

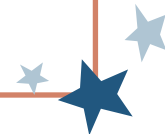


Economic Justice



It's Time to Fix the Texas Abortion Ban

Texas' extreme abortion ban is causing real harm to pregnant women and their families and the state's medical system. It is forcing pregnant women to die or suffer permanent injury from complications that could be prevented or resolved by terminating their pregnancies, and it is discouraging doctors from practicing in Texas. The ban is out of step with the values of most Texans—including pro-life conservatives—and runs contrary to the beliefs of mainstream faith communities across a wide spectrum of traditions. The Texas Legislature should make significant revisions to Texas abortion laws, to ensure the laws support pregnant women and their families; medical providers; and community-based helpers like faith communities.



Although Texas' abortion ban includes a nominal exception for abortions that doctors judge medically necessary to save the mother's life or major bodily functions, the exception is demonstrably ineffective. The ban's vagueness and conflation of medical and nonmedical terminology, combined with the draconian penalties doctors and other medical providers face for breaking the law, foster a climate of fear that discourages providers from taking the decisive steps called for in life-threatening pregnancies.

Texas' abortion laws are extreme.

As the chart on page 3 shows, Texas is among the most restrictive states with respect to abortion policy, with a near-total abortion ban in place statewide since 2022. Under Texas law, only a physician may perform an abortion, and that physician may only perform an abortion if he or she determines in the exercise of reasonable medical judgment that the woman has a life-threatening physical condition that either puts her at risk of death or at substantial risk of impairment of a major bodily function.

Texas' abortion ban comprises three separate laws. The first law is a ban on abortions, providing criminal penalties and codified before 1920, that has never been repealed. The second law is Senate Bill 8, the "heartbeat act," which requires that a doctor confirm absence of fetal cardiac activity before they may perform an abortion. Senate Bill 8 creates a private cause of action for any abortion that violates the requirements of the law, meaning that any individual may sue a doctor the individual suspects of performing an abortion that violates the law. This provision is described commonly as the "bounty hunter" provision. The third law, which was passed in House Bill 1280 in 2021, is a felony criminal abortion ban that



carries a penalty of up to life in prison as well as loss of medical license. It also contains civil penalties that the attorney general can enforce with a fine of up to \$100,000.

Texas law defines abortion to include any and all acts that might end a pregnancy. This definition is different from the medical definition of abortion. Medically, abortion is the termination of a pregnancy before the fetus can survive outside the uterus. This can occur spontaneously, which is commonly referred to as “miscarriage,” or it can be induced with medication or a medical procedure.

Doctors say Texas’ abortion laws tie their hands.

Texas doctors, especially obstetricians, have explained how the vagueness of the language in HB1280, combined with the draconian criminal penalties, serve to create catastrophic risk of criminal and civil consequences to doctors and hospitals seeking to provide necessary care to women with life-threatening pregnancies. In 2024, attorneys and medical providers petitioned the Texas Medical Board to make rules clarifying the emergency exception provision in HB1280.

After extensive public comment and public hearings, the Medical Board made small clarifications to their enforcement processes, but the clarifications only address the Medical Board’s internal processes for determining whether a doctor should lose their license for providing an abortion. The board stressed that only the legislature could mitigate the criminal and civil penalties in the law.

Texas’ extreme laws are taking a toll on medical systems.

Manatt Health’s **Texas OB/GYN Physician Workforce Study** analyzed the Texas OB/GYN physician workforce and the impact of the state’s abortion laws on the workforce development pipeline. The study found that a significant majority of practicing OB/GYN physicians surveyed believe that Texas’ abortion laws have inhibited their ability to provide highest-quality and medically necessary care to their patients, and that as a result of Texas abortion laws, many Texas OB/GYN physicians and resident physicians are considering or have already made changes to their practices that reduce the availability of OB/GYN care in the state.

Of the Texas physicians Manatt Health surveyed:

- 76% believe that they cannot practice medicine according to best practices/ evidence-based medicine.
- 60% fear legal repercussions from practicing according to evidence-based medicine.
- 29% of respondents do not feel they have a clear understanding of Texas abortion laws.
- 28% believe they have adequate support in navigating patients’ questions and concerns.
- 44% indicated that they have thought about or have already changed how and/or where they practice as a direct result of the state’s new abortion restrictions.



