, <https://www.washingtonpost.com/nation/2024/01/11/brittany-watts-grand-jury/>.
- 10 Alan Feuer, *The Texas Abortion Law Creates a Kind of Bounty Hunter. Here's How It Works*, The New York Times, <https://www.nytimes.com/2021/09/10/us/politics/texas-abortion-law-facts.html>.
- 11 Rebecca Boone, *Federal Judge Puts Idaho's 'Abortion Trafficking' Law on Hold During Lawsuit*, Associated Press, <https://apnews.com/article/idaho-abortion-trafficking-travel-ban-270a403d7b4a5e99e566433556614728>.
- 12 *Alabama's Attorney General Says The State Can Prosecute Those Who Help Women Travel For Abortions*, Associated Press, <https://apnews.com/article/alabama-abortion-steve-marshall-2157a7d0bfad02aad1ca41e61fe4de33>.
- 13 See, e.g. *Richmond v. Commonwealth*, 3370 S.W.2d 399, 401 (Ky. 1963).
- 14 Nicole Wetsman, Dr. John Brownstein, and Dr. Benjamin Rader, *Maternal Care Deserts Overlap With Lack Of Abortion Access, Analysis Shows*, ABC News, <https://abcnews.go.com/Health/abortion-access-restrictions-affect-maternity-care-access-research/story?id=101770115>.
- 15 Tracy Smith, *Texas Mother Kate Cox on the Outcome of Her Legal Fight for An Abortion: "It Was Crushing"*, CBS News, <https://www.cbsnews.com/news/kate-cox-on-her-legal-fight-for-abortion-trisomy-18/>; *In re State of Texas, et al.*, Texas Supreme Court case no. 23-0994, available at: <https://www.courtsnews.com/wp-content/uploads/2023/12/texas-supreme-court-ruling-cox-v-texas.pdf>.
- 16 See generally: Stacy Weiner, *The Fallout of Dobbs on the Field of OB-GYN*, American Association of Medical Colleges News, <https://www.aamc.org/news/fallout-dobbs-field-ob-gyn>.