



C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Demystifying the DOJ:
Reproductive Rights**

Presentation Agenda

- Reproductive Rights Presentation
 - James Toma, Special Assistant Attorney General
 - Renuka George, Senior Assistant Attorney General, Healthcare Rights and Access Section
- Q&A
- Closing Announcements



Presentation Outline

1. Introduction
2. *Dobbs v. Jackson Women's Health Org.* and Impact
3. DOJ Commitment to Reproductive Rights
4. New Laws That Expand & Protect Reproductive Care
5. Defending Reproductive Rights Nationwide
6. Ensuring Access to Reproductive Care in California
7. Working with Partners
8. Resources



Dobbs v. Jackson Women's Health Org.

On June 24, 2022 the United States Supreme Court held:

- The U.S. Constitution does not protect the right to abortion
- *Roe v Wade* and *Planned Parenthood v Casey* overruled: abortion restrictions will be not be subject to the viability and undue burden standards
- Abortion restrictions will be reviewed under lower standard
- Court leaves access to abortion up to each state



State Abortion Laws Since *Dobbs*

- 23 states have tried to implement various abortion bans
- In 6 states, these laws are currently blocked by the courts
- Ballot measures in Kansas, Kentucky and Montana seeking to restrict abortion FAILED
- Constitutional Amendments in California, Michigan, and Vermont recognizing a right to abortion PASSED.

<https://www.kff.org/womens-health-policy/issue-brief/legal-challenges-to-state-abortion-bans-since-the-dobbs-decision/>
(Jan 20, 2023)