ABORTION POLICY ACROSS STATE LINES

Learn more about your state here: states.guttmacher.org/policies

	Life and Health of the Mother	Gestational Duration	Lethal Fetal Abnormality	Exceptions for Rape and Incest	Punishment for Performing	Punishment for Aiding/Abetting	Punishment for Obtaining	Constitutional Amendments
Texas	Allows abortion to preserve the mother's life or to avoid "impairment of a major bodily function."	Abortion is not permitted, regardless of the gestational duration of the fetus.	There are only two abnormalities recognized by Texas as reasons to perform an abortion: (1) an ectopic pregnancy at any location; or (2) a pre-viable premature rupture of membranes.	No exception for pregnancies that are a product of rape or incest.	Possible punishments for performing doctors in Texas: \$100,000 fine, criminal penalty, and medical license revocation.	If someone aids or abets an abortion, they could be liable to a civil action lawsuit.	No restrictions on those who obtain.	Undetermined by the Texas Supreme Court.
Most/Very Protective	A health risk to the mother is not necessary to receive an abortion.	Some restrict abortion to before fetal viability (24 weeks and after), other states do not have a restriction based on gestational duration.	Lethal fetal abnormalities are not necessary to receive an abortion.	Not applicable; no complete ban.	No punishment for performing. Many states protect healthcare professionals from harm or harassment they may experience for performing abortions.	No punishment for aiding or abetting. Many states protect healthcare professionals from harm or harassment they may experience for performing abortions.	No restrictions on those who obtain.	State constitutions that recognize the right to an abortion: California, Montana, North Dakota, Minnesota, Illinois, Kansas, Oklahoma, Alaska, Mississippi, New Jersey, and Massachusetts.
Some Restrictions/ Protections	Allows abortion to preserve the physical or mental health of the mother.	If there is a gestational duration ban, it is upwards of 22 weeks. Some states do not have a ban based on the number of weeks into a pregnancy.	Most accept abortions past gestational limit if there is a lethal abnormality to the fetus.	Not applicable; no complete ban.	In some states, only physicians may perform an abortion. Actions that defy that policy lead to civil or criminal penalties.	Some (not all) states have civil or criminal penalties for those who facilitate or aid in an abortion.	No restrictions on those who obtain.	Many states are undetermined by the State Supreme Court. Two states, Tennessee and West Virginia, had their supreme court overruled by a ballot initiative, which advanced abortion restrictions.
Most/Very Restrictive	Abortion only permissible if giving birth would cause death or serious complications to this mother.	Many states do not permit abortion no matter the gestational duration. In some states abortion is allowed until 6-18 weeks of pregnancy.	Majority have no exceptions. Occasional exception for ectopic pregnancy and/or a pre-viable premature rupture of membranes.	No exception for pregnancies that are a product of rape or incest.	Performing doctor or physician could receive a civil penalty, felony, and/or a revocation of their license to practice medicine.	Facilitating or abetting in an abortion past the permitted gestation could result in a misdemeanor, or a civil suit.	There is no punishment for the person receiving an abortion. The only state punishing the recipient of an abortion is Nevada.	Five states have constitutions that deny the right to abortion: Idaho, Iowa, Indiana, South Carolina, Florida

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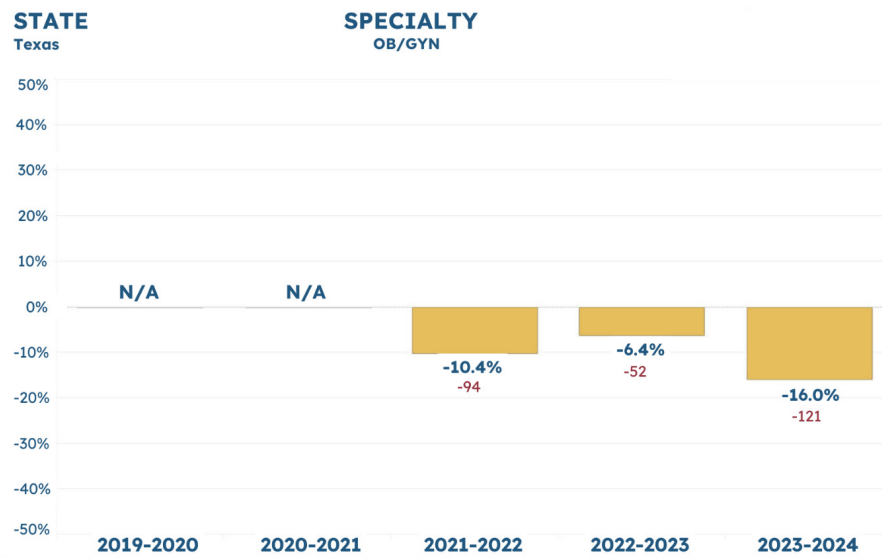
texasimpact.org

