

DISCRIMINATION AND BARRIERS: ABORTION ACCESS FOR DISABLED INDIVIDUALS AFTER *DOBBS*

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Abstract

Dobbs v. Jackson Women’s Health Organization overturned *Roe v. Wade* and *Planned Parenthood v. Casey* in 2022. Since then, fourteen states have banned abortion, with other states shortening gestational limits on abortion procedures. Federal legislation has been introduced to try to mitigate state restrictions regarding abortion, but it has stalled in Congress. This Article examines the impact of banning and limiting abortion care in the United States, specifically on disabled individuals. It provides a brief history of how policies are drafted from ableist mindsets, negatively impacting those with disabilities. It discusses myths surrounding having a disability and highlights the many obstacles that marginalized populations face when accessing not only abortion care but also health care. This Article considers the need to recognize the variety of factors, often overlapping, that constrain an individual’s ability to exercise bodily autonomy.

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Introduction

*Ableism, misinformation, and stigma have long contributed to the barriers people with disabilities face when accessing health care.*¹

There are significant health care barriers for disabled individuals. Up to twenty-seven percent of American adults have a disability.² One in four adults with disabilities between the ages of eighteen and forty-four have an unmet health care need due to cost and do not have a usual health care provider.³ One in five adults with disabilities between the ages of forty-five and sixty-four did not have a routine checkup in the past year.⁴ Waiting to obtain health care can lead to poor health outcomes, but it is a reality for many living with disabilities. Many of the avenues for health care access in the United States are developed from an ableist perspective.⁵

While federal protections like the Americans with Disabilities Act (“ADA”), section 504 of the Rehabilitation Act, and section 1557 of the Patient Protection and Affordable Care Act (“ACA”) can help prevent discrimination and create meaningful access, health care can still be inaccessible.⁶ The ADA provides “a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” with “clear, strong, consistent enforceable standards addressing discrimination.”⁷ An individual is disabled if they have a physical or mental

1. *Disability Rights Florida Responds to the Recent Decision by the Supreme Court*, DISABILITY RTS. FLA. (June 24, 2022), https://disabilityrightsflorida.org/newsroom/story/disability_rights_florida_responds_to_the_recent_decision_by_the_supreme_court.

2. *Disability Impacts All of Us*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html> (last updated May 15, 2023).

3. *Id.*

4. *Id.*

5. *People with Disabilities*, CMTY. COMMONS, <https://www.communitycommons.org/entities/2874f239-b508-48b8-b882-c409a47afc5> (last visited Feb. 19, 2024).

6. *Disability Rights Florida Responds to the Recent Decision by the Supreme Court*, *supra* note 1.

7. 42 U.S.C. § 12101(b)(1)-(2).

impairment that substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment.⁸

Narrow doorways, nonadjustable equipment, unreliable transportation, and complicated questionnaires are examples of inaccessibility for disabled individuals.⁹ A medical facility that does not provide speech-output versions of printed forms for patients who are blind or low vision, for example, would not meet the accessibility standard required by the ADA.¹⁰ An examination table that does not lower to where a wheelchair user could be transferred for proper examination would be another example.¹¹

Paternalistic views, coupled with a lack of understanding about disabilities, cause people, including health care providers, to “wrongly assume that people with disabilities do not experience the full range of human emotion” or “should not be allowed to engage in romantic relationships.”¹² Disabled individuals often lack access to reproductive-health information, rendering them unable to make informed choices about their sexual and reproductive health.¹³ They are often denied the right “to conceive, bear, and parent children, whether through forced sterilization or abortion, the denial of assisted reproduction, or the denial of parental rights once their children are born.”¹⁴

Parents have a fundamental liberty interest in the “care, custody, and management of their child.”¹⁵ Parenting and having children are human rights, and those decisions should be made based on an individual’s

8. *Id.* § 12102(1)(A)-(C). A major life activity includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. *See id.* § 12102(2)(A).

9. *Disability Rights Florida Responds to the Recent Decision by the Supreme Court*, *supra* note 1.

10. Anita Silvers et al., *Reproductive Rights and Access to Reproductive Services for Women with Disabilities*, 18 *AMA J. ETHICS* 430, 430 (2016), <https://journalofethics.ama-assn.org/sites/joedb/files/2022-06/joe-1604.pdf>.

11. Elizabeth Pendo, *Disability, Equipment Barriers, and Women’s Health: Using the ADA to Provide Meaningful Access*, 2 *ST. LOUIS U. J. HEALTH L. & POL’Y* 15, 24 (2008).

12. *Disability Rights Florida Responds to the Recent Decision by the Supreme Court*, *supra* note 1.

13. Robyn M. Powell, *From Carrie Buck to Britney Spears: Strategies for Disrupting the Ongoing Reproductive Oppression of Disabled People*, 107 *VA. L. REV. ONLINE* 246, 268 (2021) [hereinafter Powell, *From Carrie Buck to Britney Spears*].

14. Samuel R. Bagenstos, *Disability and Reproductive Justice*, 14 *HARV. L. & POL’Y REV.* 273, 276 (2020).

15. *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

preferences.¹⁶ However, these rights are not absolute. The “State has an urgent interest in the welfare of the child”¹⁷ and can act to protect the child from harm, even going so far as to terminate parental rights.¹⁸

In a Minnesota study, parents with disabilities were more likely to be referred to child-welfare agencies than parents without a disability.¹⁹ Involvement with the child-welfare system results in fractured families, sometimes leading to permanent separation.²⁰ “The pervasive and persistent discrimination experienced by parents with disabilities is rooted in eugenics ideologies that presume that parents with disabilities are inherently unfit to care for their children.”²¹ Disabled individuals understand that societal systems, from courtrooms to surgical suites, feel ownership over their bodies.²² As such, they experience discrimination and barriers in exercising reproductive autonomy. “Reproductive justice understands that these communities also face barriers to accessing contraception, comprehensive sex education, prenatal care, living wages to support their families, supportive workplace policies, intimate partner violence assistance, and much more.”²³ Reproductive and disability justice intersect, as both use human-rights-based frameworks.²⁴ Both advocate for the right to raise children with dignity, the right to access one’s health care needs without stigma, and the right to bodily autonomy.²⁵

16. NAT’L P’SHIP FOR WOMEN & FAM. & AUTISTIC SELF ADVOC. NETWORK, ACCESS, AUTONOMY, AND DIGNITY: PEOPLE WITH DISABILITIES AND THE RIGHT TO PARENT 4 (2021) [hereinafter PEOPLE WITH DISABILITIES AND THE RIGHT TO PARENT], <https://nationalpartnership.org/wp-content/uploads/2023/02/repro-disability-parenting.pdf>; see also LORETTA ROSS & RICKIE SOLINGER, REPRODUCTIVE JUSTICE 47 (2017).

17. *Lassiter v. Dep’t of Soc. Servs.*, 452 U.S. 18, 27 (1981).

18. *Id.* at 28.

19. NAT’L COUNCIL ON DISABILITY, ROCKING THE CRADLE: ENSURING THE RIGHTS OF PARENTS WITH DISABILITIES AND THEIR CHILDREN 78 (2012), <https://heller.brandeis.edu/parents-with-disabilities/pdfs/rocking-the-cradle.pdf>.

20. *Id.*

21. Robyn M. Powell, *Family Law, Parents with Disabilities, and the Americans with Disabilities Act*, 57 FAM. CT. REV. 37, 39 (2019).

22. See PEOPLE WITH DISABILITIES AND THE RIGHT TO PARENT, *supra* note 16, at 13.

23. *Id.* at 3.

24. Emily DiMatteo et al., *Reproductive Justice for Disabled Women: Ending Systemic Discrimination*, CTR. FOR AM. PROGRESS (Apr. 13, 2022), <https://www.americanprogress.org/article/reproductive-justice-for-disabled-women-ending-systemic-discrimination/>.

