



**NATIONAL  
WOMEN'S  
LAW CENTER**

Justice for Her. Justice for All.

JANUARY 2025 | ISSUE BRIEF

# New Targets, Old Tactics: How Attacks on Gender-Affirming Care Are Repurposing the Anti-Abortion Playbook

As bans on both abortion care and medical care for transgender people have surged in recent years, a pattern has emerged: The strategies developed over decades by the anti-abortion movement have found new life in attacks on transgender people's access to care. Anti-trans movement actors have deliberately modeled their attacks after the anti-abortion playbook. Indeed, anti-abortion and anti-trans bans are often advanced by the same lawmakers,<sup>1</sup> by the same behind-the-scenes organizations,<sup>2</sup> and even within the same bills and lawsuits.<sup>3</sup> This issue brief explores how the anti-trans movement has repurposed anti-abortion narratives, policies, and strategies to promote bans on gender-affirming care.

## The Parallel Rise and Harms of Bans on Abortion and Gender-Affirming Care.

The Supreme Court's decision to unjustly overturn the constitutional right to abortion<sup>4</sup> emboldened state policymakers to accelerate their attacks on abortion: As of late 2024, abortion bans are in effect in nearly half of the states.<sup>5</sup> And on the federal level, anti-abortion movement leaders—such as those who produced Project 2025's *Mandate for Leadership*—have laid out a blueprint for expanding existing abortion restrictions nationwide.<sup>6</sup>

At the same time, state and federal lawmakers have increasingly turned their sights to health care for transgender people, often referred to as gender-affirming care. This best practice care—provided in an individualized, age-appropriate manner and according to well-established standards—is medically necessary for many transgender people.<sup>7</sup> But hundreds of state bills banning it have been introduced since 2022,<sup>8</sup> and by late 2024, 26 states passed bans into law.<sup>9</sup> Many of these laws have been challenged in court as unconstitutional, and the Supreme Court is currently weighing whether one such ban is subject to heightened scrutiny—a decision that may have reverberating consequences for laws across the country.<sup>10</sup> Meanwhile, lawmakers in Congress have introduced a flurry of federal bills and amendments targeting this care.<sup>11</sup> The Trump-Vance administration also has pledged to restrict access to gender-affirming care, including by signing a federal ban on care for transgender youth into law.<sup>12</sup>

Bans on abortion and gender-affirming care are unjustified, they are dangerous, and they can have deadly consequences. Abortion bans endanger pregnant people's health, safety, and economic security, with disproportionate impacts on women of color and others who face compounded barriers to care.<sup>13</sup> In many cases, they put lives at risk.<sup>14</sup> Bans on gender-affirming care leave people who need it with few options—or none at all—for receiving this often life-saving treatment, exacerbating the hurdles to care trans people already face.<sup>15</sup> And these bans have fueled a hostile political climate that itself jeopardizes the health and safety of people who need this care.<sup>16</sup> Anti-abortion and anti-trans strategies thus have a profound impact on the lives of people who seek access to essential health care.

## Repurposing Strategies from the Anti-Abortion Playbook.

Opponents of gender-affirming care have drawn from many of the same strategies that have been finetuned over decades of anti-abortion attacks. These include the following interconnected tactics:

- Vilifying health providers
- Weaponizing the specter of regret
- Promoting misinformation
- Targeting youth
- Targeting Medicaid enrollees
- Sowing confusion and fear
- Reducing people to their reproductive capacity and promoting sex stereotypes
- Exploiting anti-abortion case law

### Vilifying Health Providers

When abortion care and gender-affirming care are provided according to their well-established standards, they are patient-driven, center the individual's agency, and ensure fully informed, medically sound consent.<sup>17</sup> But opponents of this care tell a different story about how it is provided: a story where vulnerable patients are being manipulated, pressured, and lied to by predatory doctors. They have

wielded this false narrative to target providers of gender-affirming and abortion care and justify political interference in the patient-provider relationship.

The narrative of predatory providers has long been a mainstay in the anti-abortion movement.<sup>18</sup> Anti-trans lawmakers are now using this narrative to attack providers of gender-affirming care through a range of tactics modeled after anti-abortion policies. First, they have sought to directly criminalize providers. In Congress, for example, bills introduced by then-Senator J. D. Vance and Representative Marjorie Taylor Greene would have classified the provision of gender-affirming care to minors as a felony punishable by up to 25 years in prison.<sup>19</sup> This approach has proliferated on the state level as well: Laws enacted in Idaho, North Dakota, and Alabama subject health professionals who provide gender-affirming care to minors to up to 10 years imprisonment.<sup>20</sup> Newly enacted state laws also threaten providers of gender-affirming care with fines, loss or suspension of their license, and disciplinary action.<sup>21</sup>

Anti-trans policymakers have also mimicked Targeted Regulation of Abortion Providers (TRAP) laws. TRAP laws impose medically unnecessary, costly, and burdensome requirements on providers in an attempt to force those providers to shut down or make them vulnerable to baseless investigations.<sup>22</sup> Following this strategy, proposed laws and regulations have sought to prevent providers from offering gender-affirming care unless, for example, they hire or contract with a range of often inaccessible specialists and notify the state government every gender dysphoria diagnosis.<sup>23</sup> Some states have required providers administering care to be physicians, even though many trans people access treatments through registered nurses and other providers.<sup>24</sup> Some have limited care to in-person settings,<sup>25</sup> an unwarranted restriction that especially harms people living in rural areas and others who face barriers to accessing provider offices. And, as with many anti-abortion laws, some states have tried to script what providers must tell their patients about the risks of gender-affirming care, mandating that they warn of false dangers and promote misinformation.<sup>26</sup>

The narrative that greedy providers are preying on vulnerable patients has also fueled another tactic modeled after attacks on abortion: expanding liability for medical malpractice. Legislators have made it easier for former patients to sue providers of gender-affirming care, enabling frivolous lawsuits to succeed even when they would not otherwise meet medical malpractice standards.

