

ALL MY PATIENTS LIVE IN TEXAS: *TEXAS v. CARPENTER* AND THE CHALLENGE TO NEW YORK'S TELEMEDICINE SHIELD LAW

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Abstract

This article examines the legal conflict between abortion “shield laws” in abortion-permissive states and the extraterritorial reach of anti-abortion statutes via a recent case brought against an abortion provider in New York. In December 2024, Texas Attorney General Ken Paxton filed a civil suit against Dr. Margaret Carpenter, a New York physician and co-founder of the Abortion Coalition for Telemedicine, alleging she violated Texas’ total abortion ban by prescribing and shipping medication to a Texas resident via telehealth. This Note analyzes how this case serves as the first major test for New York’s shield law, highlighting that while such laws offer robust protections regarding professional licensing and extradition, they remain vulnerable to out-of-state discovery tactics and the possible enforcement of civil judgments.

Part I provides an overview of the abortion provision landscape post-*Dobbs*, including interstate travel, telemedicine abortion provision, and the statutory frameworks behind “bounty hunter” laws in abortion-hostile states and “shield laws” in abortion-permissive states. Part II discusses the claims made in *Texas v. Carpenter* and analyzes the interactions between New York’s shield law and Texas’ anti-abortion laws. Part III addresses the constitutional threat to shield laws posed by the U.S. Constitution’s Full Faith and Credit Clause and how anti-abortion states may try to force shield states to enforce their judgments. Finally, it argues that shield states must enact specific judgment enforcement provisions—such as New York’s proposed S.B. 1995—which frame the refusal to satisfy out-of-state

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judgments as an exercise of a state's police power. By narrowing the mechanisms of enforcement rather than denying the judgment's validity, shield states can better insulate their providers from "bounty hunter" laws and state-led litigation while navigating the "exacting" demands of the Full Faith and Credit Clause.

INTRODUCTION

In the years since *Dobbs*, liberal and conservative states have been playing a cat and mouse game, with each finding new ways to provide or deny access to abortion within the letter of the law. After trigger bans took effect, the landscape of abortion care changed dramatically. Interstate travel and telehealth provision of medication abortion provided opportunities for patients in abortion-hostile states to receive abortion care. However, as new methods of providing care proliferated, so too did new conservative laws targeting them. In response, abortion-permissive states passed "shield laws" to prevent providers from facing extraterritorial liability, allowing patients in states where abortion is banned to continue receiving care. Part I of this Note details this back-and-forth progression of abortion laws across the country.

With diametrically opposed laws dividing the country's abortion policies, it was only a matter of time before someone fired the first shot to challenge shield laws. In December 2024, Texas Attorney General Ken Paxton filed a civil case against Dr. Margaret Carpenter, a physician residing in New York and co-founder of the Abortion Coalition for Telemedicine, for violating Texas' total abortion ban and licensing laws, alleging that she had prescribed and shipped abortion medication to a Texas resident.¹ Part II of this Note explores the conflicting abortion laws of Texas and New York, analyzes the recent challenge to New York's law in *Texas v. Carpenter*, and details the ways the state has already successfully deterred lawsuits against providers. It concludes that while some provisions of New York's shield law could have provided effective procedural protections, the more substantive portions shoot and miss.

Dr. Carpenter never responded to the complaint, and the Texas district court issued a default judgment against her on February 13, 2025. Part III of this Note suggests an important way New York could protect Dr. Carpenter from the liability imposed by Texas: enacting S.B. 1995, a bill preventing the enforcement of judgments against providers. The Note then addresses potential challenges faced by judgment enforcement provisions in

¹ Petition and Application for Temporary and Permanent Injunctive Relief at 5, *State of Texas v. Carpenter*, No. 471-08943-2024 (Tex. Dist. Ct. Dec. 12, 2024) [hereinafter *Petition*].

shield laws, most notably via the Full Faith and Credit Clause of the Constitution, and suggests ways that shield states may insulate their laws from challenges going forward.

I. Background

To understand the potential workings of shield laws, it is important to understand the landscape of abortion care's legality across the country after *Dobbs*. First, after the U.S. Supreme Court overturned *Roe v. Wade* in 2022,² trigger laws took effect, banning abortion with very limited exceptions in over a dozen anti-abortion states.³ As a result, the number of patients traveling out of state for abortions increased by large margins, and providers in abortion-permissive states continued to provide care to those willing to travel.⁴ The FDA's relaxation of regulations further allowed more patients to be treated via the prescription of medication abortion, and virtual clinics employing telehealth services to reach more patients proliferated.⁵ Conservative lawmakers doubled down, passing laws imposing civil and criminal liability for providers treating patients from their states or seeking to prescribe and ship abortion medication into their states.⁶ Pro-abortion activists, scholars, and ultimately lawmakers countered by devising a new set of laws to protect providers—laws which use a variety of mechanisms to shield providers residing in abortion-permissive states from liability imposed by abortion-hostile states. Shielded by their home states, activists and providers began to lead coordinated efforts to provide reproductive care to patients in need via telehealth prescription of medication abortion.

A. Abortion Care Post-*Dobbs*

1. Interstate Travel

Patients throughout the country increasingly depend on out-of-state abortions. Due to the “trigger laws” that effectuated total or near-total abortion bans as soon as *Roe v. Wade*

² See *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 302 (2022).

³ Kimya Forouzan et al., *The High Toll of U.S. Abortion Bans: Nearly One in Five Patients Now Traveling Out of State for Abortion Care*, GUTTMACHER INST. (Dec. 7, 2023), <https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care> [<https://perma.cc/S6JQ-9WWN>].

⁴ *Id.*

⁵ See David S. Cohen et al., *Abortion Pills*, 76 STAN. L. REV. 317, 325 (2024).

⁶ See *Abortion in the United States Dashboard*, KFF (Jan. 6, 2026), <https://www.kff.org/womens-health-policy/dashboard/abortion-in-the-u-s-dashboard/> [<https://perma.cc/FH8L-ELTG>].

was overturned, abortion is now illegal, with very limited exceptions, in thirteen states.⁷ Nearly one in five patients are now traveling out-of-state for abortion care in America.⁸ In 2023, 74% of patients receiving abortions in New Mexico traveled from out-of-state (an increase from 38% in 2020); in Illinois, this percentage doubled from 21% to 42%; and in Colorado, it increased from 13% to 31%.⁹ In total, abortions in states bordering others with complete bans increased by 38% between 2020 and 2023.¹⁰ Since 2020, there has been an 11% increase in clinician-provided abortions in states without a total abortion ban.¹¹ After *Dobbs*, average travel time to the nearest abortion facility increased from twenty-eight to one hundred minutes, and the proportion of women who lived more than one hour's drive from a facility increased from 15% to 33%.¹² Increases in distance were greatest in the Southern states; most residents in Arkansas, Louisiana, Mississippi, and Texas had to drive four or more hours to reach the nearest facility as of September 2022.¹³ Patients in Florida face a 2,391% increase in the average driving time to get an abortion, with an additional eight hours and forty-six minutes; in Texas, post-*Dobbs* bans created an 869% increase in average driving times.¹⁴

Interstate travel is a worst-case scenario for a patient seeking to terminate a pregnancy, leading to profound negative impacts on abortion access across the country. Studies have attempted to illustrate the burdens associated with interstate travel, focusing on the psychological stress of navigating the disclosure of the pregnancy and termination to families or workplaces, the financial costs of having to take off work, pay for travel,

7 Total or near-total abortion bans exist in Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, North Dakota, Oklahoma, South Dakota, Tennessee, Texas and West Virginia. *Id.*

8 Forouzan et al., *supra* note 3.

9 *Id.*

10 Isaac Maddow-Zimet & Candace Gibson, *Despite Bans, Number of Abortions in the United States Increased in 2023*, GUTTMACHER INST. (Mar. 19, 2024), <https://www.guttmacher.org/2024/03/despite-bans-number-abortions-united-states-increased-2023> [<https://perma.cc/H2AS-N8BK>].

11 Isaac Maddow-Zimet et al., *Monthly Abortion Provision Study*, GUTTMACHER INST. (Dec. 18, 2024), <https://osf.io/k4x7t/> [<https://perma.cc/WLT7-L77P>].

12 Benjamin Rader et al., *Estimated Travel Time and Spatial Access to Abortion Facilities in the U.S. Before and After the Dobbs v. Jackson Women's Health Decision*, 328 JAMA 2041, 2044 (2022).

13 *Id.*

14 Sara Estep, *Abortion Access Mapped by Congressional District: 6-Week Abortion Ban Update*, CTR. FOR AM. PROGRESS (June 20, 2024), <https://www.americanprogress.org/article/abortion-access-mapped-by-congressional-district-6-week-abortion-ban-update/> [<https://perma.cc/DB8X-DDFA>].

childcare, or lodging, and the emotional burden of going to an unfamiliar place after your home state has denied care by law.¹⁵

Predictably, these burdens do not affect all populations equally, and many factors may lead to disproportionate impacts of abortion restrictions on specific populations. Data reflects that rural women, younger women, and those of lower socioeconomic status are more likely to travel longer distances and bear a higher financial burden in doing so.¹⁶ For instance, in Florida, driving time to get to an abortion clinic for districts with high shares of Black or Hispanic women was more than 90 minutes longer than times for districts with lower shares of these populations.¹⁷ Further, greater shares of Hispanic and Black women report not being able to cover an emergency medical expense using their current savings compared to white women, making interstate travel expenses again more burdensome on these populations.¹⁸ Low-income patients, though more likely to need abortion care, are more likely to be priced out of abortion care due to interstate travel and failure of insurance to cover the medical expense.¹⁹ Reduced access to paid sick days and affordable childcare also exacerbate wealth disparities reflected in abortion access when state laws force patients to travel to another state.²⁰ Having to raise money for travel and procedure costs can lead to a delay in seeking care, which can cause clinics to turn away patients who exceed

15 Katrina Kimport & Maryani Palupy Rasidjan, *Exploring the Emotional Costs of Abortion Travel in the United States Due to Legal Restriction*, 120 *CONTRACEPTION* 109956, at 3 (2023), [https://www.contraceptionjournal.org/article/S0010-7824\(23\)00009-4/fulltext](https://www.contraceptionjournal.org/article/S0010-7824(23)00009-4/fulltext) [<https://perma.cc/N6FW-Z6E2>].

16 Jill Bar-Walker et al., *Experiences of Women Who Travel for Abortion: A Mixed Methods Systematic Review*, 14 *PLOS ONE* e0209991, at 17 (2019), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0209991> [<https://perma.cc/66DX-K26S>].

17 Estep, *supra* note 14.

18 Latoya Hill et al., *What Are the Implications of the Dobbs Ruling for Racial Disparities?*, KFF (Apr. 24, 2024), <https://www.kff.org/womens-health-policy/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/> [<https://perma.cc/Q8F3-PWLH>].

19 Usha Ranji et al., *Key Facts on Abortion in the United States*, KFF (Jun. 21, 2024), <https://www.kff.org/womens-health-policy/issue-brief/key-facts-on-abortion-in-the-united-states/#How-much-do-abortions-cost> [<https://perma.cc/UX2U-UXVA>].

20 Elizabeth B. Harned & Liza Fuentes, *Abortion Out of Reach: The Exacerbation of Wealth Disparities After Dobbs v. Jackson Women's Health Organization*, A.B.A.: *HUM. RTS. MAG.* (Jan. 6, 2023), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/abortion-out-of-reach/ [<https://perma.cc/RSH2-SGMD>].

states' legal gestational limits.²¹ Abortion funds—local organizations which provide direct financial and logistical assistance to abortion seekers—reported a 39% increase in requests for support in the year after the *Dobbs* decision, disbursing a total of over thirty-six million dollars.²² Lastly, abortion providers in states where abortion is legal and protected have become overwhelmed by such dramatic increases in patients. In turn, this has led to longer wait times and delayed care for patients at “destination facilities”—clinics in states where abortion is legal—that experienced surging demand from patients traveling from states with total or near-total bans.²³

2. Medication Abortion and Telehealth Services

The “abortion pill revolution” began in 2000 with the FDA’s approval of the drug mifepristone as an abortifacient, offering an accessible alternative to the in-clinic procedure for patients seeking an abortion before ten weeks of pregnancy had elapsed.²⁴ Since then, a complicated regulatory scheme has emerged, and hundreds of studies have proven the drug to be exceptionally safe.²⁵ Now, a majority of the abortions performed in the United States are done via prescription of medication, particularly as a two-step regimen involving mifepristone and misoprostol, rather than via medical procedure in a doctor’s office.²⁶ There

21 See Ushma D. Upadhyay et al., *Denial of Abortion Because of Provider Gestational Age Limits in the United States*, 112 AM. J. PUB. HEALTH 1305, 1305 (2022).

22 *Critical Role of Abortion Funds Post-Roe*, NAT’L NETWORK OF ABORTION FUNDS (Jan. 18, 2024), <https://abortionfunds.org/abortion-funds-post-roe/> [<https://perma.cc/WP77-XMDL>]. Though they experienced a dramatic surge in donations in the months immediately following the *Dobbs* decision, there was a “staggering” drop off in giving. Eden Stiffman, *Abortion Funds Face Slowdown in Giving a Year After Supreme Court Ruling*, CHRON. PHILANTHROPY (June 12, 2023), <https://www.philanthropy.com/article/abortion-funds-face-slowdown-in-giving-a-year-after-supreme-court-ruling> [<https://perma.cc/R2RH-G3JL>].

23 Caitlin Myers, *Who’s Trapped in Post-Dobbs America?*, SOC’Y OF FAM. PLAN. (2024), https://societyfp.org/awarded_grants/sfp18-ttc8/ [<https://perma.cc/X9WA-8S84>] (citing Caitlin Myers, *Abortion Appointment Availability Survey*, SOC’Y OF FAM. PLAN. (May 8, 2024), <https://osf.io/z4tcr/wiki/home/> [<https://perma.cc/U3XX-8XK4>]); see also Isaac Maddow-Zimet et al., *New State Abortion Data Indicate Widespread Travel for Care*, GUTTMACHER INST. (Sep. 2023), <https://www.guttmacher.org/2023/09/new-state-abortion-data-indicate-widespread-travel-care> [<https://perma.cc/FF5J-GDQ9>] (detailing how regional clustering of states with total bans or severe restrictions amplifies the impact of one state’s ban, as a ban in one state can affect the ability of people throughout the region to access care).

24 See Cohen et al., *supra* note 5, at 326.

25 *Id.*

26 Amy Friedrich-Karnik, Isabel DoCampo & Candace Gibson, *Medication Abortion Remains Critical to State Abortion Provision as Attacks on Access Persist*, GUTTMACHER INST. (Feb. 25, 2025), <https://www.guttmacher.org/2025/02/medication-abortion-remains-critical-to-state-abortion-provision-as-attacks-on-access-persist>.

were approximately 642,700 medication abortions in the United States in 2023, accounting for 63% of all abortions in the formal health care system, and increasing from 2020, when medication abortions accounted for 53% of all abortions.²⁷

Providers of reproductive healthcare have sought to ease access barriers by using telehealth to prescribe the medication abortion regimen remotely and relieve destination facilities' overwhelm. In 2021, after the COVID-19 pandemic, the FDA relaxed a prior rule requiring in-person doctor visits for provision of the abortion pill regimen, allowing providers who meet certain requirements to prescribe to patients whom they treat remotely via telehealth.²⁸ Around 27% of abortions are now performed via telehealth through the prescription of medication abortion, an increase from 4% in April 2022.²⁹

Telehealth abortion care has proliferated online. The percentage of facilities offering medication abortion via telehealth increased from 7% to 31% between 2020 and 2022, including both brick-and-mortar facilities and virtual clinics.³⁰ Virtual abortion clinics, referral networks, and online pharmacies specifically dedicated to abortion, birth control, and emergency contraception take advantage of the FDA's relaxed restrictions and send abortion medication to states where it is legal.³¹ Online abortion clinics ship medication directly to patients' homes through specialty pharmacies that meet the FDA's requirements

[guttmacher.org/2025/02/medication-abortion-remains-critical-state-abortion-provision-attacks-access-persist](https://www.guttmacher.org/2025/02/medication-abortion-remains-critical-state-abortion-provision-attacks-access-persist) [<https://perma.cc/VZV6-YXFL>].

27 Rachel K. Jones & Amy Friedrich Karnik, *Medication Abortion Accounted for 63% of All U.S. Abortions in 2023—An Increase from 53% in 2020*, GUTTMACHER INST. (Mar. 19, 2024), <https://www.guttmacher.org/2024/03/medication-abortion-accounted-63-all-us-abortions-2023-increase-53-2020> [<https://perma.cc/Q4NQ-DHQE>].

