

BODILY AUTONOMY AFTER DOBBS: THE INTERTWINED FATES OF ABORTION AND GENDER-AFFIRMING CARE

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ABSTRACT

Bans on abortion and gender-affirming care (“GAC”) have been passed across the country and overlap in many states. But the similarities between these healthcare bans extend beyond time and place. Bans on abortion and GAC rely on similar flawed assumptions about biology and destiny, eschew medical consensus regarding best practice care, and rely on similar enforcement mechanisms. Of paramount concern, these healthcare bans perpetuate the same harm: a deprivation of bodily autonomy. Because these healthcare bans rely on the same legal foundation, advocates for reproductive and LGBTQIA+ justice need to work in tandem to attack abortion and GAC bans at the root. The threat healthcare bans pose cannot be addressed in siloes.

This Note examines the connections between conservative efforts to ban abortion and GAC to underscore the need for a coordinated, cross-movement response to secure protections for bodily autonomy. Beginning with a discussion of the right to bodily autonomy and the dire consequences of banning abortion and GAC, this Note tracks the parallel timelines and tactics of reproductive healthcare bans by using Alabama, Arkansas, and Tennessee—states that have litigated challenges to GAC bans in circuit courts—as case studies of a national trend. This Note concludes with a discussion of strategies for inter-movement collaboration to advance healthcare protections for people

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who can get pregnant and people who seek GAC, focusing on pathways to secure a right to bodily autonomy.

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INTRODUCTION

Veronica, a seventeen-year-old Iowan, was already receiving gender-affirming care (“GAC”) when her state passed a ban.¹ Her mother was raised in the state, and she and her siblings split time between their parents’ houses—leaving the state would mean uprooting all of that.² So, every few months, Veronica and her mom hit the road in the early morning and travel north to Minnesota—a state with legislative protections for

1. Selena Simmons-Duffin, *Her State Bans Gender-Affirming Care for Teenagers. So She Travels 450 Miles for It.*, NPR (Sep. 27, 2024, at 10:01 ET), <https://www.npr.org/sections/shots-health-news/2024/09/27/nx-s1-5104225/transgender-teens-gender-affirming-care-bans-iowa-minneapolis> [<https://perma.cc/D5PA-DYBP>]; see also IOWA CODE ANN. § 147.164(2) (West 2025) (banning GAC for minors).

2. Simmons-Duffin, *supra* note 1.

GAC³—for Veronica’s doctor’s appointments.⁴ The ten-hour day of travel ensures that Veronica receives the shots she needs to avoid the onset of endogenous puberty and all its irreversible consequences.⁵ Veronica’s mom dreams of the day her daughter can move far away to a place where her healthcare is not banned by the state.⁶

Taylor, a South Carolina resident in her mid-twenties, had no intention of getting pregnant.⁷ She tracked her menstrual cycle and used an intrauterine device, which is over 99% effective at preventing pregnancy.⁸ When her pregnancy test showed a positive result, Taylor decided to have an abortion.⁹ At four weeks pregnant, her abortion was legal in South Carolina, but the clinics in her home state could not schedule her appointment before it was too late under the State’s gestational ban.¹⁰

3. Ellie Roth & Dana Ferguson, *A Year After Minnesota Became a Trans Refuge, ‘Transplants’ Make Themselves at Home*, MPR NEWS (May 7, 2024, at 4:00 ET), <https://www.mprnews.org/story/2024/05/07/a-year-after-minnesota-became-a-trans-refuge-transplants-make-themselves-at-home> [<https://perma.cc/9GDX-WA8Z>].

4. Simmons-Duffin, *supra* note 1.

5. *Id.*; SINEAD MURANO-KINNEY, UNDERSTANDING PUBERTY-PAUSING MEDICATIONS 5 (2024), <https://transequality.org/sites/default/files/2024-07/Understanding%20Puberty-Pausing%20Medications.pdf> [<https://perma.cc/W45W-EB6G>] (“While puberty-pausing medications are reversible, the effects of endogenous puberty largely are not.”).

6. Simmons-Duffin, *supra* note 1.

7. See Kaia Findlay, Anita Rao & Amanda Magnus, *Journeyed: Crossing State Lines for Abortion*, WUNC (June 28, 2024, at 13:01 ET), <https://www.wunc.org/show/embodied/2024-06-28/abortion-travel-healthcare-access-appointment-women-pregnant> [<https://perma.cc/7HGV-UH9G>]; see also Victoria Hansen, ‘Something Needs to Change.’ Woman Denied Abortion in South Carolina Challenges Ban, NPR (Feb. 20, 2024, at 13:34 ET), <https://www.npr.org/2024/02/20/1232450574/something-needs-to-change-woman-denied-abortion-in-south-carolina-challenges-ban> [<https://perma.cc/5NFV-UYW6>] (sharing Taylor’s experience seeking an abortion following South Carolina’s fetal heartbeat ban).

8. Hansen, *supra* note 7.

9. Findlay et al., *supra* note 7; Hansen, *supra* note 7. While the reasons people seek abortions vary widely, most patients in a 2004 study reported seeking care due to: (1) concern “that having a child would interfere with a woman’s education, work or ability to care for dependents[;]” (2) the cost of having a child; (3) or the patient’s relationship status. Lawrence B. Finer, Lori F. Frohworth, Lindsay A. Dauphinee, Susheela Singh & Ann M. Moore, *Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives*, 37 PERSPS. ON SEXUAL & REPROD. HEALTH 110, 110 (2005).

10. Findlay et al., *supra* note 7; Hansen, *supra* note 7. South Carolina’s gestational ban prohibits abortions, except in narrow circumstances, performed after cardiac activity is detected. S.C. CODE ANN. § 44-41-630(B) (West 2025); see also Jeffrey Collins, *Judge Says South Carolina Can*

She turned to out-of-state clinics for care, mistakenly booking a procedure at an anti-abortion crisis pregnancy center (“CPC”) posing as a legitimate healthcare facility.¹¹ These cumulative delays meant it took Taylor more than two weeks, three appointments, and twenty hours of travel to get care.¹²

Veronica and Taylor’s stories shed light on the parallel experiences of GAC and abortion patients. Both women were forced to flee their home states to access time-sensitive care.¹³ Both defied their states’ attempts to regulate their bodies and mandate gender conformity with their sex assigned at birth.¹⁴ And both women returned to states where their care, if provided at home, would subject their healthcare provider to civil and criminal liability as well as professional sanctions.¹⁵ Twelve states ban abortion¹⁶ and all twelve also ban GAC.¹⁷ Across the United States, abortion bans dovetail with GAC bans, with

Enforce 6-Week Abortion Ban Amid Dispute Over When a Heartbeat Begins, ASSOCIATED PRESS (May 17, 2024, at 11:31 ET), <https://apnews.com/article/abortion-south-carolina-fetal-heartbeat-fa742d40c8e15df41c8545d8a33a1838> [<https://perma.cc/B4U3-H832>] (describing state court ruling which held South Carolina’s law prohibited abortion after six, rather than nine, weeks); Heather Hollingsworth & Lindsey Tanner, *Clinics Scramble to Divert Patients as States Ban Abortion*, WHYY (June 29, 2022), <https://whyy.org/articles/abortion-bans-clinics-scramble-divert-patients/> [<https://perma.cc/G5M9-3G63>] (describing how patients in states with protected abortion access experience difficulty accessing care due to bans in neighboring states).

11. Hansen, *supra* note 7.

12. See Findlay et al., *supra* note 7; Hansen, *supra* note 7.

13. See discussion *infra* Part II.

14. See discussion *infra* Part I. Throughout this Note, the term “sex” is used to “refer[] to biological and physical characteristics of a person, including genetics, hormones, genitalia, reproductive organs, and secondary sex characteristics,” while “gender refers to a spectrum of socially constructed roles, behaviors, and expectations.” Gemma Donofrio, *Gender During Pregnancy, and Abortion as Gender-Affirming Care*, 111 VA. L. REV. ONLINE 38, 40 (2025).

15. See IOWA CODE ANN. § 147.164(2)(d)–(3) (West 2025) (authorizing professional sanctions and private right of action against healthcare providers who provide prohibited GAC); S.C. CODE ANN. § 44-41-650(C) (West 2025) (authorizing criminal liability for providing prohibited abortions).

16. Talia Curhan, *State Bans on Abortion Throughout Pregnancy*, GUTTMACHER (July 7, 2025), <https://www.guttmacher.org/state-policy/explore/state-policies-abortion-bans> [<https://perma.cc/2CAD-V9BU>].

17. Compare *id.* (establishing that twelve states have total abortion bans), with Lindsey Dawson & Jennifer Kates, *Policy Tracker: Youth Access to Gender Affirming Care and State Policy Restrictions*, KAISER FAM. FOUND. (Aug. 12, 2025), <https://www.kff.org/other/dashboard/gender-affirming-care-policy-tracker/> [<https://perma.cc/UGZ5-MZNE>] (showing that the twelve states that have total abortion bans also ban GAC).

some states banning both forms of healthcare in the same legislation.¹⁸ But the parallels between abortion and GAC bans extend beyond just time and place. These healthcare bans have roots in the same handful of conservative think tanks,¹⁹ rely on similar flawed assumptions about biology and destiny, and eschew medical consensus regarding best-practice care to serve ideological ends.²⁰ States use similar tactics to enforce their abortion and GAC bans, penalizing providers and forcing patients to assume the costs—financial and otherwise—of finding care elsewhere.²¹ Most importantly, these healthcare bans perpetuate the same harm: a deprivation of bodily autonomy.²² Abortion and GAC bans are the twin children of a conservative effort to police gender expression by regulating the practice of medicine. The legal fate of each form of healthcare is bound up with the other.

This Note examines the connections between conservative efforts to ban abortion and GAC to underscore the need for a coordinated, cross-movement response to secure legal protections for bodily autonomy. Instead of fighting GAC and abortion bans on distinct fronts, advocates for reproductive and LGBTQIA+ justice need to work together to fend off these

18. See, e.g., Margery A. Beck, *Nebraska Supreme Court Upholds Law Restricting Both Medical Care for Transgender Youth and Abortion*, AP NEWS (July 26, 2024, at 12:22 ET), <https://apnews.com/article/transgender-health-abortion-nebraska-supreme-court-62a1022df835adc6697f5c96b8a35c16> [<https://perma.cc/38RB-DAT5>].

19. See, e.g., Madison Pauly, *Inside the Secret Working Group That Helped Push Anti-Trans Laws Across the Country*, MOTHER JONES (Mar. 8, 2023), <https://www.motherjones.com/politics/2023/03/anti-trans-transgender-health-care-ban-legislation-bill-minors-children-lgbtq/> [<https://perma.cc/AQ3Q-FTL8>] (describing Alliance Defending Freedom's role in drafting anti-transgender and anti-abortion legislation); SARAH PARSHALL PERRY & THOMAS JIPPING, THE HERITAGE FOUND., LEGAL MEMORANDUM NO. 344, STATES MAY PROTECT MINORS BY BANNING "GENDER-AFFIRMING CARE" 11 (2023), <https://www.heritage.org/sites/default/files/2023-12/LM344.pdf> [<https://perma.cc/M5QF-8VB4>] (arguing that "[g]ender activists," like abortion advocates before them, use the courts "to remove decisions about 'gender-affirming' interventions from the people and their elected representatives").

20. See discussion *infra* Section III.B.2.

21. See discussion *infra* Section III.A (describing similar enforcement mechanisms of abortion and GAC bans in Alabama, Arkansas, and Tennessee).

22. See discussion *infra* Part I.

legislative attacks. Part I of this Note defines the harm perpetuated by state healthcare bans and situates it within Supreme Court precedent safeguarding—before ultimately disavowing—a right to bodily autonomy. Part II defines abortion and GAC and describes the dire consequences of banning each type of healthcare. Part III describes the parallel timelines and tactics of abortion and GAC bans using Alabama, Arkansas, and Tennessee—states that have litigated challenges to GAC bans at the appellate level in federal court—as case studies of a national trend. Part IV discusses strategies for inter-movement collaboration to advance healthcare protections for people who can get pregnant and people who seek GAC, focusing on pathways to secure a right to bodily autonomy.

I. THE FUNDAMENTAL RIGHT TO BODILY AUTONOMY

“If I cannot decide what happens to my body, then who does, the state?”²³ This question, collected in response to a survey of queer parents after *Dobbs v. Jackson Women’s Health Organization*, hints at the broader ramifications of the Court’s evisceration of a constitutional right to abortion.²⁴ Movements for reproductive and LGBTQIA+ justice share a commitment to bodily autonomy, the right of every person to determine what does and does not happen to their body.²⁵ Bodily autonomy

23. Abbie E. Goldberg, Lea Silvert & Brittany Charlton, *Perceived Impact of the Overturning of Roe v. Wade on Queer Parents’ Reproductive and Sexual Lives*, 22 SEXUALITY RSCH. & SOC. POL’Y 1123, 1134 (2024) (discussing responses to qualitative interview questions in a mixed-methods study of *Dobbs*’s impact on LGBTQ+ parents).

24. *Id.* *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 231 (2022) (“*Roe* and *Casey* must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision. . . .”).

25. See *What Is Reproductive Justice?*, SISTERSONG WOMEN OF COLOR REPROD. JUST. COLLECTIVE, <https://www.sistersong.net/reproductive-justice> [<https://perma.cc/CFP9-C2EQ>] (last visited Jan. 6, 2026) (defining “Reproductive Justice as the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities”); *Queering Reproductive Justice*, NAT’L LGBTQ TASK FORCE, <https://www.thetaskforce.org/programs/queering-equity/queering-reproductive-justice/> [<https://perma.cc/N8J2-5NT4>] (last visited Jan. 6, 2026) (recognizing “that everyone has a fundamental right to sexual and bodily autonomy, which includes the right to decide whether or

encompasses both *freedom from* state medical intervention—such as involuntary sterilization²⁶ or nonconsensual surgery²⁷—and *access to* the healthcare one needs to chart their own life's course. The latter includes GAC and abortion, which can also be gender-affirming for cisgender women.²⁸ Both types of care empower individuals to align what happens in their body with their vision for their future and their understanding of themselves.²⁹ And both areas of medicine presume that patients—rather than providers or politicians—are the experts on their bodies and circumstances.³⁰

when to become a parent, parent the children we have, and to do so with dignity and free from violence and discrimination”).

26. See CTR. FOR REPROD. RTS., *THE CONSTITUTIONAL RIGHT TO REPRODUCTIVE AUTONOMY: REALIZING THE PROMISE OF THE 14TH AMENDMENT* 5–7 (2022), <https://reproductiverights.org/wp-content/uploads/2022/07/Final-14th-Amendment-Report-7.26.22.pdf> [<https://perma.cc/57MF-YFTV>] (describing the United States' history of sterilization “of women the government viewed as ‘unfit’”). Publicly-funded sterilization programs were “[u]sed as a means of controlling ‘undesirable’ populations,” including “immigrants, people of color, poor people, unmarried mothers, the disabled, [and] the mentally ill,” and continued “in [thirty-two] states throughout the 20th century.” Lisa Ko, *Unwanted Sterilization and Eugenics Programs in the United States*, PBS (Jan. 29, 2016), <https://www.pbs.org/independentlens/blog/unwanted-sterilization-and-eugenics-programs-in-the-united-states/> [<https://perma.cc/T8SQ-RLX9>].

