

United States Senate

WASHINGTON, DC 20510

July 12, 2023

The Honorable Merrick B. Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

It has been over one year since the Supreme Court issued its devastating decision in *Dobbs v. Jackson Women’s Health Organization*, overturning *Roe v. Wade* and eliminating the constitutional right to an abortion. In that time, 19 states have implemented near or total abortion bans, with many others implementing additional conflicting, vague, or restrictive laws that endanger the lives and health of millions of Americans.¹ Health care providers have explained that these laws “are condemning patients to delays in abortion care” because patients must often cross state lines to receive essential health care.² Some states are now taking the extraordinary step of criminalizing women’s right to travel to other states for abortion care.

In June 2022, the Supreme Court in the *Dobbs* case stripped women of their right to obtain an abortion, instead leaving them at the vagaries of state laws – many of which now ban or severely restrict the right.³ However, the Court did not give states the authority to prevent or restrict Americans from crossing state lines to access abortion care. In his concurring opinion, Justice Brett Kavanaugh explicitly stated that a state may not “bar a resident... from traveling to another state to obtain an abortion” because it conflicts with “the constitutional right to interstate travel.”⁴

Following the Court’s ruling, you confirmed that the decision in *Dobbs* should not interfere with Americans’ right to travel:

“[T]he Constitution continues to restrict states’ authority to ban reproductive services provided outside their borders... [U]nder bedrock constitutional principles, women who reside in states that have banned access to comprehensive reproductive care must remain free to seek that care in states where it is legal.”⁵

¹ Abortion Finder, “State-by-State Guide,” <https://www.abortionfinder.org/abortoin-guides-by-state>.

² Letter from National Nurses United to Senator Warren, September 9, 2022, pp. 2-3, [On File with the Office of Senator Elizabeth Warren].

³ *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. __ (2022).

⁴ Bloomberg Law, “Kavanaugh Says States May Not Bar Travel to Obtain an Abortion,” Greg Stohr, June 24, 2022, <https://news.bloomberglaw.com/us-law-week/kavanaugh-says-states-may-not-bar-travel-to-obtain-an-abortion>.

⁵ United States Department of Justice, “Attorney General Merrick B. Garland Statement on Supreme Court Ruling in *Dobbs v. Jackson Women’s Health Organization*,” press release, June 24, 2022, <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-statement-supreme-court-ruling-dobbs-v-jackson-women-s>.

In addition, the Department’s Reproductive Health Task Force announced last July that it would monitor and evaluate state and local actions that threaten to “[i]mpair individuals’ ability to inform and counsel each other about the reproductive care that is available in other states.”⁶

With that in mind, we write with concerns about recent state-level efforts to infringe on access to abortion care by targeting Americans’ right to travel. Idaho passed a law making it illegal for any adult to help a young person travel to another state to receive abortion care with the intent to conceal an abortion from a parent or guardian, even if the pregnancy is a result of incest or parental abuse.⁷

The Idaho law may presage efforts in other states to limit American’s right to travel to receive reproductive care. For example, in Iowa lawmakers have proposed legislation that would criminalize providers offering care to out-of-state patients.⁸ In Texas, lawmakers have proposed legislation that would penalize companies that provide assistance to employees who need to travel out of state for abortion care.⁹ Both Texas and Tennessee are also considering legislation that would prohibit any governmental entity from providing funding to assist people in obtaining abortion care, including costs associated with traveling out of state for abortion care.¹⁰

Given the work of many of our states to protect access to abortion care no matter whether a patient comes from the state or travels from another, we are alarmed by efforts in other states to curb interstate travel, which may present an unprecedented attack on Americans’ rights.

We are writing to better understand DOJ’s assessment of efforts to infringe on Americans’ right to travel and the constitutional right to interstate travel. We encourage you to do all that you can to protect this right and request a briefing from the Reproductive Health Task Force by July 26, 2023.

Thank you for your attention to this matter.

Sincerely,

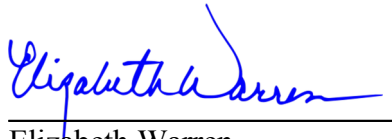
⁶ The United States Department of Justice, “Justice Department Announces Reproductive Rights Task Force The Task Force Formalizes the Department’s Ongoing Work to Protect Reproductive Freedom Under Federal Law,” press release, July 12, 2022, <https://www.justice.gov/opa/pr/justice-department-announces-reproductive-rights-task-force>.

⁷ Time, “Idaho’s New Law Will Punish Anyone Helping a Minor Access an Out-of-State Abortion With Up to 5 Years in Prison,” Solcyre Burga, April 7, 2023, <https://time.com/6269586/idaho-abortion-law-minor-access/>.

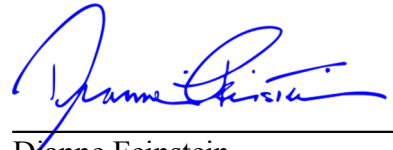
⁸ “An Act relating to the Iowa human life protection Act,” HF 510, <https://www.legis.iowa.gov/legislation/BillBook?ba=HF510&ga=90>.

⁹ “An Act Relating to a restriction on a company’s facilitation of an employee’s travel to obtain an abortion outside of this state,” HB 2813, <https://legiscan.com/TX/text/HB2813/2023>.

¹⁰ “An Act Relating to prohibited logistical support by a governmental entity for procurement of an abortion or an abortion provider’s services,” HB 61, <https://legiscan.com/TX/text/HB61/2023>; “AN ACT to amend Tennessee Code Annotated, Title 5; Title 6; Title 7 and Title 8, relative to use of funds by local governments,” , HB 90, <http://www.capitol.tn.gov/Bills/113/Bill/HB0090.pdf>.



Elizabeth Warren
United States Senator



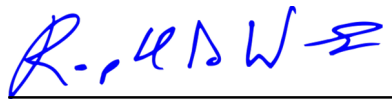
Dianne Feinstein
United States Senator



Mazie K. Hirono
United States Senator



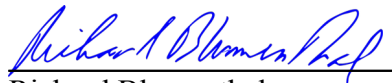
Peter Welch
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