28 *U.S. FDA Permanently Allows Mail-Order Abortion Pills*, BBC (Dec. 16, 2021), <https://www.bbc.com/news/world-us-canada-59692830> [<https://perma.cc/2TJQ-SPDY>]. It is also worth noting that the FDA's regulation of abortion medication is anything but lax. There is general consensus in the medical community that the medications are widely over-regulated and over-restricted, particularly in light of their relative safety compared to other widely used medications, like Viagra or penicillin (both of which are more likely to lead to complications than the abortion medications). See Cohen et al., *supra* note 5, at 326.

29 *#WeCount Report: April 2022 to June 2025*, SOC'Y OF FAM. PLAN. (Dec. 9, 2025), <https://societyfp.org/research/wecount/> [<https://perma.cc/S2WJ-75BV>].

30 ADVANCING NEW STANDARDS IN REPROD. HEALTH, AVAILABILITY OF TELEHEALTH SERVICES FOR MEDICATION ABORTION IN THE U.S., 2020–2022 (Jun. 2023), <https://www.ansirh.org/sites/default/files/2023-06/AFD%20Telehealth%20Issue%20Brief%206-14-23%20Final.pdf> [<https://perma.cc/C85D-URGE>].

31 See, e.g., CARAFEM, <https://info.carafem.org/> [<https://perma.cc/5UGM-FD9P>]; 199 ABORTION TELEMEDICINE, <https://www.abortiontelemedicine.com/> [<https://perma.cc/T5ZW-VQ3B>]; HEY JANE (2026),

to dispense mifepristone, and some offer pharmacy pick-up or expedited shipping.³² Virtual clinics provide synchronous and asynchronous care, with estimated treatment costs ranging from \$90 to \$600; a few accept private insurance or Medicaid, while some offer sliding-scale payments, funding from an abortion fund, or other forms of financial assistance to patients.³³ These services are usually offered for pregnancies up to ten to thirteen weeks.³⁴

Thus, although in-person abortion procedures require patients seeking out-of-state care to overcome a myriad of travel-related challenges, medication abortion seemed a workable path toward reaching patients who otherwise would have to travel long distances across state lines: where medication abortion is a viable option, patients' physical distance to a clinic has no bearing on their ability to successfully terminate the pregnancy.³⁵

However, anti-abortion states caught on to this possibility and introduced additional restrictions specific to the use of medication abortion and telehealth. As a result, most of the above-mentioned virtual clinics only operate in states where providing medication abortion via mail is legal and restrict their services to a small number of states.³⁶ Some patients and providers were able to work around the restrictions by using mail forwarding and temporary addresses, but this comes with legal risk. Other clinics, unwilling to take on such liability, use software to confirm a patient's location in an abortion-permissive state.³⁷

<https://heyjane.com/> [<https://perma.cc/KDH3-PLCQ>]; LILITH CLINIC (2026), <https://www.lilithclinic.com/> [<https://perma.cc/H5E6-2RD6>].

32 See Leah R. Koenig et al., *Virtual Clinic Telehealth Abortion Services in the United States One Year after Dobbs: A Landscape Review*, 26 J. MED. INTERNET RES. E50749, at 5 (Aug. 5, 2024), <https://www.jmir.org/2024/1/e50749/PDF> [<https://perma.cc/C85D-URGE>] (finding that virtual clinics have proliferated since the *Dobbs* decision, though some of the clinics studied have since shut down their online presence, suggesting they have ceased or limited their operations).

33 *Id.*

34 *Id.*

35 Mette Løkeland et al., *Medical Abortion with Mifepristone and Home Administration of Misoprostol up to 63 Days' Gestation*, 93 ACTA OBSTET. GYNECOL. SCAND. 647, 651 (2014).

36 Twenty-five states and Washington, D.C. currently do not restrict the use of telehealth medication abortion and the shipment of the drugs to patients. *The Availability and Use of Medication Abortion*, KFF (Mar. 10, 2025), <https://www.kff.org/womens-health-policy/fact-sheet/the-availability-and-use-of-medication-abortion/> [<https://perma.cc/49WA-ST9M>]; see also CARAFEM, <https://carafem.org/abortion-pills> [<https://perma.cc/K4B6-GKQZ>] (serving 19 states and Washington, D.C. for pregnancies up to 12 weeks); 199 ABORTION TELEMEDICINE, <https://www.abortiontelemedicine.com> [<https://perma.cc/KG9E-NY86>].

37 Cohen et al., *supra* note 5, at 330.

Part II.B of this Note details the restrictions imposed by anti-abortion states on medication abortion, as well as the potential liability facing providers who use telehealth to prescribe it.

B. Medication Abortion and Telemedicine Restrictions

1. Nationwide and Administrative Challenges

First, anti-abortion activists tried and failed to eradicate medication abortion provision nationwide, and telehealth prescription across state lines, by directly targeting the FDA's approval of mifepristone.³⁸ Attacks may also continue on the federal administrative level: *Project 2025* laid out a step-by-step plan for dismantling abortion access in the United States through executive action, directing the FDA to rescind its approval of mifepristone and to take measures to counter "mail-order abortions" by revitalizing the Comstock Act of 1873.³⁹ This plan includes a directive to "[s]top promoting or approving mail-order abortions in violation of long-standing federal laws that prohibit the mailing and interstate carriage of abortion drugs," eliminating the need for Congressional action entirely.⁴⁰ The Biden Administration's Department of Justice issued a memo determining that the Comstock Act only applies when the sender intends for the drug to be used for an illegal abortion, and because every state still has some (if extremely narrow) legal uses of abortion drugs, there is no way to determine the intent of the sender.⁴¹ Although the Department of Justice has

38 *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367 (2024). This case was dismissed on standing grounds at the Supreme Court, *id.* at 374, and mifepristone will likely see additional challenges with new parties in the coming years should the incoming Trump administration fail to revoke FDA approval itself.

39 THE HERITAGE FOUND., MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE 458–59 (Paul Dans & Steven Groves eds., 2023), https://static.project2025.org/2025_MandateForLeadership_FULL.pdf [<https://perma.cc/5MH7-YL2X>]. President Trump has picked Fox News correspondent Marty Makary to lead the FDA, who has not publicly commented on his thoughts about mifepristone, though he has furthered a conclusively debunked claim that fetuses feel pain during abortions. Usha Ranji et al., *A New Reproductive Health Landscape? Possible Actions That Could be Undertaken During the Second Trump Administration*, KFF (Dec. 19, 2024), <https://www.kff.org/womens-health-policy/issue-brief/a-new-reproductive-health-landscape-possible-actions-that-could-be-undertaken-during-the-second-trump-administration/> [<https://perma.cc/3T4M-SX47>].

40 THE HERITAGE FOUND., *supra* note 39, at 459; *see also* Shoshanna Erlich, *Reading the Warning Signs: How Trump's Administration Could Crack Down on Abortion*, Ms. MAG. (Jan. 8, 2025), <https://msmagazine.com/2025/01/08/trump-administration-doj-bondi-abortion-pill-comstock-act-mifepristone/> [<https://perma.cc/SWC5-FPNM>].

41 Mabel Felix et al., *The Comstock Act: Implications for Abortion Care Nationwide*, KFF (Apr. 15, 2024), <https://www.kff.org/womens-health-policy/issue-brief/the-comstock-act-implications-for-abortion-care-nationwide/> [<https://perma.cc/B5LK-46NS>].

not yet rescinded or revised this opinion, it could do so at any time.⁴² Additionally, many members of the Trump Administration's Office of Legal Counsel have signaled unequivocal positions supporting use of the Comstock Act against abortion providers.⁴³

2. State Restrictions

Meanwhile, anti-abortion states have introduced a variety of laws restricting abortion access via medication abortion or telehealth. Thirteen states currently have total or near-total abortion bans in effect, which include bans on the provision of medication abortion.⁴⁴ Most of these states have other laws that ban medication abortion and telehealth provision of it, but these laws are superseded by the total bans.⁴⁵ An additional thirteen states restrict

42 See Katelynn Richardson, *Bondi's DOJ Won't Enforce Law That Could Avert Growing Red State Crisis*, DAILY CALLER NEWS FOUND. (March 13, 2026), <https://dailycaller.com/2026/03/13/pam-bondi-doj-comstock-act-abortion-pill/> [<https://perma.cc/UMY3-AVMU>]; Memorandum, Best Practices for OLC Legal Advice and Written Opinions, U.S. Dep't of Just., Off. of Legal Couns. (July 16, 2010), <https://www.justice.gov/olc/page/file/1511836/dl?inline> [<https://perma.cc/3ZY4-MR7Y>] (updated June 9, 2022) (“[A]s with any system of precedent, past decisions may be subject to reconsideration and withdrawal in appropriate cases and through appropriate processes.”).

43 See, e.g., Susan Rinkunas, *The Trump Administration Is Staffing Up With Comstock Act Abortion Ban Zealots*, BALLS & STRIKES (Jul. 14, 2025), <https://ballsandstrikes.org/law-politics/trump-abortion-olc-lawyers/> [<https://perma.cc/7T5H-WP7E>]; Madison Pauly, *Anti-Abortion Leaders Lobby Trump Officials for an Abortion Pill Crackdown*, MOTHER JONES (Jan. 24, 2025), <https://www.motherjones.com/politics/2025/01/the-anti-abortion-movement-is-lobbying-the-trump-administration-for-an-abortion-pill-crackdown/> [<https://perma.cc/2VS7-UEUC>].

44 Total or near-total bans exist in Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia. *Abortion in the United States Dashboard*, KFF (Jan. 6, 2026), <https://www.kff.org/womens-health-policy/abortion-in-the-u-s-dashboard/> [<https://perma.cc/BS5R-5XWE>]. Though Missouri has a statutory total abortion ban, voters enacted a constitutional amendment protecting abortion access in November 2024, and its laws remain subject to protracted litigation; as of July 2025, a preliminary injunction has prevented the enforcement of some, but not all, of the state's bans and restrictions. *Comprehensive Health of Planned Parenthood Great Plains v. Missouri*, 2416-CV31931 (Mo. Cir. Ct. July 3, 2025).

45 See, e.g., IND. CODE ANN. § 16-34-2-1(d) (West, Westlaw through 2026 2d Reg. Sess., 124th Gen. Assemb., effective Mar. 5, 2026) (explicitly banning telemedicine); OKLA. STAT. ANN. tit. 63, § 1-729.1 (West, Westlaw through 2026 2d Reg. Sess., 60th Leg., ch. 4); ARK. CODE ANN. §§ 20-16-1504, 20-17-1703 (West, Westlaw through 2025 Reg. Sess., 95th Gen. Assemb.); MISS. CODE ANN. § 41-41-107(3) (West, Westlaw through 2026 Reg. Sess., effective Mar. 25, 2026); ALA. CODE § 26-23E-7 (Westlaw through 2026 Reg. Sess. Act 2026-263); KY. REV. STAT. ANN. § 311.728 (West, Westlaw through 2025 Reg. Sess.) (requiring a provider's physical presence to prescribe the medication); LA. STAT. ANN. § 40:962.2 (Westlaw through 2025 Reg. and 1st Extr. Sess.) (prohibiting shipment of the medication and its sale via the internet).

access to telehealth use for medication abortion in some way.⁴⁶ These states do so by requiring the physician's physical presence in order to prescribe the medication, requiring in-person counseling necessitating two separate trips to a clinic, or preventing the shipment of abortion medication in the mail.⁴⁷ For instance, Wisconsin requires that the first of the two-drug regimen for medication abortion be taken in the presence of a physician, while Arizona has an explicit ban on the use of telemedicine for abortion.⁴⁸ More restrictions loom on the horizon: state legislatures continue to introduce new bills which seek to ban or restrict the use of medication abortion or prohibit its provision via telehealth.⁴⁹ On September 17, 2025, Texas governor Greg Abbott passed a comprehensive law banning the manufacture, distribution, mailing, or other provision in any manner of any abortion-inducing drug to a patient within Texas state lines.⁵⁰

3. Extraterritorial Criminalization

Most total or near-total abortion bans include provisions that allow for the imposition of criminal penalties on abortion providers, even when they are acting from states where abortion is completely legal using telehealth services. Thirty-three states currently impose criminal penalties for performing abortions in some instances.⁵¹ Criminal penalties for

46 *The Availability and Use of Medication Abortion*, KFF (Mar. 10, 2025), <https://www.kff.org/womens-health-policy/fact-sheet/the-availability-and-use-of-medication-abortion/> [<https://perma.cc/DPL2-FFE6>].

47 *See, e.g.*, N.C. GEN. STAT. ANN. § 90-21.82(b)(5) (West, Westlaw through 2025 Reg. Sess. S.L. 2025-97) (requiring a provider's physical presence); ARIZ. REV. STAT. ANN. § 36-2153 (Westlaw through 2d Reg. Sess., 57th Leg., effective Feb. 12, 2026) (requiring counseling); N.C. GEN. STAT. ANN. § 14-44.1 (Westlaw) (prohibiting shipment).

48 WIS. STAT. ANN. §§ 940.15(5), 253.105(2)(b) (West, Westlaw through 2025 Act 108, except Acts 17, 68, 69, 104, 106, and 107, published Mar. 31, 2026), *challenged by* Planned Parenthood of Wis., Inc. v. Kaul, 384 F. Supp. 3d 982 (W.D. Wis. 2019), *aff'd*, 942 F.3d 793 (7th Cir. 2019); ARIZ. REV. STAT. ANN. § 36-3604 (Westlaw).

49 *See State Legislation Tracker*, GUTTMACHER INST. (Nov. 15, 2025), <https://www.guttmacher.org/state-legislation-tracker> [<https://perma.cc/28Y3-C8GM>] (scroll to tools tracking laws which ban the use of medication abortion and which prohibit telemedicine for medication abortion).

50 H.B. 7, 89th Leg., 2d Spec. Sess. (Tex. 2025) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171A.051 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.)).

51 ALA. CODE § 26-23H-4 (Westlaw through 2026 Reg. Sess. Act 2026-263); ARIZ. REV. STAT. ANN. §§ 36-2322, 36-2322 (Westlaw); ARK. CODE ANN. §§ 5-61-301–304 (West, Westlaw through 2025 Reg. Sess., 95th Gen. Assemb.); DEL. CODE ANN. tit. 24, § 1790(b) (West, Westlaw through 153rd Gen. Assemb. ch. 244); FLA. STAT. ANN. §§ 390.01112, 390.0111 (West, Westlaw through 2026 Reg. Sess. effective Mar. 30, 2026); GA. CODE ANN. §§ 16-12-140–141 (West, Westlaw through 2026 Reg. Sess. Act 375); IDAHO

providers can include life imprisonment and fines up to \$100,000.⁵² These penalties may also apply to patients seeking or obtaining abortions.⁵³ In October 2024, Louisiana went so far as to enact a law classifying mifepristone and misoprostol as controlled substances,

