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BIRTH CONTROL UNDER THREAT:

**How Birth Control Rights and Access
Are Being Undermined Since
Roe v. Wade Was Overturned**

Acknowledgements

This issue brief was written by Kimi Chernoby, Mara Gandal-Powers, and Gretchen Borchelt. The authors would like to thank Kelsey Grimes and Armi Mosavian for their contributions, Emily Martin and Hilary Woodward for their review, and Beth Stover for design.



In June 2022, the National Women’s Law Center published “Don’t Be Fooled: Birth Control Is Already at Risk,” the first comprehensive accounting of policymakers’ attacks on birth control in recent years.¹ In addition to identifying the range of ways anti-reproductive health lawmakers were already threatening birth control, the Law Center warned that attacks on birth control would only escalate if the Supreme Court overturned the right to abortion. Unfortunately, those were prescient warnings.

Both the Court’s decision to unjustly overturn *Roe v. Wade* as well as Justice Clarence Thomas’ explicit call for overturning the constitutional right to birth control in *Dobbs v. Jackson Women’s Health Organization*² have made the threat to birth control more real and the consequences more dire.

This report outlines how contraception has been targeted in the years after the *Dobbs* decision. Birth control was initially swept up in some of the vague, misleading, and confusing abortion bans passed by states, and there was an initial burst of anti-contraception sentiment from a few politicians. Those sentiments were met with quick and outraged backlash and so anti-contraception lawmakers appear to have purposely changed their strategy. Rather than attacking the right to contraception head on, they are instead starting to use the anti-abortion playbook to chip away at it.

As this report describes, those strategies include targeting access for communities already pushed to the margins and continuing to engage in purposeful misinformation and false narratives about birth control, including in social media. These are efforts that birth control opponents hope will lay the groundwork for further attempts to undermine the right to birth control and people’s access to it. For example, there have been efforts to pass Right to Contraception Acts in state legislatures and Congress. In many states where those measures have been introduced, and in Congress, anti-reproductive health policymakers have also blocked measures that would codify a right to contraception.

It is crystal clear that reproductive health opponents want to eliminate both the right to contraception and people’s ability to access the birth control that they need and want.

The *Dobbs* decision put the right to contraception at risk.

The Supreme Court's June 2022 decision in *Dobbs v. Jackson Women's Health Organization* not only took away people's constitutional right to abortion, but also posed a clear threat to the constitutional right to contraception. Although the majority opinion written by Justice Alito takes pains to assert that the rationale it uses to strike down *Roe* does not affect the right to contraception,³ that assertion is cold comfort. As the dissent points out, the reasoning in the Alito majority opinion could apply equally to the constitutional right to birth control,⁴ especially because the right to abortion that was established in *Roe* stems from the same constitutional right that protects the right to birth control.⁵

At the very moment when the ability to access birth control is even more consequential because the Court allowed lawmakers to outlaw abortion, the Court effectively created a road map to undermine the right to contraception.

In addition, Justice Thomas makes it crystal clear that he is inviting a challenge to the constitutional right to birth control. In his concurrence in *Dobbs*, he specifically states that the Court "should reconsider" its past cases that are aligned with *Roe v. Wade*, including the *Griswold v. Connecticut* decision that first recognized the constitutional right to birth control. He says the Court should "overrul[e] these demonstrably erroneous decisions."⁶

The initial fallout from *Dobbs* was swift, and it confused and scared patients and providers about their right and ability to access or provide contraception.

The initial fallout from the *Dobbs* decision for contraceptive access was swift: individuals were confused about their rights, including the right to contraception.⁷ Many people looked to secure contraception, especially longer-acting methods, to prevent pregnancy because of the fear—or reality—of losing abortion as a safeguard.⁸ It was a stark reminder of how people had planned their lives around the ability to obtain an abortion and how the decision by the Alito-majority Court to take away the constitutional right to abortion is upending society.

