



FOR GENDER JUSTICE

FOR HELP CRAFTING LEGISLATION, TALKING POINTS, FACT SHEETS, AND FOR STATE-SPECIFIC POLICY RESEARCH AND DATA, PLEASE CONTACT US AT [PLAYBOOK@NWLC.ORG](mailto:PLAYBOOK@NWLC.ORG).

POLICY BRIEF

# GUARANTEE THE RIGHT TO ABORTION AND ENSURE ACCESS



## THE PROBLEM

Abortion is an essential part of full-spectrum reproductive health care. Meaningful access to abortion is also fundamental to pregnant people’s liberty, equality, and economic security. One in four women\* will need an abortion in her lifetime. Everyone, no matter where they live or their financial means, should have access to abortion when they need it in their communities without stigma, shame, or barriers.

But abortion access is in an unprecedented crisis moment because, on June 24, 2022, the Supreme Court callously took away our federal constitutional right to abortion, a right that has been fundamental to our health, lives, futures, and society for nearly 50 years. With the right to abortion now left to the states, state lawmakers hold the power to lessen the blow of this devastating decision.

The impact of overturning our right to abortion is already being felt: within days of the release of the decision, multiple states enacted total bans on abortion, and anti-abortion extremist legislators in other states proposed laws to criminalize those who provide abortions, those who seek them, and anyone who helps another person obtain one. Within roughly two months of the Supreme Court’s decision, **17 million women** lost access to abortion. By the end of 2023, nearly half of states had banned abortion or made it inaccessible.

Banning abortion will ultimately mean that some people will not be able access abortion care and will be forced to carry their pregnancies to term. There will be lifelong consequences for them and for their families. Denying a pregnant person an abortion creates economic hardship and insecurity and health consequences that last for years. These impacts will be felt most by **women of color and those who have low incomes**, people who already face challenges in accessing health care, and who often lack job security and paid leave. Beyond a nightmare of criminalization of basic health care, clinic closures, and patients being denied care or having to travel thousands of miles, anti-abortion extremists are expanding their attacks. They are making it clear that they are threatening anyone and everyone who plays any role in abortion access, creating legal uncertainty and fear for loved ones, health care professionals, employers, universities and schools, businesses, and city governments, among others. The decision has already wreaked legal and public health chaos, even as the full extent of the harm has yet to be realized.

It has never been more critical that state lawmakers act boldly and swiftly to guarantee and ensure access to abortion.

## THE SOLUTION

We need state lawmakers to guarantee the right to abortion at the state level and ensure that the right to abortion is a reality for those who need abortion care.

We know that abortion access is best realized when policy change is informed by local reproductive rights, health, and justice advocates, abortion providers, people from impacted communities, and

researchers. We suggest convening relevant stakeholders in your state to develop recommendations for legislation that best responds to the specific needs in your state.

Now is the time to be bold and proactive about protecting abortion access. [Speak your values](#) when fighting for policy change and be sure your [messaging](#) is free from abortion stigma.

## BASIC ELEMENTS OF THE SOLUTION

- Ensure the right to abortion is enshrined in state law, particularly under a broad right to reproductive freedom and equality, whether by statute or constitutional amendment.
- Repeal any existing state abortion restrictions or bans, including:
  - Laws that ban or criminalize abortion;
  - Medically unnecessary and burdensome restrictions on abortion providers, including those that restrict access to medication abortion;
  - Laws that require parental involvement and restrict young people's access to care;
  - Measures meant to shame and judge people who have decided to have an abortion, such as mandatory delays and biased counseling requirements; and
  - Refusal of care laws that allow health care providers to use personal beliefs to override a patient's access to abortion care.
- Remove funding barriers and ensure abortion is affordable, including:
  - Allocating funds to help in-state and out-of-state abortion patients pay for care or practical support or directly subsidize abortion clinics and funds;
  - Improving insurance coverage of abortion care in both private and public plans, including by:
    - Providing [Medicaid funding](#) for abortion care, improving Medicaid reimbursement rates, and streamlining the process for becoming a state-Medicaid eligible provider and for billing and reimbursement of claims;
    - Requiring insurance coverage of abortion for in-person and telehealth abortions and for in and out-of-network abortion care, without limit on the number of abortions;
    - Eliminating cost-sharing for abortion and abortion-related services, including for telehealth abortions; and
    - Establishing gap coverage for people lacking coverage for abortion.
- Decriminalize abortion and pregnancy outcomes, including the provision of abortion care, actions that assist people to access abortion care, and outcomes of the person seeking a medically assisted or self-managed abortion.
- Prohibit discrimination, including against people based on their reproductive health decisions and against health care professionals who want to provide abortion care and information regarding full-spectrum reproductive health care.
- Improve security for abortion patients, abortion providers, and those who help people get abortions, such as by:
  - Expanding address shield laws to include abortion providers;
  - Investing in clinic security enhancements;
  - Protecting the data privacy of abortion seekers, abortion providers, and organizations that assist those seeking abortions; and
  - Removing requirements to ask for a patient's address.
- Protect providers from civil or criminal liability or professional repercussions when providing legal abortion, including by:
  - Prohibiting out-of-state subpoenas or extradition to a hostile state;
  - Refusing to participate in other state's investigations of pregnancy outcomes and abortions that are legal in the state; and
  - Prohibiting medical malpractice insurance companies or medical boards from taking any adverse action against a reproductive health care provider who provides reproductive health care that is legal in their state.
- Expand who can provide abortion care, including by:
  - Repealing any laws that require that abortions are provided only by physicians;
  - Making explicit that [advanced practice clinicians](#) can provide abortion;
  - Expediting the licensure of abortion providers; and
  - Expanding access to abortion training, including creating state grants to train abortion providers.
- Expand medication abortion access, such as requiring public universities to provide medication abortion, and by protecting and expanding access to telemedicine.
- Mitigate the harm of anti-abortion crisis pregnancy centers (CPCs), including by:
  - Ending state funding of CPCs; and
  - Increasing public education efforts on the danger of CPCs.
- [Encourage workplaces](#) to support access to reproductive health care and justice programs including by offering paid sick and family leave; creating emergency assistance and wellness programs; providing comprehensive health insurance that includes abortion coverage; reimbursing travel costs for out-of-state or long-distance travel to access health care not available locally—including abortion—for both the employee and companion; covering childcare costs; and creating an emergency fund for costs associated with accessing abortion.
- Address refusals to provide abortion and other health care, including ensuring that hospital mergers are not harmful to certain populations in the community, hospital policies are transparent and disclosed to patients, and patients receive care in urgent situations.