CODE ANN. § 18-622 (West, Westlaw through 2d Reg. Sess., 68th Leg., ch. 3); IND. CODE ANN. § 16-34-2-1 (West, Westlaw through 2026 2d Reg. Sess., 124th Gen. Assemb., effective Mar. 5, 2026); IOWA CODE ANN. §§ 146B.2, 707.7 (West, Westlaw through 2026 Reg. Sess. effective Mar. 25, 2026); KAN. STAT. ANN. § 65-6724(j) (West, Westlaw through 2026 Reg. Sess. effective Apr. 2, 2026); KY. REV. STAT. ANN. § 311.772 (West, Westlaw through 2025 Reg. Sess.); LA. STAT. ANN. § 14:87.7 (Westlaw through 2025 Reg. and 1st Extr. Sess.); MISS. CODE ANN. § 41-41-45 (West, Westlaw through 2026 Reg. Sess., effective Mar. 25, 2026); MO. ANN. STAT. § 188.017(2) (West, Westlaw through 2025 1st Reg. and 2d Extr. Sess., 103rd Gen. Assemb.); MONT. CODE ANN. §§ 50-20-109, 50-20-112 (West, Westlaw through 2025 Reg. Sess. except S.B. 437); NEB. REV. STAT. ANN. § 28-3,106 (West, Westlaw through 2d Reg. Sess., 109th Leg., effective Mar. 13, 2026); NEV. REV. STAT. § 200.220 (West, Westlaw through 83rd Reg. Sess. and 36th Spec. Sess. ch. 13); N.H. REV. STAT. ANN. § 329:44 (Westlaw through 2026 Reg. Sess. ch. 7); N.M. STAT. ANN. §§ 30-5A-3, 30-5A-5 (West, Westlaw through 2026 2d Reg. Sess., 57th Leg., effective Mar. 10, 2026); N.C. GEN. STAT. ANN. § 90-21.81B(2) (West, Westlaw through 2025 Reg. Sess. S.L. 2025-97); N.D. CENT. CODE ANN. § 12.1-19.1-02 (West, Westlaw through 2026 Reg. Sess.); OHIO REV. CODE ANN. § 2919.195(A) (West, Westlaw through 136th Gen. Assemb. File 64); OKLA. STAT. tit. 21, § 861 (West, Westlaw through 2026 2d Reg. Sess., 60th Leg., ch. 4); 18 PA. STAT. AND CONS. STAT. ANN. § 3211(a) (West, Westlaw through 2026 Reg. Sess. Act 10); S.C. CODE ANN. § 44-41-630(B) (Westlaw through 2026 Act 106); S.D. CODIFIED LAWS § 22-17-5.1 (Westlaw through 2026 Reg. Sess. effective Mar. 27, 2026); TENN. CODE ANN. § 39-15-213 (West, Westlaw through 2026 2d Reg. Sess., 114th Gen. Assemb., ch. 613); TEX. HEALTH & SAFETY CODE ANN. § 170A.004 (Westlaw); UTAH CODE ANN. § 76-7a-201 (West, Westlaw through 2025 Gen., 1st Spec., and 2d Spec Sess.); VA. CODE ANN. § 18.2-71.1 (West, Westlaw through 2026 Reg. Sess. ch. 11); W. VA. CODE ANN. § 16-2R-3 (West, Westlaw through 2026 Reg. Sess. approved Mar. 17, 2026); WIS. STAT. ANN. § 253.107 (Westlaw); WYO. STAT. ANN. § 35-6-505 (West, Westlaw through Laws 2026, ch. 81, § 4, effective Mar. 9, 2026) (Wyoming's prior abortion ban was struck down in *State v. Johnson*, 582 P.3d 380 (Wyo. 2026)); see CUNY SCH. OF L. ET AL., CRIMINALIZATION AND PUNISHMENT FOR ABORTION, STILLBIRTH, MISCARRIAGE, AND ADVERSE PREGNANCY OUTCOMES (Human Rights & Gender Justice Clinic, CUNY School of Law 2023), https://www.law.cuny.edu/wp-content/uploads/media-assets/2023_Clinics_HRJG_SUMMARY_US-Criminalization-of-Abortion-Pregnancy-Outcomes.pdf [<https://perma.cc/EZG3-EH8F>]; see also Mabel Felix, Laurie Sobel & Alina Salganicoff, *Criminal Penalties for Physicians in State Abortion Bans*, KAISER FAM. FOUND. (Mar. 4, 2025), <https://www.kff.org/womens-health-policy/criminal-penalties-for-physicians-in-state-abortion-bans/> [<https://perma.cc/XUY8-PK9Z>].

52 ALA. CODE §§ 26-23H-6(a), 13A-5-6 (Westlaw) (class A felony subject to life imprisonment or a sentence up to 99 years); TEX. HEALTH & SAFETY CODE ANN. § 170A.004 (Westlaw); TEX. PENAL CODE ANN. § 12.32 (Westlaw) (first degree felony subject to 5 to 99 years or life and a fine up to \$10,000); LA. STAT. ANN. § 14:87.7(C) (Westlaw) (imprisonment from 1 to 10 years and fines from \$10,000 to \$100,000); ARK. CODE ANN. § 5-61-404(b) (Westlaw) (up to a 10 year prison sentence and a \$100,000 penalty).

53 See WENDY A. BACH & MADALYN K. WASILCZUK, PREGNANCY JUST., PREGNANCY AS A CRIME: A PRELIMINARY REPORT ON THE FIRST YEAR AFTER DOBBS 2 (2024), <https://www.pregnancyjusticeus.org/wp-content/uploads/2024/09/Pregnancy-as-a-Crime.pdf> [<https://perma.cc/R77V-QDLH>] (documenting five criminal cases in which prosecutions of pregnant individuals contained allegations related to abortion).

creating a crime of “coerced criminal abortion” by means of abortion-inducing drugs and racketeering activity.⁵⁴ Notably, anti-abortion states have a valid personal jurisdiction claim over an out-of-state actor who causes the result of a criminal abortion within their state’s borders, limited only by a mens rea requirement.⁵⁵ As a result, anti-abortion states can prosecute providers residing in abortion-permissive states.

Additionally, though these crimes almost always explicitly exclude abortion recipients from criminal liability, at least sixty-one people have been criminally investigated or arrested for self-managing their own abortion or helping someone else do so.⁵⁶ Abortion medication was involved in over half of these cases, and at least eleven of the criminalized individuals had obtained the pills online.⁵⁷ Thus, the criminalization of abortion has a profound impact on providers who seek to care for patients beyond their state lines using telehealth and medication abortion, as well as the patients who seek them out.

4. Private Civil Enforcement Mechanisms

Some states have put into effect anti-abortion laws with private civil enforcement mechanisms (“PCEMs”), also known as “bounty hunter” laws, which allow any private citizen to sue anyone they suspect of having performed, provided, aided, or attempted to perform, provide, or aid an abortion to a citizen of their state, even if the conduct occurred in another state.⁵⁸ In September 2025, Texas enacted a new law expanding its private right of action to specifically include violations of its telemedicine abortion ban, allowing citizens

54 S.B. 276, 2024 Leg., Reg. Sess. (La. 2024) (codified at LA. STAT. ANN. §§ 14:87.1(1)(a), 40:969(C), 14:87.6.1, 3, 15:1352(A)(71), and 40:964 (Schedule IV)(F) (Westlaw)). Nine other states have followed suit, seeking to criminalize the sale, purchase, or distribution of medication abortion drugs. See Kimya Forouzan, *State Policy Trends 2025: Full Year Analysis*, GUTTMACHER INST. (Dec. 16, 2025), <https://www.guttmacher.org/2025/12/state-policy-trends-2025-full-year-analysis> [<https://perma.cc/T5YG-92R4>].

55 Darryl K. Brown, *Extraterritorial State Criminal Law, Post-Dobbs*, 113 J. CRIM. L. & CRIMINOLOGY 853, 866–67 (2024); see also David Cohen et al., *The New Abortion Battleground*, 123 COLUM. L. REV. 1, 30–35 (2023).

56 Laura Huss et al., *Self-Care, Criminalized: The Criminalization of Self-Managed Abortion from 2000 to 2020*, IF/WHEN/HOW (2023), <https://ifwhenhow.org/wp-content/uploads/2023/10/Self-Care-Criminalized-2023-Report.pdf> [<https://perma.cc/32DV-LPMB>].

57 *Id.*

58 See, e.g., S.B. 8, 87th Leg., Reg. Sess. (Tex. 2021) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171.208(b)(2) (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.)). For additional discussion on private civil enforcement mechanisms, see generally Charles W. Rhodes & Howard M. Wasserman, *Solving the Procedural Puzzles of the Texas Heartbeat Act and its Imitators: The Potential for Defensive Litigation*,

to sue in *qui tam* actions over the provision of medication abortion in all forms.⁵⁹ Like the criminal provisions, these bills leave abortion providers vulnerable to liability even if they provide care that is legal under their own state's law. Courts in PCEM states must be able to establish personal jurisdiction over the provider, creating a possible defense for brick-and-mortar providers in abortion-permissive states, but telehealth providers remain vulnerable. For providers of in-person abortion care to out-of-state patients, a state attempting to enforce a PCEM would likely lack personal jurisdiction if the entirety of the care occurs (i.e., both abortion medications are ingested) in another state. For telehealth providers prescribing across state lines, however, courts will likely be able to assert personal jurisdiction, as a provider has made sufficient contact with the PCEM state.⁶⁰

In sum, developments in technology and medicine have made abortion safer and easier to access than ever before through telemedicine and medication abortion; in response, anti-abortion actors have enacted a number of draconian civil and criminal measures to ensure that accessing abortion is nearly impossible for patients in conservative states. Cognizant of the fact that patients in anti-abortion states will continue to seek abortions as necessary care regardless of their states' laws, and recognizing that these patients would be relying on providers in abortion-permissive states, pro-abortion activists countered with a new method of ensuring care reached as many patients as possible: new laws that would protect in-state providers from legal liability beyond their home state's borders.

C. Shield Laws

In 2022, abortion-permissive states began passing legislation to protect their own providers from potential liability under the laws of other states. To date, twenty-two states and Washington, D.C. have passed "shield laws," which protect abortion providers from civil, criminal, or professional liability in situations where they have provided care that

75 S.M.U. L. REV. 187, 194 (2022), and Diego A. Zambrano et al., *The Full Faith and Credit Clause and the Puzzle of Abortion Laws*, 98 N.Y.U. L. REV. 382, 385 (2023).

59 See H.B. 7, 89th Leg., 2d Spec. Sess. (Tex. 2025) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171A.101 (Westlaw)).

60 Further personal jurisdiction discussion is beyond the scope of this article. For additional discussion, see generally Sarah Geller, *The Personal (Jurisdiction) Is Political: The Reach and Overreach of Abortion Bounty-Hunter Laws*, 45 COLUM. J. GENDER & L. 81 (2024) (discussing personal jurisdiction in extraterritorial lawsuits brought under private civil enforcement mechanisms), and Zambrano et al., *supra* note 58, at 385, 388 n.40 (discussing personal jurisdiction and purposeful availment with regard to the mailing of abortion pills).

is completely legal within their own state.⁶¹ The laws seek to protect both brick-and-mortar providers, who may see patients traveling from other restrictive states, and providers who facilitate “shielded” care across state lines using telehealth to prescribe medication abortion to patients in abortion ban or restriction states. The following section provides an overview of the types of provisions included in shield laws across the country, although laws vary greatly from state to state.

1. Criminal Enforcement Provisions

In an effort to prevent the use of their courts to enforce the criminalization of abortion and gender-affirming care, abortion-permissive states have implemented criminal protections for those charged in another state for crimes arising out of in-state acts involving protected care. Some shield laws prohibit arrests and the issuance of warrants for arrest directly, and others prohibit the issuance of summonses for out-of-state prosecution for crimes involving protected healthcare.⁶²

Most effectively, twenty-one states with shield laws prohibit extradition of a person charged in another state for engaging in protected care unless the accused was physically present in the demanding state at the time of the alleged offense.⁶³ These provisions protect telehealth providers who prescribe medication abortion remotely from their home state, which could constitute an actionable crime in abortion-hostile states.⁶⁴ Should a hostile state seek to prosecute an individual for prescribing medication abortion to a patient in their state, governors in shield states are able to prevent extradition of the provider for these crimes. Consequently, providers can continue to treat patients both in their home states and across state lines without fear of arrest or prosecution, though they lose this protection upon traveling to the prosecuting state or any other states without shield laws.

61 See Kimya Forouzan, *Shield Laws Related to Sexual and Reproductive Health Care*, GUTTMACHER INST. (Jan. 5, 2026), <https://www.guttmacher.org/state-policy/explore/shield-laws-sexual-and-reproductive-health-care> [<https://perma.cc/42Q4-3RY9>].

62 See, e.g., N.Y. CRIM. PROC. LAW § 140.10(3-a) (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99) (preventing arrest for protected healthcare-related activity); VT. STAT. ANN. tit. 13 § 6650 (West, Westlaw through 2025–2026 Adjoined Sess. effective Mar. 16, 2026) (prohibiting courts from issuing summonses in criminal proceedings). See generally Forouzan, *supra* note 61.

63 See, e.g., N.Y. CRIM. PROC. LAW § 570.17 (Westlaw). See generally Forouzan, *supra* note 61.

64 See *supra* Section I.B.3.

2. Information, Evidence, and Privacy Protections

Shield laws also seek to ensure patient confidentiality and hinder private or state actors from facilitating the imposition of liability on providers of protected healthcare. Twenty-two states' shield laws include provisions that prohibit state law enforcement from providing investigative assistance to, cooperating with, or expending resources for another state in conjunction with a civil or criminal proceeding regarding protected care.⁶⁵ Many states prevent courts from issuing ex parte orders authorizing wiretaps or searches, summonses compelling witness testimony, or subpoenas seeking document evidence for cases involving protected care.⁶⁶ Some states go so far as to prevent private businesses from sharing information across state lines.⁶⁷ Additionally, some states have employed data privacy protections and address confidentiality programs to protect patients and providers of reproductive healthcare; in 2025, states also passed legislation allowing providers of telehealth abortion medication to request that the dispensing pharmacy print the practice or facility name rather than the provider's individual name in order to prevent out-of-state targeting of individual doctors.⁶⁸ Thus, shield laws attempt to prevent claimants from using private civil enforcement mechanisms to successfully bring actions against providers by dramatically hindering discovery processes. They similarly seek to make it very difficult for law enforcement in abortion-hostile states to gather evidence against telehealth providers when the care occurs within the bounds of a shield state.

65 Forouzan, *supra* note 61; *see, e.g.*, N.Y. EXEC. LAW § 837-X (Westlaw).

66 *See, e.g.*, COLO. REV. STAT. § 16-15-102(1)(d) (West, Westlaw through 2d Reg. Sess., 75th Gen. Assemb., effective Mar. 31, 2026); N.Y. C.P.L.R. § 3102(e) (Westlaw) (prohibiting witness testimony); N.Y. C.P.L.R. § 3119(g) (Westlaw) (prohibiting issuance of subpoenas).

67 CAL. PENAL CODE § 13778.3(f) (West, Westlaw through 2026 Reg. Sess. ch. 7) (prohibiting in-state businesses from knowingly providing information to another state and from complying with any civil or criminal process for purposes of out-of-state abortion litigation); CAL. CIV. CODE § 1798.99.90 (Westlaw through 2026 Reg. Sess. ch. 7); CONN. GEN. STAT. ANN. § 42-526(a)(1)(C) (West, Westlaw through 2026 Reg. Sess. effective Mar. 3, 2026); NEV. REV. STAT. ANN. § 603A.540 (West, Westlaw through 83rd Reg. Sess. and 36th Spec. Sess. ch. 13) (prohibiting use of geofencing to collect data of a person located at a family planning center or clinic). *See generally* Carleen M. Zubrzycki, *The Abortion Interoperability Trap*, 132 YALE L.J.F. 197 (2022), https://yalelawjournal.org/pdf/F7.ZubrzyckiFinalDraftWEB_6jsh8oxp.pdf [<https://perma.cc/FAY6-DEUE>] (discussing the gap left by abortion shield law information protections where HIPAA compliance requires interoperability of health systems). For more discussion of geofencing, *see generally* Marlaina Pinto, Note, *Abortions, Location Data, and the Fourth Amendment: Geofence Warrants in a Post-Roe World*, 22 COLO. TECH. L.J. 175 (2023) (discussing geofencing protections in New York, Missouri, Utah, and California).

68 *See, e.g.*, S. 36-A, 2025–2026 Leg., Reg. Sess. (N.Y. 2025) (codified at N.Y. EDUC. LAW §§ 6807(b-1), 6810(1-a) (Westlaw)); S.B. 25-129, 75th Gen. Assemb., Reg. Sess. (Colo. 2025) (codified at COLO. REV. STAT. § 12-280-124(2)(b) (Westlaw)).

3. Judicial Provisions

A subset of states have judicial provisions preventing their courts from applying another state's law if doing so would create liability for protected care.⁶⁹ These measures, however, are not particularly helpful in nullifying litigation, as anti-abortion cases will be brought in the courts of the anti-abortion state rather than the shielded state. More effectively, however, a handful of states additionally prohibit the enforcement of anti-abortion judgments issued in another state altogether.⁷⁰ These provisions are imperfect measures seeking to nullify the effects of the judgments within state borders, but they notably do not invalidate the judgment permanently, particularly in the issuing state. Additionally, while states like California, Hawaii, and Minnesota have laws that prevent the enforcement of any judgment issued relating to the provision of protected healthcare, other states only prevent their courts from enforcing judgments "issued without jurisdiction."⁷¹ This discrepancy creates a wide gap that excludes judgments against telehealth providers, as states can likely still assert jurisdiction over providers who have availed themselves of the state's laws by prescribing to patients located there.⁷²

States have also transparently attempted to protect their shield laws from legal challenge by declaring outright that any other state's law which interferes with, or authorizes liability for, engaging in protected care is contrary to the public policy of the enacting state. This may allow states to elude Full Faith and Credit Clause challenges while continuing to forbid hearing PCEM cases, as the cases would be deemed contrary to the public policy of

69 See, e.g., CAL. HEALTH & SAFETY CODE § 123467.5(b)(1) (Westlaw); CAL. CIV. CODE § 1798.307 (Westlaw); COLO. REV. STAT. § 13-21-133(2) (West, Westlaw through 2d Reg. Sess., 75th Gen. Assemb., effective Mar. 31, 2026); DEL. CODE ANN. tit. 10, § 3928(b)(1) (West, Westlaw through 153rd Gen. Assemb. ch. 244); 735 ILL. COMP. STAT. ANN. 40/28-15 (Westlaw through 2026 Reg. Sess. P.A. 104-460); MASS. GEN. LAWS ANN. ch. 12, § 11I 3/4 (West, Westlaw through 2026 2d Ann. Sess. ch. 11); VT. STAT. ANN. tit. 12 § 7305 (West, Westlaw through 2025–2026 Adjourned Sess. effective Mar. 16, 2026); WASH. REV. CODE ANN. § 7.115.020(4) (West, Westlaw through 2026 Reg. Sess. ch. 267).