27. See, e.g., Cathren Cohen, *Surgeries on Intersex Infants Are Bad Medicine*, NAT'L HEALTH L. PROGRAM (July 1, 2021), <https://healthlaw.org/surgeries-on-intersex-infants-are-bad-medicine/> [<https://perma.cc/7T4V-Y2AQ>] (describing “non-consensual and harmful surgeries on intersex infants”).

28. See CTR. FOR REPROD. RTS., *supra* note 26, at 9 (describing the role of abortion in “enabl[ing] generations of women to plan and control if or when to start a family, to participate more fully in society, and to attain higher levels of education, employment, and economic security”); Florence Ashley, *Gender Self-Determination as a Medical Right*, 196 CANADIAN MED. ASS'N J. E833, E833 (2024) (“Gender-affirming care . . . also engages the principle of gender self-determination, which is related to ‘everyday’ autonomy: a person’s right to decide the shape of the life they want to live.”). See generally Donofrio, *supra* note 14, at 42 (“Even a cisgender woman whose gender presentation is such that she does not imagine herself as someone who would give birth could face gender dysphoria during pregnancy. For anyone experiencing gender dysphoria or other threats during pregnancy, the ability to decide whether to carry a pregnancy to term can be lifesaving. And just like other gender-affirming healthcare that many cisgender people receive, such as breast implants and other plastic surgery, an abortion can constitute gender-affirming care.”).

29. See CTR. FOR REPROD. RTS., *supra* note 26, at 9; Ashley, *supra* note 28, at E833.

30. Ashley, *supra* note 28, at E834 (explaining how both GAC and abortion “can be considered along similar lines . . . as a right,” requiring a different approach to medicine than the “conventional diagnostic-and-cure model”).

State healthcare bans violate the right to bodily autonomy by denying individuals control of their person during junctures of physical transformation—puberty and pregnancy.³¹ Through healthcare bans, states position themselves as the arbiters of biological “destiny” to reinforce a narrow and binary construction of gender.³² States use abortion bans to mandate motherhood regardless of a pregnant person’s desires, drawing on Justice Bradley’s stereotyping in *Bradwell v. Illinois*, a decision in which he characterized motherhood as “[t]he paramount destiny and mission of woman.”³³ The plans pregnant people have for their own lives are thus subsumed by “the law of the Creator” and “the rules of civil society.”³⁴ Likewise, GAC bans perpetuate a conservative conception of gender that is synonymous with biological sex.³⁵ In healthcare ban states, transgender young people are bound, via the accident of birth, to develop per the state’s collapsed definition of gender-as-sex.³⁶ States with GAC bans mandate that young people “properly develop into the adults God intended them to be[.]” regardless of how divorced this “divine” path is from the young person’s sense of self.³⁷

31. See discussion *infra* Part I.

32. See discussion *infra* Section III.B.1 (describing how states’ healthcare bans through religion reinforce the idea of biological destiny).

33. *Bradwell v. Illinois*, 83 U.S. 130, 141–42 (1873) (Bradley, J., concurring).

34. *Id.*

35. See, e.g., THE HERITAGE FOUND., MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE 585 (2023) (“The President should direct agencies to focus their enforcement of sex discrimination laws on the biological binary meaning of ‘sex.’”).

36. See, e.g., Steve Almasy & Amanda Musa, *Alabama Governor Signs into Law Two Bills Limiting Transgender Youth Protections*, CNN (Apr. 8, 2022, at 16:50 ET), <https://www.cnn.com/2022/04/08/us/alabama-transgender-bills/index.html> [<https://perma.cc/T395-9N2X>] (quoting Governor Kay Ivey’s statement that “I believe very strongly that if the Good Lord made you a boy, you are a boy, and if he made you a girl, you are a girl . . . let us all focus on helping [transgender youth] to properly develop into the adults God intended them to be”).

37. *Id.*

While the phrase “bodily autonomy” does not appear in the Constitution, the right is implicit in its promise of liberty.³⁸ Following the Civil War and the end of federal legal protections for chattel slavery, Congress passed, and the states ratified, the Reconstruction Amendments.³⁹ Narrowly defined, the Thirteenth, Fourteenth, and Fifteenth Amendments ban involuntary servitude “except as a punishment for crime[;]”⁴⁰ establish birthright citizenship and require “equal protection of the laws[;]”⁴¹ and grant voting rights to men regardless of “race, color, or previous condition of servitude[;]” respectively.⁴² Yet these amendments have been interpreted more broadly as protections from governmental incursions on personal liberty.⁴³ Broadly interpreting the Reconstruction Amendments’ guarantees is necessary to fully rectify the harms of slavery and “prevent the law from being used to establish any caste system . . . , reinforce the original text of the Constitution, and expand protections of freedom and liberty for *all* people.”⁴⁴ A strict, textualist application of the amendments fails to address the breadth of harms perpetuated through slavery, which extended beyond forced labor and physical restraint to “den[y] Black people the right to control

38. See Sophie Brill, *Re-Righting History: A Critical Race Perspective of Dobbs v. Jackson Women’s Health Organization*, 39 BERKELEY J. OF GENDER, L. & JUST. 41, 46 (2024) (“It is well established that the Constitution, particularly with the addition of the Reconstruction Amendments, protects rights that are implicit in its meaning, even if those rights are not explicitly enumerated.”).

39. See *Civil War Amendments*, CONST. ANNOTATED, https://constitution.congress.gov/browse/essay/intro.6-4/ALDE_00000388/ [<https://perma.cc/W3YB-XDCZ>] (last visited Jan. 6, 2026).

40. U.S. CONST. amend. XIII, § 1.

41. U.S. CONST. amend. XIV, § 1. The Fourteenth Amendment’s promise of equal protection also applies to infringements by the federal government, since “[d]iscrimination may be so unjustifiable as to be violative of due process,” thus violating the Fifth Amendment. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954); U.S. CONST. amend. V.

42. U.S. CONST. amend. XV, § 1.

43. See *Obergefell v. Hodges*, 576 U.S. 644, 664 (2015) (“The generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions, and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning.”).

44. Brill, *supra* note 38, at 47 (internal quotation marks omitted).

their bodies, as well as the ability to form families, legally marry, and make their own decisions about having and raising children.”⁴⁵ Accordingly, the Reconstruction Amendments—and, principally, the Fourteenth Amendment—have been interpreted to grant broad protections for liberty and fundamental rights, including those rights concerning what one does or does not do with one’s body.⁴⁶

The right to bodily autonomy is deeply rooted in Supreme Court precedent. In 1891, the Court in *Union Pacific Railway Co. v. Botsford* rejected the defendant’s request to compel the plaintiff in a personal injury suit to submit to a nonconsensual surgical exam.⁴⁷ *Botsford* stated that “[n]o right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.”⁴⁸ Subsequent cases built upon *Botsford*’s foundation.⁴⁹ In *Griswold v. Connecticut*, the Court recognized as fundamental the right of married people to receive contraceptive counseling.⁵⁰ Justice William Douglas, writing for the majority, held that “specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. Various guarantees create zones of privacy.”⁵¹ The majority held that the right to control one’s reproduction vested in this

45. CTR. FOR REPROD. RTS., *supra* note 26, at 17; see also Larada Lee-Wallace, *Reproductive Justice: The North Star in a World Beyond Roe v. Wade and the Right to Choose*, 29 UCLA J. GENDER & L. 147, 148 (2022) (“When examining the history and inception of this country, one will find that restricting and barring access to reproductive care and freedom was one of the original and primary tactics slave owners used to control enslaved peoples and their descendants.”).

46. See *Obergefell*, 576 U.S. at 664.

47. *Union Pac. Ry. Co. v. Botsford*, 141 U.S. 250, 251 (1891).

48. *Id.*

49. See, e.g., *Griswold v. Connecticut*, 381 U.S. 479, 485–86 (1965); *Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972); *Roe v. Wade*, 410 U.S. 113, 153–54 (1973), *overruled by*, *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022).

50. *Griswold*, 381 U.S. at 485–86.

51. *Id.* at 484 (internal citation omitted).

“zone[] of privacy[,]” although no such right was explicit in the Constitution.⁵² Justice Arthur Goldberg’s concurrence also identified roots of this right in the Ninth Amendment’s protection of non-enumerated personal liberties and, more specifically, “as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.”⁵³ Throughout the twentieth century, the Court guarded the “sacred” right of bodily autonomy against multiple threats,⁵⁴ striking down laws that abridged individuals’ right to bodily autonomy in the form of state sterilization, contraceptive restrictions, abortion restrictions, and criminalized same-sex sexual activity.⁵⁵

Dobbs departed from this precedent.⁵⁶ Characterizing the Court’s decisions recognizing⁵⁷ and affirming⁵⁸ constitutional protections for abortion as “egregiously wrong” and the reasoning therein as “exceptionally weak,” Justice Samuel Alito’s majority opinion relied on a haphazard survey of English and American common law to determine that “a right to abortion is not deeply rooted in the Nation’s history and tradition.”⁵⁹ Faced

52. *Id.*

53. *Id.* at 494 (Goldberg, J., concurring) (quoting *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting)); U.S. CONST. amend. IX (“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”).

54. *Union Pac. Ry. Co. v. Botsford*, 141 U.S. 250, 251 (1891).

55. *Skinner v. Oklahoma*, 316 U.S. 535, 536–37, 543 (1942) (striking Oklahoma law which authorized sterilization as punishment for certain criminal convictions); *Eisenstadt v. Baird*, 405 U.S. 438, 440–41 (1972) (striking Massachusetts law which barred exhibiting or providing contraceptives to unmarried persons); *Roe v. Wade*, 410 U.S. 113, 117–18, 153 (1973), *overruled by*, *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022) (striking Texas law that prohibited abortion except to save the patient’s life); *Lawrence v. Texas*, 539 U.S. 558, 562–63, 578 (2003) (striking Texas law proscribing “deviate sexual intercourse”).

56. *See Dobbs*, 597 U.S. at 231–32.

57. *Roe*, 410 U.S. at 154 (“We, therefore, conclude that the right of personal privacy includes the abortion decision.”).

58. *Planned Parenthood v. Casey*, 505 U.S. 833, 846 (1992), *overruled by*, *Dobbs*, 597 U.S. at 367 (“[T]he essential holding of *Roe v. Wade* should be retained and once again reaffirmed” (quoting *Casey*, 505 U.S. at 846)).

59. *Dobbs*, 597 U.S. at 216, 242–50. For a critique of the majority’s historical analysis, see Aaron Tang, *After Dobbs: History, Tradition, and the Uncertain Future of a Nationwide Abortion Ban*, 75 STAN. L. REV. 1091, 1128–1149 (2023) (“[F]or an opinion that claims *Roe* was ‘egregiously

with decades of precedent upholding a “right to autonomy[,]” the majority tried to cabin its decision to abortion, writing that the issue is “sharply distinguish[able]” from other substantive due process cases due to “the critical moral question [it] pose[s].”⁶⁰ The *Dobbs* majority and Justice Brett Kavanaugh’s concurrence promise a Jenga-like feat by claiming the Court can overturn *Roe v. Wade* and *Planned Parenthood v. Casey* without disturbing the doctrine of substantive due process that predated and followed those decisions.⁶¹ Meanwhile, Justice Clarence Thomas and the dissent reckon candidly with the meaning of liberty after *Dobbs*.⁶² The former threatens, while the latter warns, that the consequences of *Dobbs* extend beyond abortion.⁶³ The dissenting Justices describe how “[t]he Court’s precedents about bodily autonomy, sexual and familial relations, and procreation are all interwoven—all part of the fabric of our constitutional law, and because that is so, of our lives . . . where they safeguard a right to self-determination.”⁶⁴ By pulling at the threads of substantive due process, *Dobbs* puts the Court’s precedent securing bodily autonomy on untested ground.⁶⁵

wrong’ in its own historical conclusions, it is extremely troubling that the ‘most important historical fact’ the *Dobbs* majority believed it had proven was no fact at all.”).

60. *Dobbs*, 597 U.S. at 218.

61. *Id.* at 295 (“[W]e have stated unequivocally that nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion.”) (internal quotation marks omitted); *id.* at 346 (Kavanaugh, J., concurring) (“Overruling *Roe* does *not* mean the overruling of [*Griswold*, *Eisenstadt*, *Loving v. Virginia*, and *Obergefell*], and does *not* threaten or cast doubt on those precedents.”).

62. *Id.* at 334 (Thomas, J., concurring); *id.* at 362–63 (Breyer, Sotomayor, & Kagan, JJ., dissenting).

63. *See id.* at 332 (Thomas, J., concurring) (“[I]n future cases, we should reconsider all of this Court’s substantive due process precedents . . . [b]ecause any substantive due process decision is demonstrably erroneous.”) (internal quotation marks omitted); *see also id.* at 363 (Breyer, Sotomayor & Kagan, JJ., dissenting) (“Either the majority does not really believe in its own reasoning. Or if it does, all rights that have no history stretching back to the mid-19th century are insecure. Either the mass of the majority’s opinion is hypocrisy, or additional constitutional rights are under threat. It is one or the other.”).

64. *Id.* at 378.

65. Justice Thomas’s concurrence candidly solicits challenges to substantive due process precedent. *Id.* at 332 (Thomas, J., concurring).

The right to bodily autonomy is currently at issue in litigation challenging the constitutionality of state GAC bans.⁶⁶ In challenges brought in the Sixth, Eighth, and Eleventh Circuits, minor plaintiffs' right to bodily autonomy is mediated through claimed parental rights, since "parents are generally presumed by state law to be empowered to consent to bodily interventions on behalf of their children."⁶⁷ Thus, rather than claiming a minor's right to bodily autonomy or gender expression, plaintiffs claim their parental rights to direct the care and upbringing of their children.⁶⁸ And courts that apply *Dobbs*'s narrow test for fundamental rights have repeatedly found plaintiffs' claims lacking.⁶⁹ The Eleventh Circuit, applying *Dobbs*'s approach to identifying fundamental liberties, narrowly articulated the plaintiffs' claimed right as "the right to treat one's children with transitioning medications subject to medically accepted standards."⁷⁰ The Court held that the proposed right was unsupported by its analysis of history and tradition because "puberty blocking medication and cross-sex hormone treatment" were not widely used to treat gender dysphoria until the twentieth century.⁷¹ Likewise, the Sixth Circuit accused the plaintiffs of

66. Compare *Brandt v. Rutledge*, 47 F.4th 661, 667–68 (8th Cir. 2022) (affirming lower court's injunction against Arkansas's GAC ban), with *L.W. v. Skrmetti*, 73 F.4th 408, 412–13 (6th Cir. 2023), *aff'd*, 145 S. Ct. 1816 (2025) (allowing Tennessee's GAC ban to take effect).

