



# Reflections from Maine, North Carolina, and Wisconsin on a Post-Roe World

## BACKGROUND

In 2021, researchers in Columbia University's Global Health Justice and Governance (GHJG) Program began a qualitative study to understand the effects of the Title X Gag Rule in Maine, North Carolina, and Wisconsin. Title X is a federal grant program that provides affordable birth control and preventive health services to people with low incomes who are underinsured or uninsured. Implemented by the Trump Administration in August 2019, the Title X Gag Rule banned health care providers who participate in the program from providing abortion counseling or referrals. In November 2021, new regulations implemented by the Biden Administration reversed some, but not all, of these restrictions.

We wanted to understand how, if at all, the Title X Gag Rule compounds other socioeconomic and political trends that threaten sexual and reproductive health, rights, and justice in already marginalized communities. In partnership with Maine Family Planning, SisterSong, and the Foundation for Black Women's Wellness, GHJG conducted key informant interviews with 36 clinical, advocacy, and community-based organizations in Maine, North Carolina, and Wisconsin. Interviewees included sexual and reproductive health service providers that do and do not receive Title X funding, as well as local non-governmental organizations that promote health equity and reproductive justice by providing referrals and direct services at the community level and advocating for structural change.

As we began data collection, the U.S. Supreme Court decided to hear a case that challenges the constitutional right to abortion established by *Roe v. Wade*. Given the potential implications of this ruling for sexual and reproductive health service providers, organizations, and clients across the country, GHJG researchers asked a subset of interviewees that provide or support abortion care how their states could be impacted by the overturning or erosion of *Roe*. This brief summarizes the interviewees' concerns about the reversal of *Roe* in their specific state context.

## SCOTUS REVISITS PRECEDENT

In June 2022, the Supreme Court will likely rule on *Dobbs v. Jackson Women's Health Organization*, a direct challenge to *Roe v. Wade*, the 1977 ruling protecting women's right to abort pre-viability and without undue state interference (Center for Reproductive Rights). *Dobbs* considers the constitutionality of a 2018 Mississippi law known as the Gestational Age Act, which would outlaw nearly all abortions in the state after 15 weeks gestation (Oyez). A Supreme Court ruling that the Gestational Age Act is constitutional would have serious implications for the current constitutionality of abortion bans throughout the U.S. by effectively overturning *Roe v. Wade*.

The Supreme Court will decide this case amidst intensified efforts by many state legislatures to restrict abortion access. Leading this trend is Texas; in September 2021, the Texas state legislature passed Senate Bill 8 (S.B. 8), which effectively banned all abortions at or after six weeks gestation (Planned Parenthood). Though S.B. 8 stands in direct opposition to the precedent set by *Roe*, the Supreme Court refused a request to block the law from going into effect, pending its ruling on a legal challenge (Center for Reproductive Rights). This means that the constitutional right to abortion no longer exists in Texas (Center for Reproductive Rights).

This attack on abortion rights is not limited to Mississippi and Texas; as of March 2022, there are 12 states with "trigger" bans in place. A trigger ban means that the law is currently blocked by court order, but will immediately go into effect if *Roe* is overturned. There are also four states that have constitutional amendments that bar a right to abortion. Additionally, five states that do not already have trigger bans in place are likely to move to ban abortion as soon as *Roe* is overturned.