For example, in a tactic that the Trump-Vance administration has threatened to replicate at the federal level,<sup>27</sup> states have enacted laws that allow individuals to sue providers of gender-affirming care without showing that they have an injury typical for medical malpractice claims or even without showing that they have been harmed at all.<sup>28</sup> They have allowed for lawsuits even when the provider complies with the applicable standards of care and obtains fully informed consent.<sup>29</sup> They have dramatically increased the cap on the monetary award to make lawsuits more lucrative.<sup>30</sup> And they have extended the statute of limitations to decades after care has been provided.<sup>31</sup> Even if former patients do not take up these incentives to sue, the increased insurance premiums for medical malpractice alone can make it prohibitively expensive for providers to offer gender-affirming care<sup>32</sup>—yet another tactic borrowed from the anti-abortion playbook to eliminate access to this care.<sup>33</sup>

### **Weaponizing the Specter of Regret**

While dissatisfaction with medical care is possible for any type of procedure, abortion and gender-affirming care are associated with exceedingly low rates of regret. Studies have found that regret for gender-affirming surgical care is less than 1%,<sup>34</sup> and the rate of regret for people who had an abortion is similarly minuscule<sup>35</sup>—far lower than regret rates for health services that are routinely provided without political interference.<sup>36</sup> But those seeking to ban gender-affirming and abortion care claim dissatisfaction is widespread. State intervention, they assert, is therefore needed to protect people from making health care decisions they may later regret.

Anti-abortion policymakers have frequently relied on the claim of widespread regret to support restrictions. For example, this narrative was successfully used before the Supreme Court, who in a 2007 opinion in *Gonzales v. Carhart* pointed to the purported “grief,” “anguish[,]” and “sorrow” experienced by “a mother who comes to regret her choice to abort” as a justification for upholding a nationwide ban on a safe method of abortion care.<sup>37</sup> Such claims are based on an impulse to protect abortion-seekers from their own decisions—an impulse that is baseless, harmful, and deeply rooted in stereotypes about women’s agency and their ability to understand their own needs and make their own choices.

Anti-trans policymakers have learned from this narrative of abortion regret, using a parallel story to justify bans on gender-affirming care. They have positioned themselves as protectors of those seeking gender-affirming care,

claiming that these individuals may fail to understand the consequences of this care. In banning care for trans youth, for example, the Alabama legislature speculated that “[m]inors, and often their parents, are unable to fully appreciate the risk and life implications...that result from the use of puberty blockers, cross-sex hormones, and surgical procedures.”<sup>38</sup> Policymakers have gone so far as to claim that many people who obtain gender-affirming care are misled into thinking they are transgender to begin with and will eventually want to live according to their sex assigned at birth. In service of this assertion, they have amplified the rare stories of people who have decided to reverse gender-affirming care, creating an outsized platform for a small handful of individuals.<sup>39</sup> Ideologically driven law firms have even emerged with the sole mission of representing people who regret receiving gender-affirming care in lawsuits against their former providers.<sup>40</sup> And like the abortion regret narrative, the story of widespread regret of gender-affirming care is intertwined with gender stereotypes: It is animated by the fear that people—especially those assigned female at birth—are being misled into a life of nonconformity with their assigned sex, and it is fueled by stereotypes about the agency and decision-making capacity of transgender people.

### **Promoting Misinformation**

Extensive evidence demonstrates that abortion care is safe and effective.<sup>41</sup> The benefits of access to care for those who decide to have an abortion are well-documented,<sup>42</sup> while research has illustrated the lasting harms that denial of care has on people’s health, security, financial stability, and overall wellbeing.<sup>43</sup> Similarly, a large body of research supports the safety, effectiveness, and benefits of gender-affirming care for those who seek it: Access to gender-affirming care is associated with better overall wellness, improved mental health, and higher quality of life in both the short and long term.<sup>44</sup> This robust evidence, however, has not stopped anti-abortion and anti-trans policymakers from casting doubts about the science in order to justify bans.

Undermining widely accepted research and promoting misinformation have been core strategies of the anti-abortion movement. For example, it has advanced false assertions about the dangers of abortions, including claims that abortion harms mental health<sup>45</sup> and increases the risk of breast cancer<sup>46</sup> and fertility loss,<sup>47</sup> all of which are flatly untrue and disproved by overwhelming evidence. A recent example of this anti-science strategy is in the challenge to the Food and Drug Administration’s approval

of mifepristone, the medication used in most abortions. This lawsuit heavily relied on the unfounded argument that evidence backing the safety of mifepristone was weak and not sufficient to support the Food and Drug Administration's approval.<sup>48</sup> While this lawsuit has been, for now, unsuccessful before the Supreme Court for reasons unrelated to this false claim about medical evidence,<sup>49</sup> anti-abortion activists persist in their efforts to manufacture doubt about the science supporting abortion access.

Anti-trans activists have seized on this strategy as well. Despite the overwhelming evidence to the contrary, they have claimed that gender-affirming care is unsafe, untested, and experimental.<sup>50</sup> In the absence of mainstream science to support their claim, they have resorted to using cherry-picked anecdotes, discredited studies, and a rotation of a small handful of fringe "experts."<sup>51</sup> And they have actively promoted misinformation about gender-affirming care, including false claims that prepubescent children are undergoing medical interventions or even surgeries,<sup>52</sup> that minors are receiving gender-affirming care without parental consent,<sup>53</sup> and that gender-affirming care increases a host of negative physical and mental health outcomes.<sup>54</sup>

Anti-abortion lawmakers have often cloaked their alternative evidence in pseudoscientific concepts and expressions, such as by deploying inaccurate medical terminology to legitimize abortion bans<sup>55</sup> or pointing to nonexistent conditions like "post-abortion syndrome."<sup>56</sup> Anti-trans activists have used a similar strategy. Some state governments, for example, have published their own ideological studies of gender-affirming care that conflict with the weight of peer-reviewed evidence.<sup>57</sup> Gender-affirming care bans also commonly include pseudoscientific terminology, a deliberate strategy to suggest that the views they represent are objective and substantiated when that is far from the truth.<sup>58</sup> And proponents of these bans have pointed to conditions like so-called "rapid-onset gender dysphoria"—an invented phenomenon where young people, primarily those assigned female at birth, are suddenly induced into thinking they are trans due to peer influence—even though the existence of this condition has been thoroughly debunked.<sup>59</sup>

### **Targeting Youth**

The campaigns against abortion and gender-affirming care have made attacks on youth a central strategy. Too often, young people are perceived as lacking the capacity and agency to have a say over what happens to their bodies—a perception the anti-trans and anti-abortion movements

have not only exploited but actively cultivated. While they have sought to eliminate access to care for both adults and youth, they have claimed that government intervention is particularly warranted for young people.