70 See, e.g., CAL. HEALTH & SAFETY CODE § 123467.5(b)(2) (Westlaw); COLO. REV. STAT. ANN. § 13-21-133(3) (Westlaw); HAW. REV. STAT. ANN. § 636C-9 (West, Westlaw through 2026 Reg. Sess. Act 2); 735 ILL. COMP. STAT. ANN. 40/28-20 (Westlaw); ME. REV. STAT. ANN. tit. 14, § 9004 (Westlaw through 2025 2d Reg. Sess., 132nd Leg., ch. 607); MD. CTS. & JUD. PROC. § 11-802(a) (West, Westlaw through 2026 Reg. Sess. effective Feb. 24, 2026), MASS. GEN. LAWS ANN. ch. 218 § 4A(c, g) (Westlaw); MINN. STAT. ANN. § 548.252(b) (West, Westlaw through 2026 Reg. Sess. effective Mar. 28, 2026); 23 R.I. GEN. LAWS ANN. § 23-101-4 (West, Westlaw through 2026 Reg. Sess. ch. 6); VT. STAT. ANN. tit. 12, § 7303 (Westlaw).

71 Colorado, Illinois, Maine, Maryland, Massachusetts, Rhode Island, and Vermont laws restrict their judgment enforcement provisions based on jurisdiction or due process. See *supra* note 70.

72 See *supra* Section I.B.4; *supra* note 60.

the state. The actual application of the Full Faith and Credit Clause exception, however, remains to be explored.

4. Professional Protections

Most shield states prevent their licensing boards from taking adverse action against licensees for engaging in protected care or as a result of legal liability or adverse action against the provider's license in an abortion-hostile state.⁷³ At least three shield states (California, Connecticut, and Illinois) took steps to prevent adverse actions by healthcare institutions against providers who had engaged in protected care.⁷⁴ Institutions like hospitals, outpatient clinics, and health centers are therefore prohibited from restricting or terminating a provider's privileges as a result of discipline imposed by an abortion-hostile state. Some states prohibit medical malpractice insurers from taking any adverse action against a health care provider, including rate increases, risk classification changes, and refusal to issue or renew policies, on the basis of the provider's participation in protected care or due to an adverse action in another state.⁷⁵

5. Clawback Provisions

In some states, shield laws contain "clawback" provisions, which establish a private right of action for a party who has a judgment entered against them where liability is based on participation in protected care.⁷⁶ Providers who have judgments entered against them may recover the full value of the judgment and attorneys' fees and costs for both the in-state and out-of-state action. In some states, providers cannot make claims until after a judgment has already been entered in another state. However, a majority of shield laws create a right of action for anyone who has a proceeding *commenced* against them in

73 Forouzan, *supra* note 61; *see, e.g.*, N.Y. EDUC. LAW § 6531-B (Westlaw).

74 CAL. BUS. & PROF. CODE § 805.9 (Westlaw); CONN. GEN. STAT. ANN. § 19a-567 (West, Westlaw through 2026 Reg. Sess. effective Mar. 3, 2026); 225 ILL. COMP. STAT. ANN. § 65/65-65(a)(1) (Westlaw) (shielding registered nurses); 225 ILL. COMP. STAT. ANN. § 85/30.1(a) (Westlaw) (shielding pharmacies).

75 *See, e.g.*, CAL. INSUR. CODE § 11589.1(a)(1) (Westlaw); COLO. REV. STAT. §§ 10-4-109.6, 10-16-121(1)(f) (I) (Westlaw); CONN. GEN. STAT. ANN. § 38a-835 (Westlaw); DEL. CODE ANN. tit. 18, § 2535 (West, Westlaw through 153rd Gen. Assemb. ch. 244); ME. REV. STAT. ANN. § 2159-F (Westlaw); MD. CODE ANN., INS. § 19-117 (Westlaw); N.Y. INS. LAW § 3436-a (Westlaw); OR. REV. STAT. ANN. § 676.313 (West, Westlaw through 2026 Reg. Sess., 83rd Leg. Assemb., effective Mar. 10, 2026).

76 DEL. CODE ANN. tit. 10, § 3929 (Westlaw); D.C. CODE ANN. § 2-1461.02 (West, Westlaw through Dec. 6, 2025); 740 ILL. COMP. STAT. ANN. 126/29-15 (Westlaw).

another state for participating in protected care, so a judgment need not be entered against them for the right of action to be established.⁷⁷ States have varying statutes of limitations for the commencement of a reciprocal claim. Most causes of action do not apply to a judgment entered in another state that is based on an action where no part of the conduct that formed the basis for liability occurred in the shield state. This means that providers who face liability after traveling from the shield state to provide care in abortion-hostile states may not initiate an action under the statute.

6. Telehealth Protections

As shield laws have gained prominence, they have begun to include specific language relevant to the provision of telehealth care. For instance, Colorado's shield law provides that "[a] licensed health-care provider shall not be prosecuted, investigated, or subjected to any penalty if the health-care provider prescribes an abortifacient to a patient and the patient ingests the abortifacient in another state so long as the abortifacient was prescribed or administered consistent with accepted standards of practice under Colorado law and did not otherwise violate Colorado law."⁷⁸ The validity of this type of explicit protection has also gone untested, but at least eight states' shield laws specifically include telehealth providers in their protections against out-of-state consequences.⁷⁹ As more abortion-hostile states begin to make explicit telehealth prohibitions, shield states continue to expand and strengthen their shield laws to explicitly protect telemedicine abortion care.⁸⁰

77 See, e.g., CAL. CIV. CODE § 1798.303 (Westlaw); MASS. GEN. LAWS ANN. ch. 12, § 111 1/2(d) (West, Westlaw through 2026 2d Ann. Sess. ch. 11); MINN. STAT. ANN. § 604.415 (West, Westlaw through 2026 Reg. Sess. effective Mar. 28, 2026); N.M. STAT. ANN. § 24-35-8 (West, Westlaw through 2026 2d Reg. Sess., 57th Leg., effective Mar. 10, 2026); N.Y. CIV. RTS. LAW § 70-b (Westlaw); VT. STAT. ANN. tit. 12, § 7302(c-d) (West, Westlaw through 2025–2026 Adjourned Sess. effective Mar. 16, 2026); WASH. REV. CODE ANN. § 7.115.040 (West, Westlaw through 2026 Reg. Sess. ch. 267).

78 S.B. 23-188, 74th Leg., Reg. Sess. (Colo. 2023) (codified at COLO. REV. STAT. ANN. § 18-13-133 (Westlaw)).

79 Kimya Forouzan et al., *State Policy Trends 2024: Anti-Abortion Policymakers Redouble Attacks on Bodily Autonomy*, GUTTMACHER INST. (Dec. 16, 2024), <https://www.guttmacher.org/2024/12/state-policy-trends-2024-anti-abortion-policymakers-redouble-attacks-bodily-autonomy> [<https://perma.cc/X5JD-2UM9>]; see also *State Legislation Tracker*, GUTTMACHER INST. (Nov. 15, 2025), <https://www.guttmacher.org/state-legislation-tracker> [<https://perma.cc/K32P-CAPF>] (scroll to "Protects access to medication abortion").

80 See *id.*; see also Forouzan, *supra* note 61.

D. Shielded Abortion Telemedicine

As a result of the passage of shield laws, telehealth provision of abortion has become a valuable tool for abortion providers to provide care to patients in abortion-hostile states, particularly those who cannot physically travel. Recognizing this as one of the most efficient, cost-effective, and accessible ways to provide abortion care to patients in states with abortion bans, pro-abortion resource and advocacy groups like the Abortion Coalition for Telemedicine (ACT) and Plan C have centered their efforts on bolstering interstate telehealth provision of medication abortion.⁸¹ ACT and Plan C's websites provide lists of clinics where patients can find telemedicine abortion care based on their location and gestational age.⁸² Providers of abortion medication to states where abortion is illegal can be divided into three categories: community networks which mail pills, e-commerce websites that sell generic pills, and online clinics.

1. Community Networks

First, there are informal services seeking to meet the needs of those in states with total abortion bans, run by community volunteers and nonprofits with an eye towards reproductive justice rather than systematic provision of healthcare. These networks ship generic versions of the medication from within the United States, usually for free.⁸³ Though they only ship to those with confirmed pregnancies, no medical consultation is provided, and no prescription is needed. The community networks are based on models of community care and mutual aid. Some also provide medical or emotional support during the abortion via secure messaging on apps like Signal or Proton Mail.

2. E-Commerce Medication Websites

Other websites provide limited services and patient support but sell abortion medication cheaply and ship directly to patients in all fifty states.⁸⁴ They do not require prescriptions or

81 *About*, ABORTION COAL. FOR TELEMEDICINE, <https://www.theactgroup.org/#about> [https://perma.cc/3HHF-PG8G]; *Abortion Pills by Mail in Every State*, PLAN C (2025), <https://www.plancpills.org/> [https://perma.cc/H8K7-URJN].

82 *See supra* note 81.

83 *See, e.g., Read About Community Support Networks*, RED STATE ACCESS (2026), <https://www.redstateaccess.com/who-are-community-providers> [https://perma.cc/P3LY-HFR8].

84 *See Websites That Sell Pills*, PLAN C (2025), <https://www.plancpills.org/websites-that-sell-pills> [https://perma.cc/46B4-6C95].

consultations to dispense the pills. While these sites usually provide abortion medication with the most accessible processes and prices, they come with more risks than online clinics. They sell generic abortion pills, usually made in India, which are not regulated by the FDA. Plan C tests the pills they review to ensure that they are real abortifacients but does not guarantee the results or continuing reliability. They do not follow strict data privacy or digital security protocols, leaving patients in states with hostile law enforcement particularly vulnerable to criminal liability for self-managing their abortion.

3. Online Clinics

These clinics use telemedicine platforms to provide pills by mail and clinician support for patients. Clinicians reside and practice in states where abortion is legal and prescribe via in-state pharmacies approved by the FDA to dispense mifepristone.⁸⁵ Before shield laws were passed, some online clinics provided pills to patients in abortion-hostile states via international prescribers, distributors, and pharmacies.⁸⁶ Patients in abortion-hostile states fill out an online consultation form or have phone or video appointments directly with a doctor to get the prescription. After eligibility is confirmed, the patient is emailed with directions for payment, and the shipment is mailed to their door in nondescript packaging, usually within a week. Patients receive guidance for taking the pills and follow-up care, and some clinics offer secure messaging with providers for ongoing support. These clinics

85 See, e.g., AID ACCESS (2026), <https://aidaccess.org/> [<https://perma.cc/8DR5-EP3K>]; WE TAKE CARE OF US, <https://www.wetakecareof.us/care> [<https://perma.cc/7TYP-UFGU>]; THE MASS. MEDICATION ABORTION PROJECT (2025), <https://www.cambridgereproductivehealthconsultants.org/map> [<https://perma.cc/68T9-KJUS>]; A SAFE CHOICE & OPTIO WOMEN'S HEALTH (2026), <https://optiowomenshealth.com/> [<https://perma.cc/D3D8-N25F>]; ABUZZ (2025), <https://www.abuzzhealth.com/> [<https://perma.cc/9UBE-HDWE>] (does not ship to Texas).

86 The organization on the forefront of telemedicine abortion medication, Aid Access, worked with European doctors to prescribe the medication and dispensed the pills cheaply by mail via a pharmacy in India, until June 2023, when many shield laws were passed. Cohen et al., *supra* note 5, at 330. Other clinics continue to operate under international laws but still ship to the United States, including to abortion-hostile jurisdictions. These clinics relied on lax FDA enforcement of customs regulations, which in most countries allow individuals to receive prescribed medicines for personal use via international mail. Abortion Pills in Private, a European company which shipped medication abortion to the United States, follows this model. ABORTION PILLS IN PRIVATE (2026), <https://www.abortionpillsinprivate.com/> [<https://perma.cc/RHD7-77FF>]; see also Stephania Taladrid, *The Post-Roe Abortion Underground*, NEW YORKER (Oct. 10, 2022), <https://www.newyorker.com/magazine/2022/10/17/the-post-roe-abortion-underground> [<https://perma.cc/HCG4-X4ZQ>]; Caroline Kitchener, *Blue-State Doctors Launch Abortion Pill Pipeline into States with Bans*, WASH. POST (Jul. 19, 2023), <https://www.washingtonpost.com/politics/2023/07/19/doctors-northeast-launch-abortion-pill-pipeline-into-states-with-bans/> [<https://perma.cc/6VM8-3YX8>].

usually offer more advanced data privacy protections to safeguard patients against digital monitoring by law enforcement.⁸⁷

Shielded telemedicine represents one of the only ways in which patients in abortion-hostile states may obtain reproductive freedom, but it is far from ideal. The landscape for shielded care remains in flux as laws across the country shift. Additionally, online search engine algorithms can obscure providers' visibility to potential patients, making services more difficult to find.⁸⁸ Patients using these services may still face criminal or civil liability in their home states for self-managing their abortions, as shield laws do not extend to patients.⁸⁹ Patients may face legal liability if they are reported to the police by a subsequent medical provider or an acquaintance, or because of the way they dispose of fetal tissue.⁹⁰

Despite these risks, the strategies employed by shielded providers have proven effective over the past year. From April to June 2024, nearly 10% of all abortions in the United States—nearly 10,000 a month—were telehealth abortions provided by states with shield laws to people in states with restrictions on abortion.⁹¹ By June 2025, this number had risen

87 Kristen Poli, *The Most Popular Digital Abortion Clinics, Ranked by Data Privacy*, WIRED (Aug. 21, 2023), <https://www.wired.com/story/most-popular-digital-telehealth-medication-abortion-ranked-data-privacy/> [<https://perma.cc/6YCT-B7SW>]. Aid Access further tells its potential patients that it “has never and will never disclose any private health data to any authority. We will not comply if we are ever subpoenaed.” *Aid Access Online Abortion Pill Service Ranked Best for Data Privacy by Wired*, AID ACCESS (2026), <https://aidaccess.org/en/page/4011606/aid-access-online-abortion-pill-service-ranked-best-for-data-privacy> [<https://perma.cc/VQB7-RN6Q>].

88 Rachel Cohen, *The Abortion Provider That Republicans Are Struggling to Stop, but Silicon Valley Could*, VOX (May 7, 2022), <https://www.vox.com/23056530/aid-access-abortion-roe-wade-pills-mifepristone> [<https://perma.cc/M7BK-27AR>].

89 Huss et al., *supra* note 56 (detailing the 61 cases where patients have been investigated or arrested for self-managing their abortions).

90 Some people facing criminalization for self-managing their abortion have been discovered when tissue has been found in the public sewer system or stored or buried at home, though the majority of confirmed cases came to the attention of law enforcement via reports from people the patients had trusted with information. Huss et al., *supra* note 56, at 30; *see also Frequently Asked Questions*, PLAN C (2025), <https://www.plancpills.org/guide-how-to-get-abortion-pills#safety-considerations> [<https://perma.cc/7R39-WG3U>] (under “Is this legal? Can someone get in trouble for using abortion pills?”).

91 SOC'Y OF FAM. PLAN., #WECOUNT REPORT: APRIL 2022 TO JUNE 2024, at 4 (Oct. 22, 2024), <https://societyfp.org/wp-content/uploads/2024/10/WeCount-Report-8-June-2024-data.pdf> [<https://perma.cc/9HLW-6X2A>]. In April–June 2024, the Society of Family Planning observed an average of over 7,700 monthly telehealth abortions provided under shield laws to people in states with total abortion bans or 6-week bans, and nearly 2,000 monthly telehealth abortions provided under shield laws to people in states with restrictions

to over 15%, and more than half of all telehealth abortions were being provided under shield laws.⁹² In this sense, the shield laws have worked: patients in abortion-hostile states, bolstered by their legal protections,⁹³ are getting abortions from doctors and clinicians in abortion-permissive states.