Because a direct consequence of overturning *Roe v. Wade* was allowing extremist policymakers to ban critical health care overnight, health care providers had to contend with new laws governing—and criminalizing—their provision of care. Existing laws about abortion,

contraception, and other reproductive health care were reassessed, some long-dormant bans on care were revived,⁹ and new laws with convoluted and unclear language were introduced.¹⁰

This led to a chilling effect on health care providers who provide contraceptive care, to confusion as health care providers tried to navigate this new world, and to some institutions banning the provision of contraception. For example:

- The University of Idaho in September 2022 issued a memo saying that—to ensure it did not run afoul of various state laws in the wake of the *Dobbs* decision—the university would not provide standard birth control or provide information about birth control.¹¹
- St. Luke's hospital system in Missouri said it would stop providing emergency contraception, worried that it would run afoul of the Missouri abortion ban.¹²
- Nurses who work with sexual assault survivors wrote the Mississippi attorney general to ask whether emergency contraception is considered an abortion under the state's abortion ban.¹³ They did not receive a response.

This has continued beyond those immediate months after *Dobbs*: for example, a bill banning abortion that was introduced in South Carolina in February 2025 included a medically inaccurate definition of “contraceptives” and amended the definition of “contraception” in existing South Carolina law, leading to significant confusion about whether the proposed abortion ban would also criminalize certain forms of birth control.¹⁴

Some politicians discussed banning contraception outright.

Within months of the *Dobbs* decision, policymakers began to openly express an interest in banning access to some forms of contraception.

- A nominee for Michigan attorney general, Matt DePerno, likened emergency contraception to fentanyl, a frequently abused opioid medication, and said emergency contraception should be stopped at the state border and banned from the state.¹⁵
- Georgia Governor Brian Kemp was asked in a conversation during his campaign for re-election if he was open to banning emergency contraception. His response, recorded by a participant in the conversation, indicated openness to the idea. He said that the state legislature could take the matter up and that he would need to investigate the legality of banning emergency contraception.¹⁶

- Just days after there was a leak of the Supreme Court's draft opinion overturning *Roe v. Wade*, Governor Tate Reeves of Mississippi was asked specifically whether he intended to ban certain methods of birth control. He refused to rule it out, instead replying, "That is not what we're focused on at this time."¹⁷

These remarks faced significant backlash, and it quickly became clear to politicians that talking openly about banning or restricting contraception was not a winning strategy. Then-candidate Donald Trump learned this lesson during the 2024 presidential campaign; after initially indicating openness to restrictions on birth control, he backtracked on social media, claiming that he would never impose such restrictions.¹⁸

Anti-contraception policymakers and advocates began hiding their intent and changing their strategy.

In part because of the significant backlash to any obvious efforts to go after contraception in the wake of *Dobbs*, anti-reproductive health activists and policymakers adopted less visible tactics. This demonstrates that popular support for birth control is not enough to protect birth control from attacks. Birth control opponents appeared to strategically delay frontal attacks on contraception, hiding their true intent and biding their time. This strategy was explicitly named by some anti-abortion lobbyists in a call with Tennessee legislators in the fall of 2022. *ProPublica* reported that a Tennessee legislator asked leading anti-abortion lobbyists how to respond to questions about "the morning after pill."¹⁹ Those lobbyists encouraged Tennessee legislators to remind people that contraception is currently legal in the state and to defer legislative attacks on birth control for the next two to three years.²⁰ It appears that these lawmakers and others heeded this advice. In 2024, only one bill, Oklahoma HB 3216, was introduced in state legislative sessions with a purported purpose of restricting access to contraception.²¹ And only one bill, in Arkansas, appeared to be an attempt to sweep contraception into an abortion ban.²²

This strategy appeared to be adopted at the federal level as well. Some of the members of Congress who launched overt attacks on birth control in years past were noticeably quieter in the wake of the public outrage over *Dobbs*. For example, prior to the *Dobbs* decision, Representatives Taylor Green, Boebert, and Rosendale each proposed appropriations amendments in the 117th Congress to restrict access to contraception.²³ And yet, in the 118th Congress, those same lawmakers did not propose similar provisions.