25. *Id.*

Abortion restrictions threaten bodily autonomy, which is “a core principle of the disability rights movement.”²⁶ Laws that obstruct access to abortion care negatively impact disabled individuals. These obstacles have intensified since the United States Supreme Court ruled in *Dobbs v. Jackson Women’s Health Organization* that there is no constitutional right to an abortion and returned the issue to states to resolve.²⁷ This decision overruled *Roe v. Wade* and *Planned Parenthood v. Casey*.²⁸

Following *Dobbs*, abortion bans and restrictions exploded across the United States. As of May 25, 2022, forty-two states have introduced more than 500 abortion restrictions.²⁹ As of June 1, 2024, forty-one abortion restrictions have been enacted across the states.³⁰ The impact of abortion restrictions are “not felt equally, with many systemically marginalized groups facing disproportionate burdens and challenges to accessing abortion.”³¹ As of July 1, 2024, fourteen states ban abortion outright, three have six-week bans, two have twelve-week bans, one state has a fifteen-week ban, and one has an eighteen-week ban.³² It is estimated that up to twenty-six states will likely ban abortion, and 52.3% of disabled women of reproductive age live in those states.³³

26. Press Release, Am. Ass’n of People with Disabilities, AAPD Statement on the Overturning of *Roe v. Wade* (June 24, 2022), <https://www.aapd.com/aapd-statement-on-the-overturning-of-roe-v-wade/>.

27. *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 243 (2022).

28. *Id.* at 301-04.

29. Elizabeth Nash et al., *2022 State Legislative Sessions: Abortion Bans and Restrictions on Medication Abortion Dominate*, GUTTMACHER INST. (May 26, 2022), <https://www.guttmacher.org/article/2022/03/2022-state-legislative-sessions-abortion-bans-and-restrictions-medication-abortion>.

30. *State Bans on Abortion Throughout Pregnancy*, GUTTMACHER INST. (June 1, 2024), <https://www.guttmacher.org/state-policy/explore/state-policies-later-abortions>.

31. Becca Damante & Kierra B. Jones, *A Year After the Supreme Court Overturned *Roe v. Wade*, Trends in State Abortion Laws Have Emerged*, CTR. FOR AM. PROGRESS (June 15, 2023), <https://www.americanprogress.org/article/a-year-after-the-supreme-court-overturned-roe-v-wade-trends-in-state-abortion-laws-have-emerged/>.

32. *Tracking the States Where Abortion Is Banned*, N.Y. TIMES (July 1, 2024, 1:26 PM), <https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html>.

33. Katherine Gallagher Robbins et al., *Abortion Bans Harm More Than 15 Million Women of Color*, NAT’L P’SHIP FOR WOMEN & FAMS. (June 2023), <https://nationalpartnership.org/report/state-abortion-bans-harm-woc/>.

One hundred days after *Dobbs*, sixty-six clinics across fifteen states stopped offering abortions.³⁴ Medical experts warn that there will be a rise in maternal deaths because of the abortion bans.³⁵ Mississippi's ban on abortion, which led to the *Dobbs* decision, has resulted in no abortion providers left in the state.³⁶ Mississippi has the second-highest maternal mortality rate in the country, and more than half of Mississippi's counties are classified as "maternity-care deserts" where there are no birthing facilities or obstetric providers.³⁷ Almost a quarter of women in Mississippi have no birthing hospital within a half-hour drive.³⁸ Researchers at the National Institutes of Health found that disabled pregnant persons have a higher risk for severe pregnancy- and birth-related complications—which include death—than other pregnant persons in the United States.³⁹ The study also found that disabled individuals are more likely to live in poverty, which can make accessing health care "in a timely manner difficult."⁴⁰ Additionally, those with physical disabilities may also find it difficult to access health care services.⁴¹ Because individuals with disabilities are more likely to have

34. Marielle Kirstein et al., *100 Days Post-Roe: At Least 66 Clinics Across 15 US States Have Stopped Offering Abortion Care*, GUTTMACHER INST. (Oct. 6, 2022), <https://www.guttmacher.org/2022/10/100-days-post-roe-least-66-clinics-across-15-us-states-have-stopped-offering-abortion-care>.

35. Aria Bendix, *Travel Time for Abortions Tripled and Requests for Pills Soared, Investigations into Effects of Supreme Court Ruling Show*, NBC NEWS (Nov. 1, 2022, 1:58 PM), <https://www.nbcnews.com/health/health-news/abortion-bans-supreme-court-dobbs-decision-health-impacts-rcna54896>.

36. Amy Schoenfeld Walker, *Most Abortion Bans Include Exceptions. In Practice, Few Are Granted.*, N.Y. TIMES (Jan. 21, 2023), <https://www.nytimes.com/interactive/2023/01/21/us/abortion-ban-exceptions.html>.

37. Kate Royals, *'Death at Your Toes': A Look Inside a Mississippi Maternity Care Desert*, MISS. TODAY (Nov. 3, 2022), <https://mississippitoday.org/2022/11/03/mississippi-maternity-care-desert/>.

38. Charlotte Alter, *She Wasn't Able to Get an Abortion. Now She's a Mom. Soon She'll Start 7th Grade.*, TIME (Aug. 14, 2023, 6:00 AM), <https://time.com/6303701/a-rape-in-mississippi/>.

39. Press Release, Nat'l Insts. of Health, NIH Study Suggests Women with Disabilities Have Higher Risk of Birth Complications and Death (Dec. 15, 2021), <https://www.nih.gov/news-events/news-releases/nih-study-suggests-women-disabilities-have-higher-risk-birth-complications-death>.

40. *Id.*

41. *Id.*

unmet health needs than people without disabilities, their risk of poor health outcomes is increased.⁴²

This Article starts with a brief history in three different areas to provide context about what disabled individuals face when seeking health and abortion care. Part I discusses ableism and eugenics in the United States, evidencing how both have permeated policies to the detriment of those with disabilities. It then discusses the reproductive justice and disability justice movements and how they overlap in advocating for a comprehensive review of factors that constrain an individual's freedom in bodily autonomy. Part I concludes by examining some of the abortion cases before the United States Supreme Court. This is not meant to be a comprehensive review of every abortion case before the Court but rather a review of those cases that have specifically been impacted by *Dobbs*.

Part II highlights the difficulties disabled individuals face in accessing health care, beginning by discussing several myths about this population. It then identifies specific barriers and discrimination that negatively impact abortion access. Part III identifies recent federal legislation introduced to address obstacles in obtaining abortion care, specifically for disabled populations. Finally, it discusses the importance of legislation that attempts to mitigate restrictions passed by states hostile to abortion care.

I. A Brief History

*The reproductive oppression experienced by people with disabilities is woven into our laws, policies, and collective conscience.*⁴³

A. Ableism and Eugenics

Ableism perceives disabled individuals as “inferior.”⁴⁴ It can be internalized, interpersonal, institutional, and structural.⁴⁵ Ableism permeates

42. Elham Mahmoudi & Michelle A. Meade, *Disparities In Access to Health Care Among Adults with Physical Disabilities: Analysis of a Representative National Sample for a Ten-Year Period*, 8 *DISABILITY & HEALTH J.* 182, 187 (Apr. 2015).

43. Robyn M. Powell, *Disability Reproductive Justice*, 170 *U. PA. L. REV.* 1851, 1855 (2022) [hereinafter Powell, *Disability Reproductive Justice*].

44. Robyn M. Powell, *Confronting Eugenics Means Finally Confronting Its Ableist Roots*, 27 *WM. & MARY J. RACE, GENDER & SOC. JUST.* 607, 621 (2021).

