

May 26, 2021

The Honorable Richard Blumenthal
Chair
Senate Judiciary Subcommittee on the
Constitution
706 Hart Senate Office Building
Washington, DC 20510

The Honorable Ted Cruz
Ranking Member
Senate Judiciary Subcommittee on the
Constitution
127A Russell Senate Office Building
Washington, DC 20510

Re: The Women's Health Protection Act

Dear Senators Blumenthal and Cruz:

We, the undersigned Black Reproductive Justice advocates and organizations, write in support of the Women's Health Protection Act, which protects the ability to obtain abortion services by dismantling many of the barriers that currently exist for those seeking such care. Individuals face their own unique circumstances, challenges, and potential complications, and must be able to make their own decisions based on a doctor's advice, their personal values, and what is best for them and their family. Everybody needs affordable and accessible pregnancy-related care, including abortion, regardless of where they live and notwithstanding their economic, political, or personal situation. We urge Congress to pass the Women's Health Protection Act so that pregnant people can make personal reproductive health decisions with dignity.

Our organizations are rooted in the Reproductive Justice framework, which was founded by 12 Black women in 1994. Naming themselves Women of African Descent for Reproductive Justice, the Black women developed the term "Reproductive Justice" because women with low incomes, women of color, LGBTQ+ women, including transgender, nonbinary, and gender expansive individuals felt neglected and misrepresented by the women's rights movement, which had primarily focused on abortion rights as solely a white woman's issue. The term is a combination of reproductive rights and social justice and acknowledges that a pregnant person cannot freely choose what to do with a pregnancy when options are limited by systemic, oppressive circumstances or lack of access to services.

Reproductive Justice is the human right to control our bodies, our sexuality, our gender, our work, and our reproduction. That right can only be achieved when all frequently marginalized communities have the complete economic, social, and political power and resources to make healthy decisions about our bodies, our families, and our communities in all areas of our lives. This includes the right to choose if, when, and how to start a family. It is this vision that propels our concern about the increased barriers to abortion access we are seeing across the country today.

As it relates to reproductive health and rights, the Reproductive Justice frame focuses specifically on access rather than rights, asserting that the legal right to abortion is meaningless for pregnant people when they cannot access such care due to the cost, the distance to the nearest provider, childcare needs, or other barriers placed on them by way of state legislatures. These are some of the very issues the Women's Health Protection Act seeks to address.

Despite the clear constitutional rights established in *Roe v. Wade*, individuals are finding it increasingly challenging to access abortion care. In our communities throughout the country, it has become extremely difficult to safely and legally end a pregnancy because states have enacted laws singling out reproductive health care with onerous regulations that are not imposed on other areas of medicine or that are based on erroneous information. As a result, restrictions on abortion care amplify existing health disparities and disproportionately harm

those who already face barriers to accessing quality health care, due to their socioeconomic status, gender, sexual orientation, age, and race.

Abortion is an essential part of health care and a basic human right, yet, across the country, abortion rights are under attack. The Guttmacher Institute reports that already in 2021 nearly 550 abortion restrictions, including 165 abortion bans have been introduced in 47 states. Sixty-nine of the restrictions have been enacted in 14 states, including nine bans.¹ In addition to the horrifying and damaging restrictions, states are also passing “trigger laws”, which allow automatic criminalization of abortion in the event *Roe v. Wade* is overturned, as we have recently seen passed in Arkansas, Kentucky, Missouri, and Tennessee. Such abortion restrictions can include everything from parental notification or consent laws for individuals under 18, the public funding bans described previously, mandated counseling which is often coercive and designed to encourage individuals to carry pregnancies to term, mandated waiting periods before an abortion, and unnecessary and burdensome regulations on clinics and facilities. Of particular concern is the U.S. Supreme Court’s recent decision to hear the case on the 15-week Mississippi abortion ban. We need the Women’s Health Protection Act more than ever to ensure that people continue to have access to medically safe abortion health care. Because, while these bans are egregious and go against an individual’s human right to bodily autonomy, this is not a new calamity for women of color, women with low incomes, LGBTQ+ individuals, people with disabilities, and immigrants, who are hit hardest with these restrictions.

As Reproductive Justice advocates, working to address the issues impacting the whole individual, we see a multitude of barriers to access for all individuals, but barriers that certainly impact individuals living at the intersections of multiple identities (whether that be people of color, low-income individuals, LGBTQ+ people, individuals living in rural areas, etc.) even harder. Barriers such as waiting periods require two trips to a clinic, meaning extra time off work, additional childcare needs, and often times, incredibly long trips from across the state or even other states to obtain such care. Many of these restrictions force individuals to make impossibly difficult decisions that strip them of any authority they may have over their own lives. Throughout these webs of restrictions are oppressive abuses of power and control by state governments to ensure that individuals cannot have bodily autonomy and cannot make the best decisions for themselves, their families, and their communities.

The web of restrictions and bans highlighted here have ultimately created a landscape in which justice and equity are inaccessible. A recent study by UC San Francisco’s Bixby Center for Global Reproductive Health has shown that women who are denied an abortion and then give birth report worse health outcomes up to five years later as compared to women who receive a desired abortion.² Not only that, but as the country grapples with the maternal mortality crisis we face, one that disproportionately impacts Black women in particular, research has found that the states with higher numbers of abortion restrictions are the exact same states that have poorer maternal health outcomes.³ This is no coincidence.

