

Sharp divide in state legislative abortion response during first two months after Dobbs decision

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In the initial two months following the US Supreme Court's decision to overturn Dobbs v. Jackson Women's Health Organization on June 24,

2022, states have engaged in a flurry of activity to either limit the impact of the decision by shoring up access to abortion or by doubling-down on the new ability to pass laws restricting access to reproductive care.

Newly released [longitudinal data](#) on LawAtlas.org track the changes to the legal landscape surrounding abortion from June 1, 2022, through August 31, 2022. The dataset was conceptualized by Temple University's Center for Public Health Law Research and the Society of Family Planning to serve as a resource for researchers seeking to better understand the impact of the Dobbs decision, and is a companion resource to the Society of Family Planning's #WeCount project.

"These data are an essential first step in supporting the necessary research to understand the impact of these laws on sexual and [reproductive health](#), well-being, and equity," said Adrienne Ghorashi, Esq., a lead law and policy analyst at the Center and the leading researcher on this project.

The data offer a high-level overview of the rapidly shifting terrain by tracking developments in enacted laws, executive orders, and court cases that address how [states](#) are further banning and criminalizing abortion, while others attempt to safeguard access to abortion.

While 18 states banned nearly all abortions with some limited exceptions for rape, incest, and/or life endangerment as of August 31, 2022, these bans were enjoined in 6 states (Arizona, Michigan, North Dakota, Utah, West Virginia, and Wyoming). These bans include both "pre-Roe" abortion bans that were enacted prior to Roe v. Wade and "trigger laws" that came into effect after the Dobbs ruling.

The data show a sharp increase in abortion restrictions:

- "Trigger laws" banning abortion came into effect in 13 states

during the 2 months following the Dobbs decision. The sudden criminalization of abortion led to [legal challenges](#) and uncertainty on the ground, which are currently still being played out.

- As of August 31, 2022, 25 states explicitly restrict access to medication abortion, which makes up more than half of all abortions in the United States. Eight states have a law banning the mailing of abortion pills.
- There are 33 states that have laws containing criminal penalties for violating these abortion laws. While most penalties target abortion providers, states may criminalize certain actions related to abortion such as assisting with an abortion (six states), providing information on abortion (one state, Mississippi), or providing abortion drugs (20 states).
- A total of 15 states enacted "shield laws," most through executive orders, that aim to protect patients, providers, and others from out-of-state liability related to abortion care that is legal in the receiving state. Actions prohibited under these laws may include issuance of a subpoena or warrant, disclosure of health records, enforcement of out-of-state judgments, assisting with investigations, and imposing provider sanctions.

In addition to the shield laws, the data also show efforts to strengthen access to abortion:

- Seventeen states have codified a right to abortion under state statutory law.
- Three states—Hawaii, Massachusetts, and New Mexico—have taken measures to expand access to medication abortion, and 10 states have broadened abortion provider eligibility.
- Seven states require healthcare insurers to provide coverage for abortion care and 7 states have strengthened data privacy protections related to abortion care.

"Not only do we need to better understand the policy implications of these laws on abortion service delivery, but we urge researchers, policymakers, and other stakeholders to consider the practical impact of the mass confusion and uncertainty surrounding these rapid legal developments," Ghorashi said. "The sharp divide in state approaches to regulation of [abortion](#) risks deepening existing inequities."

The researchers used a method of scientific legal mapping called sentinel surveillance, which captures key developments of emerging legislation in a rapidly changing policy environment and lays the foundation for more complex and nuanced analysis.

More information: Temple University Center for Public Health Law Research. "Post-Dobbs State Abortion Restrictions And Protections." LawAtlas.org. November 3, 2022. lawatlas.org/datasets/post-dobbs-state-abortion-restrictions-and-protections

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