For example, anti-abortion lawmakers have passed laws banning or creating heightened restrictions on young people's access to abortion<sup>60</sup> and targeted those who support young people seeking this care.<sup>61</sup> Similarly, bans on gender-affirming care have largely focused on youth,<sup>62</sup> including by criminalizing providers who offer care to minors<sup>63</sup> and threatening supportive parents with loss of custody.<sup>64</sup> Congressional leaders and the Trump-Vance administration have made a ban on gender-affirming care for youth a legislative priority for the 119th Congress, and the Trump-Vance administration has pledged to cut off federal funding for providers who offer gender-affirming care to young people.<sup>65</sup> And in late 2024, Congress passed a ban on care for young people in military families under TRICARE, the program providing coverage to service members and their families.<sup>66</sup> These bans fly in the face of the extensive research showing that access to gender-affirming care during adolescence improves young people's mental health, quality of life, and overall wellbeing.<sup>67</sup> These attacks on minors' access to care has further been used as a stepping stone towards more expansive restrictions that affect adults as well as youth.<sup>68</sup>

### **Targeting Medicaid Enrollees**

People enrolled in Medicaid and other public insurance programs deserve access to comprehensive health care, including abortion and gender-affirming care. But anti-abortion and anti-trans lawmakers have exploited stigma and bias towards Medicaid enrollees to try to bar Medicaid from covering these services.

Anti-abortion lawmakers at the federal and state level have targeted Medicaid funding for abortion, including through the Hyde Amendment, which prevents federal money from being used for abortions in most circumstances.<sup>69</sup>

The Hyde Amendment's disproportionate impact on women of color, disabled women, and women experiencing poverty is not a coincidence: This provision has been inextricably tied with racist, sexist, ableist, and classist stereotypes since its introduction.<sup>70</sup> Now, the anti-trans movement is using the same strategy of targeting public funding—and regurgitating the same stereotypes of Medicaid enrollees—to attack gender-affirming care. In Congress, anti-trans lawmakers have introduced dozens of bills and amendments

that would bar federal funding for gender-affirming care through Medicaid and other insurance programs.<sup>71</sup> At the state level, lawmakers and officials have created or maintained exclusions that bar their Medicaid programs from covering gender-affirming care.<sup>72</sup>

### **Sowing Confusion and Fear**

Proponents of bans on abortion and gender-affirming care have created intentional uncertainty about the scope of these restrictions and subjected patients and providers to fear-based tactics. As a result, a chilling effect has dissuaded providers from offering care and patients from seeking it, even when doing so is legal—thus magnifying the impacts of these already far-reaching bans.

Some providers have been deterred from offering abortion care because laws restricting abortion access are often deliberately vague and confusing.<sup>73</sup> For example, abortion bans have included unclear exceptions, such as for imminent risk to the life of the pregnant person. Providers have been unsure how to interpret these exceptions, putting many in the untenable position of needing to choose between denying care to stay within the bounds of the law, or providing medically appropriate treatment and risking prosecution.<sup>74</sup> In many cases, these vague exceptions have led to delays as providers try to navigate the legality of care in each particular case, or they have prompted providers to deny care entirely to avoid running afoul of the law.<sup>75</sup>

Anti-trans lawmakers have used a similar strategy of deliberate confusion to discourage providers from offering gender-affirming care. For example, some bans on gender-affirming care have included complex exemptions for patients whose treatment began before a certain date, some of which require them to be “weaned off” treatment after a set period of time<sup>76</sup>; others have included narrow but undefined exceptions for patients who may experience suicidality as a result of being denied care.<sup>77</sup> As a result of this ambiguity, some providers stopped offering gender-affirming care even in situations where it would have been legal, and some institutions preemptively halted this care before a law came into effect.<sup>78</sup>

Policymakers have also used fear tactics to dissuade providers from offering abortion care or gender-affirming care. For example, they have pursued abusive investigations, including for care that was permitted under existing law.<sup>79</sup> They have subjected patients and providers to surveillance and demanded private data on people who have accessed care.<sup>80</sup> Extremists have shared information

about providers of abortion and gender-affirming care to encourage others to target them, such as a database released in October 2024 listing hospitals that provide gender-affirming care to youth.<sup>81</sup> And ban proponents have peddled in myths and vitriolic rhetoric that contribute to threats against providers and patients. It is not surprising, then, that violent incidents at abortion clinics have sharply increased since the *Dobbs* decision,<sup>82</sup> while providers of gender-affirming care have faced a rise in death threats, bomb threats, and harassment,<sup>83</sup> adding to the violence that trans communities themselves have long faced. The result is that many providers fear offering abortion care and gender-affirming care, while patients must risk their privacy and safety to access it, often leading to the delay or denial of essential care.

### **Reducing People to their Reproductive Capacity and Promoting Sex Stereotypes**

Underlying both the anti-abortion and anti-trans movements is the conviction that people are to be valued on the basis of their reproductive capacity and conformity to sex stereotypes. The anti-abortion movement is rooted in the belief that the proper role of anyone assigned female at birth is as a mother, nurturer, and birth-giver. The anti-trans movement extends this belief to attacks on gender-affirming care. This is reflected, for example, in gender-affirming care bans that define terms like “biological sex” or “female” to explicitly classify people according to their reproductive functions.<sup>84</sup> It is also exemplified in the outsized concern about the supposed sterilizing impact of gender-affirming care on young people.<sup>85</sup> Even though transgender minors are not being subjected to sterilizing treatments, numerous states have used this false claim as a central justification for their bans.<sup>86</sup>

In both the anti-abortion and anti-trans movements, this fear about reproductive capacity and childbearing is rooted in gender stereotypes. It is a fear that access to abortion and gender-affirming care will encourage people to deviate from stereotypes about childbearing, based on the false belief that these forms of care lead to a life of childlessness and a rejection of parenthood.<sup>87</sup> And it is in particular a fear that abortion or gender-affirming care dissuades people who were assigned female at birth from conforming with their stereotypical roles as birth-givers.