45. *Id.* at 607, 622. Talila L. Lewis offers a working definition of ableism:
A system that places value on people's bodies and minds based on societally constructed ideas of normality, intelligence, excellence, desirability, and

reproductive health care policy with the idea that “bodies only carry value when they can bear equally healthy offspring.”⁴⁶ The United States does not have a good track record in providing ethical health care to disabled individuals and marginalized populations. Forced sterilization, or eugenics, was used throughout the twentieth century to control “undesirable” individuals, including immigrants, people of color, poor people, unmarried mothers, the disabled, and those with mental illness.⁴⁷ “[E]ugenicists advocated [for] state intervention in regulating immigration and reproduction”⁴⁸ as an effort to promote public health.⁴⁹ State legislatures passed statutes limiting reproductive rights, founded on “[t]he idea that the human race [could] be gradually improved and social ills simultaneously eliminated through a program of selective procreation.”⁵⁰

In 1924, Virginia adopted the Eugenic Sterilization Act, permitting forced sterilization, and the Virginia Racial Integrity Act, criminalizing miscegenation and interracial marriage.⁵¹ The Eugenic Sterilization Act was challenged in *Buck v. Bell*.⁵² Eugenics targeted the “‘feebleminded,’ a loose designation that included people who were mentally [disabled], women considered to be excessively interested in sex, and various other categories

productivity. These constructed ideas are deeply rooted in anti-Blackness, eugenics, misogyny, colonialism, imperialism and capitalism. This form of systemic oppression leads to people and society determining who is valuable and worthy based on a person’s language, appearance, religion and/or their ability to satisfactorily [re]produce, excel and “behave.” You do not have to be disabled to experience ableism.

Talila L. Lewis, *January 2021 Working Definition of Ableism*, TALILA L. LEWIS BLOG (Jan. 1, 2021), <https://www.talilalewis.com/blog/january-2021-working-definition-of-ableism> (alteration in original).

46. Asha Hassan et al., *Dobbs and Disability: Implications of Abortion Restrictions for People with Chronic Health Conditions*, 58 HEALTH SERVS. RSCH. 197, 198 (2023).

47. Lisa Ko, *Unwanted Sterilization and Eugenics Programs in the United States*, PUB. BROAD. SYST.: INDEP. LENS (Jan. 29, 2016), <https://www.pbs.org/independentlens/blog/unwanted-sterilization-and-eugenics-programs-in-the-united-states/>.

48. SARA DUBOW, *OURSELVES UNBORN: A HISTORY OF THE FETUS IN MODERN AMERICA* 36 (2011).

49. Paul A. Lombardo, *Medicine, Eugenics, and the Supreme Court: From Coercive Sterilization to Reproductive Freedom*, 13 J. CONTEMP. HEALTH L. & POL’Y 1, 4 (1997).

50. *Id.* at 1.

51. 12 VA. ADMIN CODE § 35-240-10 (1924); Act of Mar. 20, 1924 (Virginia Racial Integrity Act), ch. 371, 1924 Va. Acts. 534. The Virginia Racial Integrity Act would be challenged in *Loving v. Virginia*, 388 U.S. 1, 11 (1967). In *Loving*, the Court held the Virginia Racial Integrity Act and accompanying laws limiting interracial marriage were unconstitutional. *See id.* at 12.

52. 274 U.S. 200, 205 (1927).

of individuals who offended the middle-class sensibilities of judges and social workers.”⁵³ Carrie Buck resided with her mother at the State Colony for Epileptics and Feeble Minded when she was ordered to be sterilized.⁵⁴ Carrie argued the statute was unconstitutional and a violation of the Fourteenth Amendment.⁵⁵ The Supreme Court dismissed Carrie’s arguments saying that they were the “usual last resort of constitutional arguments.”⁵⁶ Justice Holmes wrote that it is better for the public to not wait to “execute degenerate offspring for crime, or to let them starve for their imbecility” but to prevent the “manifestly unfit from continuing their kind.”⁵⁷ He opined that “[t]hree generations of imbeciles are enough,”⁵⁸ referencing Carrie, her mother, and Carrie’s seven-month-old daughter.⁵⁹ Following the Court’s opinion, more than thirty states passed involuntary-sterilization laws.⁶⁰ The Supreme Court laid down a clear line. “The State’s interest in preventing the procreation of socially inadequate offspring outweighs the [disabled person’s] right to control his or her own reproductive destiny.”⁶¹ *Buck v. Bell* has not been overruled. It has been almost one hundred years since *Buck* was decided, and yet disabled individuals “continue to endure reproductive oppression, including forced sterilization or abortion.”⁶²

The Supreme Court revisited the idea of eugenics in *Skinner v. Oklahoma*.⁶³ Oklahoma’s Habitual Criminal Sterilization Act permitted

53. ADAM COHEN, *IMBECILES: THE SUPREME COURT, AMERICAN EUGENICS, AND THE STERILIZATION OF CARRIE BUCK* 5 (2016).

54. *Buck*, 274 U.S. at 205.

55. *Id.*

56. *Id.* at 208.

57. *Id.* at 207.

58. *Id.*

59. Jana Leslie-Miller, *From Bell to Bell: Responsible Reproduction in the Twentieth Century*, 8 MD. J. CONTEMP. LEGAL ISSUES 123, 123-24 (1997).

60. Eric M. Jaegers, Note, *Modern Judicial Treatment of Procreative Rights of Developmentally Disabled Persons: Equal Rights to Procreation and Sterilization*, 31 U. LOUISVILLE J. FAM. L. 947, 954 (1992).

61. *Id.* at 947, 954. Carrie eventually married and was found to be of average intelligence—she grieved the loss of her fertility. See Leslie-Miller, *supra* note 59, at 129. Additionally, Carrie’s daughter did not have an intellectual disability. See PAUL A. LOMBARDO, *THREE GENERATIONS, NO IMBECILES: EUGENICS, THE SUPREME COURT, AND BUCK V. BELL* 220 (2008).

62. Robyn M. Powell, *Including Disabled People in the Battle to Protect Abortion Rights: A Call-To-Action*, 70 UCLA LAW REVIEW 774, 794 (2023) [hereinafter Powell, *Including Disabled People*].

63. *Skinner v. Oklahoma*, 316 U.S. 535, 536 (1942).

sterilization of male or female habitual criminals.⁶⁴ The law was concerned with state-mandated forced sterilization of those who could pass along the undesirable trait of “habitual criminality” instead of “mental defects” like in *Buck v. Bell*.⁶⁵ Justice Douglas wrote the opinion with a narrow focus, relying upon the Fourteenth Amendment’s Equal Protection Clause to find that Oklahoma’s law deprived certain individuals of the right to produce offspring.⁶⁶ He said the Oklahoma law “involves one of the basic civil rights of man” and “[m]arriage and procreation are fundamental to the very existence and survival of the race.”⁶⁷ In his conference notes, Justice Douglas differentiated *Buck* and *Skinner*. He wrote that “[m]oronic minds are different. No statistics as to criminals.”⁶⁸ The Court was convinced by *Skinner*’s argument that no evidence showed he “could in fact transmit to offspring mental or physical characteristics imposing unnecessary burdens upon society.”⁶⁹

During the twentieth century, about 70,000 Americans were forcibly sterilized.⁷⁰ California alone forcibly sterilized approximately 20,000 individuals in state institutions.⁷¹ The state’s eugenics law was repealed in

64. *Id.*

65. Ariela R. Dubler, Essay, *Sexing Skinner: History and the Politics of the Right to Marry*, 110 COLUM. L. REV. 1348, 1356 (2010).

66. *Skinner*, 316 U.S. at 541.

67. *Id.*

68. Lombardo, *supra* note 49, at 18 (quoting Justice William O. Douglas, Supreme Court Conference Notes (Apr. 11, 1942) (unpublished) (on file with Manuscript Division, Library of Congress)).

69. Appellate Brief of Petitioner at 14, *Skinner v. Oklahoma*, 316 U.S. 535 (1942) (No. 782), 1942 WL 54254.

70. *The Supreme Court Ruling That Led to 70,000 Forced Sterilizations*, NAT’L PUB. RADIO (NPR) (Mar. 7, 2016), <https://www.npr.org/sections/health-shots/2016/03/07/469478098/the-supreme-court-ruling-that-led-to-70-000-forced-sterilizations>.

