

Reproductive Justice is the human right to control one's body, sexuality, gender, and reproductive choices. That right can only be achieved when all women and girls have the complete economic, social, and political power and resources to make healthy decisions about our bodies, our families, and our communities in all areas of our lives.

Ensuring Access to Safe Abortion Care for Black Women

In Our Own Voice: National Black Women's Reproductive Justice Agenda is fully committed to ensuring that every person has the right to make fundamental decisions concerning their body, sexuality, and reproductive health.

This right to bodily autonomy includes the right to make one's own decision about having or not having children. There are many reasons, both personal and medical, why a pregnant person might decide to terminate a pregnancy—and only the individual seeking abortion care can fully understand the complex factors informing their choice. Yet, multiple barriers have been put in place to prevent women from acting upon this deeply personal decision. In particular, Black women are systematically denied the resources, services, and information needed for this important health decision. In decision.

Threats To Abortion Care

STATE RESTRICTIONS ON ABORTION ACCESS

States are increasingly ramping up efforts to block access to abortion care, to the detriment of Black women's health. More than half of the states (29) are now considered to be hostile to abortion rights, while only one-quarter (14) are supportive of those

rights.² Between 2011 and 2017, states enacted 401 new abortion restrictions, accounting for more than one-third (34%) of restrictions since $Roe\ v.\ Wade.^3$ The majority of these restrictions conflict with best medical practices. $^{4\,5\,6}$

- In 2019 alone, several states passed laws banning abortion after only a few weeks of pregnancy, when a person may not even know yet that they are pregnant: after 6 weeks of pregnancy (Georgia, Kentucky, Louisiana, Mississippi, Ohio) and after 8 weeks of pregnancy (Missouri). Arkansas and Utah banned abortion after 18 weeks of pregnancy, while Alabama enacted a complete ban on abortion.⁷
- States have also banned or restricted coverage of abortion care services by insurance purchased through state insurance exchanges, by public employees' health plans, and even in private insurance plans written in the state.⁸
- Other common state-level restrictions include onerous waiting periods; provider refusal laws, parental consent

and judicial bypass requirements that undermine agency and access to care for young people; bans on medication abortion or telehealth services related to abortion care; requiring patients to be given misinformation about abortion; and forcing women to have a vaginal ultrasound before receiving services.⁶

One particularly onerous form of regulation is designed to drive abortion providers out of practice: Targeted Regulation of Abortion Provider (TRAP) laws. TRAP laws implement medically unnecessary requirements in order to reduce providers', physicians', and facilities' ability to deliver care. ¹⁰ TRAP laws may require:

- Providers to have unnecessary licensing or credentialing requirements (for example, that they be a board-certified obstetrician-gynecologist);
- Providers to have admitting privileges at a local hospital;
- Facilities to adhere to expensive and unnecessary licensing or facility standards like those that apply to Ambulatory Surgical Centers (ACS); and
- Facilities to have transfer agreements with a local hospital or be located within a certain geographic range of a hospital.

In 2016, the U.S. Supreme Court struck down Texas' TRAP law, in the *Whole Wom-*

en's Health v Hellerstadt decision. In an alarming decision, the Court recently agreed to hear an identical TRAP case, June Medical Services v. Gee, reviewing the same admitting privilege requirements previously struck down in Whole Women's Health.

As a result of such restrictive laws, the number of abortion clinics is declining, and clinics are closing at record levels. This can put abortion care out of reach for people who cannot travel the often significant distances to their nearest provider, especially people living in rural communities.

- From 2011 to 2017, certain U.S. regions saw steep decreases in the number of abortion clinics providing care: the South lost 50 clinics (25 in Texas alone); the Midwest lost 33 clinics; and the West lost 7 clinics.
- An overwhelming number of U.S. counties (89%) lack an abortion clinic.¹¹
- In 2018 and 2019, 39 independent abortion clinics closed; 85% of these clinics had provided care after the first trimester.12

FEDERAL THREATS TO ABORTION **ACCESS**

Several laws and regulations governing publicly-funded health care disproportionately impact access abortion care. Among the most restrictive are the Hyde Amendment and the Domestic Gag Rule.