67. B. Jessie Hill, *Constituting Children's Bodily Integrity*, 64 DUKE L.J. 1295, 1305 (2015); see also *id.* at 1309 ("[M]inors have long been subject to a common-law presumption that they are incapable of consenting on their own to healthcare and that parents are capable of providing informed consent on their behalf.").

68. *L.W. v. Skrmetti*, 83 F.4th 460, 475 (6th Cir. 2023) ("Plaintiffs [claim] . . . as parents, they have a substantive due process right 'to make decisions concerning the care, custody, and control of their children.'" (quoting *Troxel v. Granville*, 530 U.S. 57, 66 (2000)); *Brandt*, 47 F.4th at 668 ("Parent Plaintiffs . . . allege the [GAC ban] violates the Due Process Clause of the Fourteenth Amendment by limiting their fundamental right to seek and follow medical advice for their children."); *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1214 (11th Cir. 2023) ("The original complaint generally alleged that[] the [GAC ban] violates the Due Process Clause of the Fourteenth Amendment by depriving the Parent Plaintiffs of their right to direct the upbringing of their children.").

69. See, e.g., *Eknes-Tucker*, 80 F.4th at 1220–21 (internal quotation marks omitted); *Skrmetti*, 83 F.4th at 472–73, 491.

70. *Eknes-Tucker*, 80 F.4th at 1220–21.

71. *Id.*

“overstat[ing] the parental right [to direct the care of their children] by climbing up the ladder of generality to a perch . . . that the case law and our traditions simply do not support.”⁷² There, the circuit court substituted its own articulation of the right — “a constitutional right [of parents] to obtain reasonably banned treatments for their children” — and determined it was not fundamental.⁷³ Conversely, in Arkansas, the Eastern District Court held that the parent plaintiffs’ right “to seek medical care for their children and, in conjunction with their adolescent child’s consent and their doctor’s recommendation, make a judgment that medical care is necessary” was fundamental and enjoined the state’s ban under strict scrutiny.⁷⁴ The decision, which did not cite *Dobbs*, was affirmed by the Eighth Circuit.⁷⁵ *Dobbs* is unpredictably applied — or ignored — in the lower courts, yielding conflicting determinations of the right to bodily autonomy as mediated by parents’ right to direct their child’s healthcare.⁷⁶ Uncertain protections for this right have, in turn, spawned a wave of state legislation that tests the limits of state control over bodies, reproduction, and gender expression, described in the sections that follow.⁷⁷

II. THE PROLIFERATION OF STATE HEALTHCARE BANS

To highlight the myriad parallels between abortion and GAC and contextualize the legal analysis that follows, this section briefly defines each type of healthcare and describes the dire consequences of states’ bans. While abortion can be gender-affirming for some patients, this Note treats abortion and GAC

72. *Skrmetti*, 83 F.4th at 475.

73. *Id.*

74. *Brandt v. Rutledge*, 677 F. Supp. 3d 877, 923 (E.D. Ark. 2023).

75. *Id.*; *Brandt v. Rutledge*, 47 F.4th 661, 667 (8th Cir. 2022).

76. Compare *Eknes-Tucker*, 80 F.4th at 1220–21 (applying *Dobbs* to allow Alabama’s GAC ban to take effect), and *Skrmetti*, 73 F.4th at 412–13, *aff’d*, 145 S. Ct. 1816 (2025) (applying *Dobbs* to allow Tennessee’s GAC ban to take effect), with *Brandt*, 677 F. Supp. 3d at 922–23 (affirming injunction against Arkansas’s GAC ban without applying *Dobbs*).

77. See discussion *infra* Part II.

as separate interventions to reflect how each is regulated as a discrete form of healthcare under state law.⁷⁸

A. Abortion Bans

Abortion “ends a pregnancy with medication or a medical procedure” and can be provided in a free-standing clinic, hospital, or patient’s home.⁷⁹ Abortion is a common intervention during a person’s reproductive lifespan; in a recent national survey of people with a capacity for pregnancy, one in seven respondents reported ever having an abortion.⁸⁰ Abortion “has existed for pretty much as long as human beings have existed” under varying degrees of restriction.⁸¹ Approximately 1,037,000 abortions were performed in the United States in 2023, the highest yearly incidence of abortion in more than a decade.⁸² The post-*Dobbs* increase in abortion underscores how essential this care is; despite the increase in restrictions and bans, reduced availability, and the specter of criminalization, patients

78. See Donofrio, *supra* note 14, at 42; see also *infra* Part III (treating abortion care and GAC as separate interventions with different legislation banning them).

79. *Abortion Care*, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS (Sep. 2022), <https://www.acog.org/womens-health/faqs/induced-abortion> [https://perma.cc/TVK8-NVAW].

80. Ivette Gomez, Karen Diep, Brittnei Frederiksen, Usha Ranji & Alina Salganicoff, *Abortion Experiences, Knowledge, and Attitudes Among Women in the U.S.: Findings from the 2024 KFF Women’s Health Survey*, KFF (Aug. 14, 2024), <https://www.kff.org/womens-health-policy/issue-brief/abortion-experiences-knowledge-attitudes-among-u-s-women-2024-womens-health-survey/> [https://perma.cc/HPP6-CYGA]. Researchers defined the term “women” as including respondents who self-identified as non-binary, transgender, or “another gender” and completed the “female set of questions with regard to sexual and reproductive health.” *Id.*

81. Annalies Winny, *A Brief History of Abortion in the U.S.*, HOPKINS BLOOMBERG PUB. HEALTH (Nov. 2, 2022), <https://magazine.publichealth.jhu.edu/2022/brief-history-abortion-us> [https://perma.cc/9S4B-JF4H].

82. Isaac Maddow-Zimet & Candace Gibson, *Despite Bans, Number of Abortions in the United States Increased in 2023*, GUTTMACHER (May 10, 2024), <https://www.guttmacher.org/2024/03/despite-bans-number-abortions-united-states-increased-2023> [https://perma.cc/Q7FJ-PMGK]. 1,037,000 is likely an underestimate of the total yearly incidence in 2023, since the figure does not include self-managed abortions, or those where the patient ends their pregnancy without assistance or a prescription from a healthcare provider. *Abortion in the United States*, GUTTMACHER (Apr. 2025), <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states> [https://perma.cc/N285-7KU2].

continue to have abortions and manage their reproductive lives.⁸³ Indeed, studies suggest that abortion restrictions fail to reduce the number of abortions that are provided.⁸⁴ Rather than reduce abortion rates, state healthcare bans manufacture legal and medical risks for patients determined to get care.⁸⁵

Since *Dobbs*, multiple states have banned or severely restricted abortion.⁸⁶ To ameliorate the draconian image of complete abortion bans, states have created “life exceptions,” promising abortion will be available when continuing a pregnancy turns deadly.⁸⁷ But these exceptions have proven “unworkable in practice[,]”⁸⁸ and multiple patients have died waiting for the life-saving abortions they needed.⁸⁹ Exceptions are unworkable

83. Geoff Mulvihill, *Women in States with Bans Are Getting Abortions at Similar Rates as Under Roe, Report Says*, ASSOCIATED PRESS (Oct. 22, 2024, at 15:49 ET), <https://apnews.com/article/abortion-numbers-telehealth-wecount-pills-bans-663be20ac1a40345ec5c8fe23ab43a60> [<https://perma.cc/TTG6-RPNC>]; see generally DAVID S. COHEN & CAROLE JOFFE, *AFTER DOBBS: HOW THE SUPREME COURT ENDED ROE BUT NOT ABORTION* (2025) (describing how advocates planned for and adapted to *Dobbs* to continue providing healthcare).

84. Michaelleen Doucleff, *Do Restrictive Abortion Laws Actually Reduce Abortion? A Global Map Offers Insights*, NPR (June 27, 2022, at 10:04 ET), <https://www.npr.org/sections/goatsandsoda/2022/05/27/1099739656/do-restrictive-abortion-laws-actually-reduce-abortion-a-global-map-offers-insigh> [<https://perma.cc/6PWB-XGBL>].

85. See AMNESTY INT’L, *ABORTION IN THE USA: THE HUMAN RIGHTS CRISIS IN THE AFTERMATH OF DOBBS* 95 (2024) (“Practitioners interviewed [for the report] . . . described cases involving patients receiving delayed and sub-par care—some with fatal consequences—all due to legal restrictions or confusion as to how the laws in particular states applied to the patient and pregnancy.”); see also WENDY A. BACH & MADALYN K. WASILCZUK, *PREGNANCY AS A CRIME: A PRELIMINARY REPORT ON THE FIRST YEAR AFTER DOBBS* 2 (2024) (“In the first year after *Dobbs*, at least 210 pregnant people faced criminal charges for conduct associated with pregnancy, pregnancy loss, or birth.”).

86. KFF, *Abortion in the United States Dashboard*, <https://www.kff.org/womens-health-policy/dashboard/abortion-in-the-u-s-dashboard/> [<https://perma.cc/324E-99WP>] (last visited Jan. 6, 2026).

87. See Mary Ziegler, *In States With Abortion Bans, When Does a Medical Emergency Trigger an Exception?*, STATE CT. REP. (Jan. 28, 2025), <https://statecourtreport.org/our-work/analysis-opinion/states-abortion-bans-when-does-medical-emergency-trigger-exception> [<https://perma.cc/Q744-8SEL>].

88. Mabel Felix, Lauri Sobel & Alina Salganicoff, *A Review of Exceptions in State Abortion Bans: Implications for the Provision of Abortion Services*, KFF (June 6, 2024), <https://www.kff.org/womens-health-policy/issue-brief/a-review-of-exceptions-in-state-abortions-bans-implications-for-the-provision-of-abortion-services/> [<https://perma.cc/ZC5N-KKTB>]. All of Missouri’s bans include an affirmative defense rather than an exception. *Id.*

89. See, e.g., Kavitha Surana, *Abortion Bans Have Delayed Emergency Medical Care. In Georgia, Experts Say This Mother’s Death Was Preventable*, PROPUBLICA (Sep. 16, 2024, at 05:00 ET)

due to onerous requirements,⁹⁰ providers' wariness to provide care under the threat of civil and criminal liability,⁹¹ and the lack of specificity regarding when precisely a pregnancy becomes life-threatening enough for the exception to apply.⁹² As one abortion provider explained, "it's unclear what, precisely, 'life-saving' means. What does the risk of death have to be, and how imminent must it be? Might abortion be permissible in a patient with pulmonary hypertension, for whom we cite a 30-to-50% chance of dying with ongoing pregnancy? Or must it be 100%?"⁹³

As a result, patients with life-threatening pregnancy complications are "bounced between hospitals like 'hot potatoes,' with health care providers reluctant to participate in treatment that could attract a prosecutor."⁹⁴ In Georgia, a patient's organs failed after doctors waited twenty hours to treat her for a rare complication of medication abortion.⁹⁵ In Texas, one teenage patient died after she was denied care at multiple emergency

[hereinafter Surana, *Georgia Mother's Death*], <https://www.propublica.org/article/georgia-abortion-ban-amber-thurman-death> [https://perma.cc/4KEQ-F5GD]; Cassandra Jaramillo & Kavitha Surana, *A Texas Woman Died After the Hospital Said It Would Be a Crime to Intervene in Her Miscarriage*, TEX. TRIBUNE (Oct. 30, 2024, at 04:00 ET) [hereinafter Jaramillo & Surana, *Texas Miscarriage*], <https://www.texastribune.org/2024/10/30/texas-abortion-ban-josseli-barnica-death-miscarriage/> [https://perma.cc/K2QE-R5K8]; Lizzie Presser & Kavitha Surana, *A Pregnant Teenager Died After Trying To Get Care in Three Visits to Texas Emergency Rooms*, PROPUBLICA (Nov. 1, 2024, at 06:00 ET) [hereinafter Presser & Surana, *Pregnant Teenager's Death*], <https://www.propublica.org/article/nevaeh-crain-death-texas-abortion-ban-emptala> [https://perma.cc/5NDP-FQ6R].

90. See, e.g., ALA. CODE § 26-23H-4 (West 2025) (making it illegal to perform an abortion except when "necessary in order to prevent a serious health risk to the unborn child's mother," in which case a second physician must, in writing, verify the primary care provider's opinion).

91. Nadine El-Bawab, Tess Scott, Christina Ng & Acacia Nunes, *Delayed and Denied: Women Pushed to Death's Door For Abortion Care in Post-Roe America*, ABC NEWS (Dec. 14, 2023, at 06:09 ET), <https://abcnews.go.com/US/delayed-denied-women-pushed-deaths-door-abortion-care/story?id=105563255> [https://perma.cc/4YPR-EZYD] (describing how doctors at a Florida clinic "did not want to risk providing care under the unclear state law" so they referred their high-risk patient to a clinic "nearly 1,000 miles away").

92. Lisa H. Harris, *Navigating Loss of Abortion Services—A Large Academic Medical Center Prepares for the Overturn of Roe v. Wade*, 386 N. ENGL. J. MED. 2061, 2061–62 (2022).

93. *Id.* at 2061.

94. Presser & Surana, *Pregnant Teenager's Death*, *supra* note 89.

95. Surana, *Georgia Mother's Death*, *supra* note 89.

rooms because providers were afraid to care for her.⁹⁶ Another woman begged her doctors for forty hours to intervene during her miscarriage.⁹⁷ She died of an infection three days later.⁹⁸

Abortion is time-sensitive healthcare.⁹⁹ *Denied* abortions force patients to give birth against their will, and the process of childbirth is fourteen times more likely to result in death than abortion.¹⁰⁰ Likewise, *delayed* abortions threaten health, since “[a]bortions later in gestation can constrain patients’ care choices . . . [and] carry a relatively higher risk of complications compared to those obtained earlier.”¹⁰¹ In addition to the practical challenges posed by abortion later in pregnancy, “policies that restrict access and lead to delays . . . may be negatively associated with the psychological well-being of people trying to obtain abortion care.”¹⁰² The long-term consequences of being denied an abortion extend beyond a patient’s health, as abortion denial is associated with economic insecurity and worsened child development for a patient’s existing children.¹⁰³

Abortion bans have a chilling effect on reproductive healthcare¹⁰⁴ at the same time that the United States is experiencing a maternal mortality crisis.¹⁰⁵ The consequences of this

96. Presser & Surana, *Pregnant Teenager’s Death*, *supra* note 89.

97. Jaramillo & Surana, *Texas Miscarriage*, *supra* note 89.

98. *Id.*

99. Ortal Wasser, Lauren J. Ralph, Shelly Kaller & M. Antonia Biggs, *Experiences of Delay-Causing Obstacles and Mental Health at the Time of Abortion Seeking*, 6 CONTRACEPTION: X 1 (2024).

100. *Abortion Access Fact Sheet*, AM. COLL. OBSTETRICIANS & GYNECOLOGISTS, <https://www.acog.org/advocacy/abortion-is-essential/come-prepared/abortion-access-fact-sheet#:~:text=The%20vast%20majority%20of%20abortions,from%20abortion%20are%20extremely%20low> [https://perma.cc/Z7U3-9B5D] (last visited Jan. 6, 2026).

101. Wasser et al., *supra* note 99, at 1.

102. *Id.* at 6.