In 2025, shortly after taking office, President Trump hid an attack on birth control within a broader executive order issued just days after taking office.²⁴ The executive order purported to enforce the federal Hyde Amendment, a harmful ban on insurance coverage of abortion in federal programs like Medicaid.²⁵ This was a cynical ploy—Trump's executive order actually rescinded two executive orders issued by the Biden administration that directed agencies to take a range of actions to expand and protect access to reproductive health care. In issuing this executive order, Trump stopped federal agency efforts to increase access to a range of reproductive health care services, including birth control, and to provide public education and awareness, including informing people how to obtain birth control.²⁶

Rather than attacking birth control overtly, then, anti-reproductive health activists and policymakers appear to be taking lessons from the anti-abortion playbook, turning to stealth tactics that are not as public but still damaging—and that proved successful in chipping away at abortion access and eventually the right itself.

Opponents of birth control are using the anti-abortion playbook to undermine birth control rights and access.

Restricting contraceptive access for communities that are pushed to the margins

Restricting access to communities who already face barriers to care—such as young people, people with disabilities, people with low incomes, or LGBTQI+ individuals—is a tried-and-true tactic of the anti-abortion movement. It was used to chip away at abortion rights and access under the insulting idea that people will not care about these communities, and it was a way to make inroads in undermining fundamental rights.

Attacks on contraception are following this same strategy, with a particular focus on young people and people with low incomes.

Anti-reproductive health advocates went to court to dismantle a long-standing birth control protection for young people.

In *Deanda v. Becerra*,²⁷ a Texas father sued the federal government over Title X, the nation's longstanding family planning program. One of the father's attorneys was Jonathan Mitchell, the architect of the Texas anti-abortion vigilante law SB8—the first-of-its-kind abortion ban that relied on private citizens instead of the government for enforcement.²⁸ Title X provides grants



for family planning services, including birth control, across the country.²⁹ The Title X program guarantees privacy and confidentiality, including providing confidential contraceptive care to minors. As research has demonstrated, requiring parental involvement deters young people from seeking or obtaining birth control, which can harm their health and ability to prevent unintended pregnancy.³⁰ Title X encourages family involvement but does not require it.

The Texas father sued, arguing that even though his children have never sought Title X services and he does not think they will—the mere fact that his daughter could possibly access birth control without his knowledge was a violation of Texas and U.S. constitutional law.³¹

Jonathan Mitchell and the team of lawyers representing this Texas father brought the case before a notorious anti-reproductive health care Trump-appointed judge, Matthew Kacsmaryk.³² They sought to block the program nationwide from allowing any Title X clinics from providing confidential contraceptive care to minors. In a legally flawed opinion, Judge Kacsmaryk ruled that the Title X program infringed on this parent's rights,³³ and the Fifth Circuit of Appeals agreed that Title X violates this father's rights under Texas state law.³⁴ As a result of the case, the federal government will not enforce the confidentiality requirement in Texas.³⁵ In other words, young people in Texas are now unable to access confidential contraceptive care at Title X clinics. This is a major blow to their health and well-being.³⁶

State legislators are targeting young people's contraceptive rights and access.

The strategy to go after young people's right to contraception was not limited to litigation. Anti-reproductive health state legislators also focused contraception restrictions on young people, often under the guise of protecting parental rights. In the 2024 legislative session, eight states introduced bills that would require young people to get parental consent or notification to obtain birth control, with Tennessee enacting such a bill.³⁷

Attacks on contraception are devastating to young people, who widely cite pregnancy prevention as a priority.³⁸ Young people value pregnancy prevention because not being pregnant allows them to focus on other areas of their life, such as education. Even though young people want to avoid pregnancy, only about half of sexually active high school students use condoms and only one-third of sexually active students use hormonal birth control.³⁹ Young people face unique barriers to accessing birth control—including not wanting their parents to find out and lack of income to pay for birth control. Any additional barriers on young people's access to contraceptive information or care, including parental involvement requirements, will further deter and block their ability to get the care they want and need.