## Exploiting Anti-Abortion Case Law

States defending bans on gender-affirming care have frequently drawn on the Supreme Court's reasoning in *Dobbs v. Jackson Women's Health Organization*. The *Dobbs* Court concluded that abortion could not be a fundamental right under the 14th Amendment of the Constitution because it was not "deeply rooted in this Nation's history and tradition"<sup>88</sup>—an erroneous and backward-looking approach to constitutional rights that serves to reinforce historical inequities. Just days after the decision was handed down, Alabama's attorney general filed a brief citing this rationale in defense of the state's ban on gender-affirming care.<sup>89</sup> This argument proved persuasive for the Eleventh Circuit, which quoted *Dobbs* directly to assert that gender-affirming care "is almost certainly not 'deeply rooted' in our nation's history and tradition."<sup>90</sup> Extending the logic in *Dobbs*, the Eleventh Circuit argued that rights could only be recognized according to "the meaning of the Fourteenth Amendment at the time it was ratified—July 9, 1868."<sup>91</sup> In a case now before the Supreme Court, the Sixth Circuit similarly relied on *Dobbs* in upholding Tennessee's ban on gender-affirming care.<sup>92</sup> States have also relied on noncontrolling language from *Dobbs* to assert—inaccurately—that gender-affirming care bans do not constitute unlawful sex discrimination.<sup>93</sup>

## A United Front to Protect Abortion and Gender-Affirming Care.

The anti-abortion and anti-trans movements have launched a coordinated attack on fundamental rights, drawing on the same strategies and narratives to restrict essential care. Their collaboration is no accident. At their core, these are attacks on the values supporting both gender-affirming and abortion care: our power to define ourselves and our futures, to determine what happens to our bodies, and to live free from gender stereotypes. Even while opposition to such principles brings anti-abortion and anti-trans movements together, those same values also unite the movements that defend and advance our rights. The joint front to protect these rights recognizes the intertwined fate of abortion and gender-affirming care: Protecting both is necessary to chart a course for self-determination and dignity for all.

## Acknowledgements

This issue brief was written by Ma'ayan Anafi. The author would like to thank Gretchen Borchelt, Anya Marino, Emily Martin, Dorianne Mason, and Katie O'Connor for their review and Kamilah Kerr for design.