103. UCSF ANSIRH, *THE HARMS OF DENYING A WOMAN A WANTED ABORTION: FINDINGS FROM THE TURNAWAY STUDY 1*, 1–2 (2020), https://www.ansirh.org/sites/default/files/publications/files/the_harms_of_denying_a_woman_a_wanted_abortion_4-16-2020.pdf [https://perma.cc/V46B-6CQJ].

104. Mariel Padilla, *Abortion Bans Are Causing ‘Chilling Effect’ For OBGYNs*, *Study Says*, THE 19TH (June 21, 2023, at 06:07 ET), <https://19thnews.org/2023/06/obgyns-abortion-miscarriages-study/> [https://perma.cc/622P-JN7D].

105. Munira Z. Gunja, Evan D. Gumas, Relebohile Masitha & Laurie C. Zephyrin, *Insights into the U.S. Maternal Mortality Crisis: An International Comparison*, THE COMMONWEALTH FUND

crisis are not borne out equally across racial and ethnic groups; the maternal mortality rate is highest for Black women,¹⁰⁶ reflecting the intersecting oppressions of sexism and anti-Black racism that Black pregnant people face.¹⁰⁷ Abortion bans exacerbate these racial health disparities.¹⁰⁸

B. Gender-Affirming Care Bans

GAC includes social, psychological, medical, and surgical interventions to treat gender dysphoria and “support and affirm an individual’s gender identity.”¹⁰⁹ Medical interventions include reversible puberty blockers—medications that halt pubertal development—and partially reversible hormone therapy.¹¹⁰ Surgical interventions include removal or augmentation of breast tissue, facial feminization procedures, and “bottom”

(June 4, 2024), <https://www.commonwealthfund.org/publications/issue-briefs/2024/jun/insights-us-maternal-mortality-crisis-international-comparison#:~:text=In%202022%20there%20were%20approximately,and%20highest%20for%20Black%20women> [<https://perma.cc/J4PE-VVW9>].

106. *Id.*

107. See, e.g., Elleni M. Hailu, Sai Ramya Maddali, Jonathan M. Snowden, Suzan L. Carmichael & Mahasin S. Mujahid, *Structural Racism and Adverse Maternal Health Outcomes: A Systematic Review*, 78 HEALTH & PLACE 1, 1 (2022); Juanita J. Chinn, Iman K. Martin & Nicole Redmond, *Health Equity Among Black Women in the United States*, 30 J. WOMEN’S HEALTH 212, 212 (2021) (“Black women continue to experience excess mortality relative to other U.S. women . . . reflect[ing] the structural inequities within and outside the health system that Black women experience throughout the life course and contributes to the current crisis of maternal morbidity and mortality.”).

108. Latoya Hill, Samantha Artiga, Usha Ranji, Ivette Gomez & Nambi Ndugga, *What Are the Implications of the Dobbs Ruling for Racial Disparities?*, KFF (Apr. 24, 2024), <https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/> [<https://perma.cc/6UXD-ZXVF>].

109. *Gender Incongruence and Transgender Health in the ICD*, WORLD HEALTH ORG., <https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd#:~:text=What%20is%20gender%20affirmative%20health,affirm%20an%20individual's%20gender%20identity> [<https://perma.cc/MTD4-6W4X>] (last visited Jan. 6, 2026). “Gender dysphoria is a feeling of distress that can happen when a person’s gender identity differs from the sex assigned at birth.” *Gender Dysphoria*, MAYO CLINIC, <https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/symptoms-causes/syc-20475255> [<https://perma.cc/G4R6-TYLD>] (last visited Jan. 6, 2026).

110. OFF. OF POPULATION AFFS., DEP’T OF HEALTH & HUM. SERVS., GENDER-AFFIRMING CARE AND YOUNG PEOPLE 2, <https://opa.hhs.gov/sites/default/files/2022-03/gender-affirming-care-young-people-march-2022.pdf> [<https://perma.cc/TF3P-Q23G>] (last visited Jan. 6, 2026).

or genital reconstructive surgery, which may include removal of reproductive organs and/or reconstruction of genitals.¹¹¹ These interventions are non-reversible and typically reserved for adult patients, and patients may opt to preserve future fertility through options such as semen and egg banking.¹¹² The World Professional Association for Transgender Health's guidelines recommend limiting surgical interventions for minor patients to cases where: (1) the patient's experience of gender diversity is "marked and sustained[;]" (2) the minor is considered capable of giving informed consent for the procedure based on their "emotional and cognitive maturity[;]" (3) mental health issues that might impede the patient's ability to give informed consent are addressed; (4) the patient and provider have discussed the impact of surgical treatment on the patient's future fertility; (5) the patient has reached the requisite stage of pubertal development, and; (6) the patient has received, at minimum, one year of hormone therapy, unless hormone therapy is contraindicated.¹¹³

Like abortion, access to GAC is time-sensitive, since "allowing irreversible puberty to progress in adolescents who experience gender incongruence . . . may have immediate and lifelong harmful effects for the transgender young person."¹¹⁴ Early intervention with puberty blockers:

[A]llow[s] youth the option to undergo the puberty that aligns with their gender identity through the use of gender[-]affirming hormones.

111. See *id.*; see also *Genital Reconstructive Services/Bottom Surgery*, UCLA HEALTH, <https://www.uclahealth.org/medical-services/gender-health/programs-services/genital-reconstructive-services-bottom-surgery> [<https://perma.cc/WZD3-46DQ>] (last visited Jan. 6, 2026) (describing bottom surgery options).

112. See OFF. OF POPULATION AFFS., *supra* note 110, at 1–2; see also *Fertility*, UCSF GENDER AFFIRMING HEALTH PROGRAM, <https://transcare.ucsf.edu/fertility> [<https://perma.cc/3VSJ-K4CG>] (last visited Jan. 6, 2026) (describing fertility-preserving options for transgender patients pursuing surgical interventions).

113. World Pro. Ass'n of Transgender Health, *Standards of Care for the Health of Transgender and Gender Diverse People*, Version 8, 23 INT'L J. TRANSGENDER HEALTH S1, S48 (2022).

114. See *id.* at S47–48.

Putting puberty on hold allows youth the time to explore their gender identity with the help of their support system . . . and without the anticipatory anxiety of impending pubertal changes.¹¹⁵

In addition to granting young people more time to understand their gender identity, pausing puberty prevents the irreversible development of secondary sex characteristics and “may obviate the need for future surgical interventions.”¹¹⁶ And early intervention with GAC is lifesaving.¹¹⁷ Describing the “grim” impact of anti-transgender legislation on her clients, one provider wrote, “I’ve seen self-harm go through the roof[,] and suicidal ideation is up. It’s beyond rhetoric—the actions taken to almost erase the existence of many of these young people who are just coming into their identities for the first time in their lives.”¹¹⁸ This anecdote is consistent with published research that has found an inverse relationship between receipt of GAC and suicidal ideation.¹¹⁹ Like abortion, access to GAC is a time-sensitive matter matter of life or death.¹²⁰

In recognition of GAC’s beneficial impact on transgender patients’ health and the importance of early intervention, multiple professional medical associations have issued statements supporting minors’ access to GAC, including the United States Professional Association for Transgender Health,¹²¹ the

115. CAROLINE SALAS-HUMARA, GINA M. SEQUEIRA, WILMA ROSSI & CHERIE PRIYA DHAR, GENDER AFFIRMING MEDICAL CARE OF TRANSGENDER YOUTH, CURRENT PROBS. PEDIATRIC ADOLESCENT HEALTH CARE 1, 3 (2019).

116. *Id.* at 3.

117. See Jack L. Turban, Dana King, Jeremi M. Carswell & Alex S. Keuroghlian, *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*, 145 PEDIATRICS 1, 3–4 (2020).

118. Amy Novotney, *‘The Young People Feel It’: A Look at the Mental Health Impact of Transgender Legislation*, AM. PSYCH. ASS’N (June 3, 2024), <https://www.apa.org/topics/lgbtq/mental-health-anti-transgender-legislation> [https://perma.cc/E7P6-DBSQ].

119. Turban et al., *supra* note 117, at 5.

120. *Id.* at 5–6.

121. Press Release, U.S. Pro. Ass’n for Transgender Health, Position Statement on Legislative and Exec. Actions Regarding the Med. Care of Transgender Youth (Apr. 22, 2022), <https://wpath.org/wp-content/uploads/2024/11/With-Date-Position-Statement-Anti-Trans-Leg-USPATH-Apr-22-2022.pdf> [https://perma.cc/CSL9-8MLS].

American Academy of Child and Adolescent Psychiatry,¹²² the American Endocrine Society,¹²³ the American Academy of Pediatrics,¹²⁴ the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, the American College of Physicians, the American Osteopathic Association, and the American Psychiatric Association.¹²⁵ Despite professional consensus supporting GAC for minor patients, a majority of states have banned this care.¹²⁶ These bans exacerbate existing barriers transgender minors face when trying to access GAC, including long waitlists, unsupportive parents,

122. Press Release, Am. Acad. of Child & Adolescent Psychiatry, Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender-Diverse Youth (Nov. 8, 2019), https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx [https://perma.cc/KCA6-MNR9].

123. Press Release, Am. Endocrine Soc’y, Statement in Support of Gender-Affirming Care (May 8, 2024), <https://www.endocrine.org/news-and-advocacy/news-room/2024/statement-in-support-of-gender-affirming-care#:~:text=Endocrine%20Society%20Statement%20in%20Support%20of%20Gender%2DAffirming%20Care,-Washing-ton%2C%20DC%20May&text=We%20stand%20firm%20in%20our,often%20life%2Dsaving%20medical%20care> [https://perma.cc/338V-NXFR].

124. Am. Acad. of Pediatrics, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 PEDIATRICS 1, 10 (2018).

125. Press Release, Am. Acad. of Family Physicians, Am. Acad. of Pediatrics, Am. Coll. of Obstetricians & Gynecologists, Am. Coll. of Physicians, Am. Osteopathic Association, Am. Psychiatric Ass’n, Frontline Physicians Oppose Legis. That Interferes in or Penalizes Patient Care (Apr. 2, 2021), <https://www.aafp.org/dam/AAFP/documents/advocacy/prevention/equality/ST-G6-FrontlinePhysiciansOpposeLegislationThatInterferesInOrPenalizesPatientCare-040221.pdf> [https://perma.cc/9AYJ-9AUQ].

126. Dawson & Kates, *supra* note 17.

and lack of health insurance coverage for treatment,¹²⁷ restricting care for an estimated 156,000 young people.¹²⁸

As with abortion, the onslaught of GAC bans coincides with a wave of anti-transgender violence, creating an atmosphere of hostility toward transgender and gender-diverse people.¹²⁹ Also like abortion, Black women are disproportionately harmed by anti-transgender violence,¹³⁰ once again reflecting the intersecting systems of oppression—racism, sexism, and transphobia—this demographic faces.¹³¹

127. See World Pro. Ass’n of Transgender Health, *supra* note 113, at S43 (“[C]linical services in many places have not kept pace with the increasing number of youth seeking care. Hence, there are often long waitlists for services, and barriers to care exist for many transgender youth around the world.”); see also *Transgender Health Care*, HEALTHCARE.GOV, <https://web.archive.org/web/20241121221759/https://www.healthcare.gov/transgender-health-care/> [<https://perma.cc/DSC6-BSGS>] (last visited Nov. 28, 2025) (“Many health plans are still using exclusions such as ‘services related to sex change’ or ‘sex reassignment surgery’ to deny coverage to transgender people for certain health care services These transgender health insurance exclusions may be unlawful sex discrimination.”); Chaya Mangel Pflugeisen, Aytch A. Denaro & Anna Boomgaarden, *The Impact of Parent Support on Patient Empowerment in Trans and Gender Diverse Youth*, 19 LGBTQ+ FAM.: AN INTERDISC. J. 300, 305 (2023) (discussing results of a survey of transgender youth that found “youths’ sense of control over their gender affirming medical care and their ability to pay for that care decreased as parental support decreased”).

128. ELANA REDFIELD, KERITH J. CONRON, WILL TENTIDO & ERICA BROWNING, PROHIBITING GENDER-AFFIRMING MEDICAL CARE FOR YOUTH 2 (2023), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Youth-Health-Bans-Mar-2023.pdf> [<https://perma.cc/JA8E-STLZ>].

129. See Nicole Moeder, *Number of Trans Homicides Doubled Over 4 Years, with Gun Killings Fueling Increase: Advocates*, ABC NEWS (Oct. 12, 2022, at 10:37 ET), <https://abcnews.go.com/US/homicide-rate-trans-people-doubled-gun-killings-fueling/story?id=91348274> [<https://perma.cc/9WQZ-6KCK>] (discussing research finding that murders of transgender and gender-diverse people increased 93% between 2017 and 2021).

130. *Ending Murders of Violence Against Black Transgender Women and Supporting Transgender Communities*, NAACP (2019), <https://naacp.org/resources/ending-murders-violence-against-black-transgender-women-and-supporting-transgender> [<https://perma.cc/3XJ7-FZLH>]; *Fatal Violence Against the Transgender and Gender-Expansive Community in 2023*, HUM. RTS. CAMPAIGN, <https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-expansive-community-in-2023> [<https://perma.cc/9CW2-N74F>] (last visited Nov. 28, 2025).

131. T.J. Jourian, *What Are the Connections Between Transphobia, Racism and Sexual Violence?*, NAT’L SEXUAL VIOLENCE RES. CTR. (Mar. 8, 2023), <https://www.nsvrc.org/blogs/saam/what-are-connections-between-transphobia-racism-and-sexual-violence> [<https://perma.cc/6KC2-LPEE>].

III. TALES OF TWIN HEALTHCARE BANS

Alabama, Arkansas, and Tennessee each passed variations of a “Human Life Protection Act” before they could take effect due to constitutional protections for abortion.¹³² When *Dobbs* allowed these trigger bans to take effect, states moved on to banning GAC.¹³³ The bans—across states and forms of healthcare—share liability mechanisms and stem from state legislators’ desire to prompt legal challenges and change Supreme Court precedent.¹³⁴ All the bans that follow put the burden of enforcement on healthcare providers, who must screen patients to determine whether they fall within narrow exceptions.¹³⁵ Abortion and GAC providers in Alabama, Arkansas, and Tennessee are, thus, forced to weigh the duty to provide healthcare against criminal and civil liability for violating their states’ bans.¹³⁶

Section A describes the passage of abortion and GAC bans in Alabama, Arkansas, and Tennessee to shed light on the overlapping timelines and origins of these laws.¹³⁷ These states were selected as case studies since their GAC bans have been challenged and appealed in their respective circuits, offering a glimpse of how states defend the constitutionality of their bans in court.¹³⁸ Section B dives into the substance of these laws and identifies two themes—the weaponization of religion to further

132. See *infra* Section III.A.

133. See *infra* Section III.A.

134. See discussion *infra* Part III.

135. See discussion *infra* Section III.A.

136. See, e.g., *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1216 (11th Cir. 2023) (quoting one GAC provider who complained that, if Alabama’s ban on GAC “t[ook] effect, it w[ould] leave her stuck in a place where [she doesn’t] know how to proceed nor how to provide care for patients with gender dysphoria”) (internal quotation marks omitted).