The extent to which the laws actually prevent providers from facing liability, however, is unclear. Before now, shield laws had never been challenged by abortion-hostile states, and shielded telehealth providers have enjoyed the deterrent effects of the laws rather than their actual protections. By allowing patients to obtain medication by themselves, at home, with heightened digital privacy, shielded telemedicine practices likely evaded legal challenges by making it difficult to discover cases and bring lawsuits in the first place. Individuals receiving care and their providers could be the only ones who know that such care is happening, minimizing the ability of anti-abortion activists to find plaintiffs or individuals willing to come forward and admit that abortive telemedicine care had taken place. Despite abortion-permissive state legislatures touting the ironclad nature of the laws, however, it remains unclear which portions of the procedural and substantive protections the shield laws offer will operate to actually prevent liability for providers.⁹⁴ Part II of this Note explores the first case filed to impose liability on a physician for the provision of abortion medication via telehealth.

that explicitly ban telehealth abortion or implicitly preclude telehealth due to in-person visit requirements. *Id.* at 5 fig. 3. This amounts to an average monthly number of telehealth abortions provided under shield laws in April–June 2024 of over 9,700, compared to a nationwide monthly average of around 98,000 abortions overall across the first six months of 2024. *Id.* at 2.

92 #WeCount Report, *April 2022 to June 2025: #WeCount Data Explorer*, SOC'Y OF FAM. PLAN. (Dec. 9, 2025), <https://societyfp.org/research/wecount/wecount-june-2025-data/> [<https://perma.cc/RD94-ZMLX>] (showing 95,270 total abortions and 14,770 provided via telehealth under shield laws; this number only reflects data reporting from clinicians providing abortions and does not include e-commerce avenues or community networks).

93 *Id.*

94 Kate Lisa, *State of Politics: Hochul Signs Law to Protect Abortion Providers Using Telemedicine*, N.Y. STATE OF POL. (Jun. 23, 2023), <https://nystateofpolitics.com/state-of-politics/new-york/politics/2023/06/23/hochul-signs-law-to-protect-abortion-providers-using-telemedicine> [<https://perma.cc/85QM-M4Y9>].

II. *Texas v. Carpenter*: A Shield Law's First Test

In December 2024, the Texas Attorney General, Ken Paxton, filed suit against Dr. Margaret Carpenter, a physician operating in New Paltz, New York.⁹⁵ Dr. Carpenter is a co-founder of the Abortion Coalition for Telemedicine, which advocates for the passage of shield laws in state legislatures, “established a playbook for shielded clinicians” to provide medication abortion, and now works directly with clinicians to “launch shielded practices so more patients can legally receive interstate telemedicine abortion care.”⁹⁶ ACT’s website at one time described its founders as “leaders in the reproductive freedom movement who have harnessed their collective medical and legal expertise to meet this moment with comprehensive support for the clinicians stepping up to provide telemedicine care for patients in abortion-hostile states.”⁹⁷ Dr. Carpenter also founded the abortion telemedicine service Hey Jane, a virtual clinic which only sends abortion medication to states where medication abortion is legal.⁹⁸ The petition in *Texas v. Carpenter* alleged that Dr. Carpenter provided abortion medication to a patient in Texas through telehealth services in violation of Texas’ abortion ban and licensing laws.⁹⁹

A. Factual Allegations

The petition alleged that in May 2024, an unnamed female resident of Collin County, Texas, became pregnant and sought an abortion without consulting the baby’s father.¹⁰⁰ This woman was twenty years old and did not want to have a child. Her state’s government had forbidden her from terminating the pregnancy; there are no abortion clinics in the state

95 Petition, *supra* note 1, at 5.

96 *What We Do*, ABORTION COAL. FOR TELEMEDICINE (2023), <https://www.theactgroup.org/what-we-do> [<https://web.archive.org/web/20241214060107/https://www.theactgroup.org/what-we-do>].

97 *Who We Are*, ABORTION COAL. FOR TELEMEDICINE (2023), <https://www.theactgroup.org/who-we-are> [<https://web.archive.org/web/20241214061503/https://www.theactgroup.org/who-we-are>].

98 Alejandra O’Connell-Domenech, *Texas AG Sues New York Doctor for Providing Abortion Pills Across State Lines*, HILL (Dec. 13, 2024), <https://thehill.com/policy/healthcare/5039888-texas-ag-sues-new-york-doctor-for-providing-abortion-pills-across-state-lines/> [<https://perma.cc/C4PE-U4XL>]; see HEY JANE (2026), <https://www.heyjane.com/> [<https://perma.cc/32F9-GMU8>].

99 Petition, *supra* note 1, at 1.

100 *Id.* at 5.

of Texas.¹⁰¹ Her most accessible options for receiving in-person abortion care would be driving six hours across Texas and Oklahoma state lines to a clinic in Kansas or flying to New Mexico. Due to the massive influx of out-of-state patients, getting an appointment with a licensed physician in Kansas could take weeks.¹⁰² Because her insurance likely would not cover any abortion procedures, she would likely either pay around \$600 out-of-pocket, not including travel expenses, or try to receive funding from an abortion fund online.¹⁰³

Instead, the woman sought to get abortion medication online via telemedicine. The complaint did not allege how she contacted Dr. Carpenter. It did allege that at some point, the woman received one box containing mifepristone, with instructions allegedly written by

101 TEX. HEALTH & SAFETY CODE ANN. §170A.002 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.); *Abortion Search, I NEED AN A*, <https://ineedana.com> [<https://perma.cc/Z85A-8FRR>] (follow “Search your options now” hyperlink, then search location field for “Dallas, Texas”).

102 See Keith Grant, *Kansas Sees Surge in Out-of-State Abortion Patients*, KWCH (Dec. 20, 2024), <https://www.kwch.com/2024/12/20/kansas-sees-surge-out-of-state-abortion-patients/> [<https://perma.cc/BB8X-A8XC>]. Kansas state law additionally imposes a litany of restrictions and requirements for abortion care, but these are currently enjoined and were enjoined when Dr. Carpenter’s patient sought care in 2024. *Hodes & Nausser v. Kobach*, No. 23-CV-03140, 2023 WL 7130406 (Kan. Dist. Ct. Oct. 30, 2023) (order granting preliminary injunction); 2025 WL 1253697 (Kan. Dist. Ct. April 30, 2025) (upholding injunction). These restrictions include a mandatory 24-hour waiting period after the patient receives state-mandated “counseling” which contains medically unfounded statements that an abortion procedure poses a “risk of premature birth in future pregnancies” and “risk of breast cancer.” KAN. STAT. ANN. §§ 65-4a10(a), 65-1130(d)(1), 65-6709 (West, Westlaw through 2026 Reg. Sess. effective Apr. 2, 2026) (limiting performance of abortions to only physicians; imposing a mandatory twenty-four hour waiting period and biased counseling). The case challenging these restrictions went to trial on September 26, 2025, and a decision has yet to be issued. *Challenging Kansas’s Harmful Abortion Restrictions*, CTR. FOR REPROD. RTS. (last updated Feb. 6, 2026), <https://reproductiverights.org/cases/hodes-nausser-v-kobach/> [<https://perma.cc/XL2V-8W4G>].

103 *How Much Does an Abortion Cost?*, I NEED AN A, <https://www.ineedana.com/estimate-abortion-costs> [<https://perma.cc/8WGC-9BBE>] (estimating an in-clinic procedure to cost an average of \$594, and a medication abortion to cost an average of \$580). Texas law restricts coverage for all state-regulated insurance plans; even if the patient had private insurance, Texas law requires that insurers cover elective abortions through separate riders which essentially transfer the full costs of the procedure back to patients as premiums. 1 TEX. ADMIN. CODE § 354.1167 (Westlaw through 51 Tex. Reg. No. 1342); TEX. INS. CODE ANN. §§ 1218.003–.005 (Westlaw). Further, it is highly unlikely that even a large private insurer would cover non-emergency medical services for an elective abortion in another state, both due to plan restrictions and due to potential liability for “aiding and abetting” the provision of abortion services. TEX. HEALTH & SAFETY CODE ANN. § 171.208 (Westlaw); see also Alina Salganicoff et al., *Abortion Coverage Limitations in Medicaid and Private Insurance Plans*, KFF (Apr. 30, 2026), <https://www.kff.org/womens-health-policy/abortion-coverage-limitations-in-medicaid-and-private-insurance-plans> [<https://perma.cc/Y85D-VSQ9>]. Texas law also now prohibits abortion assistance funds. TEX. GOV. CODE § 2273.001 et seq (Westlaw).

Dr. Carpenter to “take this medication first,” and a pill bottle of misoprostol with directions to take it after the mifepristone.¹⁰⁴

After the woman experienced heavy bleeding, she asked the father to take her to the hospital. The hospital alerted the father to the fact that the woman had been pregnant, and he suspected that she had attempted to end the pregnancy.¹⁰⁵ When he returned home, he “discovered the [abortion] medications from Carpenter,” but no facts were alleged as to how the medications were linked to Dr. Carpenter. The petition contained no direct attestations from the patient or the potential father. Attorney General Paxton and Ernest C. Garcia, Chief of Texas’ Administrative Law Division, then filed the petition and application for temporary and permanent injunctive relief in Collin County, Texas, where the patient resides.¹⁰⁶ Dr. Carpenter never filed an answer to the petition. After proving that the State had adequately served her at her last known address through its Secretary of State, Texas obtained a default judgment against her.¹⁰⁷

104 Petition, *supra* note 1, at 5.

105 *Id.* Patients are not required to report to clinicians that they took abortion medication in order to receive care. Doctors cannot identify the presence of misoprostol in a patient’s blood even within five minutes of an oral dose, making a miscarriage and medication abortion medically undetectable. Thus, though the hospital could disclose that the patient had been pregnant, it had no way of knowing that she had taken abortion medication. *Misoprostol Detection in Blood*, GYNUITY HEALTH PROJECTS (2014), https://gynuity.org/assets/resources/factsht_misoinblood_en.pdf [<https://perma.cc/YKU2-HBCF>]; *Talking to Health Care Providers After a First Trimester Miscarriage or Abortion*, PHYSICIANS FOR REPROD. HEALTH (Apr. 23, 2023), https://www.innovating-education.org/wp-content/uploads/2023/04/23_02-Talking-to-Health-Care-Providers-After-a-First-Trimester-Miscarriage-or-Abortion-One-Page-1.pdf [<https://perma.cc/35M3-Q5V8>]. Had the father not “suspected that the biological mother had in fact done something to contribute to the miscarriage or abortion of the unborn child,” the patient’s symptoms would not be evidence that she had ingested the medication. Petition, *supra* note 1, at 6.

106 Petition, *supra* note 1, at 1. Texas asserted that venue was proper in Collin County under TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1) (Westlaw), which states that all lawsuits shall be brought “in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.” Dr. Carpenter could have challenged this assertion by stating that she performed the acts which created the liability (her mailing of the medication) entirely in New York, but this argument would likely have failed. The standard for telehealth is that the care occurs where the patient, not the provider, is located. Cohen et al., *Abortion Pills*, *supra* note 5, at 356 (citing FED’N OF STATE MED. BDS., THE APPROPRIATE USE OF TELEMEDICINE TECHNOLOGIES IN THE PRACTICE OF MEDICINE 4 (2022), <https://www.fsmb.org/siteassets/advocacy/policies/fsmb-workgroup-on-telemedicineapril-2022-final.pdf> [<https://perma.cc/FKU7-554G>]).

107 Default Judgment, *State of Texas v. Carpenter*, No. 471-08943-2024 (Tex. Dist. Ct. Feb. 13, 2025).

B. Texas' Abortion Laws

Texas law defines abortion as “the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant.”¹⁰⁸ Texas regulates the provision of abortion care across three chapters of its Health and Safety Code. The first, Chapter 170, was in place before the overturning of *Roe v. Wade* and prohibits performing an abortion on a viable fetus only during the third trimester of a pregnancy, with certain exceptions.¹⁰⁹

The second, Chapter 171, consists of eight subchapters passed between 2003 and 2026 and imposes a litany of restrictions on abortion procedures.¹¹⁰ Relevant here are its general provisions, which state that abortions may only be performed by physicians licensed to practice in Texas and require physicians to have active admitting privileges at a hospital located within thirty miles of the location where the abortion takes place.¹¹¹ Additionally, Subchapter D regulates abortion medication and states that abortion medication may not be

108 TEX. HEALTH & SAFETY CODE ANN. § 245.002(1) (Westlaw).

109 *Id.* §§ 170.001–170.002 (Westlaw). These provisions are preempted by Section 170A but remain law in Texas.

110 Woman’s Right to Know Act, H.B. 15, 78th Reg. Sess. (Tex. 2003) (codified at TEX. HEALTH & SAFETY CODE ANN. §§ 171.001–171.005, 171.011–171.018 (Westlaw) (requiring physicians to discuss specific medical risks with the patient and giving patients the right to review informational materials published by the state)); H.B. 15, 82d Reg. Sess. (Tex. 2011), *amending* TEX. HEALTH & SAFETY CODE ANN. §§ 171.002, 171.012, 171.013(a), 171.015, *and adding* §§ 171.0121–171.0124 (requiring a sonogram prior to an abortion); Pre-Born Pain Act, H.B. 2, 83d Leg., 2d Called Sess. (Tex. 2013), *adding* TEX. HEALTH & SAFETY CODE ANN. § 171.0031 and subchapters C and D (requiring abortion clinics to meet ambulatory surgical standards, requiring doctors performing abortions to have admitting privileges at a nearby hospital, and prohibiting abortions at or after 20 weeks post-fertilization), *invalidated in part by* *Whole Woman’s Health v. Hellerstedt*, 579 U.S. 582 (2016); S.B. 8, 85th Reg. Sess. (Tex. 2017), *amending* TEX. HEALTH & SAFETY CODE ANN. §§ 171.002(1) and 171.061(1) and adding subchapters F and G (banning partial-birth and dismemberment abortions); S.B. 4, 82d Leg., 2d Called Sess. (Tex. 2021), *amending* TEX. HEALTH & SAFETY CODE ANN. §§ 171.006, 171.061, 171.063 *and adding* §§ 171.0631, 171.0632, 171.065, *and* 171.066 (imposing additional restrictions on the use of medication abortion); Texas Heartbeat Act, S.B. 8, 87th Reg. Sess. (Tex. 2021), *amending* TEX. HEALTH & SAFETY CODE ANN. § 171.012(a) *and adding* Subchapter H (banning abortions after detection of a fetal heartbeat and creation of a private civil enforcement mechanism); H.B. 7, 89th Leg., 2d Spec. Sess. (Tex. 2025) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171A.051 (specifically banning the manufacture, distribution, mailing, or prescription of abortion-inducing drugs to any resident in the state)).

111 TEX. HEALTH & SAFETY CODE ANN. §§ 171.003, 171.0031 (Westlaw). Notably, these two provisions were invalidated by the Supreme Court in *Whole Woman’s Health v. Hellerstedt*, 579 U.S. 582 (2016), only six years before it would reverse course in *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022).

provided by courier, delivery, or mail service, and that physicians must examine patients in person before prescribing the medication.¹¹²

The third chapter, Chapter 170A, was created by Texas' trigger ban legislation, which became effective in August 2022 and preempts much of Chapter 171.¹¹³ This chapter prohibits the performance, induction, or attempt of all abortions, performed at any gestational age, with narrow exceptions for those performed in the exercise of "reasonable medical judgment" to prevent the death or "substantial impairment of a major bodily function" of the mother.¹¹⁴ Chapter 170A establishes a civil penalty of at least \$100,000 for each violation of Section 170A.002 and authorizes the Attorney General to enforce the provision.¹¹⁵

Texas' judgment imposes liability on Dr. Carpenter under both Chapters 170A and 171 of its Health and Safety Code, asserting that she performed an abortion via telemedicine without a Texas license or active admitting privileges at a Texas hospital, mailed the patient an abortion-inducing drug, and failed to examine the patient in person.¹¹⁶ The petition also listed violations of the Texas Occupations Code and the Texas Administrative Code for practicing telemedicine and prescribing a drug without a Texas medical license.¹¹⁷ Though the Texas Occupations Code creates additional civil penalties of \$1,000, enforceable by the

112 TEX. HEALTH & SAFETY CODE ANN. §§ 171.063(b-1), (c)(1), (c)(6) (Westlaw).

113 Human Life Protection Act of 2021, H.B. 1280, 87th Reg. Sess. (Tex. 2021) (codified at TEX. HEALTH & SAFETY CODE ANN. §§ 170A.001–007 (Westlaw) and taking effect on the 30th day after the issuance of a United States Supreme Court judgment in a decision overruling, wholly or partly, *Roe v. Wade*)).

114 TEX. HEALTH & SAFETY CODE ANN. §§ 170A.002(a), (b) (Westlaw).

115 *Id.* § 170A.005 (Westlaw).