71. Approximately 20,000 sterilizations took place in state institutions across the thirty-two states where it was legal. See Andrea Estrada, *The Politics of Female Biology and Reproduction*, UC SANTA BARBARA: THE CURRENT (Apr. 6, 2015), <https://www.news.ucsb.edu/2015/015287/politics-female-biology-and-reproduction>. During the 1970s, “Native Americans accused the Indian Health Service [“IHS”] of sterilizing at least twenty-five percent of Native American women who were between the ages of fifteen and forty-four.” Jane Lawrence, *The Indian Health Service and the Sterilization of Native American Women*, 24 AM. INDIAN Q. 400, 400 (2000). IHS records did not document whether sterilizations had been voluntary or therapeutic in over three thousand sterilizations performed between 1973 and 1976. *Id.* at 400, 407. The consent forms did not specify whether patients were properly informed about risks or alternatives to sterilization. *Id.* at 409. On November 6, 1976, the Government Accounting Office released a report stating IHS “had not followed the necessary

1979,⁷² but California prisons continued forced sterilization from 2006 through 2013.⁷³ During that period, 144 incarcerated females were sterilized, and thirty-nine of those sterilizations were performed without consent.⁷⁴ The majority of the women sterilized were Black and Latina.⁷⁵ The California State Auditor Report noted the “true number of inmates for whom Corrections or the Receiver’s Office did not ensure that lawful consent was obtained before sterilization may be higher.”⁷⁶ The audit found that most of the women that were sterilized tested at less than a high school level of reading proficiency, with approximately one-third reading below the sixth-grade level.⁷⁷ Following the audit, the California governor signed a bill banning prisons from sterilizing incarcerated individuals without their consent.⁷⁸ The bill passed the state’s assembly and senate chambers unanimously.⁷⁹

As of 2021, thirty-one states and Washington D.C. have laws permitting forced sterilization.⁸⁰ Iowa and Nevada enacted laws permitting forced sterilization as recently as 2019.⁸¹ Seventeen states permit forced sterilization of disabled children.⁸² Women with intellectual and developmental

regulations and that the informed consent forms did not adhere to the standards set by [the Department of Health, Education, and Welfare.]” *Id.* at 406.

72. Estrada, *supra* note 71.

73. See Shilpa Jindia, *Belly of the Beast: California’s Dark History of Forced Sterilizations*, THE GUARDIAN (June 30, 2020, 6:00 AM), <https://www.theguardian.com/us-news/2020/jun/30/california-prisons-forced-sterilizations-belly-beast>.

74. Corey G. Johnson, *Female Prison Inmates Sterilized Illegally, California Audit Confirms*, REVEAL (June 19, 2014), <https://revealnews.org/article/female-prison-inmates-sterilized-illegally-california-audit-confirms/>; see also CAL. STATE AUDITOR, REPORT NO. 2013-120, STERILIZATION OF FEMALE INMATES: SOME INMATES WERE STERILIZED UNLAWFULLY, AND SAFEGUARDS DESIGNED TO LIMIT OCCURRENCES OF THE PROCEDURE FAILED 20 (2014), <https://www.auditor.ca.gov/pdfs/reports/2013-120.pdf>.

75. Jindia, *supra* note 73.

76. See CAL. STATE AUDITOR, *supra* note 74, at 1 n.2.

77. *Id.* at 37-38.

78. *California Governor Signs Inmate Sterilization Ban*, REUTERS (Sept. 25, 2014, 10:22 PM), <https://www.reuters.com/article/us-usa-california-prisons/california-governor-signs-inmate-sterilization-ban-idUSKCN0HL07720140926>.

79. *Id.*

80. NAT’L WOMEN’S L. CTR., FORCED STERILIZATION OF DISABLED PEOPLE IN THE UNITED STATES 13 (2021), https://nwlc.org/wp-content/uploads/2022/01/%C6%92.NWLC_SterilizationReport_2021.pdf.

81. *Id.* at 28.

82. *Id.* at 34.

disabilities are more likely to be sterilized than women without these disabilities.⁸³

There is also a history of disabled individuals being restricted from entering into marriage. In 1974, a study found that about forty states had laws restricting those with intellectual disabilities from entering into a valid marriage because they did not make “competent marriage partners.”⁸⁴ Currently in the United States, disabled adults who receive Supplemental Security Insurance (“SSI”) would have those benefits reduced or rescinded upon getting married.⁸⁵ Medicaid benefits hinge on SSI; should someone lose their SSI benefits, they may also lose their Medicaid benefits.⁸⁶ Lori Long, a disabled person whose partner is not disabled, said the policy is frustrating and unfair. “When they wrote the Social Security laws, they weren’t thinking that young people with disabilities would ever be marriage material. . . . People didn’t think we might have dreams and hopes like everybody else. We do.”⁸⁷

B. The Intersection of Reproductive Justice and Disability Justice

Intersectionality describes the meeting of different oppressions, not just how an individual describes their identity.⁸⁸ It is important to understand intersectionality when thinking about the reproductive justice and disability justice movements, as it is a fundamental aspect of both.⁸⁹ Kimberle Crenshaw introduced the term in her 1989 article “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics.”⁹⁰ Crenshaw discussed how systems oppressing Black women overlap and argued that placing marginalized individuals in the center was “the most

83. *Id.* at 8.

84. PRESIDENT’S COMM. ON MENTAL RETARDATION, OHD 74-21002, SILENT MINORITY 33 (1974), <https://www.ojp.gov/pdffiles1/Digitization/46976NCJRS.pdf>.

85. Mackenzie Saunders, *The Right to Marry: Barriers to Intimacy for Persons with Disabilities*, HARV. L. SCH. PROJECT ON DISABILITY (Mar. 31, 2023), <https://hpod.law.harvard.edu/news/entry/right-to-marry>.

86. *Id.*

87. Tammy LaGorce, *Seeking Marriage Equality for People with Disabilities*, N.Y. TIMES (June 21, 2023), <https://www.nytimes.com/2022/08/25/style/marriage-equality-disabled-people.html>.

88. Loretta J. Ross, *Reproductive Justice as Intersectional Feminist Activism*, 19 SOULS 286, 286-87 (2017).

89. Powell, *From Carrie Buck to Britney Spears*, *supra* note 13, at 261.

90. Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 140.

effective way to resist efforts to compartmentalize experiences and undermine potential collective action.”⁹¹

Reproductive justice was a term coined in 1994 by twelve Black women working in the reproductive health and rights movements.⁹² It is based on “three interconnected sets of human rights: (1) the right to have a child under the conditions of one’s choosing; (2) the right not to have a child using birth control, abortion, or abstinence; and (3) the right to parent children in safe and healthy environments.”⁹³ Reproductive justice examines the ways various factors intersect to constrain an individual’s reproductive freedom, specifically in marginalized communities.⁹⁴

Factors in society that influence someone’s freedom and constrain someone’s choice include racism, sexism, poverty, carceral status, immigration status, and ability.⁹⁵ Additionally, policies enacted within a society can often interconnect in ways that significantly impact how individuals bear and raise children. As Loretta J. Ross, one of the twelve founders of the reproductive justice movement, submits, “[n]early every field of human endeavor affects and is affected by reproductive politics because empires need bodies.”⁹⁶ By forcing pregnancy, the state ensures its next generation of workers while placing a disproportionate burden and risk on disabled individuals.⁹⁷ Ross wrote, “intersectionality is the process; human rights are the goal.”⁹⁸ Regarding abortion, reproductive justice promotes looking beyond the choice to obtain an abortion to the factors influencing that choice.⁹⁹ It is imperative to consider the context of the pregnant person’s life before pregnancy occurs to see if the pregnant person has “economic security, a life free from domestic violence, or the right to stay in school or a

91. *Id.* at 167.

92. Ross, *supra* note 88, at 290. The twelve women who were the founding mothers of the concept of reproductive justice were: Toni M. Bond, Reverend Alma Crawford, Evelyn S. Field, Terri James, Bisola Maringay, Cassandra McConnell, Cynthia Newbille, Loretta J. Ross, Elizabeth Terry, “Able” Mabel Thomas, Winnette P. Willis, and Kim Youngblood. *Id.* at 307.

93. *Id.* at 290.

94. Powell, *From Carrie Buck to Britney Spears*, *supra* note 13, at 258.

95. Ross, *supra* note 88, at 291.

96. *Id.* at 292.