## Endnotes

- 1 Ari John, *How GOP Efforts to Restrict Trans Rights Take a Page from the Antiabortion Playbook*, L.A. TIMES (Jun. 7, 2023), <https://www.latimes.com/politics/story/2023-06-07/wave-of-anti-trans-laws-reminds-advocates-of-another-struggle-abortion-rights>.
- 2 See, e.g., David D. Kirkpatrick, *The New Targets for the Group that Overturned Roe*, THE NEW YORKER (Oct. 2, 2023), <https://www.newyorker.com/magazine/2023/10/09/alliance-defending-freedoms-legal-crusade>.
- 3 For example, in 2023, Nebraska passed combined legislation banning gender-affirming care for minors and abortion care. Legis. B. 574, 108th Leg., 1st Sess. (Neb. 2023).
- 4 *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).
- 5 On file with the National Women's Law Center.
- 6 National Women's Law Center, *Project 2025: What It Means for Women, Families, and Gender Justice* 3 (Sep. 2024), <https://nwl.org/wp-content/uploads/2024/09/Project-2025-Full-Report.pdf>
- 7 See Eli Coleman et al., *Standards of Care for the Health of Transgender and Gender Nonconforming People, Version 8*, 23 INTERNATIONAL JOURNAL OF TRANSGENDER HEALTH 1 (Sep. 6, 2022), <https://doi.org/10.1080/26895269.2022.2100644>
- 8 Trans Legislation Tracker, *Tracking the Rise of Anti-Trans Bills in the U.S.* (last accessed Oct. 10, 2024), <https://translegislation.com/learn>.
- 9 Human Rights Campaign Foundation, *Map: Attacks on Gender Affirming Care by State* (last accessed Oct. 10, 2024), <https://www.hrc.org/resources/attacks-on-gender-affirming-care-by-state-map>.
- 10 *L. W. by & through Williams v. Skrmetti*, 83 F.4th 460, 473 (6th Cir.), cert. dismissed in part sub nom. *Doe v. Kentucky*, 144 S. Ct. 389 (2023), and cert. granted sub nom. *United States v. Skrmetti*, 144 S. Ct. 2679 (2024).
- 11 See, e.g., Human Rights Campaign, *Appropriations Under Attack: Ongoing Anti-LGBTQ+ Extremism in the 118th Congress* (Oct. 2024), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/documents/Appropriations-Report-Oct-2024.pdf>; Congressional Equality Caucus, *Ripping Away Our Freedoms: How House Republicans Are Working to Implement Project 2025's Assault on LGBTQI+ Americans' Rights* 7 (Oct. 2024), [https://equality.house.gov/sites/evo-subsites/equality.house.gov/files/evo-media-document/CEC\\_Project\\_2025\\_Report.pdf](https://equality.house.gov/sites/evo-subsites/equality.house.gov/files/evo-media-document/CEC_Project_2025_Report.pdf).
- 12 See Agenda47, *President Trump's Plan to Protect Children from Left-Wing Gender Insanity* (Feb. 1, 2023), <https://www.donaldjtrump.com/agenda47/president-trumps-plan-to-protect-children-from-left-wing-gender-insanity>.
- 13 See ANSIRH, *The Harms of Denying a Woman a Wanted Abortion: Findings from the Turnaway Study* (Apr. 16, 2020), [https://www.ansirh.org/sites/default/files/publications/files/the\\_harms\\_of\\_denying\\_a\\_woman\\_a\\_wanted\\_abortion\\_4-16-2020.pdf](https://www.ansirh.org/sites/default/files/publications/files/the_harms_of_denying_a_woman_a_wanted_abortion_4-16-2020.pdf).
- 14 See, e.g., Daniel Grossman et al., *Care Post-Roe: Documenting Cases of Poor-Quality Care Since the Dobbs Decision* (Sep. 2024), [https://www.ansirh.org/sites/default/files/2024-09/ANSIRH%20Care%20Post-Roe%20Report%209.04.24\\_FINAL%20EMBARGOED\\_O.pdf](https://www.ansirh.org/sites/default/files/2024-09/ANSIRH%20Care%20Post-Roe%20Report%209.04.24_FINAL%20EMBARGOED_O.pdf); Kavitha Surana, *Abortion Bans Have Delayed Emergency Medical Care. In Georgia, Experts Say This Mother's Death Was Preventable*, PROPUBLICA (Sep. 16, 2024), <https://www.propublica.org/article/georgia-abortion-ban-amber-thurman-death>; Cassandra Jaramillo & Kavitha Surana, *A Texas Woman Died After the Hospital Said It Would Be a "Crime" to Intervene in her Miscarriage*, PROPUBLICA (Oct. 30, 2024), <https://www.propublica.org/article/josseli-barnica-death-miscarriage-texas-abortion-ban>.
- 15 See Kedryn Barrian et al., *Barriers to Quality Healthcare Among Transgender and Gender Nonconforming Adults*, HEALTH SERVICES RESEARCH (Jul. 10, 2024), <https://doi.org/10.1111/1475-6773.14362>.
- 16 See, e.g., The Trevor Project, *2024 U.S. National Survey on the Mental Health of LGBTQI+ Young People* (2024), <https://www.thetrevorproject.org/survey-2024/#anti-lgbtq-policies>; Human Rights Campaign Foundation, *Impacts of Gender Affirming Care Bans on LGBTQI+ Adults* (Aug. 15, 2023), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/GAC-Ban-Memo-Final.pdf>.
- 17 See Coleman et al., *supra* note 7; World Health Organization, *Abortion Care Guideline* (2022), <https://iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1>.
- 18 See, e.g., Meghan Seewald et al., *P5 Public Perceptions of Physicians Who Provide Abortion Care*, 102 CONTRACEPTION 279 (Oct. 2020), <https://doi.org/10.1016/j.contraception.2020.07.027>.
- 19 S.2357, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/senate-bill/2357/text>; H.R.1399, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/1399/text>.
- 20 The Idaho bill, signed into law in 2023, can be found at <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2023/legislation/H0071.pdf>. The North Dakota bill, signed into law in 2023, can be found at <https://ndlegis.gov/assembly/68-2023/regular/documents/23-0869-04000.pdf>. The Alabama bill, signed into law in 2022, can be found at <https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2022RS/PrintFiles/SB184-Enr.pdf>. These laws are subject to ongoing litigation.
- 21 Christy Mallory et al., *Legal Penalties for Physicians Providing Gender-Affirming Care*, 239 JAMA 1821 (May 18, 2023), <https://doi.org/10.1001/jama.2023.8232>.
- 22 See Guttmacher Institute, *Targeted Regulation of Abortion Providers* (last updated Aug. 31, 2023), <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>.
- 23 For example, in 2024, governor of Ohio introduced a series of proposed administrative rules that would have imposed these TRAP-style requirements on gender-affirming care for adults and minors. See, e.g., Megan Henry, *Ohio Transgender Adults Speak Against Proposed Administrative Rules That Would Change Health Care*, OHIO CAPITAL JOURNAL (Jan. 18, 2024), <https://ohiocapitaljournal.com/2024/01/18/ohio-transgender-adults-speak-against-proposed-administrative-rules-that-would-change-health-care>; National Women's Law Center, *NWLC Submits Comments and Testimony on Ohio Proposed Rules Regarding Gender-Affirming Care* (Feb. 16, 2024), <https://nwl.org/resource/nwl-submits-comments-and-testimony-on-ohio-proposed-rules-regarding-gender-affirming-care>.
- 24 E.g., Casey Parks, *As Florida Restricts Treatment for Trans Adults, One Clinic Presses On*, WASHINGTON POST (Apr. 7, 2024), <https://www.washingtonpost.com/nation/2024/04/07/florida-transgender-clinics-nurses-law>.
- 25 *Id.*
- 26 See *supra* note 23.
- 27 Agenda47, *supra* note 12.
- 28 E.g., ARK. CODE § 20-9-1504(b); IND. CODE § 25-1-22-18; Legis. B. 574, 108th Leg., 1st Sess. § 20 (Neb. 2023). Some states have also created a "rebuttable presumption" that people receiving care have faced harm, putting the onus on the provider to prove that the harm did not occur. E.g., MO. ANN. STAT. § 191.1720.
- 29 For example, a new law in Louisiana allows patients who received gender-affirming care to sue providers for a range of harms even if they consented to those risks prior to treatment, explicitly stating that "[c] onsent shall not operate as the defense" for the provider. H.B. 648, 2023 Reg. Sess. §1098.5.E (La. 2023).
- 30 For example, a 2023 ban on gender-affirming care in Missouri allows for "economic and noneconomic damages and punitive damages, without limitation to the amount and no less than five hundred thousand dollars in the aggregate." MO. ANN. STAT. § 191.1720 (emphasis added).
- 31 For example, one federal bill would allow people who received gender-affirming care as minors to sue their providers up to 30 years after turning 18. The Protecting Minors from Medical Malpractice Act of 2023, H.R. 1276, 118th Cong. (2023).
- 32 See, e.g., Cecilia Nowell, *Rising Malpractice Premium Push Small Clinics Away from Gender-Affirming Care for Minors*, PBS (Jan. 20, 2024), <https://www.pbs.org/newshour/health/rising-malpractice-premiums-push-small-clinics-away-from-gender-affirming-care-for-minors>.