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Moreover, data from the Association of American Medical Colleges (AAMC) show that the abortion ban is undermining the pipeline of future Texas doctors—for both OB/GYN and other practice areas. AAMC’s **2024 US Physician Workforce Data Dashboard** shows that OB/GYN residency applications in Texas dropped 16 percent following the Supreme Court’s *Dobbs* decision, and applications for Texas residencies in all specialties dropped nearly 12 percent in the same period. Perhaps even more alarming for a state with a young, growing population, applications for residencies in pediatrics declined more than 20 percent from 2023 to 2024.

Percent Change in U.S. MD Senior Applicants From the Previous Application Cycle By Year

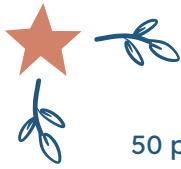


Source: American Association of Medical Colleges Research and Action Institute analysis of Electronic Residency Application Service® (ERAS®) data.

The chilling impact Texas’ abortion ban is having on the state’s maternal and child health care systems comes on top of Texas’ already troubling healthcare profile. Texas has the highest uninsured rate and greatest number of uninsured residents of any state in the country. In 2023, U.S. Census data showed that nearly 19 percent of non-elderly Texans were uninsured—almost 5 million Texans—compared to fewer than 10 percent of all Americans.

Lack of coverage leads to lack of access to care, for pregnant women and others—but in many parts of Texas, coverage alone would not be enough to secure care: according to the 2024 March of Dimes State Report Card, 46.5 percent of Texas counties are defined as maternity care deserts compared to 32.6 percent of counties in the U.S. overall, with 22 percent of Texas pregnant women receiving inadequate prenatal care (care beginning in the fifth month or later or less than





50 percent of the appropriate number of visits for the infant’s gestational age) compared to 15.7 percent of pregnant women nationally. Lack of access to maternity care helps to explain why Texas’ maternal mortality rate is 28.2 deaths per 100,000 births compared to the U.S. average of 23.2.

Texas women don’t understand the state’s abortion laws.

While doctors are confused about the specifics of HB1280, Texas women are confused and misinformed about virtually every provision of Texas abortion ban. A survey of 768 Texas residents by Resound Research for Reproductive Health in May and June of 2023 showed more than 8 in 10 Texas women lack understanding of the law.

Of the women surveyed:

- 32% incorrectly believed that victims of rape and incest can legally obtain an abortion in Texas
- Nearly 25% incorrectly believed that the abortion ban does not apply to pregnant patients facing diagnoses of fatal fetal anomalies
- 25% incorrectly believed that a law had passed prohibiting out-of-state travel for abortion
- 73% were unaware that clinics in the state cannot terminate pregnancies
- 43% knew it was legal in Texas for pregnant people to get an abortion if they have a life-threatening medical condition

Texans across the political spectrum support more abortion access than is available in Texas under current law.

Polling by the **Texas Politics Project** at the University of Texas at Austin in April 2024 showed that 82 percent of Texans surveyed support access to abortion if the pregnancy is the result of rape; 79 percent of those surveyed support access to abortion if the pregnancy is the result of incest; and 75 percent of those surveyed support access to abortion if there is a strong chance of a serious fetal abnormality.

The poll showed that Texans’ views are much more nuanced than lawmakers may perceive: the majority of “pro-life” respondents support significant exceptions to the abortion ban, including in cases of rape, incest, and serious fetal abnormalities. Likewise, the majority of “pro-choice” respondents supported limits to abortion access, particularly in the later stages of pregnancy.

Faith communities stand in the breach.

Pastors, chaplains, and other faith leaders are uniquely situated to hear the experiences of congregation members and others who seek their support in processing the moral dilemmas, emotional distress, grief, and joy that come with the processes of reproduction. Faith leaders bring these stories of lived