The Hyde Amendment, which has been attached to federal funding bills every year since 1977, prohibits the use of Medicaid funds for abortion care except in the most extreme cases.¹³ When he introduced the amendment, Representative Henry Hyde (R-IL) stated, "I certainly would like to prevent, if I could legally, anybody having an abortion, a rich woman, a middle-class woman, or a poor woman. Unfortunately, the only vehicle available is the... Medicaid bill."14 For the approximately 15 million women of reproductive age who have their coverage through Medicaid, the Hyde Amendment creates barriers to abortion that are often insurmountable—especially for women in the 36 states that restrict Medicaid funding for abortion care. 15 As the Guttmacher Institute notes, due to "social and economic inequality linked to systemic racism and discrimination, women of color are disproportionately likely to be insured through Medicaid,"16 and are subject to the Hyde Amendment's cruel ban on abortion coverage. More than half (58%) of the women affected by the Hyde Amendment are women of color, and almost one-third (31%) are Black.17

Another barrier to abortion care is presented by the *Domestic Gag Rule*, which is often applied to Title X family planning programs by Republican presidents. Title X, which is administered by the U.S. Department of Health and Human Services (HHS), provides essential family planning programs to about 4 million people every year. In 2019, the Trump-Pence administration released new rules governing Title X that are designed to gut the program's ability to provide a full range of information and services. The Domestic Gag Rule (which is in effect while legal challenges make their way through the court system) would "prohibit abortion referrals, impose coercive counseling standards for pregnant patients, and impose unnecessary and stringent requirements for the physical and financial separation of Title X-funded activities from a range of abortion-related activities... The rule would also enable the administration



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to undermine the existing provider network and threaten Title X's standards on quality of care and confidentiality, among other changes."18 The Rule would hamper people's ability to access family planning services, resulting in more unintended pregnancies, and then block individuals from getting information about abortion care. Black wom-

en comprise 30% of Title X family planning clients and 21% of clients as a whole.19

PRIVATE RESTRICTIONS: RELIGIOUSLY AFFILIATED HOSPITALS & FAKE HEALTH CLINICS

The increasing number of health care facilities that are owned and operated by religiously affiliated organizations presents another threat to reproductive rights. Specifically, restrictions at Catholic hospitals prevent providers from delivering information, services, or referrals that conflict with religious teachingswith dire consequences for women's



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reproductive health. These facilities deny women access to a range of reproductive services—including abortion care—even when those services are needed to save the woman's life.20 Catholic hospitals now treat 1 in 6 U.S. hospital patients, and the number of Catholic-owned or -affiliated acute care hospitals increased 22 percent from 2001 to 2016.21 In 10 states, more than 30 percent of acute care beds are in Catholic-owned or -affiliated hospitals that restrict reproductive health services (Alaska, Colorado, Iowa, Kentucky Missouri, Nebraska, Oregon, South Dakota, Washington, and Wisconsin).²¹ Particularly in rural communities, religiously affiliated hospitals may be the only local health care provider, making them the provider of last resort for those without insurance. This is particularly important for Black women, who are more likely to lack health insurance.

Fake health clinics, often called "crisis pregnancy centers" (CPCs) strategically use misleading and deceptive marketing and advertising to try to take advantage of individuals who seek reproductive health care, particularly abortion care. Fake clinics provide misinformation to pregnant people to dissuade them from having an abortion. As reproductive experts have noted, while "mimicking health care clinics, CPCs provide biased, limited, and inaccurate health information, including incomplete pregnancy options counseling and unscientific sexual and reproductive health information.²² Although CPCs are not medical facilities, some require volunteers and staff to wear lab coats, to reinforce a medical

CPCs employ aggressive tactics to coerce pregnant people into carrying their pregnancies to



appearance. CPCs employ aggressive tactics to coerce pregnant people into carrying their pregnancies to term. In states that are particularly hostile to abortion care, CPCs may even receive public funding. In its 2018 decision, NIFLA v. Becerra, the U.S. Supreme Court ruled that California could not force CPCs to disclose the availability of state-funded abortion care services, or to post signs alerting people that the CPC was unlicensed—thereby allowing fake clinics to continue deceiving vulnerable people. These facilities disproportionately impact women of color, who already face greater barriers to accessing health care, especially reproductive health care.

Impact on Black Women's Health

Black women account for 28 percent of all U.S. abortions, although they make up just 13.4 percent of the U.S. female population.23 A variety of factors results in this disproportionately high abortion rate compared to women of other races and ethnicities. 15 24 25 These include a greater likelihood of being low-income, unemployed, uninsured, and being insured by programs that restrict abortion coverage. 23 26 27

- Three-quarters of U.S. abortions are to women who are living in poverty or earning low incomes.^{23 28} There is a clear connection between earning a low income and not being able to access contraceptive and abortion care services. Black women's poverty rate (25.7%) is more than twice as high as white women's (11.7%), and one-anda-half-times higher than all U.S. women $(15.5\%).^{29}$
- Even as the unemployment rate is decreasing, Black people are most impacted by employment barriers connected to structural racism, and experience unemployment at higher rates than other racial/ethnic groups in the U.S. Black women's unemployment rate is nearly twice that of white men's.30
- · 14 percent of Black women are uninsured, compared with only 8 percent of white women.31
- · Women earning low incomes are more likely to have publicly funded health care, which often restricts coverage of abortion care.17 One-fifth of U.S. women