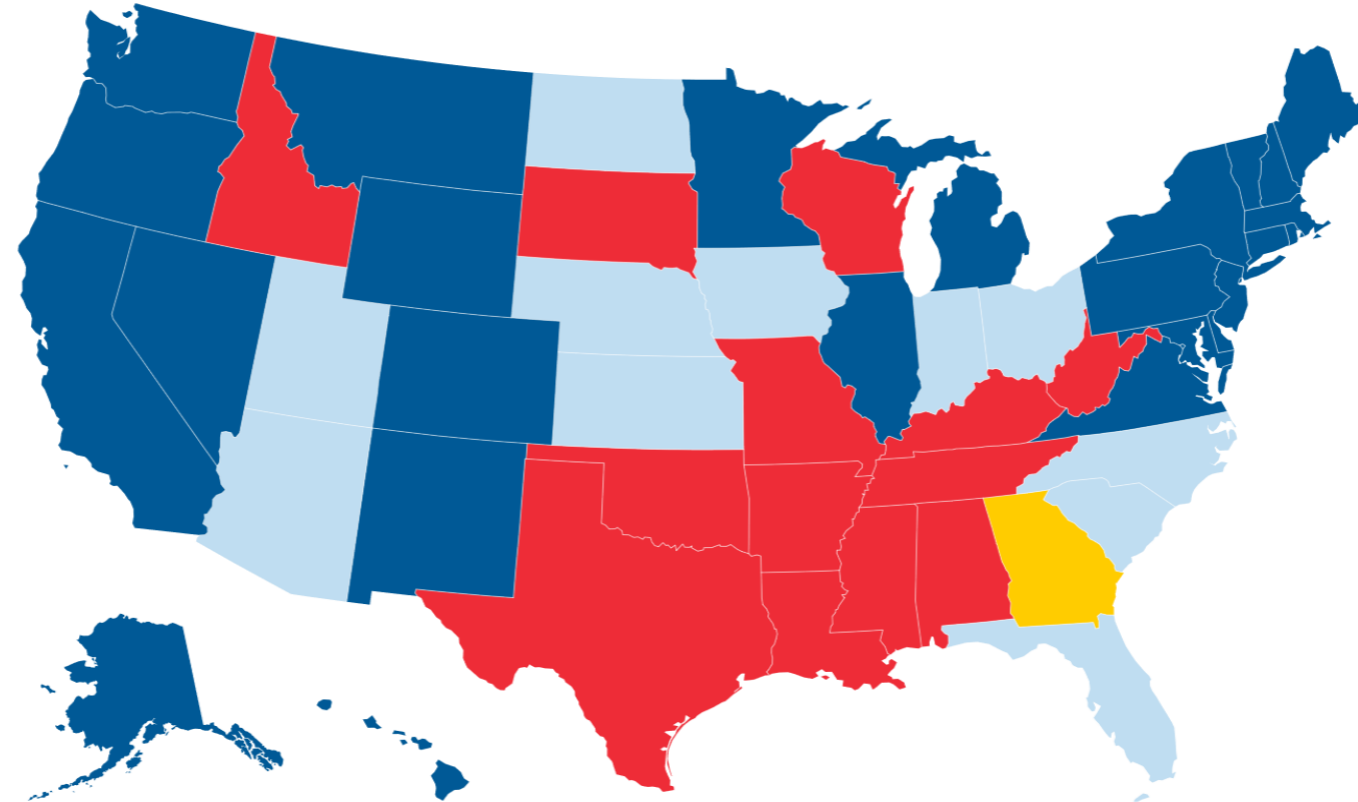


Abortion Access in the U.S.

Status of Abortion Bans in the United States as of January 20, 2023

Hover over state for more details

- Abortion banned (13 states)
- 6 week LMP gestational limit in effect (1 state)
- Gestational limit between 15 and 22 weeks LMP (11 states)
- Abortion legal beyond 22 weeks LMP (25 states & DC)



NOTE: LMP = Last Menstrual Period. For more information on state policies, please see our briefs on state actions to [protect abortion](#), [states without laws protecting or restricting abortion](#), our brief on the [Dobbs case](#), our KFF State Health Facts page on [abortion policies](#), and our brief on [legal challenges to state abortion bans](#). Since the Dobbs decision, 23 states have tried to implement a complete ban or a pre-viability ban. In 6 states, these laws are currently blocked by courts. The 23 states are: AL, AZ, AR, FL, GA, ID, IN, IA, KY, LA, MS, MO, ND, OH, OK, SC, SD, TN, TX, UT, WV, WI, and WY. SOURCE: KFF analysis of state policies and court decisions, as of January 20, 2023. - [Embed](#) - [PNG](#)

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DOJ Commitment to Reproductive Justice


- Improve our healthcare systems, protect patients, and support our healthcare professionals when it comes to reproductive healthcare
- Lead and support efforts to protect **access** to reproductive healthcare across the country by opposing efforts undermining **abortion rights**
- Use the full force of the law and the full authority of the office to defend Californians' reproductive rights
 - Defending reproductive rights nationwide
 - Protecting access to reproductive healthcare
 - Ensuring patient and provider safety



Know Your Reproductive Rights in California



“My message to Californians is simple: Know your rights. Do your research. Connect with programs that will provide you with truthful information and timely reproductive healthcare. Because in California, your right to reproductive healthcare includes the right to safe and legal abortion.”



CALIFORNIA ATTORNEY GENERAL

ROB BONTA



Abortion in CA: Know Your Rights

- Right to an abortion without need to provide a reason for why you are seeking an abortion
- Right to an abortion to protect your life or your health
- Right to confidentiality
- Right to obtain an abortion without parental consent
- Right to have your prescription for medicine to bring about an abortion filled in a timely manner
- Right to access abortion services at no charge
- Right to have an abortion performed by a trained professional
- Right to ask your healthcare provider if they have objections to certain forms of medical care



NEW LAWS THAT EXPAND & PROTECT REPRODUCTIVE CARE



Future of Abortion Council



CALIFORNIA FUTURE OF ABORTION COUNCIL Categorical Checklist

For California leaders and policymakers who seek to take meaningful action to expand and protect access to equitable abortion services and related health care, the following checklist highlights the CA FAB Council's recommendations by action type:

Legislative

Budget

Administrative

Research

More



AB 1666 (Bauer-Kahan, 2022): Bars Civil Anti-Abortion Judgments

- Targets “civil” enforcement of out-of-state abortion restrictions
- Prohibits any civil action to enforce an out-of-state abortion law from being filed in California courts
- Prohibits the enforcement of any out-of-state judgment from such actions commenced outside of California.