State legislators continue to limit birth control options available to individuals with low incomes.

Medicaid provides critical health insurance to over 72 million people, including 16 million women of reproductive age, in the United States⁴⁰ and is administered by each state. Since the *Dobbs* decision, state lawmakers have targeted contraception restrictions toward those who are eligible for and enrolled in Medicaid. For example:

- In 2024, an Indiana state representative introduced a bill that would actually expand contraceptive access to individuals enrolled in Medicaid. It requires hospitals to stock long-acting reversible contraceptives (LARCs) as an option for provision to postpartum Medicaid enrollees before they are discharged from the hospital after giving birth.⁴¹ But the bill was amended after a concerted effort by the Indiana Right to Life to carve out IUDs, based on the false claim that IUDs cause abortions.⁴² The bill was signed into law in March 2024 with that carveout, limiting access to a critical method of safe, highly effective birth control for Medicaid enrollees.⁴³
- In 2025, a bill was again introduced in the Indiana legislature to increase access to birth control for people with low incomes, and it again was a target for restrictions. An amendment to that bill reduced the eligibility of who would qualify for the program to just those individuals who are eligible for Medicaid, and limited the forms of birth control available through the program by removing condoms, emergency contraception, implants, and IUDs, while adding so-called “fertility-based awareness methods.”⁴⁴

Using purposeful misinformation and false narratives to undermine birth control

Opponents of birth control face a major hurdle: the overwhelming popularity and nearly universal use of birth control.⁴⁵ So they have turned to pumping out misinformation and false narratives in order to lay the groundwork for further restrictions on birth control.

Opponents continue to make false claims that contraception is the same as abortion.

One strategy birth control opponents have adopted is to argue or imply that birth control causes abortions—which is inherently false. They do this to try to use the stigma around abortion to drive hostility toward birth control. Since the *Dobbs* decision, there have been notable instances of conflating birth control and abortion:

- Project 2025 outlines a goal of removing the emergency contraceptive ella from the Affordable Care Act’s birth control benefit, making the false claim that it is a “potential abortifacient.”⁴⁶



- As noted above, some state legislators have relied on false claims that certain methods of birth control are abortifacients, targeting bills that otherwise expand contraceptive access.⁴⁷
- In 2023, opponents of birth control in the House of Representatives targeted a bipartisan appropriations amendment that would have funded a study of why so many service women do not receive their preferred birth control.⁴⁸ The amendment was withdrawn after they conflated birth control and abortion, suggesting that the amendment sought to increase access to abortion.
- In February 2023, the National Catholic Bioethics Center (NCBC) issued a report contesting the FDA's decision to clarify the label for Plan B emergency contraception.⁴⁹ (In December 2022, the FDA had updated the label for Plan B emergency contraception, to make clear what has been known for years: Plan B prevents ovulation.)⁵⁰ As set out in this report, NCBC's position is that Plan B can cause abortions and should not be administered to anyone, including survivors of sexual assault.⁵¹ This has potentially wide-reaching harm because NCBC consults with Catholic hospitals in setting their policies.⁵²
- In an interview about retail pharmacies stocking mifepristone, a medication used for abortions, U.S. Representative Matt Rosendale responded not by talking about mifepristone, but about Plan B, an emergency contraceptive, falsely saying it is dangerous.⁵³ Rep. Rosendale's response indicates that he either does not understand the difference between birth control and abortion or is purposefully conflating the two to obscure his efforts to block access to birth control, like when he previously stated Plan B and [e]lla were "not contraception, they are abortifacients."⁵⁴

Influencers are falsely asserting that birth control is dangerous.