¹ Nash, E. and Cross. L. “ 2021 Is on Track to Become the Most Devastating Antiabortion State Legislative Session in Decades. April 2021. [2021 Is on Track to Become the Most Devastating Antiabortion State Legislative Session in Decades | Guttmacher Institute](#)

² Ralph, Lauren J., Eleanor Bimla Schwarz, Daniel Grossman, and Diana Greene Foster. "Self-reported Physical Health of Women Who Did and Did Not Terminate Pregnancy After Seeking Abortion Services: A Cohort Study." *Annals of Internal Medicine* (2019).

³ *Black Mamas Matter: Advancing the Human Right to Safe and Respectful Maternal Health Care*, Black Mama Matters Alliance and Center for Reproductive Rights, 2016, http://blackmamasmatter.org/wp-content/uploads/2018/05/USPA_BMMA_Toolkit_Booklet-Final-Update_Web-Pages-1.pdf.

While it has been widely shown that abortion in the United States is an extremely safe procedure, abortion restrictions themselves continue to put individual's health and well-being at risk regularly. When facilities are closed down or restricted in the services they provide, when people must travel further distances to obtain services, research shows that people report multiple barriers to obtaining safe health care, including increased travel time, longer waits, and greater costs.⁴ Additionally, when a person has no option but to obtain an abortion later in pregnancy or carry an unwanted pregnancy to term, these outcomes cause more danger to their health than the abortion itself.

Lastly, to put a fine point on something that we have alluded to heavily throughout this testimony, Reproductive Justice is Economic Justice. The long-term effects of the abortion restrictions and bans discussed here are drastic as it relates to the economic security and stability of people who can become pregnant, particularly people of color and LGBTQ+ individuals. The Turnaway Study notes that those who were denied their abortion were four times more likely to be below the federal poverty line four years after being denied⁵. By improving access to care, regardless of income, to the legal right to abortion, the Women's Health Protection Act is a crucial piece of the puzzle to securing Reproductive Justice for our communities.

We must protect pregnant people's health and well-being by ensuring that everyone has access to the reproductive health care they need. Restrictions imposed on health care providers and abortion services impede meaningful access to essential services to the detriment of public health — particularly for individuals who are already disadvantaged by systems of economic and racial oppression. Between 2011 and 2017, TRAP regulations such as those that would be addressed by the Women's Health Protection Act, resulted in the closure of roughly half of all clinics that provided abortion in four states—Arizona, Kentucky, Ohio, and Texas—and the closure of five clinics in Virginia, including two of the state's largest providers.⁶⁷

It is critical that any legislation passed to protect access to abortion includes a holistic approach to people's lives. A Reproductive Justice framework acknowledges that a pregnant person cannot even get in the door of a health center to receive abortion care if they do not have the transportation, childcare, necessary immigration documents and the time off from work needed to access services. Additionally, the numerous restrictions on abortion coverage, medically unnecessary waiting periods, and arbitrary gestational limits on pregnancy termination make many of the barriers insurmountable and therefore abortion care inaccessible.

Those living with intersecting marginalized identities cannot afford to endure another abortion ban because they are already battling racial discrimination in health clinics, wages too low to put food on the table, the debilitating costs of childcare, attacks on their rights simply based on their

⁴"Abortion restrictions put women's health, safety and well-being at risk," University of California San Francisco Bixby Center for Global Reproductive Health, last accessed November 10, 2019, <https://bixbycenter.ucsf.edu/sites/bixbycenter.ucsf.edu/files/Abortion%20restrictions%20risk%20women%27s%20health.pdf>.

⁵ Cohen, R. "Study Shows Women Who Are Denied Abortions Are More Likely to Experience Poverty," *Advancing New Standards in Reproductive Health*, January 24, 2018, <https://www.ansirh.org/content/study-shows-women-who-are-denied-abortions-are-more-likely-experience-poverty>.

⁶ Jones RK, Witwer E and Jerman J, *Abortion Incidence and Service Availability in the United States, 2017*, New York: Guttmacher Institute, 2019, <https://www.guttmacher.org/report/abortion-incidence-service-availability-us-2017>.

⁷ Jones RK and Jerman J, Abortion incidence and service availability in the United States, 2011, *Perspectives on Sexual and Reproductive Health*, 2014, 46(1):3–14, <https://www.guttmacher.org/journals/psrh/2014/02/abortion-incidence-and-service-availability-united-states-2011>.

immigration status or how long they've been in this country, and threats to our basic voting rights. Any attack on abortion rights is an attack on our ability to live with full agency over our lives and not just if and when we choose to grow our families but how we parent our children with economic stability and dignity.

Everybody has the right to good health and well-being for themselves and their families. But for too long, the reproductive health care needs of our communities have been undermined by inaccessibility of care, prohibitive costs, discrimination, and medically unnecessary and restrictive legislation. Study after study by national and international experts show that restrictions on abortion do not reduce its frequency, but rather delay or prevent people's access to the procedure. Everybody needs affordable and accessible pregnancy-related care, including abortion, regardless of where they live and notwithstanding their economic or racial status or personal situation. We urge Congress to act now and pass the Women's Health Protection Act.

Sincerely,

Access Reproductive Care (ARC)-Southeast
Black Alliance for Just Immigration
Black Feminist Future
Black Girl's Guide to Surviving Menopause
Black Women's Health Imperative
Black Women for Wellness
Black Women for Wellness Action Project
Feminist Women's Health Center
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Interfaith Voices for Reproductive Justice
Medical Students for Choice
National Birth Equity Collaborative
New Voices for Reproductive Justice
Reia Chapman, LCSW, LISW-CP
SisterLove, Inc.
SisterReach
SisterSong
SPARK Reproductive Justice NOW, Inc.
Stephanie Arthur, MPA
The Afiya Center
The Foundation for Housing Equity
Women With A Vision