

An Update on the Federal and State Erosion or Protection of Abortion Rights

Article By:

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The *Jackson v. Dobbs* decision catalyzed a shift in the legal landscape of reproductive rights in the United States. The decision held that there is no federal constitutional right to an abortion, leaving the ability to regulate access to abortion services to the states. In the wake of this ruling, there have been a number of legal developments that range from states implementing laws that prohibit or restrict access to reproductive care, to federal agencies taking action to protect patient privacy and preserve access to reproductive care. Below are some of the most recent developments* at the federal and state levels:

- **Federal:**

- The Department of Justice issued a statement indicating that states that ban abortion cannot punish Veterans Affairs providers who furnish VA employees with abortion-related services that are permissible under federal law. Republicans disagree and, therefore, this might need to be tested in the courts.
- New [guidance](#) from the Department of Education requires universities to protect from discrimination students who obtain an abortion.
- HHS [announced](#) that \$6 million in Title X grants will be distributed to expand reproductive care access.

- **Interstate:** 21 state attorneys general intend to [protect](#) the right to travel out-of-state for purposes of obtaining, furnishing, or assisting with abortion-related services.

- **Arizona:** An Arizona appeals court unanimously [blocked](#) an 1864 abortion ban, resulting in abortion remaining permissible up until 15 weeks of gestation.

- **California:**

- California passed legislation preventing companies and law enforcement from sharing information with states that ban abortion.

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- California Governor Gavin Newsom signed [multiple bills](#) into law protecting reproductive rights.
 - **Georgia:** A legal challenge to Georgia's strict abortion ban (banning abortion at around 6 weeks of gestation) will be heard two weeks prior to the midterm elections. It remains to be seen the effect that this will have on the elections in Georgia.
 - **Indiana:**
 - An Indiana state court judge temporarily [blocked](#) an Indiana law banning abortion after 10 weeks (except in cases of rape or incest) from continuing in effect.
 - Massachusetts-based Satanic Temple filed a [complaint](#) against the State of Indiana for its abortion restrictions.
 - **Kentucky:** Abortion restrictions in Kentucky are still unclear as questions remain regarding the state's restrictions, such as the definition of a "qualified" physician in obtaining consent prior to prescribing abortion-inducing drugs. Kentucky Attorney General Daniel Cameron filed an [appeal notice](#) requesting clarification on the definition of a "qualified" physician following an August 30th [decision](#).
 - **Louisiana:** In 2020, the Supreme Court [upheld](#) an order that enjoined the State of Louisiana from requiring that physicians performing abortions have admitting privileges at a hospital within 30 miles of their clinics. In light of the *Dobbs* decision, on October 3rd, the State [moved](#) to vacate the injunction (to reinstate the admitting privileges requirement), arguing that there is no remaining legal or equitable basis for the permanent injunction and that the injunction is irreparably harmful to Louisiana's sovereignty.
 - **Missouri:**
 - Because a federal question is not raised, a federal court in its [decision](#) refused to resolve a dispute between the State of Missouri and the City of St. Louis over the city's use of money to provide support for people seeking abortions.
 - After an appeals court determined that a minor has a right not to inform her parents prior to requesting a court to determine whether she can have an abortion, a Missouri court clerk is requesting the U.S. Supreme Court to vacate such decision.
 - **Ohio:** An Ohio judge took [action](#) to temporarily loosen abortion restrictions, which was then extended indefinitely, by blocking a 6-week abortion ban, resulting in abortions up to 22 weeks of pregnancy remaining legal.
 - **South Dakota:** South Dakota (which bans all abortions, unless the abortion serves to save the pregnant person's life or preserve the pregnant person's health) has resolved a tangential issue as to whether the pregnant person is required to consult with an anti-abortion counselor prior to obtaining an abortion. A federal appeals court [vacated](#) the injunction preventing the counseling requirement from taking effect. Therefore, the counseling requirement is now enforceable.

The *Dobbs* decision has had a major impact on reproductive rights in the United States, which continue to rapidly evolve with activity on the federal and state levels. Sheppard Mullin will continue to monitor developments and provide updates as they arise. If you have questions or are seeking counsel on these recent changes, you may contact any member of our [Healthcare Team](#) for assistance.

Lotan Helfman, a law clerk at Sheppard Mullin's Washington, D.C. office, also contributed to this article.

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