False claims about birth control are increasingly being pushed in popular culture and social media. Across social media platforms, a false narrative is emerging that birth control is harmful to your health and that people should pursue "natural" birth control. The claims about harms are unfounded and false,⁵⁵ but they are convincing people to avoid using birth control.⁵⁶ One study of TikTok posts related to DepoProvera (injectable birth control) showed that videos that go viral are more likely to be produced by laypeople than medical professionals and more likely to contain negative portrayals of birth control compared to videos that do not go viral, and that the majority of videos made by laypeople contain nonfactual claims.⁵⁷ This strategy spans a wide range of content, from Bachelor-contestant Instagram influencers,⁵⁸ to a niche corner of TikTok where conservative Christian women promote subservience and traditional gender roles,⁵⁹ to anti-reproductive health organizations with large social media followings, like Students for Life, that target young people. Students for Life presents some of the most extreme anti-birth control perspectives, stating that they are opposed to all forms of birth control, including any method that uses hormones, such as pills, patches, or rings, and claiming that such hormonal birth control are of the "abortifacient variety."⁶⁰

The falsehoods about birth control are dangerous for two key reasons: (1) people may rely on them when making individual health decisions, and (2) they seed the ground for anti-reproductive health lawmakers to justify restrictions on birth control.

Nearly one third of Gen Z-ers receive medical information from social media, with TikTok being the preferred platform for medical advice.⁶¹ Young people should have access to comprehensive, accurate information about contraception so that they can make contraceptive decisions that meet their needs. Misinformation spread through social media undermines this informed, thoughtful decision-making, potentially coercing young people into making decisions about contraceptives—choosing a method that does not meet their needs or shunning contraception altogether—that they otherwise would not make. The perpetuation of falsehoods through social media is particularly concerning in light of other attempts, like the ones described above, to restrict minors' access to birth control and comprehensive reproductive health care. If minors cannot turn to Title X clinics and other trusted entities, they will be increasingly forced to turn to unreliable sources like social media.


If false narratives about birth control take hold with enough of the public, anti-contraception policymakers could point to the misinformation that contraception is “dangerous” or “unhealthy” to justify “reasonable” restrictions on birth control. Moreover, they could potentially face less pushback from a misinformed public. This connection has been articulated by the very anti-birth control advocates who have been spreading these lies. The founder of the Alliance Defending Freedom, an organization that has been behind a number of attacks on reproductive health care, has expressed the hope that “[i]t may be that the day will come when people say the birth-control pill was a mistake.”⁶² When policymakers, social media influencers, and anti-reproductive health organizations use their platforms to advance false claims that birth control is harmful or causes abortion, it is not innocuous; it is a concerted effort to soften the ground for future restrictions or bans on contraception.

Legislators refuse to codify the right to contraception.

Attempts to enshrine a right to contraception in law at the state and federal levels have revealed the true goal of anti-reproductive health lawmakers. Right to Contraception Acts have been considered at both the state and in Congress, and anti-reproductive health lawmakers have consistently voted *against* these efforts.

- In Nevada and Virginia, where Right to Contraception Acts passed the state legislatures in 2023 and 2024, Governor Lombardo and Governor Youngkin, respectively, vetoed the legislation. Governor Lombardo vetoed the bill on a Friday night,⁶³ trying to hide his actions, while Governor Youngkin relied on false claims about the bill to justify his decision.⁶⁴

- In Alabama, Arizona, Florida, Georgia, Iowa, Louisiana, Mississippi, North Carolina, Tennessee, and Wisconsin, anti-reproductive health lawmakers blocked Right to Contraception Acts.⁶⁵
- In Arizona, when a Right to Contraception Act was considered in 2024, Senate Majority Leader Sonny Borrelli was asked about his position on limiting access to emergency contraception. He refused to answer the question, saying instead: “Bayer Company invented aspirin. Put it between your knees,” insinuating that access to contraception would not be an issue if women were not having sex.⁶⁶
- A national Right to Contraception Act has been introduced in the U.S. House of Representatives and the U.S. Senate.⁶⁷ The House passed the bill in July 2022, but all three times the Senate has taken up the bill, in 2022, 2023, and 2024, anti-birth control legislators have blocked the bill from passing.⁶⁸



