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PRESS RELEASE

FACT SHEET: Justice Department Efforts to Protect Reproductive Rights, Health and Justice

Thursday, June 22, 2023

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Office of Public Affairs

In the year since the Supreme Court's decision to overturn *Roe v. Wade*, the Justice Department has worked with commitment and urgency to defend the reproductive freedoms that are protected by federal law. In response to the Court's decision in *Dobbs v. Jackson Women's Health Organization*, the department [established](#) the Reproductive Rights Task Force, which formalized the department's ongoing work to protect reproductive freedoms under federal law.

[Led by Associate Attorney General Vanita Gupta](#), the Task Force consists of senior officials and dedicated staff from across a dozen department components who are working daily to address complex and widespread threats to reproductive health in the wake of *Dobbs*. The Associate Attorney General regularly convenes Task Force meetings, including a meeting on Friday, June 23, to reflect on the department's work in the year since *Dobbs* and prepare for the challenges ahead.

Over the past year, the Task Force has also met with a broad [array](#) of stakeholder groups – ranging from state Attorneys General offices to foreign delegations to members of litigating

and reproductive justice organizations – to discuss the fallout from *Dobbs* and gather information about on-the-ground developments.

The Task Force's [website](#) contains resources for attorneys, state officials, patients and providers.

“The *Dobbs* decision was and is devastating for people and communities across this country,” said Associate Attorney General Vanita Gupta. “We established the Reproductive Rights Task Force to bring a whole-of-department approach to protecting access to reproductive health care. And we remain committed to utilizing every tool at our disposal to protect reproductive freedoms in the days ahead.”

Taking Action to Protect Federal Law and Reproductive Rights: The department continues to monitor state laws and enforcement actions that threaten to infringe on federal protections of reproductive rights. The department takes legal action where appropriate, including by filing affirmative suits or statements of interest and by intervening in private litigation. For instance, in August 2022, the department filed suit against the State of Idaho under the Emergency Medical Treatment and Labor Act (EMTALA), which mandates that every hospital that receives Medicare funds provide necessary stabilizing treatment – including abortion care, in certain instances – to a patient who arrives at an emergency room suffering from a medical condition that could place their life or health in serious jeopardy. The department successfully [obtained](#) a preliminary injunction blocking the enforcement of Idaho’s total ban on abortion as applied to medical care required by EMTALA.

Attorney General Merrick B. Garland has made [clear](#) that the department will defend bedrock constitutional protections of women who reside in states that have blocked access to comprehensive reproductive care: Women must remain free to travel to states in which that care is lawful and, under the First Amendment, individuals must also remain free to inform and counsel each other about the reproductive care that is available across state lines.

Protecting Access to Medication Abortion and Other Reproductive Care: The department is vigorously [defending](#) the Food and Drug Administration (FDA) against multiple legal challenges concerning the abortion medication mifepristone. On April 21, the Supreme Court issued a stay in *Alliance for Hippocratic Medicine v. FDA*, which means that mifepristone – a safe and effective medication that FDA approved more than two decades ago – will remain available nationwide as that case continues to make its way through the courts. Among other challenges, the department is also defending the Centers for Medicare & Medicaid Services in [litigation](#) concerning guidance on the emergency care guaranteed by EMTALA, as well as the Department of Veterans Affairs (VA) in [litigation](#) concerning the VA’s interim final rule allowing access to reproductive health services at VA clinics.

Advising Federal Agencies and Employees: The department is advising federal agencies as they consider policies and actions to preserve access to reproductive services. For example, the Office of Legal Counsel has published [opinions](#) concluding that: the VA had authority to adopt an interim final rule allowing access to reproductive health services at VA clinics; the Department of Defense may lawfully provide funds to enable servicemembers and their dependents to travel out of state for abortion care; and the Department of Health and Human Services can provide transportation to women seeking abortions without violating the Hyde Amendment. The Office of Legal Counsel also published an opinion advising the U.S. Postal Service that the federal Comstock Act does not generally prohibit the mailing of mifepristone.

In addition, the department has made [clear](#) that it will support and provide representation to any federal employees who are subject to legal actions for appropriately carrying out their duties under federal law.

FACE Act Enforcement: The Civil Rights Division continues its ongoing enforcement of the Freedom of Access to Clinic Entrances, or FACE, Act. The FACE Act prohibits anyone from obstructing access to reproductive health services –including abortion services, reproductive health services provided by pharmacies and pregnancy counseling services –through violence, threats of violence or property damage.

Since January 2021, the department has [brought 18 cases](#) involving a total of 48 defendants accused of criminal FACE Act-related violations. The department is also working to ensure that federal prosecutors across the country are equipped to bring FACE Act cases.

In addition, the department has brought civil actions to enjoin violations of the FACE Act, and our [National Task Force on Violence Against Reproductive Health Care](#) has prepared training for state Attorneys General offices, which can similarly bring civil actions under the FACE Act.

Legal Representation and Access to Justice: Pursuant to Executive Order 14076 on Protecting Access to Reproductive Healthcare Services, the department and the White House Counsel's Office convened pro bono counsel, bar associations, law professors and public interest groups to identify gaps in legal representation and catalyze coordination and action. Coming out of that convening, pro bono counsel and non-profit groups stood up a clearinghouse to provide legal assistance, and the department has continued to meet with lawyers on the front lines to understand the needs and gaps in legal assistance for patients, providers and others.

Provision of Technical Assistance: The department is providing technical assistance to Congress in connection with draft legislation that would, for example, codify reproductive rights, protect the right to travel and ensure access to comprehensive reproductive services. And the department will [provide](#) technical assistance on federal constitutional protections to states that are seeking to afford patients and providers from out of state access to reproductive healthcare and abortion services.