

May 7, 2022

We write to express our opposition to [S. 3713](#), the Reproductive Choice Act. This bill (introduced by Sens. Collins and Murkowski) would not solve the current abortion access crisis and would not protect the right to abortion if *Roe v. Wade* is overruled.

Earlier this week, a draft majority opinion, authored by Justice Alito, in the *Dobbs v. Jackson Women's Health Organization* case was leaked. If made final, the draft opinion would overturn *Roe v. Wade* and *Planned Parenthood v. Casey*, permitting states to ban abortion entirely. Meanwhile, we are in the midst of an all-out assault on abortion access: state lawmakers have passed hundreds of state-level attacks on abortion access over the last decade that have made care extremely difficult, if not impossible, to access for many people across the country. These attacks on abortion access have fallen most heavily on those who already face systemic barriers to care, such as Black, Indigenous, Asian Americans and Pacific Islanders, and other people of color, people with low incomes, LGBTQ folks, and young people.

S. 3713 would not protect the right to abortion. It fails to expressly prohibit pre-viability abortion bans, despite the fact that the Supreme Court [has held](#) that they are patently unconstitutional for nearly 50 years, under both *Roe v. Wade* and *Planned Parenthood v. Casey*. The bill instead, allows many harmful and medically unnecessary abortion restrictions to impede access to abortion in the states, the same type of restrictions anti-abortion state lawmakers have passed for years to chip away at abortion access. Additionally, the bill's vague wording could provide courts with additional arguments to uphold abortion restrictions and pre-viability bans.

If *Roe* falls or is dismantled, S. 3713 offers no assurance that pre-viability bans on abortion, such as the 15-week bans enacted in Arizona, Florida and Kentucky, would be invalid. Likewise, the bill would not stop bans modeled after Texas' vigilante-enforced ban on abortion, like the six-week ban the Oklahoma Supreme Court declined to block this week, nor the more than 40 bills restricting access to medication abortion care in 24 states.

Further, the bill lacks any enforcement mechanism that would make it workable as an actual tool to secure abortion. As a result, the bill fails to provide any way for impacted individuals to challenge state restrictions in court. Nor does it explicitly provide the Department of Justice the power to challenge restrictions — a key tool for protecting abortion rights.

The consequences of the impending Supreme Court decision in *Jackson Women's Health Organization* will be swift and devastating for communities nationwide. Overturning *Roe* would mean 26 states could swiftly move to ban abortion—including 13 states with laws that could immediately go into effect. In half the country, people would no longer have power over their own bodies and their own lives. That means 36 million women — nearly half of the women of reproductive age (18-49) in the United States — plus other people who can become pregnant, could soon lose abortion access. And states are accelerating their escalating attacks on abortion

rights: anti-choice lawmakers in 42 states have already filed over 500 restrictions on abortion this year.

The harmful impact will fall most heavily on those who already face systemic barriers in seeking health care. People who do not have access to the financial resources and support they need to travel out of state are forced to continue pregnancies to term, flee their state, or seek abortion outside of the health care system. Obstacles like finding childcare, taking time off of work, and navigating the costs of transportation and lodging associated with traveling hundreds or even thousands of miles disproportionately impact the most vulnerable. Furthermore, systemic barriers to care mean that Black, Latino, Indigenous, Asian Americans and Pacific Islanders, and other people of color disproportionately feel the effects of these abortion bans and restrictions, a product of this country's legacy of racism and discrimination. The number of people confronting these obstacles to essential health care will skyrocket under newly-permissible state bans.

Research shows abortion bans and restrictions are deeply unpopular: A [Washington Post-ABC poll](#) finds that 75% of people say decisions on abortion should be left to the woman and her doctor, including 95% of Democrats, 81% of Independents, and 53% of Republicans. A [Gallup poll](#) finds that 80% of the American public think abortion should be legal.

This moment demands workable legislation to ensure abortion remains accessible, everywhere. For the aforementioned reasons, the following reproductive rights, health, and justice organizations oppose S. 3713.

Advocates for Youth
American Civil Liberties Union
Catholics for Choice
Center for American Progress
Center for Reproductive Rights
In Our Own Voice: National Black Women's Reproductive Justice Agenda
NARAL Pro-Choice America
National Asian Pacific American Women's Forum
National Council of Jewish Women
National Family Planning & Reproductive Health Association
National Latina Institute for Reproductive Justice
National Partnership for Women & Families
National Women's Law Center
Physicians for Reproductive Health
URGE: Unite for Reproductive & Gender Equity
Planned Parenthood Federation of America
Power to Decide