97. Julie C. Suk, *A World Without Roe: The Constitutional Future of Unwanted Pregnancy*, 64 WM. & MARY L. REV. 443, 448 (2022).

98. Ross, *supra* note 88, at 293.

99. Bagenstos, *supra* note 14, at 281.

bedroom to put a child in, or a whole lot of other human rights issues, all of those issues affect their reproductive decision making.”¹⁰⁰

Disability justice was conceived in 2005 by members of the Disability Justice Collaborative.¹⁰¹ Sins Invalid, a disability justice-based performance project, developed a framework of ten fundamental principles of disability justice.¹⁰² These include intersectionality, leadership of those most impacted, anti-capitalist politics, cross-movement solidarity, recognizing wholeness, sustainability, commitment to cross-disability solidarity, interdependence, collective access, and collective liberation.¹⁰³ Disability justice is described as “a vision and practice of what is yet-to-be, . . . a movement towards a world in which every body and every mind is known as beautiful.”¹⁰⁴

Samuel R. Bagenstos, professor and general counsel to the United States Department of Health and Human Services, submits that the disability justice movement finds consensus in two basic principles: an opposition to paternalism and the idea that disability results “from the interaction between a person’s physical or mental attributes and the contingent social decisions that make particular opportunities or environments incompatible with those attributes.”¹⁰⁵ It relies on community and grassroots organization.¹⁰⁶ Disability justice “seeks to radically transform social conditions and norms in order to affirm and support all people’s inherent right to live and thrive.”¹⁰⁷ To do so means “unearthing and understanding the inextricable links between ableism and other systems of oppression.”¹⁰⁸

The reproductive justice movement and disability justice movement each create a framework where marginalized people are centered. The movements work to transform existing local, state, and federal policies into policies that

100. April Simpson, *A Reproductive Justice Pioneer on What the Abortion Debate Misses*, CTR. FOR PUB. INTEGRITY (Jan. 13, 2023), <https://publicintegrity.org/inside-publici/newsletters/watchdog-newsletter/a-reproductive-justice-pioneer-on-what-the-abortion-debate-misses/>.

101. LEAH LAKSHMI PIEPZNA-SAMARASINHA, *CARE WORK: DREAMING DISABILITY JUSTICE* 15 (2018).

102. See *10 Principles of Disability Justice*, SINS INVALID, https://static1.squarespace.com/static/5bed3674f8370ad8c02efd9a/t/5f1f0783916d8a179c46126d/1595869064521/10_Principles_of_DJ-2ndEd.pdf (last visited Apr. 8, 2024).

103. *Id.*

104. *Id.*

105. Bagenstos, *supra* note 14, at 277-78.

106. Powell, *From Carrie Buck to Britney Spears*, *supra* note 13, at 261.

107. Talila L. Lewis, *Disability Justice Is an Essential Part of Abolishing Police and Prisons*, MEDIUM (Oct. 7, 2020), <https://level.medium.com/disability-justice-is-an-essential-part-of-abolishing-police-and-prisons-2b4a019b5730>.

108. *Id.*

respect the bodily autonomy of all citizens, including those who have been historically isolated or controlled in their decision making. Over time in the United States, disabled individuals “have withstood a complex web of reproductive oppression that connects history to contemporary treatment in culture, medicine, and law.”¹⁰⁹ It is critical to center those who have been denied bodily autonomy and learn from their experiences in order to effectively dismantle oppressive structural systems.

C. Abortion and the Supreme Court

The Supreme Court decided *Roe v. Wade* in 1973, establishing a fundamental right to privacy, including the choice to have an abortion.¹¹⁰ The Court developed a trimester approach for states to use in regulating abortion.¹¹¹ As Melissa Murray wrote, the decision in *Roe* was founded on several assumptions.

First, it assumed a certain degree of affluence and access—women choosing an abortion ostensibly had access to medical care, and as such, made their decisions in consultation with medical professionals. Relatedly, *Roe* framed abortion as the “choice” of whether or not to have a child, irrespective of the background conditions that might inform or shape such choices. It offered no quarter to those women whose reproductive “choices” were shadowed by economic insecurity, the absence of safe and affordable childcare, and racial and gender injustice. Nor did *Roe* venture beyond the issue of terminating a pregnancy to consider the conditions necessary to exercise the “choice” to bear and raise a child to adulthood.¹¹²

However, *Roe* did not settle disputes surrounding the ability to obtain abortion care. Law professors Alison Whelan and Michele Goodwin argue that “*Roe* was never a ‘north star’ for reproductive freedom, but rather an

109. Powell, *Including Disabled People*, *supra* note 62, at 782.

110. *Roe v. Wade*, 410 U.S. 113, 155 (1973).

111. *Id.* at 164.

112. Melissa Murray, *Race-ing Roe: Reproductive Justice, Racial Justice, and the Battle for Roe v. Wade*, 134 HARV. L. REV. 2049-50 (2021); *see also* Rebecca L. Rausch, *Reframing Roe: Property over Privacy*, 27 BERKELEY J. GENDER L. & JUST. 28, 31 (2012); Michele Goodwin & Erwin Chemerinsky, *Pregnancy, Poverty, and the State*, 127 YALE L.J. 1270, 1330 (2018) (reviewing KHIARA M. BRIDGES, *THE POVERTY OF PRIVACY RIGHTS* (2017)); Linda C. McClain, *The Poverty of Privacy?*, 3 COLUM. J. GENDER & L. 119, 125 (1992).

important landmark decision to dismantle criminal laws targeting physicians that assisted patients in the termination of pregnancies.”¹¹³

The Hyde Amendment, implemented in 1977, barred the use of federal Medicaid funds for abortion except when the life of woman would be endangered by carrying the pregnancy to term.¹¹⁴ It was the legislative response to *Roe*'s legalization of abortion as an effort to stop individuals from obtaining abortion care.¹¹⁵ Regarding the amendment, Representative Henry Hyde said: “I would certainly like to prevent, if I could legally, anybody having an abortion: a rich woman, a middle class woman, or a poor woman. Unfortunately, the only vehicle available is the . . . Medicaid bill.”¹¹⁶ In *Harris v. McRae*, the Supreme Court held that states participating in Medicaid did not have to fund medically necessary abortions because of the Hyde Amendment.¹¹⁷ Justice Thurgood Marshall dissented, recognizing that the burden of the Hyde Amendment would fall on “financially destitute women”¹¹⁸ and that a substantial proportion of indigent women were “members of minority races.”¹¹⁹ He reminded the Court of his dissent in *Maher v. Roe* a few years before, where he wrote about the importance of government benefits for the poor.¹²⁰

If funds for an abortion are unavailable, a poor woman may feel that she is forced to obtain an illegal abortion that poses a serious threat to her health and even her life If she refuses to take this risk, and undergoes the pain and danger of state-financed pregnancy and childbirth, she may well give up all chance of escaping the cycle of poverty. Absent day-care facilities, she will be forced into full-time child care for years to come; she will be unable to work so that her family can break out of the welfare system or the lowest income brackets. If she already has children, another infant to feed and clothe may well stretch the budget past

113. Allison M. Whelan & Michele Goodwin, *Abortion Rights and Disability Equality: A New Constitutional Battleground*, 79 WASH. & LEE L. REV. 965, 969 (2022).

114. *Access Denied: Origins of the Hyde Amendment and Other Restrictions on Public Funding for Abortion*, AM. C.L. UNION (Dec. 1, 1994), <https://www.aclu.org/documents/access-denied-origins-hyde-amendment-and-other-restrictions-public-funding-abortion>.

115. *The Hyde Amendment Creates an Unacceptable Barrier to Women Getting Abortions*, NAT'L WOMEN'S L. CTR. (Apr. 21, 2017), <https://nwlc.org/resource/hyde-amendment-creates-unacceptable-barrier-women-getting-abortions/>.

116. *Id.*

117. *Harris v. McRae*, 448 U.S. 297, 326 (1980).

118. *Id.* at 343 (Marshall, J., dissenting).