It would be misguided to believe that extremists stopped their assault on reproductive health once the Supreme Court overturned the right to abortion in *Dobbs*. In fact, the *Dobbs* decision laid out a path to restrict and even ban contraception, and extremists have started to move down that path. Some of their recent efforts to undermine contraception have strategically avoided the spotlight and focused on utilizing some of the same tactics to attack contraception that were successfully used to undermine—and then overturn—the constitutional right to abortion.

Everyone deserves the freedom to decide when or whether they want to grow a family. And everyone should have access to the birth control they want and need, when they want and need it, without any barriers in their way. It is essential that advocates, policymakers, and the public are alert to the growing threats to contraception and continue efforts to protect contraceptive access and the right to birth control.

- 1 *Don't Be Fooled: Birth Control is Already At Risk*, NAT'L WOMEN'S L. CTR. (June 17, 2022), <https://nwlc.org/resource/dont-be-fooled-birth-control-is-already-at-risk/>.
- 2 597 U.S. 215 (2022).
- 3 *Id.* at 295. ("Finally, the dissent suggests that our decision calls into question *Griswold*, *Eisenstadt*, *Lawrence*, and *Obergefell*. Post, at 4–5, 26–27, n. 8. But we have stated unequivocally that "[n]othing in this opinion should be understood to cast doubt on precedents that do not concern abortion."")
- 4 *Id.* At 384. ("If the majority is serious about its historical approach, then *Griswold* and its progeny are in the line of fire too. . . . At the least, today's opinion will fuel the fight to get contraception, and any other issues with a moral dimension, out of the Fourteenth Amendment and into state legislatures.")
- 5 See, e.g., Nat'l Women's Law Center, *Nothing is Safe: Threats to Other Fundamental Rights in the Wake of Roe v. Wade Being Overturned*, July 1, 2022, <https://nwlc.org/resource/even-more-than-abortion-the-constitutional-importance-of-roe-v-wade/>.
- 6 597 U.S. at 332 (Thomas, J., concurring).
- 7 Yasaman Zia et al. "I am putting my fear on them subconsciously": a qualitative study of contraceptive care in the context of abortion bans in the U.S. *Reprod Health* 2024 Nov 24;21(1):171. Olivia Goldhill, *Supreme Court decision suggests the legal right to contraception is also under threat*. *Stat News*. Jun. 24, 2022. <https://www.statnews.com/2022/06/24/supreme-court-decision-suggests-the-legal-right-to-contraception-is-also-under-threat/>
- 8 Jameson A. Mitchell et al., *Permanent and long-acting reversible contraception volumes at a multihospital system in Ohio before and after Dobbs*, *CONTRACEPTION*, (Apr. 20, 2024) <https://pubmed.ncbi.nlm.nih.gov/38648922/>. Virginia Langmaid, *Contraception demand up after Roe reversal, doctors say*. *CNN*. Jul. 6, 2022. <https://www.cnn.com/2022/07/06/health/contraceptives-demand-after-roe/index.html>
- 9 Alica Bannon. *Arizona Highlights Risk of 'Zombie' Laws*. *State Court Report*. Apr. 23, 2024. <https://statecourtreport.org/our-work/analysis-opinion/arizona-highlights-risk-zombie-laws#:~:text=The%20Court%20declared%20in%20Dobbs, today's%20citizens%20or%20those%20from>
- 10 Mo. Rev. Stat. §188.017 (1986), <https://revisor.mo.gov/main/OneSection.aspx?section=188.017&bid=47548&hl=>.
- 11 Marina Pitofsky, "Idaho College Says Staff Could Face Felony for 'Promoting Abortion, Providing Birth Control,'" *USA Today*, Sept. 27, 2022, <https://www.usatoday.com/story/news/education/2022/09/27/idaho-university-birth-control-abortion/10442908002/>. The memo told employees they could only provide condoms for the purpose of preventing sexually transmitted infections – not for preventing pregnancy – and could only provide emergency contraception to rape survivors.
