



Across State Lines: How Attorneys General Shape Abortion Access in Texas and Beyond

Authors: AG Studies Staff and Policy Fellows

Background

Abortion is often framed in public discourse as a [pro-choice versus pro-life](#) issue, obscuring the fact that, at its core, the abortion debate is fundamentally about the [healthcare rights](#) of women (and other individuals who may become pregnant). After all, abortion is first and foremost a [medical procedure](#).

Doctors, as part of their [duty of care](#), may recommend abortion procedures for patients facing [life-threatening pregnancies](#), [high-risk pregnancies](#), or [painful miscarriages](#). In the U.S., pregnancy is one of the riskiest times for women, resulting in about [700 annual deaths](#). The outcomes are disproportionately worse for women of color, who are [three times](#) more likely to die than white women. Doctors also have [an ethical and professional obligation](#) to provide abortion information to patients who wish to terminate pregnancies due to rape, [unplanned pregnancy](#), or other reasons. [Research](#) shows that forcing women to carry unwanted pregnancies can devastate their [physical](#), [mental](#), and [financial](#) health.

Unfortunately, the right of pregnant individuals to freely and safely manage their own reproductive healthcare, within the [confidential](#) space of the doctor-patient relationship, has been profoundly undermined by the U.S. Supreme Court's decision in [Dobbs v. Jackson Women's Health Organization](#). That 2022 legal ruling overturned the [constitutional right](#) to abortion previously enshrined in [Roe v. Wade](#), erasing nearly half a century of federal protections for reproductive rights.

Nowhere has the impact of that decision been more evident than in Texas, [the largest state in the country to adopt a near-total ban on abortion](#). Tragic stories have emerged in the media of pregnant women in Texas [senselessly dying](#), [nearly dying](#), suffering [irreversible reproductive damage](#), and enduring the [pain](#), [trauma](#), [health risks](#), and [financial burden](#) of carrying a pregnancy with no chance of survival.

As Texas' top law enforcement officer, [Attorney General Ken Paxton](#) has played a leading role in the state's [deliberate campaign](#) to restrict reproductive healthcare services. A growing number of other state attorneys general (AGs) have followed suit, employing similar legal strategies to drastically curtail abortion access in their own states. These actions have far-reaching

consequences, not only for their own residents but also for people living in states that have become abortion [safe havens](#).

In response to these unprecedented legal challenges, other AGs who support reproductive rights have united to take strategic action to strengthen and safeguard the right to safe and legal abortion. Their role is crucial in shaping the future of abortion access for millions of people, including both residents of their own states and those in states with abortion bans.

The Power of Attorneys General To Influence Abortion Policies

The Supreme Court's decision to overturn the constitutional right to abortion and allow individual states to set their own abortion laws has significantly expanded the influence state AGs have over abortion access. As [the chief legal officers](#) in their jurisdictions, state AGs decide which cases to prioritize and whether and how to defend and enforce state abortion laws that are no longer constrained by *Roe*.

State AGs also shape abortion policies by supporting or challenging federal laws and regulations that affect reproductive healthcare services. They have a [wide variety of strategies](#) they can use to advocate for or against abortion rights.

Texas Abortion Laws

Texas has implemented several highly restrictive abortion laws, along with stringent regulations limiting access to [abortion-inducing medications](#). These laws carry severe civil and criminal penalties and do not include exceptions for many serious pregnancy complications. And, despite more than [26,000 estimated rape-related pregnancies](#) in Texas since *Dobbs*, the [highest](#) number among the 14 states studied, there is no exception for rape either.

Senate Bill 8

Texas' so-called heartbeat law, officially known as [Senate Bill 8](#) (S.B. 8), bans anyone from performing, aiding, or abetting an abortion after fetal cardiac activity is detected. This typically occurs around six weeks of pregnancy, often [before many women even know](#) they are pregnant. The law provides an exception only for cases involving a life-threatening medical [emergency](#), which is narrowly defined and requires extensive documentation.

Enacted in 2021, prior to the *Dobbs* ruling, S.B. 8 was crafted to evade [judicial review](#) by using a unique enforcement mechanism that allows any private citizen (rather than the state) to file civil lawsuits under it. The targets of these lawsuits face at least \$10,000 in fines per suit.