119. *Id.*

120. *See Maher v. Roe*, 432 U.S. 454, 458-59 (1977) (Marshall, J., dissenting).

the breaking point. All chance to control the direction of her own life will have been lost.¹²¹

The Hyde Amendment also disproportionately impacts disabled individuals because the majority are covered by Medicaid or Medicare.¹²² As a result, many disabled individuals are blocked from obtaining abortion services because of cost.

Additionally, state legislation began to chip away at *Roe*'s guarantees.¹²³ States passed TRAP laws—targeted regulations of abortion providers—designed to make abortion access increasingly difficult for women.¹²⁴ These statutes are designed to “cripple access to safe, legal abortions”¹²⁵ and are “uniquely harmful for persons for whom travel is impossible or burdensome.”¹²⁶ Examples of TRAP laws include requiring physicians to have admitting privileges in a nearby hospital, clinics to be equipped with ambulatory surgical centers with specific corridor widths, and clinics to be licensed the same as an ambulatory surgical center.¹²⁷ TRAP laws also impact patients directly by requiring waiting periods, inaccurate counseling prior to the procedure, and state-mandated ultrasounds.¹²⁸ Facially, TRAP laws appear to be passed in the spirit of protecting those who are having abortions.¹²⁹ However, these laws are passed with the ultimate goal of “shutting down clinics.”¹³⁰

In *Planned Parenthood v. Casey*, the Court upheld *Roe* but held that a state regulation is only unconstitutional if it creates an “undue burden” on the woman’s right to choose to have an abortion, defining “undue burden” as a “substantial obstacle in the path of a woman seeking an abortion before the

121. *Id.*

122. Powell, *Including Disabled People*, *supra* note 62, at 832.

123. *Targeted Regulation of Abortion Providers*, GUTTMACHER INST. (Aug. 31, 2023), <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>. Dawn Porter’s documentary, *Trapped*, provides a thorough and exhaustive examination of abortion clinics in Southern states. TRAPPED (Trilogy Films 2016).

124. Jennifer L. Brinkley, *Sanctuary Cities and Counties for the Unborn: The Use of Resolutions and Ordinances to Restrict Abortion Access*, 41 N. ILL. U. L. REV. 63, 70 (2021).

125. MICHELE GOODWIN, *POLICING THE WOMB* 3 (2020).

126. Whelan & Goodwin, *supra* note 113, at 984.

127. *Targeted Regulation of Abortion Providers*, *supra* note 123.

128. Rachel Benson Gold & Elizabeth Nash, *TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price*, GUTTMACHER INST. (June 25, 2013), <https://www.guttmacher.org/gpr/2013/06/trap-laws-gain-political-traction-while-abortion-clinics-and-women-they-serve-pay-price>.

129. *See* Brinkley, *supra* note 124, at 63, 70.

130. Gold & Nash, *supra* note 128.

fetus attains viability.”¹³¹ States continued to pass TRAP laws. Local jurisdictions across the country started enacting resolutions and ordinances declaring localities “a sanctuary for the unborn.”¹³² Most localities did not have existing abortion services within the area and passed resolutions and ordinances to deter abortion providers from setting up services.¹³³

A study conducted between April 2014 and June 2015 of patients who obtained an abortion found that sixty-five percent of the patients traveled less than twenty-five miles, seventeen percent traveled twenty-five to forty-nine miles, ten percent traveled fifty to one hundred miles, and eight percent traveled more than one hundred miles.¹³⁴ The study found nearly half of the abortion patients traveled to the nearest provider, “indicating that distance is an important determinant of abortion access.”¹³⁵ Regional state disparities grew more pronounced in the years between 2014 and 2017.¹³⁶ While clinics increased in the Northeast and West, they decreased in the Midwest and the South by six percent and nine percent.¹³⁷ Travel times for abortion care increased in these areas of the country. Abortion facility closures have caused a “substantial decrease” in access to abortion.¹³⁸ In a recent study of 856 individuals considering abortion in the United States, “greater travel distance to reach an abortion facility was associated with delays in access and prevention of access to wanted abortion care.”¹³⁹

Texas’ House Bill 2 required clinics to have ambulatory surgical centers and physicians to have admitting privileges at a hospital within thirty miles

131. Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 878 (1992)

132. Brinkley, *supra* note 124, at 70.

133. *Id.* at 133.

134. Liza Fuentes & Jenna Jerman, *Distance Traveled to Obtain Clinical Abortion Care in the United States and Reasons for Clinic Choice*, 28 J. WOMEN’S HEALTH 1623, 1625 (2019).

135. *Id.* at 1629.

136. RACHEL K. JONES et al., GUTTMACHER INST., ABORTION INCIDENCE AND SERVICE AVAILABILITY IN THE UNITED STATES, 2017 (2019), https://www.guttmacher.org/sites/default/files/report_pdf/abortion-incidence-service-availability-us-2017.pdf.

137. *Id.*

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

139. Elizabeth A. Pleasants et al., *Association Between Distance to an Abortion Facility and Abortion or Pregnancy Outcome Among a Prospective Cohort of People Seeking Abortion Online*, JAMA NETWORK OPEN, May 13, 2022, article no. e2212065, <https://jamanetwork.com/journals/jamanetworkopen/article-abstract/2792291>.

of the clinic.¹⁴⁰ This was found to be an undue burden by the Court in *Whole Women's Health v. Hellerstedt*.¹⁴¹ The House Bill led to the closure of approximately half of the clinics in Texas, causing the number of women of reproductive age living more than 200 miles from a clinic to increase from 10,000 to 290,000.¹⁴² The Court recognized that the increased distance did not in itself create an undue burden; however, when coupled with other factors resulting from the closures of clinics, and in light of the fact that there was no health *benefit* for the restrictions in House Bill 2, the undue burden conclusion was clearly supported.¹⁴³ As of 2017, eighty-nine percent of counties in the United States did not have an abortion facility¹⁴⁴ and there were twenty-seven “abortion deserts,” cities populated with over 100,000 people who had to travel over one hundred miles to reach an abortion clinic.¹⁴⁵ Traveling to other states may not be an option—particularly for those with low incomes, childcare obligations, or disabilities.¹⁴⁶

In *Dobbs v. Jackson Women's Health Organization*, the Supreme Court held that there is no constitutional right to abortion, overruling *Roe* and *Casey*.¹⁴⁷ Nearly fifty years of reliance on *Roe* unraveled. The Court returned the abortion issue to the states, allowing “women on both sides of the abortion issue to seek to affect the legislative process.”¹⁴⁸ The dissent described a post-*Roe* future where “women will come of age with fewer rights than their mothers and grandmothers had.”¹⁴⁹ The dissent also predicted that *Dobbs* would bring about “interstate conflicts” and put “the Court at the center” of future “interjurisdictional abortion wars.”¹⁵⁰

140. *Whole Women's Health v. Hellerstedt*, 579 U.S. 582, 591 (2016). It was abrogated by *Dobbs* in 2022. See *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 231 (2022).

141. *Hellerstedt*, 579 U.S. at 614.

142. *Id.*

143. *Id.*

144. JONES ET AL., *supra* note 136.

145. *Abortion Deserts*, UNIV. CAL. S.F.: ADVANCING NEW STANDARDS IN REPROD. HEALTH, <https://www.ansirh.org/abortion/restrictions/abortion-deserts> (last visited Apr. 8, 2024).

146. Alvin Chang et al., *Abortion Deserts: America's New Geography of Access to Care - Mapped*, THE GUARDIAN (June 24, 2022, 2:01 PM), <https://www.theguardian.com/world/2022/jun/24/abortion-laws-by-state-map-clinics>.

147. *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 231 (2022).

148. *Id.* at 289.

149. *Id.* at 411 (Breyer, J., dissenting).

150. *Id.* at 394.