- 33 E.g., Emma Janssen, *Family Providers Face Barriers to Adding Abortion Services*, THE AMERICAN PROSPECT (Oct. 4, 2024), <https://prospect.org/health/2024-10-04-family-providers-barriers-abortion-services>.
- 34 Valeria P. Bustos et al., *Regret After Gender-Affirmation Surgery: A Systematic Review and Meta-analysis of Prevalence*, 9 PLASTIC AND RECONSTRUCTIVE SURGERY e3477 (March 2021), <https://doi.org/10.1097/GOX.0000000000003477>. See also Kristina R. Olson et al., *Levels of Satisfaction and Regret with Gender-Affirming Medical Care in Adolescence*, JAMA PEDIATRICS (Oct. 21, 2024), <https://doi.org/10.1001/jamapediatrics.2024.4527>.
- 35 Corinne H. Rocca et al., *Emotions and Decision Rightness over Five Years Following an Abortion: An Examination of Decision Difficulty and Abortion Stigma*, 248 SOCIAL SCIENCE & MEDICINE 1 (2020), <https://doi.org/10.1016/j.socscimed.2019.112704>.
- 36 Michael J. DeFrance & Giles R. Scuderi, *Are 20% of Patients Actually Dissatisfied Following Total Knee Arthroplasty? A Systematic Review of the Literature*, 38 JOURNAL OF ARTHROPLASTY 594 (Oct. 14, 2022), <https://doi.org/10.1016/j.arth.2022.10.011>.
- 37 *Gonzales v. Carhart*, 550 U.S. 124, 159 (2007).
- 38 S.B. 184, 2022 Leg., Reg. Sess. (Ala. 2022).
- 39 Maggie Astor, *How a Few Stories of Regret Fuel the Push to Restrict Gender Transition Care*, N.Y. TIMES (May 16, 2023), <https://www.nytimes.com/2023/05/16/us/politics/transgender-care-detransitioners.html>.
- 40 For example, a Texas-based law firm was recently founded to represent “individuals who were misled and abused – many as children – into psychological and physical harm through a false promise of ‘gender-affirming care.’” Campbell Miller Payne, “Our Founding and Mission” (2024), <https://www.cmppllc.com/our-firm>.
- 41 American College of Obstetricians and Gynecologists, *Abortion Access Fact Sheet* (last accessed Oct. 10, 2024), <https://www.acog.org/advocacy/abortion-is-essential/come-prepared/abortion-access-fact-sheet>.
- 42 E.g., Emily M. Johnston, *Research Shows Access to Legal Abortion Improves Women’s Lives* (May 27, 2022), <https://www.urban.org/urban-wire/research-shows-access-legal-abortion-improves-womens-lives>.
- 43 ANSIRH, *supra* note 13.
- 44 E.g., Kellan E. Baker et al., *Hormone Therapy, Mental Health, and Quality of Life Among Transgender People: A Systematic Review*, 5 JOURNAL OF THE ENDOCRINE SOCIETY bvab011 (Feb. 2, 2021), <https://doi.org/10.1210/jeandso/bvab011>; Jeremy A. Wernick et al., *A Systematic Review of the Psychological Benefits of Gender-Affirming Surgery*, 46 UROLOGIC CLINICS OF NORTH AMERICA 475 (2019), <https://doi.org/10.1016/j.ucl.2019.07.002>; Jaclyn M. White Hughto & Sari L. Reisner, *A Systematic Review of the Effects of Hormone Therapy on Psychological Functioning and Quality of Life in Transgender Individuals*, 1 TRANSGENDER HEALTH 21 (Jan. 2016), <https://doi.org/10.1089/trgh.2015.0008>; Mohammad Hassan Murad et al., *Hormonal Therapy and Sex Reassignment: A Systematic Review and Meta-Analysis of Quality of Life and Psychosocial Outcomes*, 72 CLINICAL ENDOCRINOLOGY 214 (Feb. 2010), <https://doi.org/10.1111/j.1365-2265.2009.03625.x>.
- 45 Jessica Glenza, *Junk Science Is Cited in Abortion Ban Cases. Researchers Are Fighting the ‘Fatally Flawed’ Works*, THE GUARDIAN (May 3, 2024), <https://www.theguardian.com/world/2024/apr/28/junk-science-papers-abortion-cases>.
- 46 E.g., Huazhang Tong et al., *No Association Between Abortion and Risk of Breast Cancer Among Nulliparous Women*, 99 MEDICINE e20251 (May 2020), <https://doi.org/10.1097/MD.00000000000020251>.
- 47 Alice Broster, *Does Having An Abortion Affect Your Fertility?*, FORBES (Sep. 2, 2020), <https://www.forbes.com/sites/alicebroster/2020/09/02/does-having-an-abortion-affect-your-fertility>.
- 48 Respondents’ Brief at \*47, *Food & Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (filed Feb. 2024).
- 49 The Supreme Court rejected this challenge on the grounds that those challenging the approval of mifepristone did not have standing; it did not reach their claims about the evidence the Food and Drug Administration relied on. *Food & Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024).
- 50 E.g., Joanna Wuest & Briana S. Last, *Agents of Scientific Uncertainty: Conflicts Over Evidence and Expertise in Gender-Affirming Care Bans for Minors*, 344 SOCIAL SCIENCE & MEDICINE 116533 (Mar. 2024), <https://doi.org/10.1016/j.socscimed.2023.116533>.
- 51 *Id.*