116 Petition, *supra* note 1, at 4.

117 Default Judgment, *State of Texas v. Carpenter*, No. 471-08943-2024 (Tex. Dist. Ct. Feb. 13, 2025); Petition, *supra* note 1, at 2. The petition cites TEX. OCC. CODE ANN. §§ 151.002(a)(13)(A) (Westlaw) (defining "practicing medicine"), 151.056(a) (applying the definition to telemedicine), 155.001 (requiring licensure to practice medicine), and 165.159 (creating a criminal penalty for practicing without a license). It also cites 22 TEX. ADMIN. CODE §§ 175.1 (requiring Texas licensure for practicing telemedicine) and 175.4(a), (c) (declaring that the validity of prescriptions issued as a result of telemedicine services are determined by the same standards that apply to in-person settings). The Texas Medical Board has since repealed TEX. ADMIN. CODE § 175.4 and replaced its telemedicine practice requirements in January 2025. *See* 50 Tex. Reg. 2 (Jan. 10, 2025) and 22 TEX. ADMIN. CODE § 175.3 (Westlaw through 51 Tex. Reg. No. 1342).

Attorney General for each violation of the licensing requirements, the petition did not seek such penalties.¹¹⁸

C. New York's Shields

Suits like this one are exactly the type of liability that abortion-permissive states sought to protect against when passing shield laws. The New York State Legislature passed S.1066-B, its first shield law, in 2023. Along with the New York State Academy of Family Physicians, Dr. Carpenter's organization, the Abortion Coalition for Telemedicine, was "the key engine" behind passage of the shield law.¹¹⁹ The law contains provisions clearly meant to help providers like Dr. Carpenter avoid liability for telemedicine provision of reproductive health services to patients in abortion-hostile states, though its success in doing so is yet to be seen. Reporting on the law touted it as providing an "ironclad" shield against criminal and civil litigation relating to the prescription of abortion medication to patients across the United States.¹²⁰ This Note argues that though these laws are most certainly not ironclad and will face a significant challenge on appeal, they may successfully provide Dr. Carpenter adequate protection from the civil liability imposed by the Texas Attorney General.

The shield law covers a broad scope of health care services, and it certainly intends to include clinicians like Dr. Carpenter, who provide telehealth services to abortion-hostile states. The law first defines "reproductive health care" to include all services and care relating to the human reproductive system, including that of a "prescribing" or "dispensing" nature and care provided by means of telehealth services.¹²¹ Next, as relevant here, it defines "legally protected health activity" to include any act "undertaken while physically present

118 TEX. OCC. CODE ANN. § 165.101 (Westlaw); see Petition, *supra* note 1.

119 Carrie N. Baker, *U.S. Clinicians Can Now Mail Abortion Pills to States Banning Abortion, Thanks to Shield Laws in Five States*, MS. MAG. (Jul. 24, 2023), <https://msmagazine.com/2023/07/24/usa-mail-abortion-pills/> [<https://perma.cc/4MKD-LEP6>].

120 *Id.*

121 N.Y. CRIM. PROC. LAW § 570.17(1)(a) (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99) (defining the term to "mean and include all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventive, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and the laws of this state, whether provided in person or by means of telehealth or telehealth services, which includes, but is not limited to, all services, care, and products relating to pregnancy, assisted reproduction, contraception, miscarriage management or abortion, including but not limited to care an individual provides to herself.") (incorporated by reference in civil provisions mentioned).

in this state” by “providers” or “facilitators” of reproductive health care to aid any patient in the “receipt of or attempt to receive reproductive health care, regardless of the location of the recipient of such care.”¹²²

1. Inapplicable Provisions

Most of New York’s law, however, would not have aided Dr. Carpenter in preventing the case from moving forward against her in Texas, even if she had tried to fight the case in Texas courts. New York’s shield law modifies its rules of evidence, but the protections of this provision are vague and only apply to New York courts. The provision states that evidence related to a provider’s involvement in legally protected health activity with out-of-state patients “shall not be offered against such party as evidence that such party has engaged in any wrongdoing” by virtue of the patient’s presence in another state.¹²³ In New York courts, then, a party bringing an action against Dr. Carpenter could not use any evidence that she had treated patients in Texas or violated Texas laws against her in the proceedings. However, New York rules of evidence do not apply outside of its state borders, and it is difficult to see how this provision would aid Dr. Carpenter or other defendants in her position in out-of-state proceedings. Evidence provisions across various states’ shield laws operate in the same way, serving merely as a message to abortion-hostile states that these types of claims are unwelcome in shield states’ courthouses. The case against Dr. Carpenter has shown that anti-abortion litigants—particularly those acting on behalf of state governments like Texas’—can effectively leverage the courts in their home states to impose liability without being affected whatsoever by shield laws.

2. Potentially Effective Provisions

One provision of New York’s law could have effectively stalled the lawsuit in the discovery phase. New York’s shield law prohibits New York courts and county clerks from issuing subpoenas or orders compelling witness testimony or deposition in connection with out-of-state proceedings related to legally protected health activity occurring in New

122 *Id.* § 570.17(1)(c)(ii) (Westlaw) (defining the term to include “any act or omission undertaken while physically present in this state to aid or encourage, or attempt to aid or encourage, any person in the receipt of or attempt to receive reproductive health care or gender-affirming care, regardless of the location of the recipient or provider of such care[.]”). “Legally protected health activity” includes acts done by patients, providers and insurance administrators for both reproductive care and gender-affirming care. *See generally Id.* § 570.17(1)(c) (Westlaw).

123 *Id.* § 4550 (Westlaw).

York.¹²⁴ Typically, when a party seeks to enforce an out-of-state subpoena or order, it would need to file a petition in a New York court to domesticate it; the court would then issue a local subpoena or order to enforce it in New York.¹²⁵ New York courts are now forbidden from domesticating any orders related to provision of legally protected health activity.

Thus, though the Texas court could still have subpoenaed Dr. Carpenter or the Abortion Coalition for Telemedicine for documents, discovery, or witness testimony, the order or subpoena would be unenforceable against them in New York. This could have provided a significant procedural hurdle for the Texas Attorney General in substantiating the allegations that Dr. Carpenter practiced telehealth in violation of Texas' regulations and prescribed the medication. Without any documents or information about Dr. Carpenter's telehealth practice or her records of the appointment to treat the patient in question, Texas would have had to rely solely on indirect evidence of Dr. Carpenter's involvement.¹²⁶

Second, licensing protections in New York will allow Dr. Carpenter to continue to practice medicine in her home state regardless of the judgment against her in Texas. New York's shield law prevents a physician from being disciplined, suspended, or having their license revoked based on the provision of any "legally protected health activity" and creates a limited exemption from professional misconduct.¹²⁷ Even if Dr. Carpenter had been convicted of a crime in Texas for shipping the abortion pills, the shield law ensures that criminal or civil liability imposed by another state based on the provision of protected care does not affect the provider's licensure.

124 *Id.* §§ 3119(e), 3102(g) (Westlaw).

125 *Id.*

126 That said, shield laws do little to protect Dr. Carpenter's patients' records, as HIPAA requirements require and facilitate the exchange of patient information across state lines:

[I]magine that Jane Doe, a resident of Missouri, gets an abortion in Connecticut. She then returns home to Missouri, where, under a pending bill, it would be unlawful for any person to perform or induce . . . an abortion on a resident or citizen of Missouri . . . regardless of where the abortion is or will be performed . . . [E]ven if the new Connecticut law would prevent Jane Doe's Connecticut abortion providers from giving her medical records to prosecutors or litigants in her home state, those prosecutors or litigants could circumvent this protection by subpoenaing any other provider with access to her abortion records.

Zubrzycki, *supra* note 67, at 198. While this concern certainly applies to in-person reproductive care, it is possible that ACT operates outside of HIPAA procedures or otherwise protects patient information from being shared with other providers in Texas.

127 N.Y. EDUC. LAW §§ 6531-B, 6509-f (Westlaw).

Dr. Carpenter also could have used the discovery provision to challenge Texas' jurisdiction over her. Texas asserted jurisdiction over the case under its long-arm statute, which states that a nonresident does business in the state if the nonresident "contracts by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in [Texas]."¹²⁸ With the shield law preventing any discovery from Dr. Carpenter or her practice in New York, there may not have been sufficient evidence to prove that Dr. Carpenter "contracted" with the patient in Texas at all for the purposes of the long-arm statute.¹²⁹

New York's law therefore would have provided Dr. Carpenter only a narrow source of protection in the discovery phase of the suit brought by Texas and certainly did not create an ironclad defense against most out-of-state consequences. The court in Collin County could still have issued an order compelling testimony from individuals in Texas, such as the patient's partner, who initially located the abortion medication, or potentially the patient herself.¹³⁰ In theory, the Texas court could have subpoenaed the mail service from which the patient received the medication, so long as the company was not located entirely in a shield law state.¹³¹ Further, it is unclear from the petition whether Texas was already in possession of the packages of medication Dr. Carpenter allegedly provided to the patient by mail, but the state could have ordered the patient or her partner to produce them, as they are not covered by the shield law.¹³² New York's evidence provision would not apply, and the attorney general could have lawfully entered this as evidence of her wrongdoing and violation of Texas' statutes.

128 TEX. CIV. PRAC. & REM. CODE ANN. § 17.042 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.).

129 See Geller, *supra* note 60, at 108 (arguing that the Supreme Court has indicated protection against personal jurisdiction in situations where contacts are based on the sale or prescription of mifepristone). Here, Texas could have made the argument that ACT and Dr. Carpenter had reasonable expectations that they were entering the Texas market by establishing their telemedicine practice specifically to treat patients in states where abortion is illegal. *But see* Walden v. Fiore, 571 U.S. 277, 285 (2014) (holding that physical entry into the state by a defendant through mail is "certainly" a relevant contact, but "the plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him.").

130 TEX. CIV. PRAC. & REM. CODE ANN. § 121.013 (Westlaw).

131 *Id.*

132 See Zubrzycki, *supra* note 67, at 209.

3. State Resource Provisions

Like many other shield law states, New York prohibits state or local government employees and entities from cooperating with, providing information to, or expending any state resources in furtherance of any investigation or proceeding which seeks to impose civil or criminal liability for legally protected health activity occurring in New York.¹³³ This provision is now at the center of the conflict between Texas and New York's laws; the government-cooperation provision failed to protect Dr. Carpenter at the initial Texas litigation stage but is now providing the most important protection for her in New York's courts.

At the outset, it was unlikely that Texas would have needed to rely upon New York state resources to further its civil case, as it had already located Dr. Carpenter's home and business addresses at the time of filing the complaint.¹³⁴ However, Texas' motion for default judgment evidences that the state successfully leveraged many publicly available state resources against Dr. Carpenter.¹³⁵ The motion attaches as exhibits searches for the defendant's information using government licensing lookups from multiple states with shield laws, including New York.¹³⁶ First, Texas proves its proper service of the complaint on Dr. Carpenter using the New York State Education Department's Office of the Professions Verification Search;¹³⁷ it next attaches two screenshots from the Ulster County Parcel Viewer tool on the county's website to prove her residency at and ownership of property in New Paltz, New York.¹³⁸ The motion also attaches a Department of State Division of Corporations entity lookup for Possible Health Medical, P.C., a business of Dr. Carpenter's

133 N.Y. EXEC. LAW § 837-X(2) (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99).

134 Colorado, Massachusetts, and Vermont's shield laws add reproductive care providers to their address confidentiality programs in order to provide additional privacy protections, making state resource provisions more impactful. COLO. REV. STAT. § 24-30-2103 (West, Westlaw through 2d Reg. Sess., 75th Gen. Assemb., effective Mar. 31, 2026); MASS. GEN. LAWS ANN. ch. 9A, § 2(1)(b) (West, Westlaw through 2026 2d Ann. Sess. ch. 11); VT. STAT. ANN. tit. 15, §§ 1150–1152 (West, Westlaw through 2025–2026 Adjourned Sess. effective Mar. 16, 2026).

135 Motion for Default Judgment, *State of Texas v. Carpenter*, No. 471-08943-2024 (Tex. Dist. Ct. Jan. 23, 2025) [hereinafter Motion for Default Judgment].

136 *Id.*

137 Exhibit 1 to Motion for Default Judgment, *supra* note 135, <https://eservices.nysed.gov/professions/verification-search> [https://perma.cc/2H7S-HKTF].

138 Exhibit 2 to Motion for Default Judgment, *supra* note 135, <https://ulstercountyny.gov/maps/parcel-viewer/> [https://perma.cc/53LF-5EE7].

used for telemedicine services.¹³⁹ Texas' successful use of state governments' resources to further this claim is in direct violation of New York's broad resource-sharing protection in its shield law, which prohibits all state or local entities from expending any resources in furtherance of any proceeding which seeks to impose civil liability upon a person for legally protected healthcare.¹⁴⁰ Clearly, then, the telemedicine shield laws did not prevent Texas from using New York state resources and information to further the litigation, as New York was not prepared to modify its publicly available resources as part of its compliance with its own shield law.

New York's resources law was not the only one to fail to protect Dr. Carpenter at this stage. Texas produced evidence from other states with shield laws, including Oregon, Illinois, California, Connecticut, and Vermont.¹⁴¹ Texas offered this not only as evidence that service to Dr. Carpenter's address was proper, but also to prove one of the central points of its claim against her—that she was not a resident of the State of Texas and is therefore in violation of Texas' administrative code:

Throughout the defendant's self-reporting of her residence, home, home office and her alternate business address, to all the above referenced governmental entities, Dr. Carpenter has never indicated or suggested that she has ever been a resident of the State of Texas or that she maintains a regular place of business in the State of Texas or has any designated agent for service of process in the State of Texas, rather Dr. Carpenter has represented, at all times relevant to the plaintiff's petition, that she is a resident of and has her regular place of business in the State of New York.¹⁴²

139 Exhibit 5 to Motion for Default Judgment, *supra* note 135, <https://apps.dos.ny.gov/publicinquiry/entitydisplay> [<https://perma.cc/5MUN-BBTL>].

140 N.Y. EXEC. LAW § 837-X(2)(a) (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99) (“No state or local government entity shall cooperate with or provide information to any out-of-state individual or out-of-state agency or department regarding any legally protected health activity in this state, or otherwise expend or use time, moneys, facilities, property, equipment, personnel or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health activity occurring in this state.”).

141 Exhibits 3, 4, 6–10, 12–13 to Motion for Default Judgment, *supra* note 135.

142 Motion for Default Judgment, *supra* note 135.

Texas' open circumvention of shield laws raises many questions, but above all, it speaks to the need for more robust enforcement and modification of shield states' standard operating procedures in order to prevent publicly available resources from being leveraged against providers of telemedicine abortion care.

That said, on March 27, 2025, the acting clerk of Ulster County in Kingston, New York, refused to grant Texas' motion to enforce the judgment rendered against Dr. Carpenter in Collin County, Texas.¹⁴³ He also prevented Texas from filing a summons that sought to force Dr. Carpenter to pay the imposed penalty and comply with its ruling.¹⁴⁴ The clerk refused an additional demand by the Texas Attorney General's office in July 2025.¹⁴⁵ Because New York does not have a provision in its laws explicitly blocking the enforcement of judgments, the clerk must rely on the resource sharing provision in order to block this action. From here, Texas will likely bring its challenge to the constitutionality of all shield laws to the Supreme Court.¹⁴⁶

D. What Texas Didn't Do: Deterrent Effects

1. Criminal Liability

Texas notably did not seek criminal penalties against Dr. Carpenter, though many were available under the state's laws. Chapter 170A creates criminal liability by declaring the performance of a successful abortion to be a first-degree felony.¹⁴⁷ Additionally, violation of Chapter 171's general provisions in Subchapter A constitutes a Class A misdemeanor

143 Press Release, Taylor Bruck, Acting Ulster Cnty. Clerk, Statement from Acting County Clerk Taylor Bruck on Filing from Texas Attorney General Ken Paxton (Mar. 27, 2025), <https://clerk.ulstercountyny.gov/sites/default/files/2025-03-27%20Rejected%20Filing%20Press%20Release.pdf> [https://perma.cc/QT2X-7KWE].

144 *Id.*

145 Michael Hill, *New York Clerk Again Refuses to Enforce Texas Judgment Against Doctor Who Provided Abortion Pills*, ASSOC. PRESS (Jul. 14, 2025), <https://apnews.com/article/abortion-pills-lawsuit-texas-new-york-carpenter-2601c059ed475f97e8c8bdd722cce7da> [https://perma.cc/4238-GQA3].

146 Pam Belluck, *New York County Clerk Blocks Texas Court Filing Against Doctor Over Abortion Pills*, N.Y. TIMES (Mar. 27, 2025), <https://www.nytimes.com/2025/03/27/health/new-york-texas-abortion-shield-law.html> [https://perma.cc/7ZPZ-UFYV].