There now exists a “patchwork of state-level abortion laws” across the United States.¹⁵¹ The American Association of People with Disabilities (“AAPD”) wrote that *Dobbs* would “cause grave, and in many cases, lethal, bodily harm to far too many disabled people, especially those who already face the most significant barriers to accessing reproductive health care Abortion care is vital health care that needs to be accessible, funded, and recognized.”¹⁵²

Upon the ruling, some states, including Arkansas, South Dakota, Kentucky, Louisiana, Missouri, and Oklahoma, immediately outlawed abortions through “trigger laws.”¹⁵³ Now, fourteen states have banned abortion.¹⁵⁴ The majority of those states are in the South.¹⁵⁵ Georgia and South Carolina ban abortion at six weeks, while Nebraska and North Carolina ban abortion at twelve weeks.¹⁵⁶ Arizona has a fifteen-week ban in place, and Utah has an eighteen week ban.¹⁵⁷ Litigation related to these bans is ongoing across the United States.¹⁵⁸ Instead of passing restrictions on abortion care, lawmakers should “address the pervasive health inequities that disabled people experience.”¹⁵⁹

Scholars have been sounding the alarm that “abortion travel will become an essential part of the post-*Roe* reality, [and] there will be [continued] attempts to outlaw it.”¹⁶⁰ A survey conducted in June 2022 found seventy-seven percent of Americans oppose laws making it illegal to cross state lines to obtain an abortion in a state where it remains legal.¹⁶¹ The Thomas More

151. Yvonne Lindgren, *Dobbs v. Jackson Women’s Health and the Post-Roe Landscape*, 35 J. AM. ACAD. MATRIMONIAL LAW. 235, 236 (2022).

152. Press Release, Am. Ass’n of People with Disabilities, *supra* note 26.

153. See, e.g., Dana Branham & Chris Casteel, *End of Roe Makes Abortion a Crime in Oklahoma As State’s Abortion ‘Trigger’ Law Takes Effect*, THE OKLAHOMAN (June 24, 2022, 7:20 PM), <https://www.oklahoman.com/story/news/2022/06/24/roe-v-wade-scotus-means-oklahoma-abortion-trigger-law/7623055001/>.

154. *Tracking the States Where Abortion Is Banned*, *supra* note 32.

155. *Id.*

156. *Id.*

157. Oriana González, *Where Abortion Has Been Banned Now That Roe v. Wade Is Overturned*, AXIOS (Aug. 23, 2023), <https://www.axios.com/2022/06/25/abortion-illegal-7-states-more-bans-coming>.

158. *See id.*

159. Powell, *Including Disabled People*, *supra* note 62, at 799.

160. David S. Cohen et al., *The New Abortion Battleground*, 123 COLUM. L. REV. 1, 13 (2023).

161. *Political and Religious Activation and Polarization in the Wake of the Roe v. Wade Overturn*, PRRI (July 7, 2022), <https://www.prii.org/research/political-and-religious-activation-and-polarization-in-the-wake-of-the-roe-overturn/>.

Society, a conservative legal organization, began drafting model legislation allowing private citizens to sue residents going out of state to seek an abortion.¹⁶² Attorney General Merrick Garland responded to concerns about travel restrictions and potential punitive measures by saying “bedrock constitutional principles” were in place to allow pregnant persons to seek care in states where abortion was legal.¹⁶³ The Biden-Harris administration proposed changing the Health Insurance Portability and Accountability Act (HIPAA) to prevent a person’s information from being disclosed to investigate, sue, or prosecute them for seeking abortion care.¹⁶⁴ On June 16, 2023, nineteen Republican attorneys general signed a letter addressed to the United States Department of Health and Human Services stating their opposition to the rule change.¹⁶⁵ The attorneys general, citing *Dobbs*, said the rule would “interfere with States’ authority to enforce their laws.”¹⁶⁶ In July 2023, abortion rights advocates in Alabama sued Alabama’s attorney general to prevent him from prosecuting individuals helping patients travel outside of Alabama for abortion care.¹⁶⁷ In response to the lawsuit, Alabama’s Attorney General Steve Marshall argued that the state has the authority to bring conspiracy charges against those who help women travel outside of Alabama to obtain an abortion.¹⁶⁸ The Attorney General’s filing argued “[a]n elective abortion performed in Alabama would be a criminal offense; thus, a

162. Caroline Kitchener & Devlin Barrett, *Antiabortion Lawmakers Want to Block Patients from Crossing State Lines*, WASH. POST (June 30, 2022, 8:30 AM), <https://www.washingtonpost.com/politics/2022/06/29/abortion-state-lines/>.

163. Devlin Barrett, *After Roe Ruling, Garland Gears Up for Next Legal Battles*, WASH. POST (June 24, 2022, 3:14 PM), <https://www.washingtonpost.com/national-security/2022/06/24/garland-abortion-justice-ru486/>.

164. *Fact Sheet: Biden-Harris Administration Highlights Commitment to Defending Reproductive Rights and Actions to Protect Access to Reproductive Health Care One Year After Overturning of Roe v. Wade*, THE WHITE HOUSE (June 23, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/23/fact-sheet-biden-harris-administration-highlights-commitment-to-defending-reproductive-rights-and-actions-to-protect-access-to-reproductive-health-care-one-year-after-overturning-of-roe-v-wade/>.

165. Letter from Lynn Fitch, Att’y Gen. of Mississippi, et al., to Xavier Becerra, Sec’y of Health & Hum. Servs. (June 16, 2023), <https://www.mississippifreepress.org/wp-content/uploads/2023/07/657773029-Mississippi-AG-opposes-reproductive-care-privacy-rule.pdf>.

166. *Id.*

167. Kim Chandler, *Alabama Health Care Providers Sue over Threat of Prosecution for Abortion Help*, AP NEWS (July 31, 2023, 6:57 PM), <https://apnews.com/article/abortion-alabama-lawsuit-9ed07274058a5fd79b5ba936b00a8380>.

168. *Alabama’s Attorney General Says the State Can Prosecute Those Who Help Women Travel for Abortions*, AP NEWS (Aug. 31, 2023, 3:15 PM), <https://apnews.com/article/alabama-abortion-steve-marshall-2157a7d0bfad02aad1ca41e61fe4de33>.

conspiracy formed in the State to have that same act performed outside the State is illegal.”¹⁶⁹ The lawsuit is still pending as of the writing of this Article.

II. Difficulties in Accessing Health Care

*Individuals who are in positions that do not allow for adequate self-advocacy soon discover that people in authority are only too eager and willing to make these important life-changing decisions for them.*¹⁷⁰

A. Disability and Sexuality Myths

Disabled individuals have historically been seen as “asexual or ‘defective’ and undesirable as sexual partners.”¹⁷¹ Several myths exist surrounding disability, like disabled individuals are asexual, unable to have sex, have more important things than sex to worry about, do not get sexually assaulted, do not need sex education, should only marry and have sexual relationships with other people with disabilities, and should not have children.¹⁷² Maria Town, CEO of AAPD, submits that disabled people are de-sexualized:

We are not seen as sexual beings. In fact, the assumption is that we just don’t have sex when, in reality, disabled people do have sex. We need and deserve accessible, affordable reproductive and informed reproductive health care, and that includes abortion.¹⁷³

In reality, people with disabilities have sex and want to start families.¹⁷⁴

Reproductive autonomy should not be denied for those with disabilities, including physical, intellectual, sensory, and psychiatric disabilities.¹⁷⁵ It

169. *Id.*

170. Vanessa Volz, Note, *A Matter of Choice: Women with Disabilities, Sterilization, and Reproductive Autonomy in the Twenty-First Century*, 27 WOMEN’S RTS. L. REP. 203, 216 (2006).

171. Virginia Kallianes & Phyllis Rubinfeld, *Disabled Women and Reproductive Rights*, 12 DISABILITY & SOC’Y 203, 204 (1997).

172. Fact Sheet, *Myths and Misperceptions of Disability and Sexuality*, SEXUALITY & DISABILITY CONSORTIUM: UIC DEP’T DISABILITY & HUMAN DEV. (2015), <https://perma.cc/V2BJ-SWVE>.

173. Char Adams, *Disability Rights Groups Are Fighting for Abortion Access—and Against Ableism*, NBC NEWS (July 21, 2022, 7:00 AM), <https://www.nbcnews.com/news/us-news/disability-rights-groups-are-fighting-abortion-access-ableism-rcna38703>.