137. *Infra* Section III.A.

138. See *Eknes-Tucker*, 80 F.4th at 1210; *Brandt v. Rutledge*, 47 F.4th 661, 667 (8th Cir. 2022). The Sixth Circuit’s decision in *L.W. v. Skrmetti* also addressed Kentucky’s GAC ban in a consolidated appeal. 83 F.4th 460, 466 (6th Cir. 2023). Because the Court addressed the legal questions posed by the bans in tandem, this Note omits a detailed timeline of the origins of Kentucky’s abortion and GAC restrictions.

a conservative gender ideology, and the use of pseudoscience—that cut across abortion and GAC bans.¹³⁹

A. Overlapping Timelines

1. Alabama

In 2019, Alabama Governor Kay Ivey made abortion a crime by signing the Alabama Human Life Protection Act into law.¹⁴⁰ The law only allows abortions to save the pregnant person's life; all others are punishable by ten to ninety-nine years in prison.¹⁴¹ In 2019, when the law was signed, it was unenforceable.¹⁴² Yet Governor Ivey signed regardless, hoping Alabama's abortion ban would inspire the Supreme Court "to revisit [the] important matter" of its abortion jurisprudence."¹⁴³ Governor Ivey

139. *Infra* Section III.B.

140. ALA. CODE § 26-23H-4 (West 2025); Press Release, Governor Kay Ivey, Statement After Signing the Ala. Hum. Life Prot. Act (May 15, 2019), <https://governor.alabama.gov/newsroom/2019/05/governor-ivey-issues-statement-after-signing-the-alabama-human-life-protection-act/> [<https://perma.cc/9J23-W5ME>].

141. See ALA. CODE §§ 13A-5-6(a)(1), 26-23H-4 (2025). Healthcare providers who terminate pregnancies to save the pregnant person's life may still be subjected to criminal penalties if they fail to satisfy multiple statutory requirements, including: (1) certifying the need for the abortion in writing; (2) receiving a second certifying opinion from another medical provider; (3) performing the abortion in a hospital; (4) performing the abortion "in a manner which provides the best opportunity for the unborn child to survive[;]" and (5) arranging for another physician to attend the abortion and care for the products of conception after they are extracted from the pregnant person. *Id.* § 26-22-3(c).

142. See *Roe v. Wade*, 410 U.S. 113, 164–65 (1973), *overruled by*, *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022) (holding that state abortion regulations that interfere in the pregnant person's autonomy in the first trimester violate Due Process, and state regulations in the second trimester must be "reasonably related to maternal health"); *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 878 (1992) ("To promote the State's profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right.").

143. JOHN O. SHIMABUKURO, CONG. RSCH. SERV., LSB10299, FETAL VIABILITY AND THE ALABAMA HUMAN LIFE PROTECTION ACT 1–3 (2019), <https://www.congress.gov/crs-product/LSB10299> [<https://perma.cc/5JNG-BFJP>] (describing how Governor Ivey was joined by other bill sponsors who "hoped" AHLPA would reach the Supreme Court and prompt the reversal of *Roe* and *Casey*).

got her wish in *Dobbs*,¹⁴⁴ and the District Court for the Middle District of Alabama dissolved its 2019 injunction to the law on Alabama's motion, putting the ban into effect.¹⁴⁵ Overnight, abortion became illegal across the state under almost all circumstances.¹⁴⁶

Two months before *Dobbs*, Governor Ivey signed another healthcare ban.¹⁴⁷ The Alabama Vulnerable Child Protection Act makes it a crime—punishable by up to ten years in prison—to provide puberty blockers, hormone therapy, or “bottom” surgery to any minor “for the purpose of attempting to alter the appearance of or affirm the minor’s perception of his or her gender or sex, if that appearance or perception is inconsistent with the minor’s sex.”¹⁴⁸ The statute defines “sex” as “[t]he biological state of being male or female, based on the individual’s sex organs, chromosomes, and endogenous hormone profiles.”¹⁴⁹ Thus, the statute exclusively bans GAC for nonbinary and transgender minors for whom “gender” may be “inconsistent” with sex assigned at birth.¹⁵⁰

2. Arkansas

Arkansas’s overlapping gestational and total abortion bans predate *Dobbs*, as does the state’s constitutional amendment declaring its policy “to protect the life of every unborn child from conception until birth, to the extent permitted by the Federal

144. *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 302 (2022) (“The Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. *Roe* and *Casey* arrogated that authority. We now overrule those decisions and return that authority to the people and their elected representatives.”).

145. Order, *Robinson v. Marshall*, No. 19-cv-00365 (M.D. Ala. June 24, 2022).

146. See ALA. CODE § 26-23H-4(b) (2025) (permitting abortion only when “necessary in order to prevent a serious health risk” to the patient).

147. Almasy & Musa, *supra* note 36.

148. ALA. CODE §§ 13A-5-6(a)(3), 26-26-4(a) (2025).

149. *Id.* § 26-26-3(3).

150. *Id.* § 26-26-4(a).

Constitution.”¹⁵¹ For years, the laws remained enjoined or unenforced, lying in wait for the overturn of *Roe* and *Casey*.¹⁵² On the same day that *Dobbs* was decided, Attorney General Leslie Rutledge certified the Arkansas Human Life Protection Act, thereby criminalizing abortion across the state.¹⁵³ The law prohibits abortion in all circumstances except to save the pregnant person’s life.¹⁵⁴ Violations are punishable by up to \$100,000 in fines and up to ten years in prison.¹⁵⁵

In 2021, Arkansas became the first state in the country to ban GAC for minors.¹⁵⁶ One day after Governor Asa Hutchinson vetoed the bill, calling the law a “step way too far,”¹⁵⁷ the legislature bypassed his veto by a simple majority.¹⁵⁸ The Save Adolescents from Experimentation (“SAFE”) Act bars healthcare professionals from providing or making referrals for “gender transition procedures to any individual under eighteen . . .

151. *Arkansas*, CTR. FOR REPROD. RTS., <https://reproductiverights.org/maps/state/arkansas/> [<https://perma.cc/W38B-5JB9>] (last visited Jan. 6, 2026); ARK. CONST. amend. LXVIII, § 2.

152. *Arkansas*, *supra* note 151. Governor Asa Hutchinson “signed [Arkansas’ total abortion ban] because it is a direct challenge to *Roe v. Wade*.” Devan Cole, *Arkansas Governor Says He Signed Near-Total Abortion Ban So Supreme Court Can Decide If It’s a ‘Direct Challenge’ to Roe*, CNN POLS. (Mar. 21, 2021, at 13:21 ET), <https://www.cnn.com/2021/03/21/politics/arkansas-asa-hutchinson-abortion-law-supreme-court-cnntv/index.html> [<https://perma.cc/GXP2-69BC>].

153. Stephen Simpson, *Arkansas Attorney General Implements State’s Abortion Ban; Governor Hails Court’s Decision*, ARK. DEMOCRAT GAZETTE (June 24, 2022), <https://www.arkansasonline.com/news/2022/jun/24/watch-live-arkansas-attorney-general-governor-to-certify-trigger-law-discuss-rulings-effect-on-state/> [<https://perma.cc/RXH3-7X6G>].

154. ARK. CODE ANN. § 5-61-304(a) (West 2025). In the “definition” section of the law, Arkansas excepted abortions performed to save fetal “life,” remove ectopic pregnancies, or remove the products of conception after fetal demise from its ban on abortion. *See id.* § 5-61-303(1)(B).

155. *Id.* § 5-61-304(b).

156. Daniel Breen, *First in the Nation Gender-Affirming Care Ban Struck Down in Arkansas*, NPR (June 20, 2023, at 21:58 ET), <https://www.npr.org/2023/06/20/1183344228/arkansas-2021-gender-affirming-care-ban-transgender-blocked> [<https://perma.cc/425M-VB7Y>].

157. Vanessa Romo, *Arkansas Gov. Asa Hutchinson on Transgender Health Care Bill: ‘Step Way Too Far’*, NPR (April 6, 2021, at 19:36 ET), <https://www.npr.org/2021/04/06/984884294/arkansas-gov-asa-hutchinson-on-transgender-health-care-bill-step-way-too-far> [<https://perma.cc/F4QR-MEDK>].

158. Breen, *supra* note 156.

years of age.”¹⁵⁹ Like Alabama’s ban,¹⁶⁰ Arkansas’ law excepts GAC provided to cisgender minors “born with a medically verifiable disorder of sex development.”¹⁶¹ The ban only applies to GAC provided to transgender minors experiencing gender dysphoria.¹⁶² The SAFE Act creates a private right of action for GAC patients and the Arkansas Attorney General, and healthcare providers found in violation of the SAFE Act face civil liability and professional sanctions.¹⁶³

3. Tennessee

Like the trigger bans in Arkansas and Alabama, Tennessee’s abortion ban was unenforceable at its enactment in 2019.¹⁶⁴ Tennessee’s Human Life Protection Act took effect thirty days after *Dobbs*, and abortion in the state became a class C felony overnight.¹⁶⁵ Tennessee punishes class C felonies by between three and fifteen years in prison and fines up to \$10,000.¹⁶⁶ The law excepts healthcare providers from criminal liability for performing abortions to save the pregnant person’s life “or to prevent serious risk of substantial and irreversible impairment of a

159. ARK. CODE ANN. § 20-9-1502(a)-(b) (West 2025). The ban’s characterization of GAC as “experimental” ignores the wealth of research documenting the safety and effectiveness of GAC. See Heather Boerner, *What the Science on Gender-Affirming Care for Transgender Kids Really Shows*, SCI. AM. (May 12, 2022), <https://www.scientificamerican.com/article/what-the-science-on-gender-affirming-care-for-transgender-kids-really-shows/> [<https://perma.cc/9XT5-9VAT>].

160. See ALA. CODE § 26-26-4(b) (2025).

161. ARK. CODE ANN. § 20-9-1501(6)(B)(i) (West 2025).

162. See *id.* § 20-9-1502.

163. *Id.* § 20-9-1504(a)-(f)(1).

164. See *Tennessee, CTR. FOR REPROD. RTS.*, <https://reproductiverights.org/maps/state/tennessee/> [<https://perma.cc/XE2B-ATC4>] (last visited Aug. 24, 2025); see TENN. CODE ANN. § 39-15-213 (West 2025) (citing § 39-15-214(b)(7)) (“[This act] . . . will prohibit all abortion effective on the thirtieth day after issuance of a judgment overruling, in whole or in part, *Roe v. Wade*, as modified by *Planned Parenthood v. Casey* . . .”).

165. See Letter from Herbert H. Slatery III, Att’y Gen., Ark., to Members of the Tenn. Code Comm’n (July 26, 2022), <https://wpln.org/wp-content/uploads/sites/7/2022/07/TN-AG-Herbert-Slatery-Dobbs-letter.pdf> [<https://perma.cc/PYN9-HEXM>]; TENN. CODE ANN. § 39-15-213(b) (2023).

166. TENN. CODE ANN. § 40-35-111(b)(3) (West 2025).

major bodily function.”¹⁶⁷ The exception explicitly does not apply if the risk to life or impairment of a major bodily function stems from the pregnant person’s self-harm.¹⁶⁸ Thus, a patient expressing suicidal ideation in connection with their pregnancy cannot get legal care in the state.¹⁶⁹

Tennessee Governor Bill Lee signed the state’s GAC ban in March 2023.¹⁷⁰ The law prohibits healthcare providers from performing or administering care if the purpose is to “[e]nabl[e] a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex; or [t]reat[] purported discomfort or distress from a discordance between the minor’s sex and asserted identity.”¹⁷¹ The law has two exceptions.¹⁷² The first excepts care provided to minors to treat “congenital defect, precocious puberty, disease, or physical injury[,]” which explicitly “does not include gender dysphoria, gender identity disorder, gender incongruence, or any mental conditions, disorder, disability, or abnormality.”¹⁷³ Thus, like its corollaries in Alabama and Arkansas, Tennessee’s GAC ban allows the same care for cisgender minors that it prohibits for transgender minors.¹⁷⁴ Tennessee’s second statutory exception grandfathered-in minors already receiving GAC, letting care continue until the end of the month that the law went into effect.¹⁷⁵ Like the SAFE Act

167. *Id.* § 39-15-213(c)(1)(A).

168. *See id.* § 39-15-213(c)(2) (“An abortion is not authorized . . . if either determination is based upon a claim or a diagnosis that the pregnant woman will engage in conduct that would result in her death or the substantial and irreversible impairment of a major bodily function or for any reason relating to the pregnant woman’s mental health.”).

169. *See id.*

170. Shawna Mizelle, *Tennessee Governor Signs Ban on Gender-Affirming Care for Minors*, CNN POL. (Mar. 3, 2023, at 18:01 ET), <https://www.cnn.com/2023/03/03/politics/tennessee-gender-affirming-care/index.html> [<https://perma.cc/MY5N-GQVW>].

171. TENN. CODE ANN. § 68-33-103(a)(1) (West 2025).

172. *See id.* § 68-33-103(b)(1)(A)–(B).

173. *Id.* §§ 68-33-103(b)(1)(A), 68-33-103(b)(2).

174. *Compare id.* § 68-33-103(a)(1)(A)–(B) (permitting care for cisgender minors but not transgender minors), with ARK. CODE ANN. § 20-9-1502 (West 2025) (same), and ALA. CODE § 26-26-3(3) (2025) (same).

175. TENN. CODE ANN. § 68-33-103(b)(1)(B) (West 2025); Mizelle, *supra* note 170.

in Arkansas,¹⁷⁶ Tennessee's GAC ban is civilly enforced and creates a private right of action for minors, their parents, and the Tennessee Attorney General.¹⁷⁷ Violators may also face professional sanctions.¹⁷⁸

B. *Parallel Tactics*

This Section examines the parallels between abortion and GAC bans in Alabama, Arkansas, and Tennessee.¹⁷⁹ The first subsection prods at the conservative religious ideology embedded in these laws, particularly as that ideology dictates gender performance.¹⁸⁰ The following subsection examines the role pseudoscience plays in exaggerating risk and misrepresenting medicine for both abortion and GAC.¹⁸¹

1. *Using religion to justify banning healthcare*

Sponsors of states' abortion and GAC bans often justify and defend their legislation in religious terms.¹⁸² No religion is a monolith, and many congregations explicitly support reproductive autonomy and transgender equality.¹⁸³ But some congregations—like the Catholic Church, the Church of Jesus Christ of Latter-day Saints, the National Association of Evangelicals, and the Southern Baptist Convention—are openly

176. ARK. CODE ANN. § 20-9-1504(a)–(f)(1) (West 2025).

177. TENN. CODE ANN. §§ 68-33-105, 68-33-106 (West 2025).

178. *Id.* § 68-33-107.

179. See *infra* notes 187–88 and accompanying text.

180. See *infra* Section III.B.1.

181. See *infra* Section III.B.2.

182. Noa Ben-Asher & Margot J. Pollans, *Gender Regrets: Banning Abortion and Gender-Affirming Care*, UTAH L. REV. 763, 790 (2024) (describing how GAC bans, “like abortion regulations [often have overt Judeo-Christian grounding”).