AB 2091 (Mia Bonta, 2022): Bars Using CA Legal Process to Obtain Protected Abortion Information

- Prohibits the provider of health care or a health care service plan, from releasing medical information related to an individual seeking or obtaining an abortion in response to a subpoena;
- Prohibits a person from being compelled to identify or provide information about an individual who sought or obtained an abortion; and
- Limits the ability for a subpoena to be issued in California that relates to seeking information about abortion



AB 2223 (Wicks, 2022): Further Prohibits Criminalization of Pregnancy Loss

- Ensures that no one in California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.
 - Despite abortion being legal in California, the *Perez* and *Becker* cases brought to light the need for this law.
 - In response, DOJ issued a PC 187 Legal Alert, explaining that pregnant persons could not be prosecuted for pregnancy loss.



No Extradition for Abortion Related Crimes

Governor's Executive Order N-12-22: no extradition for non-fugitive abortion offenses

“. . . my Office shall decline any request received from the executive authority of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal violation of a law of that other state where the violation alleged involves the provision, receipt, or assistance with reproductive health care services, unless required by the U.S. Constitution . . .”



AB 1242 (Bauer-Kahan, 2022): Prohibits Use of CA Legal Process and Law Enforcement to Prosecute Abortion

- Prohibits law enforcement from knowingly arresting or participating in the arrest of someone related to an abortion
- Prohibits law enforcement from sharing information related to an abortion
- Prohibits courts from issuing search warrants related to the investigation of an abortion
- Prohibits tech companies from providing evidence in response to an out-of-state search warrant



AB 1242: A Novel Approach



Abortion rights supporters in Santa Monica in July.
(Irfan Khan / Los Angeles Times)

California law could halt digital investigations of abortions nationwide

BY ANITA CHABRIA

AUG 31, 2022 | 5:00 AM

SACRAMENTO — [Digital privacy](#) is a huge concern in the post-Roe world, one where women's bodies, or at least

their uteruses, are increasingly considered community property in less enlightened states than California.

Women are being warned to [delete their period-tracking apps](#), turn off our [location tracking](#) as if we are Russian spies crawling into Mar-a-Lago closets, and, *gasp*, pick up the phone rather than text.

California legislators are working on a clever way to help women, though — across the country, not just in our state.

The legal jujitsu in question is [Assembly Bill 1242](#), by a Bay Area former corporate lawyer, Assemblymember Rebecca Bauer-Kahan (D-Orinda). It's expected to pass out of the Legislature this week with little notice, then head to Gov. Gavin Newsom's desk.



SCA 10 (Atkins & Rendon, 2022): Abortion Enshrined as a Fundamental Right in California

Enshrines the fundamental right to abortion and reproductive care in California.

- Amends the California Constitution to prohibit the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.



DOJ Defending Reproductive Rights

- ***Fund Texas Choice v. Paxton***: California Attorney General Rob Bonta led a multistate coalition of 21 attorneys general in filing an amicus brief supporting the right of individuals to travel out of Texas to obtain an abortion.
- ***US v. Idaho***: California Attorney General co-led a coalition of 21 attorneys general in filing an amicus brief in support of the federal government's motion for preliminary injunction to stop enforcement of Idaho's near total ban on abortion.
- ***Texas v. Becerra***: California Attorney General co-led a coalition of 21 attorneys general in filing an amicus brief supporting the federal government's defense of the Emergency Medical Treatment and Labor Act (EMTALA) against Texas' attempt to broadly exempt abortion care from emergency healthcare.
- ***Alliance of Hippocratic Medicine v. FDA***: California, along with other states, is filing an amicus brief in this case supporting the U.S. Food and Drug Administration's initial approval of mifepristone, the medical abortion drug. Twenty years later, plaintiffs (anti-abortion organizations and physicians) challenged the FDA's regulatory actions pertaining to mifepristone. Plaintiffs seek a preliminary injunction requiring the FDA to withdraw its approval of mifepristone for medication abortion. A ruling against the FDA, could affect the ability to prescribe mifepristone in California.



Ensuring Access to Reproductive Care in California



WARNING: Crisis Pregnancy Centers

DOJ issued a consumer alert warning Californians that while crisis pregnancy centers may advertise a full range of reproductive health services, they do not provide abortion or abortion referrals, and usually do not provide birth control or other forms of contraceptives.