Abortion experts immediately condemned S.B. 8 as a [cruel, draconian bounty law](#), arguing that it incentivizes members of the public to engage in vigilante action against anyone seeking or assisting with abortion care. Nevertheless, this innovative [enforcement mechanism](#), which shields the law from immediate challenge in federal court, quickly became a [model](#) for other states seeking to implement similar legislation.

House Bill 1280

Texas' trigger abortion law, officially known as [House Bill 1280](#) (H.B. 1280), automatically took effect in 2022 after the overturning of *Roe v. Wade*. It outlaws nearly all abortions, providing only one exception for limited circumstances involving a life-threatening physical condition, which does not encompass many serious health complications.

If charged, physicians must prove that they exercised reasonable medical judgment, a standard that is subject to interpretation and scrutiny by both medical experts and legal authorities. As Texas' most punitive abortion ban, H.B. 1280 imposes civil penalties of at least \$100,000, the loss of medical licenses and permits, and the possibility of life in prison.

There is also concern that family members, [friends](#), advocates, and activists could face charges. Notably, [Texas Penal Code § 7.02](#) holds individuals criminally responsible for aiding or encouraging the commission of a crime, which prosecutors might argue includes supporting or assisting someone seeking an abortion that is prohibited under H.B. 1280.

Pre-Roe Laws

In addition to these recent bans, Texas also has historical [abortion laws](#) from the [1800s](#), which the state argued were [revived](#) after the *Dobbs* ruling. However, in 2023, a [federal court](#) disagreed, finding that the state's pre-Roe abortion laws had been "impliedly repealed."

Far-Reaching Impacts of Texas' Abortion Laws

Texas' intimidating [political climate](#) and punitive abortion laws have left doctors in a state of alarm. Some are too scared to even [discuss](#) the word abortion in their practice, while others have resorted to talking "[in code](#)" with their patients. Many doctors have also criticized the laws as being [vague](#), expressing frustration and concern with the [lack of clarity](#) they have received on when an abortion is legally permissible, despite requests for more precision.

As the [fear of prosecution](#) looms over every reproductive care decision covered by Texas' abortion bans, pregnant individuals are paying the cost—sometimes with their lives. In 2023, a pregnant teenager died in a Texas emergency room after her doctor required two ultrasounds to "[confirm fetal demise](#)" before moving her to intensive care. By the time they completed the second ultrasound, it was [too dangerous](#) to operate on her and she died hours later. Likewise, in 2021, a pregnant mother died in a Texas hospital after doctors delayed treatment for [40 hours](#), insisting they had to wait until they could no longer detect a fetal heartbeat to intervene.

Sadly, these deaths are not isolated incidents. A recent analysis of CDC data found that S.B. 8 led to a [56% increase in maternal deaths](#) in Texas, a staggering rise compared to the [11% increase nationwide](#). Babies have also suffered, with researchers linking the ban to a 12.9% increase in infant mortality, compared to just a [1.8% increase nationwide](#).

According to the Texas Medical Association, even when doctors want to treat patients with pregnancy complications, hospital administrators and their legal teams have [instructed](#) them to [delay and withhold](#) critical care. Survivors have filed [complaints](#) against Texas hospitals, while others have [sued](#) the state of Texas, sharing traumatic accounts of near-death experiences, life-threatening medical conditions, and significant fertility impacts.

Despite numerous [legal challenges](#) from patients, abortion providers, [reproductive rights advocates](#), and the [Biden administration](#), the laws remain in effect. Consequently, patients are left with little choice but to travel out of state to obtain critical abortion care and information—though Texas is actively working to [deter cross-border access](#).

But not every patient has the ability to seek reproductive care outside the state, which is one reason why abortion bans [disproportionately harm](#) low-income communities, people of color, and [undocumented individuals](#). Following the passage of S.B. 8, Hispanic women experienced the [largest increase in fertility rates](#) of any group in Texas, suggesting that at least some of these women were forced to carry pregnancies to term that they otherwise would have terminated. [Experts](#) believe that this demographic is particularly challenged by the [financial and logistical burdens](#) involved in coordinating out-of-state abortions, which in addition to travel expenses can often include time off work and childcare arrangements.

Even when patients can afford to leave the state, finding a [timely appointment](#) can be difficult, as the [surge in demand](#) has overwhelmed abortion clinics in states where care remains legal. Given the [time-sensitive](#) nature of many abortions, as well as the increased [health risks](#), [financial strain](#), and [emotional distress](#) associated with later procedures, booking a later appointment is more than just an inconvenience.