183. See Julianne McShane, *Some Religions Support Abortion Rights. Their Leaders Are Speaking Up*, NBC NEWS (May 5, 2022, at 04:10 ET), <https://www.nbcnews.com/news/us-news/religions-support-abortion-rights-leaders-are-speaking-rcna27194> [https://perma.cc/8KS4-HMKM]; Aleksandra Sandstrom, *Religious Groups' Policies on Transgender Members Vary Widely*, PEW RSCH. CTR. (Dec. 2, 2015), <https://www.pewresearch.org/short-reads/2015/12/02/religious-groups-policies-on-transgender-members-vary-widely/> [https://perma.cc/GEJ3-APM8].

hostile to reproductive and transgender rights.¹⁸⁴ And the think tanks drafting templates for healthcare bans and lobbying for their passage across the country share this religiously-biased worldview.¹⁸⁵

Healthcare bans embody a religious view of biology as immutable and fated.¹⁸⁶ One journalist described how both abortion and GAC bans “suggest[] a narrow and myopic view of ‘health,’ the notion that bodies have destinies and should be made to fulfill them regardless of the desires of the people

184. *Religious Groups’ Official Positions on Abortion*, PEW RSCH. CTR. (Jan. 16, 2013), <https://www.pewresearch.org/religion/2013/01/16/religious-groups-official-positions-on-abortion/> [https://perma.cc/89AG-SF5U] (summarizing views of different religious organizations on the morality of abortion); Nicole Winfield, *Vatican Blasts Gender-Affirming Surgery, Surrogacy and Gender Theory as Violations of Human Dignity*, AP NEWS (Apr. 8, 2024, at 21:13 ET), <https://apnews.com/article/vatican-gender-surrogacy-abortion-pope-3f84d8eb97f045b0cfb0ec1efa4e614e> [https://perma.cc/G5TT-UFUR] (describing Vatican’s statements on “gender theory”); Ruth Graham, *Mormon Church Broadens Restrictions for Transgender Members*, N.Y. TIMES (Aug. 27, 2024), <https://www.nytimes.com/2024/08/27/us/mormon-church-transgender.html> [https://perma.cc/GXM6-74Q7] (describing the Church of Jesus Christ of Latter-day Saints’ restrictions on transgender members’ participation in certain religious practices); Mike Hixenbaugh & Antonia Hylton, *Inside the Anti-LGBTQ Effort To Put Christianity Back in Schools*, NBC NEWS (Oct. 4, 2023, at 09:00 ET), <https://www.nbcnews.com/news/us-news/christianity-evangelical-schools-anti-lgbtq-grapevine-podcast-rcna118114> [https://perma.cc/7VUR-HNXM] (describing how “[s]ome evangelical pastors who regularly deliver sermons in support of school prayer have recently added a twist[—]preaching that Christian traditions are needed in classrooms to stop children from identifying as transgender”); *On Transgender Identity*, S. BAPTIST CONVENTION (June 1, 2014), <https://www.sbc.net/resource-library/resolutions/on-transgender-identity/> [https://perma.cc/NE35-47VC] (“[W]e oppose efforts to alter one’s bodily identity (e.g., cross-sex hormone therapy, gender reassignment surgery) to refashion it to conform with one’s perceived gender identity; and be it further . . . resolved, that we continue to oppose steadfastly all efforts by any governing official or body to validate transgender identity as morally praiseworthy.”).

185. See *Vision and Mission Statements*, FAM. RSCH. COUNCIL, <https://www.frc.org/mission-statement> [https://perma.cc/FY9K-TAA4] (last visited Jan. 1, 2026); see also Tony Perkins, *America’s Next Top Model Legislation*, FAM. RSCH. COUNCIL (Jan. 14, 2020), <https://www.frc.org/updatearticle/20200114/top-model> [https://perma.cc/RRL6-4HT4] (noting that Family Research Council “has copies of model legislation on a variety of issues,” including “fetal dignity, or the dignity of the unborn” and legislation to “address th[e] issue of providing transgender services to minors”). See generally Pauly, *supra* note 19 (describing the religiously motivated organizations collaborating with state legislators to draft and enact GAC bans).

186. See Moira Donegan, *Conservative Attacks on US Abortion and Trans Healthcare Come from the Same Place*, THE GUARDIAN (May 24, 2023, at 08:59 ET), <https://www.theguardian.com/commentisfree/2023/may/24/rightwing-abortion-transgender-care-gender-hierarchy> [https://perma.cc/7C85-CWX7]; Caroline Mala Corbin, *Religion Clause Challenges to Early Abortion Bans*, 104 B.U. L. REV. ONLINE 37, 43–44 (2024) (“Abortion bans, therefore, codify some people’s religious conviction and force everyone to live according to this belief.”).

involved.”¹⁸⁷ Legislators in Alabama, Arkansas, Tennessee, and other dual-ban states have codified this religious view of biological determinism; in these states, every pregnancy is destined to culminate in a live birth, and every person is destined to express their gender in accordance with their sex assigned at birth.¹⁸⁸ Rather than characterizing these laws as interference with bodily autonomy, legislators and leaders in dual-ban states justify their legislation as necessary to reinforce “God’s plan.”¹⁸⁹ This “plan,” in turn, reinforces conservative gender roles.¹⁹⁰

State abortion bans coerce people with unplanned or unwanted pregnancies into motherhood,¹⁹¹ and yet, elected officials praising abortion bans frequently describe pregnancy as a divine gift rather than a burden.¹⁹² Governor Ivey praised Alabama’s abortion ban “as a powerful testament to Alabamians’ deeply held belief that every life is precious and that every life is a sacred gift from God.”¹⁹³ Likewise, the sponsor of Arkansas’s Human Life Protection Act praised the state’s ban, stating

187. Donegan, *supra* note 186.

188. *See id.*; Corbin, *supra* note 186, at 39 n.4, 44.

189. *See, e.g.,* LePage v. Ctr. for Reprod. Med., P.C., 408 So. 3d 678, 693–94 (Ala. 2024) (Parker, C.J., concurring specially) (citing to the Sixth Commandment as a source for statutory interpretation); Almasy & Musa, *supra* note 36.

190. *See* Donegan, *supra* note 186 (describing a dual abortion and GAC ban in Nebraska, stating that “[b]e it through forced pregnancy or prohibited transition, the state . . . now claims the right to determine what its citizens will do with their sexed bodies—what those bodies will look like, how they will function[,] and what they will mean”).

191. *See* Pub. Health On Call, *The Unequal Impacts of Abortion Bans*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH (Mar. 13, 2025), <https://publichealth.jhu.edu/2025/the-unequal-impacts-of-abortion-bans> [<https://perma.cc/8ZQH-2JG9>] (describing how abortion bans force patients to carry unwanted or nonviable pregnancies to term, leading to greater infant mortality).

192. *See, e.g.,* Max Brantley, *Update: U.S. Supreme Court Overturns Roe v. Wade, Thus Ending Legal Abortion in Arkansas*, ARK. TIMES (June 24, 2022, at 11:19 ET), <https://arktimes.com/arkansas-blog/2022/06/24/u-s-supreme-court-overturns-roe-v-wade-thus-ending-legal-abortion-in-arkansas> [<https://perma.cc/P29D-FK9B>] (quoting the lead sponsor of Arkansas’ trigger ban on the date of the *Dobbs* decision, stating that “[w]e salute all those who stood for life spanning six different decades and are grateful that our Creator has answered the prayers of millions”).

193. Press Release, Governor Kay Ivey, *supra* note 140.

that “[l]ife begins at conception; life is a gift from God.”¹⁹⁴ These officials’ statements harken back to the logic of Justice Bradley’s concurrence in 1873, which justified the Supreme Court’s denial of a woman’s application to the Illinois bar:

[T]he civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. . . . The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood.¹⁹⁵

Describing pregnancy as a “gift” and obligating pregnant people into gestational labor forces pregnant people to perform motherhood and “fulfill the noble and benign offices of wife and mother” in furtherance of “the law of the Creator.”¹⁹⁶ Alabama, Arkansas, Tennessee, and other states that deprive pregnant people of autonomy over their reproductive decisions draw on a national legacy of “[e]mphasizing the responsibility

194. Marine Glisovic & Jack A. Webb, *Attorney General Certifies Prohibition of Abortion in Arkansas*, KATV (July 1, 2022, at 11:03 ET), <https://katv.com/news/local/governor-attorney-general-to-certify-prohibition-of-abortion-in-arkansas-supreme-court-asa-hutchinson-leslie-rutledge> [<https://perma.cc/V2JE-9BLW>]; see also Amna Nawaz & Tess Conciatori, *Supreme Court ‘Got it Wrong’ on Abortion 50 Years Ago, Arkansas Attorney General Says*, PBS NEWSHOUR (May 3, 2022, at 18:45 ET), <https://www.pbs.org/newshour/show/arkansas-trigger-law-would-allow-near-total-abortion-ban-if-roe-v-wade-is-overturned> [<https://perma.cc/U32S-WRXU>] (quoting Arkansas attorney general, Leslie Rutledge, explaining that *Roe* was wrongfully decided because “God intended for that life to begin at conception”).

195. *Bradwell v. State*, 83 U.S. 130, 141 (1873) (Bradley, J., concurring).

196. *Id.*

of women for birthing and raising children . . . as a form of social control.”¹⁹⁷ Religion is invoked to further this goal.¹⁹⁸

Likewise, states invoke religion to justify and defend GAC bans. Years after her statement supporting the Alabama Human Life Protection Act, Governor Ivey spoke similarly about the state’s GAC ban, stating “I believe very strongly that if the Good Lord made you a boy, you are a boy, and if he made you a girl, you are a girl,” and calling on Alabamians to “focus on helping [minors with gender dysphoria] to properly develop into the adults God intended them to be.”¹⁹⁹ One of the sponsors of Alabama’s GAC ban, State Representative Wes Allen, argued that minors experiencing gender dysphoria “will grow out of it and grow to accept . . . who God made them and grow to accept their bodies.”²⁰⁰ Likewise, Arkansas Attorney General Rutledge, vowing to defend the state’s GAC ban from legal challenges, claimed that “we know how God created that child and the future that God intended that child to have.”²⁰¹ These officials frame gender dysphoria as an aberration from divinely predetermined roles.²⁰² Denying access to GAC reinforces the stereotype that people assigned male at birth identify as men,

197. Donofrio, *supra* note 14, at 43; see also Andrew Koppelman, *Forced Labor, Revisited: The Thirteenth Amendment and Abortion 2* (Nw. Univ. Sch. of L., Faculty Working Paper No. 32, 2010), <https://scholarlycommons.law.northwestern.edu/facultyworkingpapers/32/> [<https://perma.cc/8M2V-9TXF>] (describing how laws prohibiting abortion “violate the [thirteenth] amendment’s guarantee of equality, because forcing women to be mothers makes them into a servant caste, a group which, by virtue of a status of birth, is held subject to a special duty to serve others and not themselves”).

198. See Rachel Laser, *Abortion Bans Undermine Church-State Separation*, THE PROGRESSIVE MAG. (Jan. 19, 2023, at 13:00 CT), <https://progressive.org/op-eds/abortion-bans-undermine-church-state-separation-laser-230118/> [<https://perma.cc/JH6C-4YSH>].

199. Almas & Musa, *supra* note 36.

200. TONY PERKINS, *Wes Allen Discusses Upcoming Alabama Senate Vote on Vulnerable Child Compassion and Protection Act*, at 03:11–03:26 (YouTube, Feb. 15, 2021), https://www.youtube.com/watch?v=E9Q_b22cUWw [<https://perma.cc/E2X5-6P2K>].

201. Sarah Posner, *The Christian Nationalist Boot Camp Pushing Anti-Trans Laws Across America*, BUSINESS INSIDER (Sep. 21, 2022, at 09:13 ET), <https://www.businessinsider.com/christian-nationalist-trans-statesmen-academy-alabama-ohio-missouri-laws-2022-8> [<https://perma.cc/U9EL-3UTJ>].

202. See Almas & Musa, *supra* note 36; PERKINS, *supra* note 200, at 04:14; Posner, *supra* note 201.

and people assigned female at birth identify as women.²⁰³ Transgender and nonbinary adolescents are depicted as wandering too far from the roles they are obligated to perform;²⁰⁴ proponents of GAC bans view gender nonconformity as a phase adolescents can “grow out of”²⁰⁵ so that they will “properly develop” as “God intended.”²⁰⁶ In a brief filed with the Supreme Court, Tennessee legislators relied on Bible verses to the same effect, stating that “God created every human being, male and female, as free and morally responsible bearers of his image” and describing gender dysphoria as an “appetite[] . . . to be controlled.”²⁰⁷

In court, one Arkansas judge saw through the state’s transparent attempt to defend its healthcare ban on religious, rather than medical or scientific, grounds.²⁰⁸ Arkansas relied on expert witnesses recruited by the Alliance Defending Freedom (“ADF”), “a Christian-based legal advocacy group.”²⁰⁹ District Judge James M. Moody Jr. found that “[m]ost of the State’s expert witnesses . . . were unqualified to offer relevant expert testimony and offered unreliable testimony . . . grounded in ideology rather than science.”²¹⁰ Even when one of the state’s witnesses was deemed credible, the Court noted that he

203. This view aligns with the modern conservative platform as expressed in Project 2025. THE HERITAGE FOUND., *supra* note 35, at 585 (“The President should direct agencies to focus their enforcement of sex discrimination laws on the biological binary meaning of ‘sex.’”).

204. For a discussion of gender-as-performance, see Judith Butler, *Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory*, 40 THEATRE J. 519, 527–28 (1988).

205. See Perkins, *supra* note 185.

206. Almasy & Musa, *supra* note 36; see Posner, *supra* note 201.

207. Brief of State Legislators, American Family Association, Inc. and AFA Action, Inc. as Amici Curiae Supporting Respondents, at 1, 3–4, *United States v. Skrametti*, 605 U.S. 495 (2025) (No. 23-477), https://www.supremecourt.gov/DocketPDF/23/23-477/327815/20241009120525823_State%20Leg%20AFA%20AFAA%20amicus%20brief.pdf [<https://perma.cc/C95A-NJPR>].

208. *Brandt v. Rutledge*, 677 F. Supp. 3d 877, 916 (E.D. Ark. 2023).

209. *Id.* at 914.

210. *Id.* at 916; see also *id.* at 914 (“[I]t is clear from listening to the testimony that [multiple of the state’s expert witnesses] were testifying more from a *religious doctrinal standpoint* rather than that required of experts by *Daubert*.”) (emphasis added and internal citations omitted).

“struggle[d] with the conflict between his scientific understanding for the need for [GAC] and his faith.”²¹¹

2. *Relying on pseudoscience to exaggerate risk and misrepresent medicine*

Relatedly, state healthcare bans often include false or misleading claims about the science underlying abortion and GAC, as well as the risks associated with these forms of healthcare.²¹² Legislators and attorneys defending healthcare bans in federal court often argue that evidence documenting the safety and effectiveness of abortion and GAC is biased and unreliable.²¹³ False factual findings are routinely “incorporate[d] . . . into bills” that state executives rely on for enforcement.²¹⁴ The healthcare bans in Alabama, Arkansas, and Tennessee all embody this phenomenon in both anti-abortion and anti-GAC legislation, as described below.