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FAITH & REPRODUCTIVE POLICY

United Methodist Church	We recognize tragic conflicts of life with life that may justify abortion, and in such cases, we support the legal option of abortion under proper medical procedures by certified medical providers.
Evangelical Lutheran Church in America	A developing life in the womb does not have an absolute right to be born, nor does a pregnant woman have an absolute right to terminate a pregnancy.
Conservative Judaism	We may permit an abortion according to the Halakhah because of 'great need' and because of pain and suffering.
Unitarian Universalist	The right of individual conscience, and respect for human life are inalienable rights due every person; and the personal right to choose in regard to contraception and abortion is an important aspect of these rights.
National Council of Jewish Women	Every individual has the right to bodily autonomy and privacy, free from governmental, political, and religious interference in all health care decisions.
Christian Church (Disciples of Christ)	We respect differences in religious beliefs concerning abortion and oppose, in accord with the principle of religious liberty, any attempt to legislate a specific religious opinion or belief concerning abortion upon all Americans.
Episcopal Church	Since 1967, The Episcopal Church has maintained its "unequivocal opposition to any legislation on the part of the national or state governments which would abridge or deny the right of individuals to reach informed decisions [about the termination of pregnancy] and to act upon them."
Presbyterian Church USA	We affirm the ability and responsibility of women, guided by the Scriptures and the Holy Spirit, in the context of their communities of faith, to make good moral choices in regard to problem pregnancies.
Cooperative Baptist Fellowship	Each local congregation is autonomous and decides for itself.
United Church of Christ	The United Church of Christ has supported reproductive justice issues since the 1960's. As a human rights issue, reproductive justice promotes the rights of people to bear children they want to have, to not bear children, to raise the children they do have in safe and healthy environments, and express their sexuality without oppression.
Society of Friends	Members of the Society of Friends are not in unity on abortion issues. Therefore, Quakers take no position and do not act either for or against abortion legislation.
Islam	All schools of Muslim law accept that abortion is permitted if continuing the pregnancy would put the mother's life in real danger.





Faith communities have special concerns about Senate Bill 8 because its “bounty hunter” provision encompasses not only medical professionals, but anyone who is “aiding and abetting” abortion seekers—such as offering pastoral counseling, reimbursing expenses, or providing transportation. While current law does not penalize a woman seeking an abortion, it applies to anyone who “aided” her in the process. Faith communities worry that providing pastoral care or counseling that reflects their deeply held beliefs could leave them open to lawsuits under Senate Bill 8, denying them the religious freedom guaranteed under state and federal law.

experience to bear along with the wisdom and scripture of their traditions in discerning their posture toward abortion and other reproductive issues.

As the chart on page 6 shows, the faith communities that are part of Texas Impact have a diversity of opinions and beliefs about abortion, but they all agree that women should not die from complications preventable by abortion.

While mainstream faith traditions hold similar conceptual positions on abortion, their members must evaluate specific policies and participate in policy discussions with community members who hold different views. In 2024, Texas Impact worked with a team of researchers and theologians to develop a model for generating small group conversations about abortion policy, with the aim of creating a space where people could share their beliefs and experiences about abortion, including with those with differing political views.

More than 250 Texas women of diverse faiths, political views, racial backgrounds and socioeconomic circumstances participated in the project in communities across the state.

After each small group discussion, participants completed a short survey in which they were asked if they agreed or disagreed with a series of statements. Their responses showed that, while views varied widely on many statements, there was complete or near-complete unanimity on a few key issues.

- 100% of participants disagreed strongly with the statement “New laws often cause confusion; after the Texas abortion ban is in place longer, doctors and hospitals will understand it and not be afraid to treat complex pregnancies.”
- 96% of participants agreed with the statement “No one should risk death from a treatable complication of pregnancy, even if treating the complication terminates the pregnancy before the fetus is viable outside the uterus.”
- 96% of participants agreed with the statement “The pregnant patient’s mental health is as important as their physical health in identifying risks to their life and health.”
- 96% of participants disagreed with the statement “No abortion is ‘medically necessary.’ Pregnancy is a natural condition and it’s natural that sometimes pregnancies have outcomes that make us sad.”



Texas Impact Recommendations

The Texas Legislature should improve Texas' abortion laws in the following ways:

1. Eliminate the possibility of criminal prosecution for medical providers who terminate pregnancies they judge medically necessary
2. Protect faith communities' religious freedom to provide non-medical support to pregnant women, including those seeking to end a pregnancy, by eliminating "aiding and abetting" prohibitions
3. Restrict the opportunity for private civil action to individuals who are directly impacted by an abortion as a patient or close family member
4. Allow abortion in cases of rape or incest without requiring confirmation of a crime
5. Protect availability of medication abortion
6. Clarify that "travel bans" adopted by local jurisdictions have no enforceable legal status

Improving the law in these ways would not address the full range of issues that concern mainstream faith communities and their members regarding reproductive policy in Texas. Instead, the recommendations above represent the base-level changes needed to ensure Texas' abortion ban does not cost women their lives, doctors their livelihoods, and Texas communities the healthcare infrastructure all residents depend on.

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