# THE STATE OF ABORTION LAWS AND RESTRICTIONS IN MAINE, NORTH CAROLINA, AND WISCONSIN AS OF MARCH 2022

State	Abortion Laws	Abortion Restrictions	Anticipated Changes If <i>Roe</i> Is Overturned
<b>ME</b> <sup>1</sup>	<p><i>Roe</i> is codified in state law (right to abortion before viability)</p> <p>At or after viability, abortion may be performed only if a patient's life or health is endangered</p>	None	None
<b>NC</b> <sup>2</sup>	Abortion may only be performed at or after viability in cases of life endangerment or severely compromised health	<ul style="list-style-type: none"> <li>• Mandatory 72-hour waiting period, ultrasound, and state-directed counseling required prior to obtaining an abortion</li> <li>• Telemedicine abortion care is prohibited</li> <li>• Targeted Regulation of Abortion Providers (TRAP) laws</li> <li>• Parental consent required for minors</li> <li>• Insurance plans for public employees or those offered on the state's health exchange may only cover abortion in cases of life endangerment, rape, or incest</li> </ul>	No immediate changes anticipated
<b>WI</b> <sup>3</sup>	Abortion may only be performed at or after 20 weeks post-fertilization in cases of life endangerment or severely compromised health	<ul style="list-style-type: none"> <li>• In-person, state-directed counseling followed by a 24-hour waiting period and ultrasound are required before receiving an abortion; ultrasound must be shown and described to the patient</li> <li>• TRAP laws</li> <li>• Telemedicine abortion care is prohibited</li> <li>• Parental consent required for minors, with some exceptions</li> <li>• Insurance plans for public employees or those offered on the state's health exchange may only cover abortion in cases of life endangerment, rape, incest, or severely compromised health</li> </ul>	A pre- <i>Roe</i> abortion ban could be used to criminalize abortion if enforced; the law includes an exception to save the life of the pregnant person

<sup>1</sup> <https://www.guttmacher.org/state-policy/explore/abortion-policy-absence-roe>

<sup>2</sup> <https://www.guttmacher.org/fact-sheet/state-facts-about-abortion-north-carolina>

<sup>3</sup> <https://www.guttmacher.org/fact-sheet/state-facts-about-abortion-wisconsin>

# MAINE:

## FEARS OF RIPPLE EFFECTS DESPITE STRONG STATE-LEVEL PROTECTIONS

Maine's current political climate and lack of a trigger law as well as a lack of pre/post-Roe bans make it unlikely that a Supreme Court decision to overturn *Roe* would result in immediate changes to abortion access in the state. However, some organizations expressed concerns about longer-term political changes:

*If the court decides that states now can regulate pre-viability abortion or prohibit pre-viability abortion, Maine becomes subject to the same legislative efforts that other states are [seeing]... You know, I mean I think our political landscape is more favorable. It'd be harder to pass [abortion restrictions] here than it would be in a lot of other states. (Clinical/Advocacy Organization)*

Maine has some of the strongest legal protections for abortion in any U.S. state, largely due to recent shifts in party control of Maine's state government. Following eight years under a Republican governor, four of which also saw a Republican majority in the State Senate, the results of the 2018 midterm elections created a Democratic party trifecta and paved the way for new legislation to expand access to abortion. Numerous respondents voiced concern over the possibility of a return to the much more hostile political environment for abortion rights that existed during the previous administration of Republican governor Paul LePage. During the LePage Administration, advocates were forced to devote much of their energy to fighting a slew of anti-choice bills.

Abortion providers and advocates also noted an uptick in anti-choice legislation introduced in the 2021 legislative session, which may indicate the influence of growing abortion opposition around the country. They also expressed concern about the future accessibility of abortion in the state if LePage wins reelection in 2022.

*I think there could be negative effects [in Maine if Roe v. Wade is overturned or reduced]. A big change like that at the national level definitely could bring out some of the "antis" for the state. Again, overall, we feel okay, just because we know that we have the support. **Just recently, we advocated against – there were six anti-choice bills in the legislature that we, our staff, testified on some of the bills.** All six of them came back "ought not to pass," so we feel pretty positive about the legislature and the governor's stance on abortion care at this time. (Clinical Organization)*

### Consequences of Uncertainty

In addition to emboldening anti-choice actors and activity in the state, several respondents shared concerns that these threats to reproductive freedom undermine the mental health and wellbeing of patients by sowing fear and uncertainty.