Delays in appointment times pose significant challenges—not only for Texans seeking care, but also for residents of states like New Mexico, where women traveling from Texas account for [nearly 70%](#) of all abortion procedures. This underscores how Texas' abortion laws have far-reaching and detrimental effects, impacting the health and well-being of individuals both within and beyond its borders. In this high-stakes environment, the role of state AGs in shaping abortion policies in Texas and elsewhere is critical.

Efforts By State Attorneys General To Restrict Abortion Access In Texas And Beyond

Below are several key examples of actions taken by state AGs to limit abortion access in Texas and other states.

- **Defending S.B. 8 in the U.S. Supreme Court:** In 2021, [Texas AG Ken Paxton](#) argued before the U.S. Supreme Court that federal courts lacked jurisdiction over petitioners' request to block S.B. 8 before it went into effect, because the law delegates enforcement to private individuals, leaving the state without the direct enforcement power necessary to trigger constitutional review. During oral arguments, some Justices [questioned AG](#)

[Paxton](#), expressing concerns that S.B. 8's enforcement scheme could open the door for states to [target other constitutional rights](#).

Despite these concerns, the Court's decision in *Whole Women's Health v. Jackson* foreclosed any pre-enforcement suit against Texas state court officials and the Texas AG, making it extraordinarily difficult for affected parties to secure immediate relief. By effectively shielding Texas from accountability in federal court, the ruling allowed S.B. 8 to continue its chilling effect on abortion access. It also set a dangerous precedent, enabling other states, like Idaho, to adopt [similar](#) abortion laws.

- **Challenging Federal Efforts to Protect Emergency Abortion Care:** In 2022, Texas AG Ken Paxton [filed a lawsuit](#) against the U.S. Department of Health and Human Services (HHS), challenging its abortion guidance under the [Emergency Medical Treatment and Active Labor Act](#) (EMTALA), which requires hospitals that accept Medicare funds to offer stabilizing treatment—including [emergency abortion care](#)—for pregnant women who face medical emergencies. AG Paxton [argued](#) that HHS lacked authority to direct hospitals to provide medically necessary abortion care under EMTALA regardless of state abortion bans.

The district court [sided](#) with AG Paxton, issuing an [injunction](#) that blocked enforcement of the federal guidance in Texas. The Fifth Circuit upheld the district court's injunction and the U.S. Supreme Court [declined](#) to hear the case on appeal. This decision effectively prevented the federal government from safeguarding the right of pregnant patients to access emergency abortion care in Texas.

- **Opposing Proposed Federal Rule Enhancing Reproductive Healthcare Privacy:** In 2023, 19 state AGs, including Texas AG Ken Paxton, submitted [a formal letter](#) opposing a proposed federal rule to modify the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to protect patients' reproductive healthcare privacy. The AGs argued that the rule's prohibition on disclosing abortion-related protected health information for investigative purposes was an unlawful attempt by the Biden Administration to circumvent state abortion laws.

After HHS issued a [Final Rule](#) implementing the proposed changes, AG Paxton [challenged](#) the rule's legality in federal court. If the court sides with Texas, its ruling could allow states to use out-of-state medical records against patients, providers, and anyone supporting them, further eroding access to safe and legal abortion.

- **Threatening Legal Action Against Hospitals:** In 2023, Texas AG Ken Paxton [sent a letter](#) to three hospitals, threatening them with severe civil and criminal liability if they allowed a physician to perform an abortion on Kate Cox. Ms. Cox had just been granted a

[temporary restraining order](#) (TRO) preventing Texas from enforcing its abortion laws against her and her providers. AG Paxton also published the letter [online](#), broadcasting the threat to hospitals across the state and communicating his intent to pursue legal action against any provider he perceived as deviating, in any way, from the state's abortion laws—notwithstanding the valid court order.

Ms. Cox had [petitioned the court](#) for a TRO after learning that her pregnancy would not result in a liveborn baby and that continuing it would endanger her life and future fertility. AG Paxton [appealed the TRO](#), arguing that Ms. Cox failed to provide sufficient evidence to qualify for an exception under Texas' abortion laws.

Due to the urgency of the situation, Ms. Cox was [forced to flee](#) the state to undergo a legal abortion while awaiting a decision from the Supreme Court of Texas, which ultimately [ruled](#) against her. This case exemplifies how AGs in states with abortion bans can wield their power to create an intimidating and legally fraught environment for reproductive healthcare providers, leaving patients with no other option than to seek emergency abortion care in other states.