- Crisis pregnancy centers do not provide abortion or abortion referral, and often times do not provide birth control or other forms of contraceptives;
- Crisis pregnancy centers may not be licensed medical clinics or be required to keep medical records private;
- Crisis pregnancy centers may attempt to delay appointments or provide misinformation about the legality or safety of abortions;
- Crisis pregnancy centers may provide inaccurate health information about a person's pregnancy and other aspects of reproductive healthcare; and
- Crisis pregnancy centers often look like and are located near reproductive healthcare facilities that provide abortion.



Californians seeking abortion care: be wary of crisis pregnancy centers.

While they may claim to offer comprehensive healthcare services, their mission is to discourage people from exercising their right to safe, legal abortion.

Learn more: oag.ca.gov/news/press-rel..

CONSUMER ALERT


CRISIS PREGNANCY CENTERS:

- ▷ Do not provide abortion services or abortion referrals, and usually do not provide birth control or contraceptives
- ▷ May not be licensed medical clinics or be required to keep medical records private
- ▷ May attempt to delay appointments or provide misinformation about the legality or safety of abortions
- ▷ May provide inaccurate health information about reproductive healthcare
- ▷ Often look like and are located near reproductive healthcare facilities that provide abortion



Clinic Security

Rob Bonta, Attorney General

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h2>INFORMATION BULLETIN</h2>	
<p><i>Subject:</i></p> <p>California Freedom of Access to Clinic and Church Entrances Act and the Reproductive Rights Law Enforcement Act</p>	<p><i>No.</i></p> <p>2022-DLE-06</p>	<p><i>Contact for information:</i></p> <p>John D. Marsh, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>June 13, 2022</p>	

TO: ALL DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES

The Department of Justice has received reports that crimes and incidents that interfere with the exercise of reproductive rights have escalated. California law requires that people have access to abortion care, family planning and other sexual and reproductive health care services safely, confidentially, and in a timely manner, without harassment, threats, or fear of bodily harm.

This bulletin provides information to assist law enforcement agencies to enforce the California Freedom of Access to Clinic and Church Entrances Act (FACE Act) and additional laws relating to reproductive health care clinic security. It also outlines law enforcement reporting requirements concerning anti-reproductive rights crimes as defined by the Reproductive Rights Law Enforcement



Consumer Alerts on Abortion Privacy

- **Abortion Privacy Alert:** Warning Consumers about how to protect their privacy and personal health information when accessing reproductive healthcare
 - ***Be Careful Who You Talk to About Your Search for Abortion Care***
 - ***Keep Your Internet Searches and Online Activity Private***
 - ***Limit your Mobile Devices' Tracking Features***
 - ***Keep Emails Private***
 - ***Keep Your Text, Voice, and Social Media Messages Private***
 - ***Keep Payment Transactions Private***



Rob Bonta ✓
@AGRobBonta

You leave a digital trail when you use an app, a website, or even start a search online.

If you travel to CA from a state where abortion rights aren't protected, this info could be used to put you at risk.

Take steps to ensure your reproductive privacy. oag.ca.gov/news/press-rel..

TIPS FOR PROTECTING YOUR PRIVACY WHILE SEEKING ABORTION OR REPRODUCTIVE CARE

Be Careful Who You Talk to About Your Search for Abortion Care and How You Pay for Services
If you are not a resident of a state, like California, that protects your right to abortion:
Limit the discussion of your search for abortion care.
Pay for abortion-related care in cash or with a prepaid card.

Keep Your Internet Searches and Online Activity Private
Use a device that you trust and on which you can control the search methods.
Consider using a virtual private network (VPN) to hide your internet traffic.
Use a web browser on your phone and computer that protects your privacy, including by not storing your browsing history.

Limit the Tracking Feature on your Mobile Device
Turn off location sharing on your phone
Android users: go to... Settings > Personal > Location Access and turn off "access to my location."
Apple users go to... Settings > Privacy > Location Services and switch the toggle to off.



Consumer Alerts on Abortion Privacy

- **Health Apps Have Legal Obligation to Protect Reproductive Health Information:** DOJ emphasized health apps' obligations under California law to protect and secure reproductive health information. DOJ urged health apps to adopt robust security and privacy measures to protect reproductive health information.