- 12 Jonathan Shorman, "Kansas City Area Health System Stops Providing Plan B in Missouri Because of Abortion Ban," *The Kansas City Star*, July 1, 2022. After a large public outcry and once the governor and attorney general clarified that the ban did not affect the emergency contraceptive Plan B, St. Luke's reversed its decision and said it would continue providing emergency contraception.
- 13 Isabelle Taft, "Sexual Assault Nurses Asked the AG's Office If Plan B Is Legal. They Never Got a Response," Sept. 14, 2022, <https://mississippitoday.org/2022/09/14/sexual-assault-nurse-examiners-ag-communication/>.
- 14 S.B. 0323, 126th Sess. (SC. 2025) <https://www.scstatehouse.gov/billsearch.php?billnumbers=0323&session=126&summary=B>. Jessica Valenti, *South Carolina Bill Would Ban Contraception and Pro-Choice Websites*. *Abortion, Every Day*. Feb. 6, 2025. (<https://jessica.substack.com/p/south-carolina-bill-would-ban-contraception>).
- 15 Richard Eberwein, *Michigan AG Candidate Says Plan B is like Fentanyl and Should Be Banned*, *HEARTLAND SIGNAL* (Sept. 20, 2022), <https://heartlandsignal.com/2022/09/20/michigan-ag-candidate-says-plan-b-is-like-fentanyl-and-should-be-banned/>.
- 16 Brooke Butler, *Does Gov. Kemp Support an Emergency Contraception Ban? Secret Recording Raises Questions*, *WJCL*, <https://www.wjcl.com/article/does-gov-kemp-support-an-emergency-contraception-ban-secret-recording-raises-questions/41287277> (Sept. 20, 2022, 12:31 AM).
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- 19 Kavitha Surana, "We Need to Defend This Law": Inside an Anti-Abortion Meeting With Tennessee's GOP Lawmakers, *PROPUBLICA* (Nov. 15, 2022), <https://www.propublica.org/article/inside-anti-abortion-meeting-with-tennessee-republican-lawmakers>.
- 20 *Id.*
- 21 H.B. 3216, 59th Legis., 2d Sess. (Okla. 2024).
- 22 H.B. 1174, 94th Gen. Assemb., Reg. Sess. (Ark. 2023). This failed bill sought to make the death of an "unborn child" a felony while at the same time striking existing Arkansas law that carved contraception out of the felony code, thus seeming to potentially make some birth control illegal.
- 23 See *Don't Be Fooled: Birth Control is Already At Risk*, NAT'L WOMEN'S L. CTR. (June 17, 2022), <https://nwlc.org/resource/dont-be-fooled-birth-control-is-already-at-risk/>.
- 24 Exec. Order No. 14182, 90 Fed. Reg. 8751 (Jan. 24, 2025). <https://www.whitehouse.gov/presidential-actions/2025/01/enforcing-the-hyde-amendment/>
- 25 See *NWLC Testimony on the Harm of the Hyde Amendment*. Nat'l Women's L. Ctr. (Dec. 8, 2020), <https://nwlc.org/resource/nwlc-testimony-on-the-harm-of-the-hyde-amendment/#:~:text=Representative%20Henry%20Hyde%2C%20the%20amendment's,could%20legally%2C%20anybody%20having%20an>.
- 26 See *The Trump Administration's First Actions in 2025 Targeting Patients, Providers, and Reproductive Health Care Access - National Women's Law Center*. Nat'l Women's L. Ctr. (Feb. 25, 2025), <https://nwlc.org/resource/the-trump-administrations-first-actions-in-2025-targeting-patients-providers-and-reproductive-health-care-access/>.
- 27 *Deanda v. Becerra*, 645 F. Supp. 3d 600 (N.D. Tex. 2022).
- 28 Jonathan Mitchell, *the legal mind behind the Texas abortion ban*. *All Things Considered*. Nat'l. Pub. Radio. May 7, 2023. <https://www.npr.org/2023/05/07/1174672358/jonathan-mitchell-the-legal-mind-behind-the-texas-abortion-ban>