Protective Actions By State Attorneys General Who Support Reproductive Rights

State AGs committed to protecting reproductive rights have united to counteract efforts to restrict access to safe and legal abortion. They have taken a range of actions, including fighting to preserve access to [abortion medication](#), safeguarding sensitive health information collected by [tracking apps](#), establishing [specialized reproductive units](#), issuing [privacy alerts](#), and protecting abortion clinics [from violence and harassment](#).

Additionally, below are examples of key actions taken by state AGs in direct response to reproductive healthcare challenges in Texas.

- **Supporting DOJ's Lawsuit Challenging S.B. 8:** In 2021, a coalition of 24 AGs, led by [Massachusetts Attorney General Maura Healey](#), filed an amicus brief supporting the federal government's challenge to S.B. 8. The [brief](#) played a crucial role in demonstrating widespread state opposition to Texas' abortion law and helped establish a foundation for future legal challenges to similar restrictions.
- **Condemning Texas Supreme Court Decision Denying Abortion Access:** In 2023, a [coalition of 13 AGs](#) released a public statement condemning the Texas Supreme Court's decision to deny abortion access to Ms. Cox, a pregnant woman who had sought a TRO to block Texas from enforcing its abortion bans against her and her providers after learning that her health and life were at risk. The statement sent a powerful message of solidarity, emphasizing that AGs who support abortion access are committed to standing up for everyone's right to safe and legal reproductive care.

- **Supporting Federal Abortion Guidance Against Texas' Legal Challenge:** In 2023, a coalition of 22 AGs, co-led by [California AG Rob Bonta](#), filed an amicus brief supporting the Biden Administration's defense of its EMTALA guidance in Texas, which instructed doctors to provide emergency abortion care despite state abortion bans. The [brief](#) underscored the gravity of the life-and-death situation for patients in Texas and the ripple effects of Texas' abortion laws in other states. It also highlighted widespread state support for the federal government's efforts to protect the lives of pregnant people nationwide.
- **Reaffirming Commitment to Reproductive Healthcare Privacy After Texas Lawsuit:** In 2024, [Illinois AG Kwame Raoul](#) issued a public statement reaffirming his commitment to protecting patients' reproductive healthcare privacy in response to a Texas lawsuit challenging a new federal privacy rule. AG Raoul's statement reassures individuals in states with abortion bans that they have a strong ally committed to preventing home state officials from weaponizing their reproductive healthcare information.
- **Meeting in Texas to Strategize on Abortion Access:** In 2024, [a coalition of 10 AGs](#) allowed a reporter to accompany them to Texas, where they visited a former abortion clinic, heard from affected patients and providers, and discussed strategies to protect abortion access. This meeting underscored the group's steadfast commitment to advocating for the reproductive rights of individuals in Texas, while also drawing attention to the gravity of the issues.

Conclusion

In the post-Dobbs era, state AGs are at the forefront of the reproductive healthcare fight that is unfolding across the nation. On the anti-abortion side, Texas has led the way, with bounty enforcement provisions and punitive laws creating a chilling effect among doctors and devastating patients' reproductive health and safety. These detrimental impacts extend to other states as well, with an influx of out-of-state patients causing appointment delays at abortion clinics, even in states that have sought to expand reproductive health services.

In the face of tragic accounts from survivors who were denied abortion care while suffering horrific pregnancy complications, as well as studies showing the dangerous effects of these laws, Texas Attorney General Ken Paxton has consistently defended them in court. He has also threatened healthcare providers with severe legal consequences and blocked federal efforts to strengthen protections for reproductive care. Other state AGs who oppose abortion rights have pursued similar strategies.

As Texas and other states continue to enact and enforce laws that infringe on the rights of pregnant people, state AGs who support abortion access have united to counteract restrictive measures and protect their communities from the harmful effects of these laws. They advocate not only for their own constituents but for millions of people nationwide, including the low-

income individuals, people of color, and undocumented immigrants who suffer most under abortion bans.

Through collaborative legal actions, public statements, awareness campaigns, and other strategic initiatives, these state AGs are working to defend access to essential reproductive healthcare for patients everywhere. With the safety and well-being of so many individuals at stake, their role is critical in shaping abortion access today and for generations to come.

The Leadership Center for Attorney General Studies is a non-partisan organization dedicated to educating the public about the important role state attorneys general play in addressing pressing issues, enforcing laws, and bringing about change.