 **Rob Bonta** 
@AGRobBonta

Fertility trackers and health apps may have obligations under CA law to protect patient privacy.

Sensitive health data must remain secure and never be used against individuals seeking critical healthcare and exercising their right to abortion.

More: oag.ca.gov/news/press-rel...



Expanding Access to Birth Control

- Led multistate coalition of 21 attorneys general in submitting a letter urging the U.S. Food and Drug Administration (FDA) to approve over-the-counter (OTC) birth control pills, including a pending application for the nation's first OTC pill. If approved, safe and effective birth control pills will become available for purchase over the counter, removing barriers that keep many people from accessing safe and timely reproductive care.
- DOJ issued a Birth Control Know Your Rights Consumer Alert outlining your rights to ensure full access to birth control.
- Led multistate lawsuit defending women's access to cost-free birth control contemplated by the Affordable Care Act



Working with Partners



Partnerships

- **SoCal Legal Alliance for Reproductive Justice:** In partnership with UCLA's Law Center on Reproductive Health, Law and Policy, the Los Angeles County Bar Association (LACBA), the Women Lawyers Association of Los Angeles (WLALA), the Los Angeles City Attorney, many firms and reproductive rights groups, DOJ is building a pro-bono effort in Southern CA, focused on reproductive rights.
- **Reproductive Rights Task Force:** The mission of the DOJ California Reproductive Rights Task Force is to protect access to abortion and other reproductive healthcare in California. To accomplish this mission, the Task Force will coordinate efforts between DOJ and local law enforcement agencies such as District Attorneys, County Counsel and City Attorneys. The Task Force will collaborate with entities integral to protecting access to reproductive care, such as federal and state government agencies and reproductive rights stakeholders.



Resources

- There are a number of programs that assist Californians in accessing abortion care, including:
- [California Abortion Access](#), which is a safe space to access detailed guidance and resources on abortions. California protects the privacy of those who visit this website, and their information is not saved or tracked.
- [ACCESS Reproductive Justice](#), which connects people to free and low-cost programs that pay for reproductive healthcare for people living in, traveling to, or traveling from California to receive an out-of-state abortion.
- [Women's Reproductive Rights Assistance Project](#), which provides direct and logistical support, transportation assistance, abortion appointment navigation, and other resources.
- [The National Abortion Federation](#), which maintains a list of abortion providers.



Special Thanks To:

- Maggy Krell, Special Advisor to the Attorney General
- Karli Eisenberg, Supervising Deputy Attorney General, Reproductive Rights
- And many other Deputy Attorneys General in Office of Solicitor General, Criminal Law Division and Health Rights and Access who have tirelessly worked to ensure access to reproductive care
- And of course, Attorney General Bonta, for his commitment to making California a proud reproductive freedom state



Demystifying **THE DEPARTMENT OF JUSTICE**

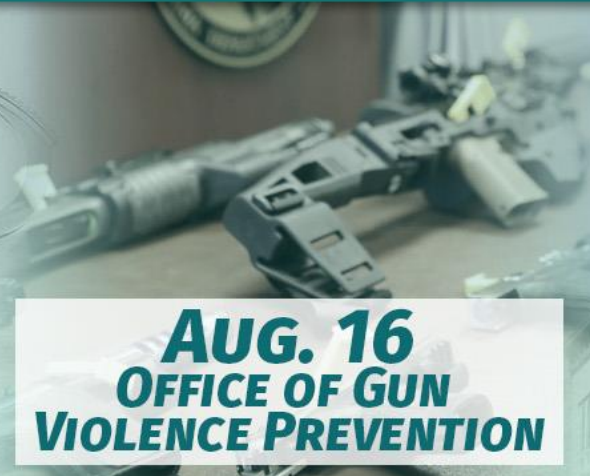
A Quarterly Series



FEB. 15
REPRODUCTIVE
RIGHTS



MAY 17
RE-ENTRY



AUG. 16
OFFICE OF GUN
VIOLENCE PREVENTION



Nov. 15
HOUSING

For more information, please visit
oag.ca.gov/care

