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Abortion Restrictions and the Impact on Families

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Almost immediately after the Roe vs Wade Supreme Court Decision in 1973 that granted federal legal protections for abortion access, state-level legislation began to erode that access. A specific form of legislation that focuses on abortion providers and facilities has been termed “Targeted Restrictions on Abortion Providers” (TRAP) laws. These laws are designed to create burdens that make providing abortion care and keeping clinical sites open extremely challenging.¹ While often promoted under the guise of patient safety, there has been both scientific evidence and legal conclusions that they do not in fact make abortion safer, and ultimately they serve only to block access to abortion.²

TRAP laws include building requirements, like specified widths of clinic hallways, transfer agreement and admitting privilege requirements that are not required for providers of other medical procedures and impossible to obtain in hostile areas, and distance laws requiring proximity to hospitals that limits geographical access. TRAP laws have been passed in a total of 23 states, more commonly in states with Republican control of the state legislature.^{1,3} As TRAP laws have gone into effect, there has been a significant decline in abortion access with clinic closures, decreased numbers of abortion providers, increased patient costs and delays in care, and decreased availability of second trimester abortion services.^{4,5} These TRAP laws are often layered on top of additional abortion restrictions such as mandatory medically inaccurate counseling and forced ultrasounds, waiting periods, notarized parental consents for minors, and more. Not surprisingly, all abortion restrictions impact minoritized and low-income communities more. The final impact is that while abortion may have been legal on paper, the barriers were so great that abortion access was already not a reality for millions of Americans.⁶

Understanding the impact of abortion restrictions is more pertinent than ever since the Dobbs vs. Jackson Women's Health Supreme Court Decision effectively overturned Roe vs Wade and removed federal protections for abortion access. The decision has resulted in state-level abortion bans and highly restrictive gestational duration limits on abortion being passed in 21 states, some of which are in effect and others that are on hold during judicial review at the time of this publication.⁷ This means 25 million women live in states

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where abortion is banned or severely restricted, and effectively do not have the right to decide if and when to become a parent.⁸ Initial research has estimated approximately 25,640 less abortions occurred in the 8 months following the Dobbs ruling.⁹ This figure is certain to increase as the number of states with abortion bans in effect has and will continue to increase. However, the true and far-reaching impacts on families, communities, and society of highly restricted access to abortion will not be realized for years to come.

The recent publication by Adkins et al. (CITATION) utilizes national foster care data to examine the association between the enforcement of TRAP laws and entries of children into foster care. This natural experiment design estimated the association between child foster care entries from 2000–2020 and restricted abortion access as determined by enforcement of TRAP laws.

Study investigators used national foster care data from a federally mandated data collection system and includes geographic and demographic data, including the reason(s) for foster care involvement. A validated database of TRAP law enforcement provides the temporal and geographic variation to abortion restrictions during the study period. The outcome measured was the annual number of children entering the foster care system, with all children conceived between 1990–2011 being the sample, to account for the time between conception and exposure to a TRAP law during pregnancy and ultimate foster care system involvement.

Statistical analysis relied on generalized differences-in-differences measurements, stratified by the type of TRAP law, reason for foster care involvement, and various demographic characteristics. Estimates were reported through incidence rate ratios (IRRs). Various covariates, such as median state income, Medicaid expansion and the temporary Assistance for Needy Families (TANF) caseloads were included.

Not surprisingly, TRAP law enactment and length of enforcement was concentrated in the South and Midwest. Overall, a majority (55%) of children placed in foster were White and the most common reason for foster care involvement was neglect (57%). When comparing states with TRAP laws to those without, they found an 11% increase in children being placed in foster care (IRR 1.11; 95% CI 1.01–1.25). This increase was driven by TRAP laws that were focused on the abortion clinic building requirements (IRR 1.13; 95% CI 1.02–1.25), which commonly lead to clinic closures and abrupt absence of abortion access within communities. When examining the reasons for foster care entry, the main reason driving this increase was housing inadequacy (IRR 1.21; 95% CI 1.11–1.32).

Examining the data by race and ethnicity of the children in foster care further exposes disparities. Both Black (IRR 1.15; 95% CI 1.05–1.28) and non-White children (IRR 1.15; 95% CI 1.02–1.30) had statistically significant more foster care entries after enactment of a TRAP law than White children. Similar to the overall sample, these changes were driven by TRAP laws that focused on building requirements.

It is worth emphasizing that this study was powered to detect very small effect sizes. Therefore, while statistically significant, it is unclear whether the observed IRR has real-life relevance. Nonetheless, for an already overburdened foster care system, even a 10% increase

in children may make a huge difference. Importantly, the repercussions of TRAP laws prior to Dobbs on foster care entries can be extrapolated and will be augmented with the increased number of outright state-wide bans or severe limitations and the new abortion access landscape.

In our opinion, the most important findings are that the impact of abortion restrictions was felt most by Black and non-White families and the main reason for foster care entry was housing inadequacy. This highlights the contradiction in the anti-abortion position as it purports to protect women and families, and at the same time refuses to provide the support needed to safely raise their children. It is a sad day when we are faced with the statistical proof that our national policy includes forcing women to carry pregnancies and deliver children, only to take them away due to an inability to afford housing.