Healthcare bans regularly overstate the risks associated with abortion and GAC, including the risk of regret.²¹⁵ Alabama’s reliance on regret to fuel its abortion restrictions can be seen in the state’s support for crisis pregnancy centers (“CPCs”), which are anti-abortion organizations that often advertise counseling for “Post Abortion Syndrome” (“PAS”).²¹⁶

211. *Id.* at 913.

212. Anne Alstott, Melisa Olgun, Henry Robinson & Meredith McNamara, “*Demons and Imps*”: Misinformation and Religious Pseudoscience in State Anti-Transgender Laws, 35 YALE J.L. & FEMINISM 223, 226 (2024).

213. See, e.g., Emergency Motion for Stay of Preliminary Injunction Pending Appeal at 2, *L.W. v. Skrmetti*, 73 F.4th 408 (6th Cir. 2023) (No. 23-5600), *aff’d*, 605 U.S. 495 (2025) (critiquing evidence supporting the safety and effectiveness of GAC, claiming that “[t]he American medical establishment, for its part, has largely been captured by activists”); TENN. CODE ANN. § 68-33-101(b) (West 2025) (critiquing GAC as “experimental in nature and not supported by high-quality, long-term medical studies”).

214. Alstott et al., *supra* note 212, at 226.

215. See generally Ben-Asher & Pollans, *supra* note 182, at 763–65 (describing the role of regret in movements to restrict GAC and abortion).

216. See generally Kimberly Kelly, *The Spread of ‘Post Abortion Syndrome’ as Social Diagnosis*, 102 SOC. SCI. & MED. 18, 18, 23 (2013) (describing “Post Abortion Syndrome” and CPCs’ increasing use of counseling as a tactic).

While CPCs “strive to give the impression that they are clinical centers, offering legitimate medical services and advice, [] they are exempt from regulatory, licensure, and credentialing oversight that apply to health care facilities.”²¹⁷ All CPCs offer PAS counseling, and anti-abortion advocates characterize PAS as “a variation of Post Traumatic Stress Disorder” that includes feelings of regret.²¹⁸ While multiple medical associations—including the American Psychological Association and the American Psychiatric Association—“refute the existence of PAS,”²¹⁹ Alabama supports PAS counseling by subsidizing fifty-six CPCs across the state.²²⁰ Alabama’s legislators introduced a bill granting state income tax credits to individuals and businesses that contribute to CPCs,²²¹ and the state already subsidizes CPCs through the sale of “Choose Life” license plates.²²² In Arkansas, legislators rely on regret to justify healthcare bans and claim that, based on “everything that we read about and hear people talk about, abortion brings its own set of trauma and difficulty.”²²³ The State’s abortion ban includes the false claim that “[s]cientific evidence and personal testimonies document the massive harm that abortion causes to women.”²²⁴ Likewise, Tennessee relied on supposed post-abortion regret to defend its pre-*Dobbs* abortion restrictions in court.²²⁵

217. Amy G. Bryant & Jonas J. Swartz, *Why Crisis Pregnancy Centers Are Legal but Unethical*, 20 AMA J. ETHICS 269, 269 (2018).

218. Kelly, *supra* note 216, at 19–20.

219. *Id.* at 22.

220. *Crisis Pregnancy Centers (CPCs) in Alabama*, CRISIS PREGNANCY CTR. MAP (Dec. 31, 2023), <https://crisispregnancycentermap.com/state/alabama/?state=Alabama> [<https://perma.cc/MX5X-72GV>].

221. H.B. 356, 2024 Leg., Reg. Sess. (Ala. 2024).

222. *Crisis Pregnancy Centers (CPCs) in Alabama*, *supra* note 220; see Bryant & Swartz, *supra* note 217, at 269.

223. Michael R. Wickline, *Arkansas Abortion Ban in Force*, ARK. DEMOCRAT GAZETTE (June 25, 2022), <https://www.arkansasonline.com/news/2022/jun/25/state-abortion-ban-in-force/> [<https://perma.cc/S989-KLUY>].

224. ARK. CODE ANN. § 5-61-302(a)(6)(C) (West 2025).

225. *Adams & Boyle, P.C. v. Slatery*, 494 F. Supp. 3d 488, 560 (M.D. Tenn. 2020), *rev'd and remanded sub nom., Bristol Reg'l Women's Ctr., P.C. v. Slatery*, 7 F.4th 478 (6th Cir. 2021) (describing and “reject[ing]” testimony from one of Tennessee’s expert witnesses whose claim that

Like abortion bans, GAC bans rely on the supposed likelihood of future regret to justify barring minors from receiving care.²²⁶ Alabama's GAC ban claims that gender dysphoria "is not permanent or fixed" and that "numerous studies have shown that a substantial majority of children who experience discordance between their sex and identity will outgrow the discordance once they go through puberty and will eventually have an identity that aligns with their sex."²²⁷ Arkansas' SAFE Act includes a legislative finding that "[f]or the small percentage of children who are gender nonconforming or experience distress at identifying with their biological sex, studies consistently demonstrate that the majority come to identify with their biological sex in adolescence or adulthood, thereby rendering most physiological interventions unnecessary."²²⁸ Based on the logic of Alabama's and Arkansas' legislative findings, most minors who experience gender dysphoria will later come to regret GAC when they "outgrow" their suffering.²²⁹ Tennessee's GAC ban explicitly touts regret as a justification for banning care, based on the view "that minors lack the maturity to fully understand and appreciate the life-altering consequences of [GAC] and that many individuals have expressed regret for medical procedures that were performed on or administered to them for such purposes when they were minors."²³⁰

States' reliance on regret as a justification for banning abortion and GAC is not supported by evidence.²³¹ First, as the

an extended mandatory waiting-period prior to abortions would reduce patients' feelings of regret was "flatly contradicted by [] credible record evidence and [] supported only by studies (including her own) which . . . are irrelevant or deeply flawed and deserve no serious consideration").

226. See generally Ben-Asher & Pollans, *supra* note 182, at 763 (describing the role of regret in movements to restrict GAC and abortion).

227. ALA. CODE § 26-26-2(4) (2025).

228. H.R. 1570, 93rd Gen. Assemb., Reg. Sess. § 2(3) (Ark. 2021).

229. See *id.*; § 26-26-2(4).

230. TENN. CODE ANN. § 68-33-101(h) (West 2025).

231. MA'AYAN ANAFI, NEW TARGETS, OLD TACTICS: HOW ATTACKS ON GENDER-AFFIRMING CARE ARE REPURPOSING THE ANTI-ABORTION PLAYBOOK 3 (2025), <https://nwlc.org/wp->

Eastern District of Arkansas recognized, “[r]egret over a medical procedure is not unique to [GAC] and is common in medicine,”²³² and even though regret may be “common in medicine,” it is especially low among abortion and GAC patients.²³³ Studies have documented that “feelings of relief predominate among women who have obtained an abortion . . . [and] 95% of women [studied] reported that abortion was the right decision three years after their abortion.”²³⁴ One study found that the regret rate for GAC patients is “approximately 1%,” compared to 30% among patients following prostatectomy—removal of all or part of the prostate gland—and 19.5% among bariatric surgery patients.²³⁵ Another meta-analysis of regret among GAC patients who underwent surgical interventions yielded a regret rate of 1%.²³⁶ As the District Court determined in *Brandt v. Rutledge*, “[a]dolescents with gender dysphoria are unlikely to desist whether or not they receive gender-affirming medical care.”²³⁷ The consequences, thus, of banning GAC include the real and urgent likelihood of minors suffering from preventable distress until they reach the age of majority,²³⁸ while the supposed risk of regret for unwarranted provision of GAC is close

content/uploads/2025/01/New-Targets-Old-Tactics-Issue-Brief-Updated.pdf [https://perma.cc/5L5R-MNAG] (“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.”).

232. *Brandt v. Rutledge*, 677 F. Supp. 3d 877, 905 (E.D. Ark. 2023).

233. ANAFI, *supra* note 231, at 3.

234. Corinne H. Rocca, Goleen Samari, Diana G. Foster, Heather Gould & Katrina Kimport, *Emotions and Decision Rightness over Five Years Following an Abortion: An Examination of Decision Difficulty and Abortion Stigma*, 248 SOC. SCI. & MED. 1, 1–2 (2020).

235. Sarah M. Thornton, Armin Edalatpour & Katherine M. Gast, *A Systematic Review of Patient Regret After Surgery—A Common Phenomenon in Many Specialties but Rare Within Gender-Affirmation Surgery*, 234 AM. J. SURGERY 68, 68 (2024).

236. Valeria P. Bustos, Samyd S. Bustos, Andres Mascaro, Gabriel Del Coral, Antonio J. Forte, Pedro Ciudad, Esther A. Kim, Howard N. Langstein & Oscar J. Manrique, *Regret After Gender-Affirmation Surgery: A Systematic Review and Meta-Analysis of Prevalence*, 9 PLASTIC & RECONSTRUCTIVE SURGERY GLOB. OPEN 1, 1 (2021).

237. *Brandt*, 677 F. Supp. 3d at 905.

238. See discussion *supra* Section II.B.

to nonexistent.²³⁹ When viewed in the proper context, states' reliance on regret to ban healthcare is a pretext for discrimination.²⁴⁰

State healthcare bans also misapprehend medicine. Alabama's abortion ban states that "[r]ecent medical advances prove a baby's heart starts to beat at around six weeks. At about eight weeks, the heartbeat can be heard through an ultrasound examination. A fetal Doppler can detect a fetal heartbeat as early as 10 weeks."²⁴¹ Tennessee's abortion ban includes a similar claim: "[a]n unborn child's heartbeat can consistently be made audible using a handheld Doppler fetal heart rate device by twelve (12) weeks gestational age."²⁴² Yet obstetrician-gynecologists have been clear that the "heartbeats" played via ultrasound are no such thing.²⁴³ According to one provider, "[t]he flickering that we're seeing on the ultrasound that early in the development of the pregnancy is actually electrical activity, and the sound that you 'hear' is actually manufactured by the ultrasound machine."²⁴⁴ Another provider confirmed this statement, telling reporters that "[w]hat we're really detecting is a grouping of cells that are initiating some electrical activity . . . [i]n no way is this detecting a functional cardiovascular system or a functional heart."²⁴⁵

State GAC bans similarly misrepresent medicine by relying on a binary definition of sex and gender that is at odds with

239. ANAFI, *supra* note 231, at 3.

240. *See id.*

241. H.R. 314, 2019 Reg. Sess. § 2(f) (Ala. 2019).

242. TENN. CODE ANN. § 39-15-214(a)(10) (West 2025).

243. Selena Simmons-Duffin & Carrie Feibel, *The Texas Abortion Ban Hinges on 'Fetal Heartbeat.' Doctors Call That Misleading*, NPR (May 3, 2022, at 16:55 ET), <https://www.npr.org/sections/health-shots/2021/09/02/1033727679/fetal-heartbeat-isnt-a-medical-term-but-its-still-used-in-laws-on-abortion> [https://perma.cc/QK95-NR6H].

244. *Id.*

245. *Id.*

modern understandings of human sexual diversity.²⁴⁶ Arkansas Attorney General Rutledge demonstrated this phenomenon to reporters when stating that “[a]s the mother of a three-year-old baby girl, there’s no such thing as a pregnant person. Only women get pregnant.”²⁴⁷ This simplistic view is reflected in Arkansas’ SAVE Act, which defines “biological sex” based on a person’s “reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and non-ambiguous internal and external genitalia present at birth, without regard to an individual’s psychological, chosen, or subjective experience of gender.”²⁴⁸ Alabama’s statute similarly defines “sex” based on an individual’s hormonal profile and genitalia, and describes sex in terms of a binary: “the biological state of being *male or female*, based on sex organs, chromosomes, and endogenous hormone profiles.”²⁴⁹ Tennessee similarly defines “sex” based on “a person’s immutable characteristics of the reproductive system that define the individual as *male or female*, as determined by anatomy and genetics existing at the time of birth.”²⁵⁰

Yet, contrary to the underlying assumption embodied in GAC bans in Arkansas, Alabama, and Tennessee, human bodies do not conform to a rigid sexual binary.²⁵¹ Instead, “two discrete sexes are insufficient to capture the sex diversity observed in nature. . . . many organisms—including humans—show an immense range of sex variability that supersedes binary

246. This binary definition of gender-as-sex is endorsed by the Trump Administration. See Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 30, 2025). “It is the policy of the United States to recognize two sexes, male and female.” *Id.* § 2.

247. Nawaz & Conciatori, *supra* note 194.

248. ARK. CODE ANN. § 20-9-1501(1) (West 2025).

249. ALA. CODE § 26-26-2(1) (2025) (emphasis added).

250. TENN. CODE ANN. § 68-33-102(9) (West 2025) (emphasis added).

251. See Kristina O. Smiley, Kathleen M. Munley, Krisha Aghi, Sara E. Lipshutz, Tessa M. Patton, Devaleena S. Pradhan, Tessa K. Solomon-Lane & Simón(e) D. Sun, *Sex Diversity in the 21st Century: Concepts, Frameworks, and Approaches for the Future of Neuroendocrinology*, 157 HORMONES & BEHAV. 1, 2 (2024).

categories.”²⁵² About 1.7% of the world’s population is born with intersex traits, or “sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns[] that do not fit typical binary notions of male or female bodies.”²⁵³ Based on this estimate, about 5.6 million U.S. residents are born with intersex traits.²⁵⁴ The GAC bans discussed in this Note impliedly recognize this sexual diversity via carveouts of the prohibition on GAC for cisgender minors.²⁵⁵ Alabama’s law acknowledges intersex identity covertly under the guise of its exception for minors “born with a medically verifiable disorder of sex development.”²⁵⁶ Arkansas similarly excludes “[s]ervices to persons born with a medically verifiable disorder of sex development” such as “having both ovarian and testicular tissue” from its GAC ban.²⁵⁷ Finally, Tennessee allows GAC when provided to a minor “to treat a minor’s congenital defect, precocious puberty, disease, or physical injury.”²⁵⁸ By allowing GAC for intersex minors, Alabama, Arkansas, and Tennessee mistake the rule of sexual diversity for an exception.

252. *Id.*

253. *Intersex People*, UNITED NATIONS OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people> [<https://perma.cc/923L-8ZTR>] (last visited Jan. 6, 2026).

254. Associated Press, *How Many Trans and Intersex People Live in the U.S.? Anti-LGBTQ Laws will Affect Millions*, NBC NEWS (July 27, 2023, at 15:36 ET), <https://www.nbcnews.com/nbc-out/out-news/many-transgender-intersex-people-live-us-rcna96711> [<https://perma.cc/JN6X-4L9N>].

255. *See supra* Section III.A.