- 29 Abigail Napili, CONG. RSCH. SERV. Title X Family Planning Program (2023) <https://crsreports.congress.gov/product/pdf/IF/IF10051>
- 30 See *Brief for Jane's Due Process, Advocates for Youth, and 133 other Organizations as Amicus Curae*, *Deanda v. Becerra*, 23-10159 (5th Cir.) (<https://www.hivlawandpolicy.org/sites/default/files/2023-05/Deanda%20v.%20Becerra%2C%20Amicus%20Brief%2C%205th%20Circuit%2C%20CCR%2C%20et%20al.%20%28May%201%2C%202023%29.pdf>)
- 31 *Deanda v. Azar II*, Complaint, <https://clearinghouse.net/doc/136446/>
- 32 Elenaor Klibanoff, Federal judge at center of FDA abortion drug case has history with conservative causes, *Texas Tribune* (Mar. 15, 2023), <https://www.texastribune.org/2023/03/15/federal-judge-amarillo-abortion-fda/>
- 33 *Id.* at 620-628. This opinion is legally flawed for many reasons. For example, to bring a lawsuit against the government, a person must have been injured, and the injury cannot be hypothetical. Mr. Deanda's children have never sought Title X services, nor does he think that they will, but he claims, and the judge accepts, that he is injured by the possibility that his daughter may seek Title X services in the future. *Id.* at 614. Additionally, the Court's analysis defies the notion of preemption. When federal and state laws are conflicting, the federal law preempts. In this case, the relevant federal laws are the constitutional right to birth control, and the Title X provision that birth control is available without parental consent. The relevant state law is a Texas statute that requires parental consent for birth control. The judge wrongly concludes that these federal and state laws are not conflicting, and ultimately concludes that Title X programs in Texas must require parental consent for birth control in accordance with state law. *Id.* at 618.
- 34 *Deanda v. Becerra*, 96 F.4th 750, 761-69 (5th Cir. 2024)
- 35 OFF. OF POPULATION AFFS., HEALTH & HUM. SERVS., POLICY NOTICE 2024-01—CLARIFICATION REGARDING CONFIDENTIAL SERVICES TO ADOLESCENTS UNDER THE TITLE X PROGRAM (Mar. 22, 2024), <https://opa.hhs.gov/grant-programs/title-x-service-grants/about-title-x-service-grants/program-policy-notices/opa-program-policy-notice-2024-01-clarification-regarding-confidential-services-to-adolescents-under-the-title-x-program>. The federal government also will not enforce the Title X policy elsewhere in the Fifth Circuit to the extent it conflicts with state law, but as of publication of this report, neither of the other states in the Fifth Circuit have parental consent laws similar to Texas.
- 36 After the Fifth Circuit decision, Texas Attorney General Ken Paxton sued the Biden Administration to prevent nationwide implementation of a federal rule that would allow minors to seek contraception from Title X clinics without parental involvement. <https://www.texasattorneygeneral.gov/sites/default/files/images/press/DOH%20Title%20X%20Complaint%20Filed.pdf> The Biden Administration decided not to enforce the rule in Texas, and Texas ultimately dismissed the lawsuit. <https://www.texasattorneygeneral.gov/sites/default/files/images/press/HHS%20Title%20X%20Rule%20Dismissal%20Filed.pdf>
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