It is important to highlight that the racist policies that pervade our social assistance programs also affect the foster care system. Data show that the outcomes of Department of Child Services (DCS) investigations vary based on the race and income of the family.¹⁰ Although mandated reporters may be engaging the DCS system with the goal of providing more support for a family, the repercussions, trauma, and policing of the family following DCS engagement (even without removal of a child from the family) is an important focus that should not be overlooked or minimized.¹¹ Most importantly, the outcomes for Black children in foster care are much worse than for White children, and therefore the downstream effects of a DCS case are multiplicative.¹²

Therefore, throughout the country, but especially in states with abortion bans and restrictions in place, it is vital to focus resources on supporting families within a reproductive justice framework long before foster care involvement occurs. Unfortunately, states with abortion bans have the least infrastructure and assistance programs in place to support families.¹³ A timely example of policies that are not supporting families is the post-COVID Medicaid disenrollments and the impact on insurance coverage for eligible children and their parents, mostly due to administrative issues.¹⁴

Adkins et al. have contributed an additional examination of how abortion access impacted foster care entries even prior to the loss of federal legal protections for abortion access. As further evidence of the downstream effects of this fundamental shift in human rights in our country continues to be documented, continuing to examine and speak out about the impact on families and communities is imperative. What is desperately needed now is a simultaneous focus on action to truly support families and ensure that everyone is given the opportunity to raise their children in safe and sustainable communities.

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References

1. Targeted Regulation of Abortion Providers. 2023. State Laws and Policies. Accessed August 16, 2023. <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>

2. Nambiar A, Patel S, Santiago-Munoz P, Spong CY, Nelson DB. Maternal morbidity and fetal outcomes among pregnant women at 22 weeks' gestation or less with complications in 2 Texas hospitals after legislation on abortion. *American Journal of Obstetrics & Gynecology*. 2022;227(4):648–650.e1. doi:10.1016/j.ajog.2022.06.060 [PubMed: 35803323]
3. Medoff MH, Dennis C. TRAP Abortion Laws and Partisan Political Party Control of State Government. *American Journal of Economics and Sociology*. 2011;70(4):951–973. [PubMed: 22141177]
4. Grossman D, White K, Hopkins K, Potter JE. The public health threat of anti-abortion legislation. *Contraception*. Feb 2014;89(2):73–4. doi:10.1016/j.contraception.2013.10.012 [PubMed: 24267635]
5. Nash E, Dreweke J. The U.S. Abortion Rate Continues to Drop: Once Again, State Abortion Restrictions Are Not the Main Driver. Vol. 22. 2019. Guttmacher Policy Review. Accessed August 15, 2023. <https://www.guttmacher.org/gpr/2019/09/us-abortion-rate-continues-drop-once-again-state-abortion-restrictions-are-not-main>
6. Brown BP, Hebert LE, Gilliam M, Kaestner R. Association of Highly Restrictive State Abortion Policies With Abortion Rates, 2000–2014. *JAMA Netw Open*. Nov 2 2020;3(11):e2024610. doi:10.1001/jamanetworkopen.2020.24610
7. Tracking Abortion Bans Across the Country. *The New York Times*. Accessed August 15, 2023. <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html#:~:text=More%20than%2020%20states%20now,overturned%20the%20decision%20last%20year.>
8. Mulvihill G, Kruesi K, Savage C. A year after fall of Roe v. Wade, 25 million women live in states with abortion bans or restrictions June 22.
9. #WeCount Report April 2022-March 2023. 2023. June 15. Accessed August 15, 2023. https://www.societyfp.org/wp-content/uploads/2023/06/WeCountReport_6.12.23.pdf
10. Raz M. Abusive policies : how the American child welfare system lost its way. *Studies in social medicine*. The University of North Carolina Press; 2020:xiv, 162 pages.
11. CANCEL S. I Will Never Forget That I Could Have Lived With People Who Loved Me. *The New York Times*. Sept 16. Accessed August 15, 2023. <https://www.nytimes.com/2021/09/16/opinion/foster-care-children-us.html?searchResultPosition=1>
12. Atkins DN, Durrance CP. The impact of state-level prenatal substance use policies on infant foster care entry in the United States. *Children and Youth Services Review*. 2021/11/01/ 2021;130:106194. doi:10.1016/j.chilyouth.2021.106194
13. Treisman R. States with the toughest abortion laws have the weakest maternal supports, data shows. August 18. Accessed August 15, 2023. <https://www.npr.org/2022/08/18/1111344810/abortion-ban-states-social-safety-net-health-outcomes>
14. Simmons-Duffin S. Texas Medicaid dropped more than 500,000 enrollees in one month. August 3. Accessed August 15, 2023. <https://www.npr.org/sections/health-shots/2023/08/03/1191416312/texas-medicaid-drops-500k-enrollees-rate-of-82-percent>