- 52 See, e.g., Philip Marcelo, *Toddlers Can’t Get Gender-Affirming Surgeries, Despite Claims*, AP NEWS (Apr. 21, 2023), <https://apnews.com/article/fact-check-transgender-surgery-medicine-legislation-lgbtq-491630629027>. See also Dannie Dae et al., *Prevalence of Gender-Affirming Surgical Procedures Among Minors and Adults in the US*, 7 JAMA NETWORK OPEN e2418814, <https://doi.org/10.1001/jamanetworkopen.2024.18814> (finding no evidence of surgeries among children under the age of 12, with surgeries on older teenagers occurring only very rarely).
- 53 E.g., Irving Washington & Hagere Yilma, *Falsehoods About Transgender People and Gender Affirming Care* (Oct. 10, 2024), <https://www.kff.org/health-misinformation-monitor/falsehoods-about-transgender-people-and-gender-affirming-care>.
- 54 For example, the Heritage Foundation has falsely claimed that gender-affirming care can increase suicidality. See Jay P. Greene, *Does “Gender-Affirming Care” For Trans Kids Actually Prevent Suicide? Here’s What The Data Say* (Jun. 15, 2022), <https://www.heritage.org/gender/commentary/does-gender-affirming-care-trans-kids-actually-prevent-suicide-heres-what-the>. The overwhelming evidence demonstrates that gender-affirming care is associated with lower levels of suicidality and other negative health outcomes. See *supra* note 43.
- 55 Martha Kinsella et al., *The ‘Invent-Your-Own-Facts Approach’: Many Abortion Laws Use Medically Incorrect Language* (Nov. 9, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/invent-your-own-facts-approach-many-abortion-laws-use-medically-incorrect>.
- 56 Zawn Villines, *Post-Abortion Syndrome: Is It Real?*, MEDICAL NEWS TODAY (Jun. 27, 2022), <https://www.medicalnewstoday.com/articles/post-abortion-syndrome>.
- 57 Meredith McNamara et al., *A Critical Review of the June 2022 Florida Medicaid Report on the Medical Treatment of Gender Dysphoria* (Jul. 8, 2022), <https://files-profile.medicine.yale.edu/documents/c11e1419-a122-4b2f-87a8-cc4c9fbf57a4>; Susan D. Boulware et al., *Biased Science in Texas & Alabama* (Apr. 28, 2022), <https://medicine.yale.edu/lgbtqi/clinicalcare/gender-affirming-care/biased-science>.
- 58 For example, many bans include definitions of “sex” that rely on medical terms in order to depict sex assigned at birth as more objective than the gender one lives or identifies with. Alabama’s gender-affirming care ban, enacted in 2022, offers a representative definition of sex as “the biological state of being male or female, based on the individual’s sex organs, chromosomes, and endogenous hormone profiles.” ALA. CODE § 26-26-3(3).
- 59 Fenway Health, *New Study Undercuts the Rapid Onset Gender Dysphoria Hypothesis* (Mar. 20, 2023), <https://fenwayhealth.org/new-study-undercuts-the-rapid-onset-gender-dysphoria-hypothesis>.
- 60 See American Academy of Pediatrics, *The Adolescent’s Right to Confidential Care When Considering Abortion*, 132 PEDIATRICS e20163861 (Feb. 1, 2017), <https://doi.org/10.1542/peds.2016-3861>.
- 61 For example, a 2023 Idaho law created the crime of “abortion trafficking,” or assisting a young person in obtaining an abortion. IDAHO CODE ANN. § 18-623.
- 62 Selena Simmons-Duffin & Hilary Fung, *In Just a Few Years, Half of All States Passed Bans on Trans Health Care for Kids*, NPR (Jul. 3, 2024), <https://www.npr.org/sections/shots-health-news/2024/07/03/nx-si-4986385/trans-kids-health-bans-gender-affirming-care>.
- 63 *Id.*
- 64 For example, in 2023 Florida passed a law that allows children to be removed from the custody of parents who allow them to access gender-affirming care. FLA. STAT. ANN. § 61.534(1).
- 65 Agenda47, *supra* note 12.
- 66 Alexandra Marquez, *Senate Passes Defense Bill that Includes Ban on Gender-Affirming Care for Minors*, NBC NEWS (Dec. 18, 2024), <https://www.nbcnews.com/politics/congress/senate-passes-defense-bill-ban-gender-affirming-care-minors-rcna184748>.
- 67 E.g., Jack L. Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, 18 PLOS ONE e0287283 (2023), <https://doi.org/10.1371/journal.pone.0287283>; Stephen T. Russell et al., *Chosen Name Use Is Link to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 JOURNAL OF ADOLESCENT HEALTH 503 (2018), <https://doi.org/10.1016/j.jadohealth.2018.02.003>; Simone Mahfouda et al., *Puberty Suppression in Transgender Children and Adolescents*, 5 LANCET DIABETES & ENDOCRINOLOGY 816 (Oct. 2017), [https://doi.org/10.1016/S2213-8587\(17\)30099-2](https://doi.org/10.1016/S2213-8587(17)30099-2).