147 TEX. HEALTH & SAFETY CODE ANN. § 170A.004(b) (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.). Attempts are punishable as second-degree felonies.

punishable by a fine of up to \$4,000.¹⁴⁸ Chapter 171, Subchapter D, establishes a state jail felony offense for violation of its provisions.¹⁴⁹

There are likely many reasons the Attorney General chose not to bring criminal charges against Dr. Carpenter, including the potential for extremely long sentences in the state of Texas, lack of public support for criminalization of abortion in general, and a higher burden of proof in a criminal prosecution.¹⁵⁰ Texas' choice to pursue only civil liability against Dr. Carpenter speaks to a deterrent effect of shield laws on the imposition of criminality onto out-of-state healthcare providers. However, this deterrent effect has not stopped conservative lawmakers in other states from bringing criminal charges. Notably, in Louisiana, Dr. Carpenter was indicted by a grand jury for providing abortion-inducing drugs to a minor child in violation of a separate medication-specific law that criminalizes delivering, dispensing, distributing, or providing a pregnant woman with an abortion-inducing drug and knowingly causing an abortion.¹⁵¹

It is very unlikely, however, that the action in Louisiana will hinder Dr. Carpenter's operations. While extraterritorial criminalization poses more complicated questions for in-person care and travel across state lines, telemedicine provision of abortion medication remains particularly well-protected from criminal liability by shield laws. All shield states have enacted provisions preventing the extradition of a clinician facing criminal liability for the provision of protected healthcare.¹⁵² New York law states that the governor will not recognize any demand for the extradition of a person subject to criminal liability based

148 *Id.* § 171.0031 (Westlaw).

149 *Id.* § 171.065 (Westlaw).

150 *In Swing States, Majorities of Republicans and Democrats Oppose Criminalizing Abortion Before Fetal Viability*, UNIV. MD. SCH. PUB. POL.: PROGRAM FOR PUB. CONSULTATION (Sep. 4, 2024), <https://publicconsultation.org/swing-six-abortion/abortion/> [<https://perma.cc/Q32D-MV9B>] (finding that support for abortion criminalization at all stages of pregnancy is as low as 7% to 13% in swing states, including only 10% to 25% of Republicans and 3% to 7% of Democrats; nationally, support is just 11% (Republicans 19%, Democrats 5%)).

151 *See* Emily Cochrane & Pam Belluck, *Louisiana Indicts Another Out-of-State Doctor Over Abortion Pills*, N.Y. TIMES (Jan. 13, 2026), <https://www.nytimes.com/2026/01/13/us/louisiana-abortion-pills-california-indictment.html> [<https://perma.cc/PM6D-F837>]; Autumn Billings, *Louisiana's Puzzling Prosecution of a New York Abortion Doctor*, REASON (Feb. 10, 2025), <https://reason.com/2025/02/10/louisianas-puzzling-prosecution-of-a-new-york-abortion-doctor/#:~:text=On%20January%2031%2C%20a%20West,to%20the%20mother's%20underage%20daughter> [<https://perma.cc/6MHV-6TEY>]; LA. STAT. ANN. § 14:87.9 (Westlaw through 2025 Reg. and 1st Extr. Sess.).

152 *See* Forouzan, *supra* note 61.

on the provision of protected health activity unless the demanding state alleges that the accused provider was present in the demanding state at the commission of the crime.¹⁵³ Additionally, New York prevents arrest of any person for protected health activity within the state.¹⁵⁴

So far, these measures have worked: Governor Kathy Hochul immediately refused Dr. Carpenter's extradition to Louisiana.¹⁵⁵ Had Texas brought criminal charges, New York law would prohibit the governor from recognizing the charges, directing law enforcement to arrest Dr. Carpenter, and extraditing her to Texas for trial. Because telemedicine providers remain lawfully situated in their home states even as they treat patients, these provisions effectively preclude enforcement of potential criminal charges.

2. Private Civil Enforcement Mechanisms

Next, Dr. Carpenter's provision of telehealth medication abortion remains uniquely well-protected from the imposition of liability via Texas' private citizen enforcement mechanism by New York's shield law, which includes a "clawback claim" right of action.

PCEM liability in Texas would likely exist for Dr. Carpenter, and it seems that a plaintiff with proper standing exists in the patient's partner and father of the child. The architects of the "Heartbeat Bill" sought to impose liability for care provided outside of Texas' jurisdiction, including care provided when patients themselves travel out of the state. Worse, Texas' House Bill 7, passed in 2025, updated its "bounty hunter" law to reflect its post-*Dobbs* abortion ban and target out-of-state telemedicine abortion providers, though not in time to apply to Dr. Carpenter's actions.¹⁵⁶ Even without this updated law, and despite the fact that due process concerns provide potential protection from PCEM liability for in-person providers, Texas' PCEM would likely have applied to Dr. Carpenter's actions anyway.¹⁵⁷ Because Dr. Carpenter mailed the medication and had contact with the patient

153 N.Y. CRIM. PROC. LAW § 570.17 (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99).

154 *Id.* § 140.10(3-a) (Westlaw).

155 Pam Belluck, Benjamin Oreskes & Emily Cochrane, *Abortion Provider Won't Be Extradited to Louisiana, N.Y. Governor Says*, N.Y. TIMES (Feb. 13, 2025), <https://www.nytimes.com/2025/02/13/nyregion/abortion-extradition-louisiana-doctor.html> [<https://perma.cc/ZQ2P-DCUC>].

156 See H.B. 7, 89th Leg., 2d Spec. Sess. (Tex. 2025) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171A.101 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.)).

157 Due process constraints likely protected in-person care provided within the abortion-permissive state, as courts in PCEM states must be able to establish personal jurisdiction over the provider. Had Dr. Carpenter

while she was in Texas, an out-of-state party (like the patient's disgruntled partner, for instance) would likely be able to assert personal jurisdiction over Dr. Carpenter, as she has made sufficient contacts with Texas to avail herself of its laws.¹⁵⁸ Moreover, the father of the fetus would likely have proper standing to bring the private enforcement action under Texas' PCEM law.¹⁵⁹ Assuming he was willing to be directly involved in the case and publicly named, it would be very difficult to challenge his standing as an interested party. It seems, then, that many factors could have aligned to finally use Texas' PCEM against an extraterritorial actor.

In June 2022, however, New York passed an additional shield law creating a strong clawback claim for telemedicine doctors. The bill amended New York's Civil Rights law to establish a new cause of action for unlawful interference with protected rights, allowing providers to recover the full costs of any judgment issued against them based on the provision of protected care.¹⁶⁰ A claim arises when any person demonstrates that their receipt or provision of protected care results in litigation or criminal charges brought against them in any court in the United States. Successful claimants may recover compensatory damages, costs, and attorneys' fees, as well as punitive damages in the event that a plaintiff can demonstrate that the action against them was "commenced or continued for the purpose of harassing, intimidating, punishing, or otherwise maliciously inhibiting the exercise of rights protected in New York."¹⁶¹ Had the patient's partner brought a suit against Dr. Carpenter under Texas' bounty hunter law, she could sue him back under § 70-b for the amount of the judgment, costs, and attorneys' fees from both actions, and punitive damages. The New York State Legislature designed the law specifically to protect

provided the care to the Texas patient while both were present in New York, and the patient had ingested both medications in New York, due process would likely prevent Texas from asserting its laws over either of them.

158 See, e.g., *Hanson v. Denckla*, 357 U.S. 235, 253 (1958); TEX. CIV. PRAC. & REM. CODE ANN. § 17.042 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.).

159 See *Texas Ass'n of Bus. v. Texas Air Control Bd.*, 852 S.W.2d 440, 446 (Tex. 1993) (standing in Texas courts requires that there "(a) shall be a real controversy between the parties, which (b) will be actually determined by the judicial declaration sought" (citing *Bd. of Water Eng'rs of State v. City of San Antonio*, 83 S.W.2d 722, 724 (Tex. 1955))); TEX. HEALTH & SAFETY CODE ANN. § 171.208 (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.). If an action were filed in federal court, or removed to federal court based on diversity of citizenship, federal standing requirements would apply. See *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992); First Amended Complaint at 1–2, *Rodriguez v. Coeytaux*, No. 3:25-cv-225 (S.D. Tex. Feb. 1, 2026) (H.B. 7 action, discussed further *infra* note 163, filed in federal court based on diversity of citizenship).

160 S.B. 9039-A, 2022 Leg., Reg. Sess. (N.Y. 2022) (codified at N.Y. CIV. RTS. LAW § 70-b (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99)).

161 N.Y. CIV. RTS. LAW § 70-b(3)(b) (Westlaw).

out-of-state telemedicine practices like those targeted by Texas; in fact, ACT helped write the bill.¹⁶²

Overall, few lawsuits against out-of-state providers using PCEM causes of action have ever been reported, especially post-*Dobbs*; multiple factors likely contribute to this, including the enhanced privacy and security of telemedicine combined with the safety and lack of evidence created by medication abortion.¹⁶³ Even where the most motivated of Texas private enforcers are able to find evidence against telemedicine abortion providers, clawback rights of action may have a considerable deterrent effect.

As for Dr. Carpenter, a claim under New York's clawback statute may be available, but any attempt will run into issues with sovereign immunity. Dr. Carpenter's clawback claim would lie against the Texas Attorney General rather than against a private citizen.¹⁶⁴ Under the Eleventh Amendment, a citizen may not sue states or their officials for money damages unless the state has waived sovereign immunity.¹⁶⁵ Thus, though she could bring a case

162 Carrie N. Baker, *U.S. Clinicians Can Now Mail Abortion Pills to States Banning Abortion, Thanks to Shield Laws in Five States*, Ms. MAG. (Jul. 24, 2023), <https://msmagazine.com/2023/07/24/usa-mail-abortion-pills/> [https://perma.cc/48E3-CU6T].

163 In December 2022, a Texas Court limited the S.B. 8 bounty hunter cause of action to people who had experienced injury under the law, dramatically reducing the number of available plaintiffs, though some aspects of the litigation are still ongoing. *Gomez v. Braid*, 04-22-00829-CV, 2024 WL 697105 (Tex. App. Feb. 21, 2024); see also Geller, *supra* note 60, at 94 (citing Petition, *Byrn v. Theard*, No. 51499-A (Tex. Dist. Ct. Dec. 5, 2022)). In February of 2026, taking advantage of H.B. 7 and Texas' new PCEM for telemedicine abortion care, Texas citizen Jerry Rodriguez filed an amended complaint in federal court against Dr. Remy Coeytaux, a California doctor responsible for providing Mr. Rodriguez's then-girlfriend with telemedicine abortion care, alleging a violation of the new telemedicine abortion care ban and asserting a claim for wrongful death under Texas' fetal personhood provisions. Analysis of this case is beyond the scope of this article, but it suffices to say that Dr. Coeytaux would be able to invoke California's own clawback provision should a judgment be entered against him, though it certainly did not have a deterrent effect on Mr. Rodriguez in filing his claim. See First Amended Complaint, *Rodriguez v. Coeytaux*, No. 3:25-cv-00225 (S.D. Tex. Feb. 1, 2026); see also Zahiyah Carter, *Galveston Man Sues California Doctor Under New Texas Law Allowing Lawsuits Over Abortion Pills*, TEX. TRIB. (Feb. 3, 2026), <https://texastribune.org/2026/02/02/texas-california-abortion-pill-lawsuit-bounty-hunter-law-hb-7> [https://perma.cc/2HEJ-C4HG].

164 In 2019, the Supreme Court held that states retain their sovereign immunity from private suits brought in the courts of other states, but how this issue would play out in the face of a clawback statute claim is an open question. See *Fran. Tax Bd. of Cal. v. Hyatt*, 587 U.S. 230, 236 (2019). For additional discussion on sovereign immunity and clawback statutes, including *Hyatt*, see *Comity and Clawback Statutes After S.B. 8*, 102 TEX. L. REV. 185, 214–16 (2023).

165 “The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or

against Attorney General Ken Paxton under New York’s clawback law, he would have a strong defense against liability under the Eleventh Amendment.

Notably, Vermont’s own clawback provision attempts to circumvent sovereign immunity. The statute creates a right of action for tortious interference with a legally protected healthcare activity, including reproductive health services, intended to act similarly to New York’s as described above: when someone in another state initiates an action against a Vermont provider of abortion care for treating patients outside of Vermont, the provider may initiate an action for tortious interference.¹⁶⁶ The law states that “an attorney shall not be liable under this section, if acting on behalf of another and within the scope of the attorney’s license. A lawyer acting pro se, or a public prosecutor having the personal discretion to decide whether to bring abusive litigation, shall not be immune under this subsection.”¹⁶⁷ The validity of this provision has yet to be tested by any parties seeking to use a clawback claim against an Attorney General or prosecutor; it is likely, however, that a suit would not be allowed under the Eleventh Amendment.¹⁶⁸

Texas’ decision to forgo criminal charges, and the relative dearth of private civil enforcement cases, illuminates the ways in which shield laws are currently working to deter imposition of liability on abortion providers. But, to properly protect providers like Dr. Carpenter, New York must expand its laws.

III. Defeating Texas’ Impending Challenge

Though New York’s shield law has temporarily stopped Texas from enforcing its judgment against Dr. Carpenter, the civil judgment against her still stands, and challenges to the constitutionality of enforcement across state lines are sure to arise. Similar to clawback

Subjects of any Foreign State.” U.S. CONST. amend. XI; see *Hyatt*, 587 U.S. at 236.

166 VT. STAT. ANN. tit. 12, § 7302(c) (West, Westlaw through 2025–2026 Adjourned Sess. effective Mar. 16, 2026).

167 *Id.* § 7302(g) (Westlaw).

168 The most widely recognized exception to the sovereign immunity doctrine, *Ex parte Young*, is narrow, only applying to prospective relief. It does not permit judgments against state officers declaring that they violated law in the past, as would be the case with Dr. Carpenter’s clawback claim. See *Puerto Rico Aqueduct and Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993) (citing *Ex parte Young*, 209 U.S. 123 (1908)). Further, in *Whole Woman’s Health II*, the Court held that the *Ex parte Young* doctrine did not apply to the Attorney General but could extend to “executive licensing officials” who have enforcement power via the Health Department in Texas. *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 45 (2021).

claims, preventing enforcement of a judgment would render the verdict essentially symbolic in nature, disincentivizing state officials and individuals alike from filing civil cases. Thus, if the Supreme Court were to uphold New York's refusal to domesticate the judgment and enforce it against Dr. Carpenter, shield states would have successfully defeated the possibility that anti-abortion states could punish doctors outside of their own territory, even where patients receive telemedicine abortion care inside state lines. However, if the Court were to hold the judgment enforceable in New York, the project of telemedicine shield laws would be rendered ineffective. The next section of this Note describes potential challenges to the clerk's refusal to enforce the judgment and argues that the action would likely survive review.

A. Potential Challenges

Anti-abortion states seeking to impose liability, like Texas, may claim that shield provisions violate the Full Faith and Credit Clause. California's law, for instance, explicitly dictates that the State shall not enforce or satisfy a judgment received via an extraterritorial law authorizing civil actions against a person for receiving, seeking, performing, or providing an abortion, or for aiding, abetting, or attempting such activity.¹⁶⁹ The Full Faith and Credit Clause poses a challenge to these laws, as it contains an "exacting" demand to ensure the enforcement of judgments across state lines.¹⁷⁰ Though there is a limited public policy exception to choice of law provisions or "venue bars," the public policy exception does not apply to judgment enforcement.¹⁷¹ Indeed, the Court has ruled that the clause "ordered submission by one State even to hostile policies reflected in the judgment of another State, because the practical operation of the federal system . . . demanded it,"

169 CAL. HEALTH & SAFETY CODE § 123467.5(b)(2) (West, Westlaw through 2026 Reg. Sess. ch. 7); *see also* MINN. STAT. ANN. § 548.252(b) (West, Westlaw through 2026 Reg. Sess. effective Mar. 28, 2026). 735 ILL. COMP. STAT. ANN. 40/28-20 (Westlaw through 2026 Reg. Sess. P.A. 104-460); VT. STAT. ANN. tit. 12, § 7303 (Westlaw); MASS. GEN. LAWS ANN. ch. 218, § 4A (West, Westlaw through 2026 2d Ann. Sess. ch. 11); COLO. REV. STAT. ANN. § 13-21-133(3) (West, Westlaw through 2d Reg. Sess., 75th Gen. Assemb., effective Mar. 31, 2026).

170 *Baker by Thomas v. Gen. Motors Corp.*, 522 U.S. 222, 233 (1998); *Estin v. Estin*, 334 U.S. 541, 546 (1948).