256. ALA. CODE § 26-26-4(b) (2025); *What is Intersex?*, INTERACT ADVOCS. (Jan. 26, 2021), <https://interactadvocates.org/faq/#definition> [<https://perma.cc/TG9J-MUGT>] (noting that “[d]isorder’ or ‘difference of sex development’ . . . is still a common medical term for intersex traits. Many intersex people reject the[se] term[s] . . . because [they] support[] the idea that their bodies are wrong, or up to doctors to ‘fix’”).

257. ARK. CODE ANN. § 20-9-1501(6)(B)(i) (West 2025).

258. TENN. CODE ANN. § 68-33-103(b)(1)(A) (West 2025).

IV. OPPORTUNITIES FOR CROSS-MOVEMENT COLLABORATION

State bans on abortion and GAC perpetuate the same harm, rely on similar enforcement tactics, and demonstrate similar religious biases and willful misapprehension of medical best practices.²⁵⁹ Advocates for abortion and GAC are thus waging the same battle on different fronts, but the mounting threat to bodily autonomy that state healthcare bans embody demands a collaborative, cross-movement response. This section surveys potential strategies to secure a right to bodily autonomy that encompasses abortion and GAC, recognizing the interconnected nature and legal future of both forms of care.

Since abortion and GAC bans compel individuals to undergo physical transformation at the state's behest, advocates can challenge healthcare bans as violating the Constitution's proscription of "involuntary servitude."²⁶⁰ The Thirteenth Amendment declares that "[n]either slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States."²⁶¹ "The Amendment is self-executing without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances."²⁶² Litigating the Thirteenth Amendment, thus, does not depend on a state's violation of federal law.²⁶³ Federal courts have found Thirteenth Amendment violations in various circumstances, reflecting that "the methods of subjugating people's wills have changed from blatant slavery

259. See *supra* Parts II and III.

260. U.S. CONST. amend. XIII; see also Seth F. Kreimer, *Rejecting "Uncontrolled Authority Over the Body": The Decencies of Civilized Conduct, the Past and the Future of Unenumerated Rights*, 9 U. PA. J. CONST. L. 423, 425 (2007) ("The eradication of slavery as an institution within the constitutional polity carries with it a presumption that, absent criminal conviction, the bodies of citizens are subject to neither the 'uncontrolled authority' of the state nor that of any private party.").

261. U.S. CONST. amend. XIII, § 2.

262. *United States v. Kozminski*, 487 U.S. 931, 942 (1988) (internal quotation marks omitted).

263. *Id.*

to more subtle, if equally effective, forms of coercion.”²⁶⁴ While the conditions giving rise to a constitutional violation vary, the validity of a Thirteenth Amendment claim turns on whether “the victim had [any] available choice but to work or be subject to legal sanction.”²⁶⁵

State bans on abortion and GAC conscript individuals’ bodies into involuntary state service under the threat of punishment.²⁶⁶ Pregnant people are forced to labor and give birth against their will, while transgender minors are forced to undergo the physiological changes associated with endogenous puberty and inhabit a body at odds with their sense of self. In a rewritten *Dobbs* opinion incorporating a critical race perspective, Sophie Brill describes how “the institution of slavery depended on [Black women’s] ability to reproduce. . . . state-sanctioned denial of reproductive autonomy was a critical tool of white supremacy[,] and there can be no question that it constitutes a ‘badge and incident’ of slavery.”²⁶⁷ The Thirteenth Amendment’s purpose of addressing all badges and incidents of slavery includes state-sanctioned deprivations of bodily autonomy.²⁶⁸ While scholars have examined how abortion bans violate the Thirteenth Amendment, there has not been an attempt to challenge GAC bans as a form of involuntary servitude.²⁶⁹ Yet

264. *United States v. Mussry*, 726 F.2d 1448, 1452 (4th Cir. 1984).

265. *Kozminski*, 487 U.S. at 943.

266. See, e.g., Bill Chappell, *Texas Supreme Court OKs State Child Abuse Inquiries into the Families of Trans Kids*, NPR (May 13, 2022, at 13:58 ET), <https://www.npr.org/2022/05/13/1098779201/texas-supreme-court-transgender-gender-affirming-child-abuse> [<https://perma.cc/CQA2-ADQV>] (describing Texas Governor Greg Abbott’s efforts to investigate families who facilitate GAC for their transgender children). See generally LAURA HUSS, FARAH DIAZ-TELLO & GOLEEN SAMARI, *SELF-CARE, CRIMINALIZED: THE CRIMINALIZATION OF SELF-MANAGED ABORTION FROM 2000 TO 2020* (2023) (describing the trend of criminal punishment for individuals who self-manage abortions in the United States).

267. Brill, *supra* note 38, at 49.

268. See *id.*

269. See, e.g., Koppelman, *supra* note 197, at 10–11 (describing how laws that prohibit abortion perpetuate the same “insult” as forced labor laws, since “to the extent that either [B]lacks or women are regarded as instruments for satisfying the needs of others rather than as autonomous agents, their dignity as free persons is violated. They are treated as things rather than as persons”).

the harm perpetuated by both forms of healthcare bans is the same.²⁷⁰ Both abortion and GAC bans “compel[] some private individuals to serve others . . . as part of a larger societal pattern of imposing such servitude on a particular caste of persons.”²⁷¹ While the end of the “service” differs—carrying a pregnancy to term or undergoing endogenous puberty—both healthcare bans obligate individuals’ bodies into compliance with the state’s definition of gender, and target discrete groups—those with a capacity for pregnancy or those with gender identities that do not perfectly align with their assigned sex—for this labor.²⁷² Broadening Thirteenth Amendment jurisprudence in the federal courts through impact litigation can highlight how state healthcare bans stem from slavery’s legacy of involuntary servitude.²⁷³ Reframing abortion and GAC bans as involuntary servitude also undermines the argument made by some healthcare ban proponents that these laws protect those whom they subjugate.²⁷⁴

State constitutional amendments offer another avenue for securing the right to bodily autonomy.²⁷⁵ While “[t]he U.S. Constitution traditionally is considered a charter of negative rights . . . state constitutions may embody a broader view.”²⁷⁶ State legislatures have already been leveraged in cross-

270. See *supra* Part I (identifying the harm of abortion and GAC bans as the deprivation of bodily autonomy).

271. Koppelman, *supra* note 197, at 11.

272. See *id.*

273. See Brill, *supra* note 38, at 49.

274. See Proclamation No. 14187, 90 Fed. Reg. 8771 §§ 1, 2(c) (Jan. 28, 2025) (framing GAC as “chemical and surgical mutilation” foisted on “impressionable children”); THE HERITAGE FOUND., *supra* note 35, at 461 (urging the federal Department of Health and Human Services to “create and promote a research agenda that supports pro-life policies and explores the harms, both mental and physical, that abortion has wrought on women and girls”).

275. See *State Constitutions: Fresh Strategy Emerges for Reproductive-Rights Advocates*, AM. BAR ASS’N (Aug. 5, 2024), <https://www.americanbar.org/news/abanews/aba-news-archives/2024/08/state-constitutions-strategy-reproductive-rights/> [https://perma.cc/SE47-ENSH].

276. Elizabeth Weeks Leonard, *State Constitutionalism and the Right to Health Care*, 12 U. PENN. J. CONST. L. 1325, 1331 (2010).

movement campaigns to protect healthcare providers and patients from hostile states via “shield” laws.²⁷⁷ Litigators, likewise, can “apply the principles of judicial federalism in their favor to invoke the power and protection that state courts have the ability to give.”²⁷⁸ Litigators in Montana have demonstrated that state precedent upholding abortion rights can provide a legal foundation for protected access to GAC.²⁷⁹ While this state-by-state approach cannot protect all providers and patients in the country, it takes advantage of momentum in states that are presently friendly towards abortion and GAC patients to make sure protections outlast any administration or legislative session.²⁸⁰ Additionally, securing a right to bodily autonomy at the

277. See *State Shield Laws: Protections for Abortion and Gender-Affirming Care Providers*, KFF (July 2025), <https://www.kff.org/state-health-policy-data/state-indicator/shield-laws/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> [<https://perma.cc/9PFW-PCL9>].

278. Jessica Matsuda, Note, *Leave Them Kids Alone: State Constitutional Protections for Gender-Affirming Healthcare*, 79 WASH. & LEE L. REV. 1597, 1654 (2022); see also William J. Brennan, Jr., *State Constitutions and the Protection of Individual Rights*, 90 HARV. L. REV. 489, 503 (1977) (“Federalism need not be a mean-spirited doctrine that serves only to limit the scope of human liberty. Rather, it must necessarily be furthered significantly when state courts thrust themselves into a position of prominence in the struggle to protect the people of our nation from governmental intrusions on their freedoms.”).

279. Amy Myrick & Alexander Wilson, *Abortion Rights and Transgender Rights Are Intertwined*, STATE CT. REP. (Apr. 1, 2025), <https://statecourtreport.org/our-work/analysis-opinion/abortion-rights-and-transgender-rights-are-intertwined> [<https://perma.cc/TA6L-ET4X>] (describing how Montana’s Supreme Court decided in favor of transgender plaintiffs’ claims and “relied on decades of Montana precedent recognizing that the state right to privacy protects abortion, showing how intertwined rights can build toward stronger personal protections for all”).

280. Mabel Felix, Laurie Sobel & Alina Salganicoff, *Addressing Abortion Access Through State Ballot Initiatives*, KFF (Feb. 9, 2024), <https://www.kff.org/womens-health-policy/addressing-abortion-access-through-state-ballot-initiatives-old-610869/> [<https://perma.cc/RJ92-Q76U>] (describing momentum in the states to protect abortion through constitutional amendments); Erin Geiger Smith & Kathrina Szymborski Wolfkot, *Voters in Seven States Pass Measures to Protect Abortion*, STATE CT. REP. (Nov. 6, 2024), <https://statecourtreport.org/our-work/analysis-opinion/voters-seven-states-pass-measures-protect-abortion> [<https://perma.cc/CH3E-JD6Q>]; see, e.g., VT. CONST. ch. 1, art. 22 (declaring “[t]hat an individual’s right to personal reproductive autonomy is central to the liberty and dignity to determine one’s own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means”); CAL. CONST. art. 1, § 1.1 (declaring that “[t]he state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives”).

state level gives states a stronger foundation from which to challenge hostile executive orders that threaten patients' access to healthcare.²⁸¹ Advocates should push for broad interpretations of states' reproductive freedom amendments to ensure that GAC is accorded the same protection as abortion.

Protecting abortion and GAC also requires shifting public discourse to highlight the connections between these forms of care. Transgender journalists and advocates have written about the intersections between movements for reproductive and LGBTQI+ justice.²⁸² Yet, mainstream news outlets often share articles framing these movements as at odds with one another.²⁸³ Indeed, after Vice President Kamala Harris's defeat in the 2024 presidential election, some political strategists blamed her defeat on Democrats' support of transgender rights.²⁸⁴ But advocates cannot sideline LGBTQIA+ justice for political expediency.²⁸⁵ The parallel tactics employed in defense of both types of healthcare bans make clear that the legality of GAC and

281. Some states are already leveraging state anti-discrimination laws to challenge hostile action at the federal level. See, e.g., Joseph Goldstein, *N.Y. Attorney General Warns Hospitals Against Canceling Transgender Care*, N.Y. TIMES (Feb. 3, 2025), <https://www.nytimes.com/2025/02/03/nyregion/ny-attorney-general-transgender-care.html> [<https://perma.cc/GA64-YF7U>] (describing how New York's Attorney General responded to an executive order from the Trump administration which threatened to withhold federal funding from hospitals caring for transgender minors).

282. See, e.g., M. Gessen, *What Democrats Are Getting Wrong About Transgender Rights*, N.Y. TIMES (Nov. 22, 2024), <https://www.nytimes.com/2024/11/22/opinion/trans-rights-donald-trump.html> [<https://perma.cc/NS65-2KF3>] (stating that reproductive and trans rights "can't be separated, because trans rights don't just resemble reproductive rights; trans rights are reproductive rights"); Chase Strangio, *Can Reproductive Trans Bodies Exist?*, 19 CUNY L. REV. 223, 224 (2016) (critiquing both the reproductive rights and transgender rights movements for "compel[ling] narratives of identity and embodiment that fail to account for the complexity and beauty of people's bodies and capabilities").

283. See, e.g., Elinor Burkett, *What Makes a Woman?*, N.Y. TIMES (June 6, 2015), <https://www.nytimes.com/2015/06/07/opinion/sunday/what-makes-a-woman.html> [<https://perma.cc/X7H7-ZDCK>]; Katha Pollitt, *Who Has Abortions?*, THE NATION (March 13, 2015) <https://www.thenation.com/article/archive/who-has-abortions/> [<https://perma.cc/KQ4P-G3DL>].

284. Adam Nagourney & Nicholas Nehamas, *Harris Loss Has Democrats Fighting Over How to Talk About Transgender Rights*, N.Y. TIMES (Nov. 20, 2024), <https://www.nytimes.com/2024/11/20/us/politics/presidential-campaign-transgender-rights.html> [<https://perma.cc/84X4-GFL5>].

285. See *id.*

abortion are too entangled to be pulled apart.²⁸⁶ Allowing GAC bans to remain unchallenged threatens abortion access, and vice versa, since either ban stands for the principle that states may deprive individuals of bodily autonomy to assuage social anxieties about bodies, reproduction, and gender.²⁸⁷ As one columnist described:

Anxiety about trans people and reproduction, and the laws and rules that it produces, cut both ways: On the one hand, these rules aim to stop people born with female reproductive organs from forfeiting their ability to get pregnant (anxiety about trans people not having babies), and on the other, they aim to ensure that people who do transition will not reproduce (anxiety about trans people having babies). In both cases, the objective is to control the means of reproduction. That's usually the goal of movements that purport to protect women and girls.²⁸⁸

Reproductive and LGBTQIA+ justice advocates should employ messaging campaigns that highlight the connections between these movements, emphasizing the deprivation of bodily autonomy and the perpetuation of gender stereotypes as twin harms of healthcare bans.

CONCLUSION

Bans on abortion and GAC are two faces of the same legal beast. This Note examines the parallels between these threats and identifies strategies advocates for bodily autonomy can leverage to attack healthcare bans at the root. As illustrated by legal battles over legislation in Alabama, Arkansas, and

286. *See id.*

287. Gessen, *supra* note 282.

288. *Id.*

Tennessee, abortion and GAC bans each feed off the other's design and legal strategies to sustain a conservative ideological movement. Like the mythical hydra, the threat healthcare bans represent—the erosion of bodily autonomy—cannot be defeated by responding to abortion and GAC bans in isolation. Without a coordinated, cross-movement approach to reckon with the foundation of these healthcare bans, similar legislation will continue to crop up across the country.²⁸⁹ Meanwhile, patients like Veronica in Iowa and Taylor in South Carolina will continue to bear the costs of evading state law to access care.²⁹⁰ Those who cannot evade their state's bans will be deprived of control over their bodies and lives.

289. See Gessen, *supra* note 282; Nagourney & Nehamas, *supra* note 284.

290. See *supra* pp. 3–5 and notes 1, 7.