- 68 E.g., Associated Press, *Trans Adults in Florida 'Blindsided' that New Law Also Limits their Access to Health Care*, NBC NEWS (Jun. 5, 2023), <https://www.nbcnews.com/nbc-out/out-news/trans-adults-florida-blindsided-new-law-also-limits-access-health-care-rcna87723>.
- 69 Alina Salganicoff et al., *The Hyde Amendment and Coverage for Abortion Services Under Medicaid in the Post-Roe Era* (Mar. 14, 2024), <https://www.kff.org/womens-health-policy/issue-brief/the-hyde-amendment-and-coverage-for-abortion-services-under-medicaid-in-the-post-roe-era>.
- 70 Jessica Arons & Madina Agénor, *Separate and Unequal: The Hyde Amendment and Women of Color* (Dec. 2010), <https://cdn.americanprogress.org/wp-content/uploads/issues/2010/12/pdf/hyde-amendment.pdf>; National Women's Law Center, *NWLC Testimony on the Harm of the Hyde Amendment* (Dec. 8, 2020), <https://nwlc.org/resource/nwlc-testimony-on-the-harm-of-the-hyde-amendment>; Marissa Dikowsky, *Disabled People Face Renewed Threats to Autonomy After Dobbs Decision* (Jul. 18, 2023), <https://nationalpartnership.org/disabled-people-face-renewed-threats-to-autonomy-after-dobbs-decision>.
- 71 E.g., Maya Goldman, *Fight Over Gender-Affirming Care Moves to HHS Spending Bill*, AXIOS (Jul. 17, 2023), <https://www.axios.com/2023/07/17/congress-ban-funds-gender-affirming-care>.
- 72 Movement Advancement Project, *Medicaid Coverage of Transgender-Related Health Care* (last updated Sep. 18, 2024), <https://www.lgbtmap.org/equality-maps/medicaid>.
- 73 Judith Levine, *US State Abortion Ban Exemptions Aren't Vague by Accident. Uncertainty is the Point*, THE GUARDIAN (Jun. 7, 2024), <https://www.theguardian.com/commentisfree/article/2024/jun/07/state-abortion-ban-exemptions-uncertainty>.
- 74 *Id.*
- 75 *Id.*
- 76 See Movement Advancement Project, *Bans on Best Practice Medical Care for Transgender Youth* (last accessed Oct. 10, 2024), <https://www.lgbtmap.org/equality-maps/healthcare-youth-medical-care-bans>.
- 77 E.g., Leah Willingham, *West Virginia Lawmakers Push to Remove a Suicide Risk Exemption From Gender-Affirming Care Bill*, AP NEWS (Feb. 23, 2024), <https://apnews.com/article/west-virginia-affirming-care-transgender-suicide-60162f6e6e6e32d13e8dc6f75bc5ed25>.
- 78 Jim Salter & Geoff Mulvihill, *Some Providers Are Dropping Gender-Affirming Care for Kids Even in Cases Where It's Legal*, AP NEWS (Sep. 23, 2023), <https://apnews.com/article/genderaffirming-care-providers-treatment-parents-liability-45012ee33f078eeea7871e622a5eee1d>.
- 79 See, e.g., Mary Tuma, *'Stunning' Threat in Texas Abortion Case Steps up Paxton Criminalization Crusade*, THE GUARDIAN (Dec. 12, 2023), <https://www.theguardian.com/us-news/2023/dec/12/texas-abortion-ken-paxton-kate-cox>; Brenda Pierson, *Texas Sues Doctor for Prescribing Testosterone to Transgender Minors*, REUTERS (Oct. 17, 2024), <https://www.reuters.com/world/us/texas-sues-doctor-prescribing-testosterone-transgender-minors-2024-10-17>.
- 80 See, e.g., Andrew Atterbury, *DeSantis Targets Trans Health Care in Florida Universities*, POLITICO (Jan. 18, 2023), <https://www.politico.com/news/2023/01/18/desantis-trans-health-care-florida-universities-00078435>; J. David Goodman & Amanda Morris, *Texas Investigates Parents Over Care for Transgender Youth, Suit Says*, N.Y. TIMES (Mar. 1, 2022), <https://www.nytimes.com/2022/03/01/us/texas-child-abuse-trans-youth.html>; Jolynn Dellinger & Stephanie Pell, *Bodies of Evidence: The Criminalization of Abortion and Surveillance of Women in a Post-Dobbs World*, 19 DUKE JOURNAL OF CONSTITUTIONAL LAW & PUBLIC POLICY 1 (2024), <https://scholarship.law.duke.edu/djclpp/vol19/iss1/1>.
- 81 Do No Harm, *Stop the Harm Database* (last accessed Oct. 10, 2024), <https://stoptheharmdatabase.com>.
- 82 National Abortion Federation, *2022 Violence & Disruption Statistics 2* (2023), <https://prochoice.org/wp-content/uploads/2022-VD-Report-FINAL.pdf>.
- 83 Katie O'Connor, *Gender-Affirming Clinics Subject to Onslaught of Threats, Harassment*, 58 PSYCHIATRIC NEWS (Jan. 27, 2023), <https://doi.org/10.1176/appi.pn.2023.03.2.5>; Helen Santoro, *How Anti-LGBTQ+ Rhetoric Fuels Violence*, SCIENTIFIC AMERICAN (Dec. 12, 2022), <https://www.scientificamerican.com/article/how-anti-lgbtq-rhetoric-fuels-violence>.
- 84 E.g., ALA. CODE § 26-26-3(3). This trend also appears in other anti-trans bills, such as Kansas' "Women's Bill of Rights," which—contrary to its purportedly feminist title—features reductive and inaccurate definitions of "female" ("an individual whose biological reproductive system is developed to produce ova") and "male" ("an individual whose biological reproductive system is developed to fertilize the ova of a female"). KAN. STAT. ANN. § 77-207(a)(2).
- 85 For example, Alabama's ban repeatedly includes the false assertion that puberty blockers and other forms of gender-affirming care provided to minors are "cause irreversible sterility." ALA. CODE § 26-26-2(13). See also Tenn. Code § 68-33-101 ("These procedures can lead to the minor become irreversibly sterile.").
- 86 Southern Poverty Law Center, *'Sterilization' Rhetoric and Trans Kids* (last accessed Oct. 10, 2024), <https://www.splcenter.org/sterilization-rhetoric-and-trans-kids>.
- 87 The claim that access to abortion and gender-affirming care is at odds with parenthood is false. For example, the typical abortion patient is already a parent. Margot Sanger-Katz et al., *Who Gets Abortions in America?*, N.Y. TIMES (Dec. 14, 2021), <https://www.nytimes.com/interactive/2021/12/14/upshot/who-gets-abortions-in-america.html>.
- 88 597 U.S. 215, 231 (2022).
- 89 Associated Press, *Alabama Is Using the Case that Ended Roe to Argue It Can Ban Gender-Affirming Care*, NPR (Jul. 3, 2022), <https://www.npr.org/2022/07/03/1109613520/alabama-abortion-rights-gender-affirming-care-law>.
- 90 *Eknes-Tucker v. Governor of Alabama*, 80 F.4th 1205, 1220 (11th Cir. 2023).
- 91 *Id.* at 1220–21.
- 92 L. W. by & through Williams v. Skrmetti, 83 F.4th 460, 473 (6th Cir.), cert. dismissed in part sub nom. Doe v. Kentucky, 144 S. Ct. 389 (2023), and cert. granted sub nom. United States v. Skrmetti, 144 S. Ct. 2679 (2024)..
- 93 In noncontrolling dicta, the *Dobbs* Court suggested that abortion bans do not discriminate based on sex, a claim in tension with years of sex equality jurisprudence and with the reliance of abortion bans on sex and sex stereotypes. States defending gender-affirming care bans have argued that these bans similarly cannot constitute sex discrimination—despite their explicit use of the individual's sex in determining whether care can be provided, as well as their perpetuation of gender stereotypes. Accepting this argument, the Sixth Circuit erroneously relied on *Dobbs* when noting, "If a law restricting a medical procedure that applies only to women does not trigger heightened scrutiny...these laws, which restrict medical procedures unique to each sex, do not require such scrutiny either." *Id.* at 481. The question of whether heightened scrutiny applies to bans on gender-affirming care is now before the Supreme Court. See *id.*