171 *Nevada v. Hall*, 440 U.S. 410, 422 (1979), *overruled on other grounds by* Franchise Tax Bd. of California v. Hyatt, 587 U.S. 230 (2019). Historical analysis supports the use of the public policy exception in favor of shield states, but not private civil enforcement mechanisms. *See* Joseph William Singer, *Conflict of Abortion Laws*, 16 NE. U. L. REV. 313, 345–46 (2024) (the public policy exception has been used historically "only when a state refuses to recognize rights created elsewhere," but not "to allow a state to create obligations by imposing its regulations on conduct that was lawful in the place where it happened.").

and that there are no considerations of policy that would justify denial of an out-of-state judgment.¹⁷²

However, a judicial carve-out does exist where another state's judgment would interfere with the forum state's own police powers. In *Baker by Thomas v. Gen. Motors Corp.*, the Supreme Court specified that a court must have the authority in the first place to issue a judgment before it may displace that of another state.¹⁷³ As no state has the authority to regulate enforcement measures in another state, the Full Faith and Credit Clause thus does not force a state to adopt another's practices regarding the time, manner, and mechanisms of enforcing judgments. Instead, "enforcement measures do not travel with the sister state judgment as preclusive effects do; such measures remain subject to the evenhanded control of forum law."¹⁷⁴ Using *Baker's* exception, some courts have essentially created an additional carve-out in the Full Faith and Credit doctrine where the enforcement of an extraterritorial judgment interferes with the valid exercise of a state's police power.¹⁷⁵ This carve-out could apply to the power of each state to regulate abortion on their own terms.

To explicate, in *Rosin v. Monken*, the Seventh Circuit ruled that the Full Faith and Credit Clause did not require that a judgment be enforced where it interfered with a state's powers to regulate its own sex offender registry. The court repurposed *Baker's* demand that the issuing state have authority and ruled that the Full Faith and Credit Clause need not apply in police power cases, because such authority does not extend past state lines.¹⁷⁶ The plaintiff argued that Illinois was required under the Full Faith and Credit Clause to recognize a New York judgment, which had acknowledged a previous plea agreement exempting him from sex offender registration.¹⁷⁷ The Seventh Circuit ruled that Illinois did not need to displace its own sex offender laws for New York's less restrictive ones, because it had police power over the health and welfare of its citizens and had the right to choose its

172 *Estin v. Estin*, 334 U.S. 541, 546 (1948); *Magnolia Petroleum Co. v. Hunt*, 320 U.S. 430, 438 (1943).

173 522 U.S. 222 (1998).

174 *Id.* at 235.

175 Note that others have declined to do so. *See, e.g., Finstuen v. Crutcher*, 496 F.3d 1139 (10th Cir. 2007).

176 "In *Baker*, the Supreme Court made clear that the Full Faith and Credit Clause cannot be used by one state to interfere impermissibly with the exclusive affairs of another." *Rosin v. Monken*, 599 F.3d 574, 577 (7th Cir. 2010) (citing *Baker by Thomas v. Gen. Motors Corp.*, 522 U.S. 222, 239 n.12 (1998)).

177 *Rosin v. Monken*, 599 F.3d 574 (7th Cir. 2010).

“preferred mechanism[s]” of sex offender enforcement.¹⁷⁸ This satisfied *Baker*’s mandate that a state “cannot command obedience elsewhere on a matter [that it] lacks authority to resolve,” because New York had “no authority to dictate to Illinois the manner in which it can best protect its citizenry.”¹⁷⁹ The Eleventh and Second Circuits have followed suit with respect to sex offender registration.¹⁸⁰

Similarly, the Fifth Circuit ruled in *Adar v. Smith* that states may also control the issuance of birth certificates without interference by a judgment from another state, denying a same-sex couple’s application for re-issuance of their adoptive child’s birth certificate in Louisiana after the couple had legally adopted the child in New York.¹⁸¹ The Louisiana Registrar of Vital Records and Statistics justified its denial by citing a state law which required couples to be married to adopt,¹⁸² and the Fifth Circuit affirmed that the Full Faith and Credit Clause does not extend to enforcing an adoption decree across state lines.¹⁸³ The Registrar had not denied any *recognition* to the New York adoption decree, as it had indeed recognized the plaintiffs as the legal parents of their adopted child, but instead had merely chosen the manner in which it wanted to enforce the decree by refusing to re-issue the birth certificate.¹⁸⁴ Particularly in the area of “family relations,” it ruled, each state has a right to enforce judgments as it sees fit.¹⁸⁵

Thus, shield law states may have a strong argument for using the police power exception by claiming that anti-abortion states do not have the authority to dictate the way other states regulate abortion as a matter of family relations or public health and welfare, and therefore the Full Faith and Credit Clause does not compel them to enforce anti-abortion judgments.

178 *Id.* at 577.

179 *Id.* at 240 (quoting *Baker*, 522 U.S. at 240).

180 *Lindsey v. Comm’r of Fla. Dep’t of L. Enf’t*, No. 22-10420, 2022 WL 4231823, at *3 (11th Cir. Sep. 14, 2022); *Spiteri v. Camacho*, 622 F. App’x 9, 10 (2d Cir. 2015).

181 *Adar v. Smith*, 639 F.3d 146, 150 (5th Cir. 2011).

182 *Adar*, 639 F.3d at 151; *see* LA. CHILD. CODE ANN. art. 1198 (Westlaw through 2025 Reg. and 1st Extr. Sess.).

183 *Adar*, 639 F.3d at 158.

184 *Id.* at 159–160.

185 *Id.* at 161. *But see* *Matter of Mary*, 169 N.Y.S.3d 483 (N.Y. Sup. Ct. 2022) (holding that New York Court could not, consistent with the Full Faith and Credit Clause, amend petitioner’s Vermont birth certificate as required by New York’s Civil Rights Law governing petitions for change of sex designation).

Abortion falls squarely into the police powers of the state.¹⁸⁶ States should therefore not have the authority to enforce their own police power on abortion in the courts of other states. Texas' law allows it to hold a New York provider liable for performing an act in New York which is completely legal under New York's laws.¹⁸⁷ For a Texas judgment to be enforceable in New York, Texas must have had the authority to make the judgment against a provider in the first place, and states do not have the authority to make abortion decisions for other states. If New York were to pass S.B. 1995, blocking the judgment against Dr. Carpenter would constitute an exercise of New York's own police power over the telemedicine practices of doctors within its jurisdiction—regardless of where Dr. Carpenter's patient resides.

That said, the Supreme Court has not yet validated this police power exception. In *V.L. v. E.L.*, it ruled that Alabama *was* required to give full faith and credit to a Georgia adoption decree, but did not reference the police power issue directly.¹⁸⁸ *V.L.* instead stated that, where an original issuing court has statutorily granted jurisdiction over matters of adoption, it also has the requisite adjudicatory authority required by *Baker*.¹⁸⁹ Without any further precedent, it may be difficult to argue that anti-abortion judgments require shield states to adopt the enforcement *practices* of another state, particularly where a judgment is only for statutory damages. Shield law states may have a stronger argument where the judgment whose enforcement is sought includes injunctive relief enjoining a provider from performing future abortions, as this could be seen as attempted interference with the shield state's police power to regulate abortion.¹⁹⁰ For instance, Texas' petition against Dr. Carpenter included a prayer for injunctive relief to prevent her from providing medication abortion to Texas residents in the future.¹⁹¹ New York could argue that any injunction issued against Dr. Carpenter would represent Texas unlawfully interfering with the enforcement of

186 See generally *Barbier v. Connolly*, 113 U.S. 27, 31 (1885) (a state's police power permits it to enact laws promoting "the health, peace, morals, education, and good order of the people"); *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 300–01 (2022); *Bigelow v. Virginia*, 421 U.S. 809, 824–25 (1975).

187 The constitutionality of judgment enforcement provisions notwithstanding, enforcement would additionally depend on whether a Texas court could establish personal jurisdiction over the provider. See *supra* note 60.

188 *V.L. v. E.L.*, 577 U.S. 404 (2016).

189 *Id.* at 407.

190 S.B. 8, 87th Leg., Reg. Sess. (Tex. 2021) (codified at TEX. HEALTH & SAFETY CODE ANN. § 171.208(b)(2) (West, Westlaw through 2025 Reg. and 2d Called Sess., 89th Leg.)).

191 Petition, *supra* note 1, at 8–9.

New York's laws; in other words, only New York has the police power to control when and how doctors within its state lines, and licensed to practice under its regulations, prescribe abortion medication.

Anti-abortion states may thus attempt to read *Baker's* time, manner, and mechanism exceptions much more narrowly. Though both *Rosin* and *Adar* directly cite to it, the *Baker* opinion specifically disavows the notion that it creates a "sweeping exception" to the Full Faith and Credit Clause, instead ruling on the more procedural grounds that an extraterritorial judgment may not interfere with a judicial process underway in another state between *other parties*.¹⁹² Anti-abortion judgments sought to be enforced in a shield law state would involve the same parties litigating across state lines and therefore could be distinguished completely from a narrow reading of *Baker's* time, manner, and mechanism exception. While there is a path, then, for shield states to defend against Full Faith and Credit Clause challenges on this point, it would be reasonable for the Court to invalidate the judgment enforcement provisions of shield laws.

B. Potential Solutions

Some states attempted to circumvent potential challenges under the Full Faith and Credit Clause by only preventing the enforcement of extraterritorial judgments "issued without jurisdiction."¹⁹³ However, courts were never obligated to afford full faith and credit to judgments rendered without subject-matter or personal jurisdiction.¹⁹⁴ These laws likely protect shield state providers who perform abortions on out-of-state patients who travel across state lines to receive their abortions. However, they do not protect telehealth providers who prescribe and supply medication abortion via mail to patients in other states,

192 The Michigan judgment is not entitled to full faith and credit; we have endeavored to make plain, because it impermissibly interferes with Missouri's control of litigation *brought by parties who were not before the Michigan court* . . . If the Bakers had been parties to the Michigan proceedings and had actually litigated the privileged character of Elwell's testimony, the Bakers would of course be precluded from relitigating that issue in Missouri.

Baker by Thomas v. Gen. Motors Corp., 522 U.S. 222, 239 n.12 (1998) (internal citations omitted).

193 COLO. REV. STAT. ANN. § 13-21-133(3) (West, Westlaw through 2d Reg. Sess., 75th Gen. Assemb., effective Mar. 31, 2026); 735 ILL. COMP. STAT. ANN. 40/28-20 (Westlaw through 2026 Reg. Sess. P.A. 104-460); MASS. GEN. LAWS ANN. ch. 218, § 4A(g) (West, Westlaw through 2026 2d Ann. Sess. ch. 11); ME. REV. STAT. ANN. tit 14, § 9004(1) (Westlaw through 2025 2d Reg. Sess., 132nd Leg., ch. 607); VT. STAT. ANN. tit. 12, § 7303(a) (West, Westlaw through 2025–2026 Adjourned Sess. effective Mar. 16, 2026).

194 See *V.L. v. E.L.*, 577 U.S. 404, 407 (2016).

because providers will likely be found to have sufficient minimum contacts with the state to establish personal jurisdiction, or to have purposefully availed themselves of the state's laws by shipping the medication.¹⁹⁵ As such, these laws do not provide any protections for providers like Dr. Carpenter, and New York should avoid using this wording in crafting a new law to protect telehealth provision of medication abortion.

Meanwhile, states like California, Maryland, and Minnesota do not include this restriction to jurisdictionally-deficient judgments, but their laws may still be amended to better protect telehealth providers.¹⁹⁶ Most of the shield laws passed in 2022 and 2023 only address potential liability via private civil enforcement mechanisms, neglecting action by state officials. To further protect shielded telemedicine practices within their states, legislatures should supplement their shield laws with specific wording covering judgments issued in actions brought by state actors, including penalties, fees, and fines for contempt.

New York does not have any judgment enforcement provisions on its books; a New York court may still compel Dr. Carpenter to pay the judgment issued against her in Texas. New York's shield laws would thus better protect its providers from extraterritorial liability by including a judgment enforcement provision dictating that New York courts may not enforce a judgment in a *manner* which would interfere with any patient's bodily autonomy or reproductive freedom.¹⁹⁷ By wording the law carefully, pro-abortion lawmakers can argue that the law abides by the Full Faith and Credit Clause by merely defining the manner or mechanism by which a judgment may be enforced rather than preventing judgment enforcement entirely. Currently, S.B. 1995, a judgment enforcement law proposed in the New York State Legislature, is worded so as to exempt a provider's personal property or real estate from "application to the satisfaction of [a] money judgment" issued by another state for providing an abortion.¹⁹⁸ This appears to successfully frame the law as regulation of the manner in which the state enforces the judgment: Texas may seek—and even obtain—

195 *Int'l Shoe Co. v. State of Wash., Off. of Unemployment Comp. & Placement*, 326 U.S. 310, 316 (1945); *Hanson v. Denckla*, 357 U.S. 235, 253 (1958).

196 CAL. HEALTH & SAFETY CODE § 123467.5(b)(2) (West, Westlaw through 2026 Reg. Sess. ch. 7); MD. CODE ANN., CTS. & JUD. PROC. § 11-802(a) (West, Westlaw through 2026 Reg. Sess. effective Feb. 24, 2026); MINN. STAT. ANN. § 548.252(b) (West, Westlaw through 2026 Reg. Sess. effective Mar. 28, 2026).

197 *See, e.g.*, CAL. HEALTH & SAFETY CODE § 123466(a) (Westlaw) ("The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion before the viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.").

198 S.B. 1995, 2025 Leg., Reg. Sess. (N.Y. 2025), <https://legislation.nysenate.gov/pdf/bills/2025/S1995> [<https://perma.cc/KQ2T-2S43>].

enforcement in its courts, but New York will not allow the creditor to apply it towards Dr. Carpenter's income or property.¹⁹⁹

New York also has a catch-all provision in its civil practice laws that allows a judgment debtor to prevent the enforcement of foreign judgments based on any other grounds as a court deems appropriate, requiring only whatever security for satisfaction of the judgment would be required in New York.²⁰⁰ Dr. Carpenter could attempt to invoke this provision to prevent the enforcement of the judgment for an extended period of time, or, to the extent that the enforcement would not prevent Dr. Carpenter from practicing medicine in the future, without much recourse on the other side under the Full Faith and Credit Clause.

Additionally, New York has a journalist shield law, which could be adapted for the protection of reproductive services. This law allows New York courts to deem foreign defamation judgments against New York journalists non-recognizable or to grant declaratory relief with respect to a journalist's liability for the judgment.²⁰¹ New York's abortion shield law could look similar, granting its courts the authority to deem foreign judgments issued in connection with anti-abortion litigation non-recognizable.

CONCLUSION

Abortion law is a mess. It would make far more sense to have a nationwide policy. However, left to Congress, the likely outcome would be a nationwide ban on abortion with few exceptions. This would not accurately reflect current public opinion about

199 *Id.*

200 N.Y. C.P.L.R. § 5404(b) (McKinney, Westlaw through L. 2026, chs. 1–49, 61–99) (“Stay - Based upon other grounds. If the judgment debtor shows the supreme court any ground upon which enforcement of a judgment of the supreme court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.”).

201 *Id.* § 302(d) (Westlaw) (“Foreign defamation judgment. The courts of this state shall have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any NY resident, for the purposes of rendering declaratory relief with respect to that person's liability for the judgment, and/or for the purpose of determining whether said judgment should be deemed non-recognizable pursuant to section fifty-three hundred four of this chapter, to the fullest extent permitted by the United States constitution, provided: (1) the publication at issue was published in New York, and (2) that resident or person amenable to jurisdiction in New York (i) has assets in New York which might be used to satisfy the foreign defamation judgment, or (ii) may have to take actions in New York to comply with the foreign defamation judgment.”).

abortion—most Americans do not support total abortion bans.²⁰² Thus, maintaining a state-by-state abortion policy is likely the only way to ensure that abortion access continues to be available in America. Pro-abortion activists must recognize that there is no returning to a pre-*Dobbs* reality, at least for the next two years or longer, without a significant change in political winds. To protect providers and ensure that bodily autonomy remains intact in as many jurisdictions as possible, pro-abortion lawmakers must be able to anticipate the coming challenges from anti-abortion states and tailor their laws to reflect exceptions to the Full Faith and Credit Clause that defend each state's expression of its own police power. Though the continuous passage of state laws with direct reference to other states' laws is a complicated, resource-heavy approach, it is the most pragmatic one in the face of a conservative-majority executive branch, Congress, and Supreme Court.

202 See *Broad Public Support for Legal Abortion Persists 2 Years After Dobbs*, PEW RSCH. CTR. (May 13, 2024), <https://www.pewresearch.org/politics/2024/05/13/broad-public-support-for-legal-abortion-persists-2-years-after-dobbs/> [https://perma.cc/JDR8-UXKW]; *In Swing States, Majorities of Republicans and Democrats Oppose Criminalizing Abortion Before Fetal Viability*, UNIV. MD. SCH. PUB. POL.: PROGRAM FOR PUB. CONSULTATION (Sep. 4, 2024), <https://publicconsultation.org/swing-six-abortion/abortion/> [https://perma.cc/7PVY-AAH4].