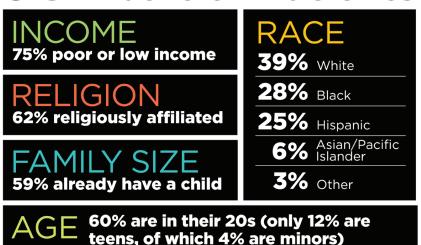
BLACK WOMEN AND MEN SUPPORT ABORTION CARE

Whether she has private or government funded health coverage, every woman should have coverage for the full range of pregnancy-related care, including prenatal care and abortion Every women should have the right to make her own decision on abortion, even if I may disagree with her decision 20 30 50 100 10 40 60 70 80 90 ■ Strongly Agree ■ Somewhat Agree

^{*} Alabama, 5 restrictions; Georgia, 9 restrictions; Louisiana has 11 restrictions; Mississippi, 9 restrictions; North Carolina, 9 restrictions; South Carolina, 10 restrictions.

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U.S. Abortion Patients



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of reproductive age get their health care through Medicaid, and almost one-third (31%) of these women are Black.³² Black women also comprise a significant portion of Medicaid beneficiaries, federal employees, and military personnel—specific groups affected by abortion restrictions and coverage bans. 13 33

Geography is another factor. Black women are more likely to live in states with poor access to health care, including reproductive services. Many states with large percentages of Black residents also have numerous barriers to accessing health care and exercising the right to abortion.34 Black residents comprise at least 20 percent of the population in Alabama, Georgia, Mississippi, North Carolina, and South Carolina, each of which has adopted numerous restrictions hampering access to abortion care.* 6 And, of these, Louisiana is the only state that has expanded Medicaid.

This web of restrictions makes Reproductive Justice inaccessible for many Black women. Abortion care may remain technically legal, but a racial and economic divide is emerging: on one side are white and wealthy people, for whom abortion is rarer but paradoxically more accessible, and on the other side are people of color and low-income people, who are more likely to

need an abortion and less likely to be able to access one.

Black People Support **Abortion Care Access**

Results of a national poll conducted by In Our Own Voice in 2017 indicate that almost four-fifths (78%) of Black women and men overwhelmingly do not want the Supreme Court to overturn Roe v. Wade. 35 The vast majority believes that women should have the right to make their own abortion decisions (89%) and that women should have coverage for all services, including abortion (88%).35

Federal Legislation to Protect Access to Abortion Care

On the federal level, there are several pieces of legislation that would help advance the health of Black women, particularly pregnant women; both have been endorsed by In Our Own Voice:

• The Equal Access to Abortion Coverage in Health Insurance (EACH) Woman Act (H.R. 1692, S.758): would ensure coverage for abortion care for everyone, regardless of their income

- or insurance. It would restore abortion coverage to those who are enrolled in government health insurance plans and government-managed health insurance programs, and who receive health care from a government provider or program. It would also prohibit political interference with private health insurance companies' decisions to offer coverage for abortion care.
- The Women's Health Protection Act (H.R. 2975, S.1645): would protect abortion access and prevent state abortion bans and medically unnecessary restrictions. It would do so by establishing a statutory right for a provider to provide abortion services, and a corresponding right for patients to obtain abortion services, free from abortion bans and restrictions that impede access to care.

Access to abortion care cannot be separated from other human and reproductive rights—it is essential to empowering people to make their own best decisions about whether and when to have children; build healthy families; and foster sustainable communities.³⁶ Abortion restrictions explicitly seek to control reproductive freedom and notably oppress Black women, LGBTQ+ people and communities that have been most impacted by structural barriers to health and well-being.

Access to abortion care cannot be separated from other human and reproductive rights.



In Our Own Voice is working with our organizational partners to prevent conservative legislatures from enacting restrictive measures; to expand access to medication abortion and telehealth services; to ensure that medical students and other health care professionals receive the proper training to perform abortions; and to hold policymakers accountable for their efforts to restrict women's right to access the full range of pregnancy-related health services-including abortion care.

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In Our Own Voice: National Black Women's Reproductive Justice Agenda is a national Reproductive Justice organization focused on lifting up the voices of Black women at the national and regional levels in our ongoing policy fight to secure Reproductive Justice for all women and girls. Our eight strategic partners include Black Women for Wellness, Black Women's Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc. SisterReach, SPARK Reproductive Justice Now, The Afiya Center and Women With A Vision.



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