*I mean I think we thought, I guess we could extrapolate from the experience of when Trump was elected and we saw a huge spike in IUD appointments because people were afraid that the ACA was gonna go away and that their protections and coverage of birth control were gonna get lost. Every time there's a national spotlight on abortion – I mean, I need to say there's always a spotlight – but in really intense moments like this, we see an increase in call volume. We see an increase in stress and anxiety that our patients experience. We see an increase in protester activity, so it shows up in various forms. (Clinical/Advocacy Organization)*

# NORTH CAROLINA:

## TENUOUS RIGHTS AND GROWING BURDENS

In North Carolina, Democratic Governor Roy Cooper's veto is the last line of defense against efforts to further restrict abortion. The Republican Party has held a majority in the General Assembly for over a decade, and recent redistricting may result in a supermajority in the State Senate and General Assembly following the 2022 elections, which could allow the legislature to override a veto. Participants expressed concerns that the loss of *Roe* would exacerbate an already tenuous political situation.

*...These are certainly conversations that we are having with partners, with legislators about the importance of **our state legislature being able to hold the line, and, at least in this current moment, not being able to rely on the Supreme Court anymore as a backstop, and that we need our state legislature to stand strong.** (Clinical/Advocacy Organization)*

Although there is neither a "trigger law" nor any pre/post-*Roe* bans in place that would ban abortion outright in North Carolina, respondents feared that the state's legislature will see the Supreme Court's decision in *Dobbs v. Jackson* as an opportunity to further restrict abortion access.

*It's hard to imagine what that might look like just because right now, we have a nurse shortage. **There are clinics who have had to close one day a week simply because they don't have the nurses to staff the clinic.** North Carolina has a law that only MDs can provide abortions, but there must be RNs in the building, even for a medical abortion. It's hard. It's hard to imagine what that's gonna look like, especially given the likelihood that **even if North Carolina doesn't ban abortion, I can imagine that they will take steps to even further restrict access in North Carolina.** That is what I expect it will look like, which will mean longer waits and increased costs, and more stress for people. (Advocacy Organization)*

### Bracing for Increased Caseloads from Neighboring States

Several respondents were concerned that North Carolina would become a de facto "safe haven" if neighboring Southern states – such as South Carolina, Georgia, and Tennessee – pass laws similar to Texas's or see trigger bans go into effect in the event of *Roe* being overturned. Organizations that provide abortions and/or facilitate abortion access in North Carolina worried that their capacity would be stretched too thin if faced with an influx from nearby states. In addition, they could risk prosecution if other states criminalize the facilitation of abortion access across state lines.

***We anticipate that even if we're able to stave off any sort of real ban here in North Carolina, that we will need to absorb people coming from the Deep South seeking abortion care and trying to figure out when that might happen, what that would look like,** how the clinics could possibly gear up to absorb people coming from Mississippi, people coming from South Carolina. North Carolina already provides abortions to a lot of people coming up from South Carolina because of the gestational limits in South Carolina. To imagine that we would have anywhere near that sort of overflow coming from other states, it's hard to fathom. I think that's what – that's more the direction that most people in North Carolina are preparing for right now. (Advocacy Organization)*

Other organizations expressed concerns regarding their ability to support individuals seeking abortion care under additional restrictions, especially since many barriers to access already exist in North Carolina:

**Well, personally, it definitely worries me because abortion access is already very restricted.** Many folks don't know that they're pregnant until about eight weeks, which would mean they would have to scramble to find the funding – [and] if they have families, childcare – where are they going for their procedures. Depending on how these patients go, there might not be providers in their state or anywhere near, so then that brings up travel and lodging, meals. It's just a lot of things that us as an organization, we need to think about how to best support callers, but, also, what we need to do to best support other funds in those specific states. (Community-Based Organization)

## Focusing on Already Vulnerable Populations that Bear the Heaviest Burdens

Many of the organizations interviewed work with vulnerable populations that already face restricted access to abortion, despite the precedent set by Roe. For some that meant a call for new thinking:

*While, like, I don't want Roe to be overturned, sometimes I feel like we're protecting this decision that really wasn't that great to begin with. We need a new decision anyways that doesn't allow states to pass all of these arbitrary restrictions, and that just, like, guarantees access at the federal level... **At the end of the day, there's still people that can't access abortion even with Roe.** I mean sometimes we have to just, like, recognize what it is what we're celebrating.* (Advocacy Organization)

Another advocacy organization noted that not enough attention is given to the ripple effects of the criminalization of abortion in a society that is already disproportionately criminalizing people of color:

*I mean, this is basically eroding what little floor we had when it came to protecting abortion access... [T]hink about what it means to be criminalizing abortion in a time when we also are already looking at all these other ways that people are criminalized, and how – and who that falls heavily on. I'm trying to think about, like, people already being targeted by our criminal justice system, and then you're adding these – [this] criminalization to it. Who is that gonna fall on? That's not gonna fall on the white woman who can go somewhere else, or go to her doctor, or – yeah, whatever. It's just another way of surveillance, and – yeah, particularly with the way private citizens can go ahead and sue people in Texas. It's adding to, sort of, the surveillance of people that are already considered – they're already considered "other." I don't think people understand also that this is – this is serious. It's like all these times that we've been talking about Roe falling, people are like, that's not gonna happen. Well, it's happening. **It's going to impact so many things, economic security, healthcare, access, people's safety, racial and gender equity.*** (Advocacy Organization)

# WISCONSIN:

## IMPENDING CRIMINALIZATION OF ABORTION RIGHTS

In 2018, Wisconsin elected a Democratic governor, Tony Evers, after eight years with a Republican governor and legislature. Advocates were hopeful the new leadership would allow new reproductive justice and rights legislation to be passed, but these efforts have been hamstrung by the Republican-controlled legislature and inaction by the Democratic leadership. As one respondent described it:

*They just continue to veto each other and nothing's getting done. We were really hopeful that we would have some more movement around reproductive justice, reproductive rights in Wisconsin with Evers as our governor. **There were some pretty simple things that he could do right away without legislative approval, and we just never saw any of that happen.*** (Community-Based Organization)

Respondents in Wisconsin discussed the overall hostility toward abortion rights in the state and characterized the worsening situation as a "tinderbox." Respondents described advocates fighting ongoing attacks and the passage of new abortion restrictions:

*There's also been consistent efforts to try and defund Planned Parenthood of Wisconsin completely from the Wisconsin Medicaid program. That has not ever – thankfully – ever became law, but it's something that we're always really keeping a close eye on. **In those previous eight years, there was just a massive amount of abortion restrictions that went into effect.** We have a 20-week abortion ban here now, we have a mandatory ultrasound law. We had a TRAP law about admitting privileges that actually got passed, but we defeated [it] in federal court back in 2014 or 2015, and a whole host of other restrictions that are similar to what we've seen in other states that have been hostile to abortion care.* (Clinical/Advocacy Organization)

Many respondents shared the same concern: if Roe falls, Wisconsin's existing criminal abortion ban would lead to a near-total prohibition of abortion in the state:

*As Roe v. Wade starts to look more and more likely to be overturned, there's a law here in the state of Wisconsin that it's a felony. Anyone who helps a person even get an abortion, which could mean if someone paid for it, they're guilty. If a mom helped her teenager get abortion through pills, then she's guilty. The boyfriend or the husband who wanted his girlfriend or wife to have it, he's guilty. **So when people are aware that this is law on the books that no one is talking about, except for a fringe group of excited, passionate people, the understanding is that is what they want for us, and so that pushes more people into desperate decision-making or underground.*** (Community-Based Organization)

Looking forward, respondents described focusing their advocacy work on efforts to counter this law, which includes supporting legislation that would lead to its repeal:

***There's legislation introduced that would repeal Wisconsin's criminal abortion ban. Probably for the foreseeable future, that will be the focus of a significant part of all of our civic engagement efforts.** [It] will be probably the centerpiece of the ways in which we are engaging and informing the communities that we work with around everything from lobbying to elections.* (Clinical/Advocacy Organization)