## TALKING POINTS ON THE SOLUTION

- Connecting abortion to autonomy, freedom, health, and equality:
  - As a state lawmaker, I will do everything in my power to make sure everyone can live a safe and healthy life—and that means ensuring people have access to health care, including abortion care.
  - One of the most important life decisions we will ever make is whether to become a parent. Let's trust people to make decisions that are best for their lives and their bodies.
  - We aren't truly free unless we can control our own bodies, lives, and futures. Our laws should protect our rights, not try to control and dehumanize us.
  - Women can't be truly equal if they don't have control over their own bodies and reproductive lives, including the decision about whether to have an abortion. As a state elected official, it's my job to trust people, and to see that they are treated fairly and equally, wherever they live.
- Impact:
  - One in four women\* will need an abortion in her lifetime.
  - We know who will be most impacted by the loss of the constitutional right to abortion and the bans that follow: those communities that already bear the brunt of systemic inequities, disparities, and discrimination—Black, Indigenous, and People of Color (BIPOC), those with lower incomes, LGBTQI+ people, young people, people living in rural areas, people with disabilities, immigrants, and people in abusive relationships or those that have suffered violence.
  - Being forced to carry a pregnancy to term poses particular harms for marginalized communities, and especially Black women. Black women are **three times** more likely to die from a pregnancy-related cause than White women. **Indigenous women** have also been shown to have an increased rate of pregnancy-related mortality.
  - Being denied an abortion compounds existing economic disparities, and people of color are disproportionately living in poverty or facing economic insecurity. People who are denied an abortion are **nearly four times more likely to live below the poverty line**.
- Voters overwhelmingly support access to abortion.
  - According to a 2023 **19th News/SurveyMonkey** poll, more than six in ten americans want abortion legal in all or most cases.
  - According to a 2022 NPR/PBS/NewsHour/Marist poll, **eight in ten** believe that the decision to have an abortion should be left to women and their health care providers, not politicians and the government, including 86% of Asian Americans & Pacific Islanders, 80% of Black Americans, and 74% of Hispanic Americans.
- According to a **2022 Ipsos** poll:
  - Six in ten Americans agree that lawmakers who want to ban abortion are “out of touch” and “extreme.”
  - Two out of three agree that lawmakers who want to ban abortion “are taking away your personal medical decisions and your control of your body and life path,” including 64% of white Americans, 73% of Black Americans, 69% of Hispanic Americans, and 82% of Asian Americans.
- In a **Guttmacher** study of the 26 states identified as those that would likely ban abortion post-Roe, just **30 percent** of adults support greater restrictions. That drops even lower, to 21 percent, in other states.
- In the first test of state abortion rights put to voters after the loss of our federal constitutional right to abortion, Kansans made clear that they support access to abortion and the strong protection for the right to abortion in their state constitution, with 59 percent voting to defeat a constitutional amendment that would have led to a ban on abortion.
- Later in 2022, California, Michigan, and Vermont passed constitutional amendments that, in part, protect the right to abortion, while two abortion-related anti-abortion ballot measures in Kentucky and Montana failed. Most recently, in November 2023, Ohioans voted to create a right to make reproductive decisions, including abortion, with **56.6 percent** voting in support of the state constitutional amendment.

Many state policymakers are leading the charge on protecting and expanding access to abortion. For example:

- In 2022, California enacted multiple pieces of legislation **proposed** by the California Future of Abortion Council, composed of reproductive freedom leaders in the state.
- In 2023, California created abortion training opportunities that will expand who can provide abortion care.
- In 2022, Colorado passed the **Reproductive Health Equity Act**, which ensures important reproductive health protections for Coloradans, including the right to choose to continue a pregnancy and give birth or to have an abortion.
- In 2022, Maryland passed the **Abortion Access Act**, which expands who can provide abortion care to include advanced practice clinicians, and requires that insurers cover abortion.
- In 2023, Maine expanded abortion access by removing a restriction that limited abortion after a particular point in pregnancy. Michigan repealed the state's pre-Roe abortion ban and passed the Reproductive Health Act, which repeals several of the medically unnecessary restrictions on abortion in the state.

\* While we refer to women here to reflect the relevant data, we recognize that individuals who do not identify as women, including transgender men and nonbinary persons, also may become pregnant and need abortion access.