174. Jamie Ducharme, *For People with Disabilities, Losing Abortion Access Can Be a Matter of Life or Death*, TIME (Jan. 25, 2023, 10:09 AM), <https://time.com/6248104/abortion-access-people-with-disabilities/>.

175. Powell, *Disability Reproductive Justice*, *supra* note 43, at 1855.

should also not be assumed that all disabled individuals have the same desires regarding sexual and reproductive freedom.¹⁷⁶ Disabled individuals report that clinicians make assumptions related to their disabilities instead of seeing patients as unique individuals.¹⁷⁷ “Experiences of disability are unique, although symptoms across disabilities can be similar.”¹⁷⁸ Whether disabilities are intellectual or physical, providers should have conversations with their patients on the patient’s level of understanding.¹⁷⁹

Education is critical in improving public health outcomes.¹⁸⁰ Recent studies have shown that disabled individuals often receive inadequate or no reproductive health counseling because clinicians do not ask about sexual activity.¹⁸¹ Medical providers may approach disabled individuals with paternal bias, attempting to control the individual’s sexuality.¹⁸² Parents of disabled individuals acting as guardian may be uncomfortable with the idea of their adult child engaging in sexual activity, resulting parents withholding accurate sexual education and isolating the disabled individual.¹⁸³ This isolation can leave disabled individuals vulnerable to sexual abuse.¹⁸⁴ Disabled individuals are three times more likely to experience violent crimes like rape and sexual assault than those without disabilities.¹⁸⁵

Dr. Amy Houtrow, Professor of Physical Medicine and Rehabilitation and Pediatrics at the University of Pittsburgh School of Medicine, says health care providers need to understand that people with disabilities are “sexual beings” and are “curious about intimacy and relationships and engag[e] in

176. Kallianes & Rubenfeld, *supra* note 171, at 205.

177. Willi Horner-Johnson et al., *Experiences of Women with Disabilities in Accessing and Receiving Contraceptive Care*, 50 J. OBSTETRIC, GYNECOLOGIC & NEONATAL NURSING 732, 736 (2021).

178. Martin G. Brodwin & Pauline Cheryl Frederick, *Sexuality and Societal Beliefs Regarding Persons Living with Disabilities*, J. REHAB., Oct.-Dec. 2010, at 37, 40.

179. *People with Disabilities Often Left Out of Contraceptive Conversation*, CONTRACEPTIVE TECH. UPDATE (Apr. 1, 2022), <https://www.reliasmedia.com/articles/149207-people-with-disabilities-often-left-out-of-contraceptive-conversation>.

180. Jennifer L. Brinkley & Nicole Niebuhr, *Period Poverty and Life Strains: Efforts Made to Erase Stigma and to Expand Access to Menstrual Hygiene Products*, 11 IND. J. L. & SOC. EQUAL. 1, 15 (2023).

181. *People with Disabilities Often Left Out of Contraceptive Conversation*, *supra* note 179.

182. Kallianes & Rubenfeld, *supra* note 171, at 206.

183. *Id.*

184. *Id.* at 207.

185. *Sexual Violence and the Disability Community*, CTR. FOR AM. PROGRESS (Feb. 12, 2021), <https://www.americanprogress.org/article/sexual-violence-disability-community/>.

sexual opportunities.”¹⁸⁶ When their needs are ignored, disabled individuals are more likely to experience unintended pregnancy, have cancer caught at later stages, and experience higher rates of pregnancy complications.¹⁸⁷ People with disabilities need “specific contraception information” for their disability.¹⁸⁸ Access to contraception is a critical component of health care.¹⁸⁹ Meaningful access to contraception means the person has the necessary information to choose whether to use it or not. Decreased access to contraception, as well as inadequate reproductive health care, can increase the possibility of an unintended pregnancy, which can result in the need for abortion care.¹⁹⁰ The ability to access abortion when needed gives disabled individuals autonomy over their bodies.

B. Barriers and Bias

Disabled individuals are four times more likely to report their health to be fair or poor than people without disabilities.¹⁹¹ Disabled individuals are less likely to have health care providers and routine check-ups.¹⁹² As a group, they fare much worse than nondisabled individuals across a range of health indicators and social determinants of health.¹⁹³

Disabled individuals are 2.5 times more likely to report skipping or delaying health care because of cost, are less likely to have current

186. *People with Disabilities Often Left Out of Contraceptive Conversation*, *supra* note 179.

187. *Disability Rights Florida Responds to the Decision by the Supreme Court*, *supra* note 1.

188. *People with Disabilities Often Left Out of Contraceptive Conversation*, *supra* note 179. They are entitled to this information. The Supreme Court ruled the Constitution protected the right of marital privacy against state statutes on contraception. *Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965). In another contraception case before the Supreme Court, it was held that prohibiting contraceptives from single persons violated equal protection. *Eisenstadt v. Baird*, 405 U.S. 438, 454-55 (1972). Justice Brennan wrote “it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.” *Id.* at 453. *Roe* would be decided the following year.

189. NAT’L P’SHIP FOR WOMEN & FAM. & AUTISTIC SELF ADVOC. NETWORK, ACCESS, AUTONOMY, AND DIGNITY: CONTRACEPTION FOR PEOPLE WITH DISABILITIES 5 (2021), <https://nationalpartnership.org/wp-content/uploads/2023/02/repro-disability-contraception.pdf>.

190. Powell, *Including Disabled People*, *supra* note 62, at 805-06.

191. Gloria L. Krahn et al., *Persons with Disabilities as an Unrecognized Health Disparity Population*, 105 AM. J. PUB. HEALTH (SUPP. 2) S198, S198 (2015).

192. *Disability Impacts All of Us*, *supra* note 2.

193. Krahn et al., *supra* note 191, at S201.

mammograms or pap smears, and report higher rates of chronic diseases.¹⁹⁴ They are twice as likely to be poor as compared to someone without a disability.¹⁹⁵ Moreover, disabled individuals are more likely to *stay* poor because of barriers to obtaining an education and finding stable employment.¹⁹⁶ As of 2015, one in five disabled adults were unemployed.¹⁹⁷ Based on United States census data between 2019 and 2020, the poverty rate for those aged eighteen to sixty-four with a disability increased from 22.5% to 25%.¹⁹⁸ For that same group of individuals without a disability, the poverty rate increased from 8.4% to 9.3%.¹⁹⁹ Most individuals with disabilities self-report that they lack “even modest precautionary savings in case of an unexpected expense.”²⁰⁰ Being disabled is expensive as there are extra daily costs of living that nondisabled individuals do not experience.²⁰¹ Disabled individuals have costs for medication, adaptive equipment, and personal assistant services that are necessary expenses for survival.²⁰² Across the world, these extra daily costs can range from an average of \$1,170 to \$6,952 per year.²⁰³ A recent study found that a United States household with a disabled adult who has limited ability to work requires, on average, twenty-eight percent more income to maintain the same standard of living as a

194. *Id.*

195. Pam Fessler, *Why Disability and Poverty Still Go Hand in Hand 25 Years After Landmark Law*, NAT’L PUB. RADIO (NPR) (July 23, 2015, 3:38 PM), <https://www.npr.org/sections/health-shots/2015/07/23/424990474/why-disability-and-poverty-still-go-hand-in-hand-25-years-after-landmark-law>.

196. Sophie Mitra et al., *The Hidden Extra Costs of Living with a Disability*, THE CONVERSATION (July 25, 2017, 9:45 PM), <https://theconversation.com/the-hidden-extra-costs-of-living-with-a-disability-78001>.

197. *17.5 Percent of People with a Disability Employed in 2015*, U.S. BUREAU OF LAB. STAT. (June 24, 2016), <https://www.bls.gov/opub/ted/2016/17-point-5-percent-of-people-with-a-disability-employed-in-2015.htm>.

198. See EMILY A. SHRIDER ET AL., U.S. CENSUS BUREAU, *INCOME AND POVERTY IN THE UNITED STATES: 2020*, at 15 (2021), <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-273.pdf>.

199. *Id.* Individuals were defined as disabled “if they [had] serious difficulty hearing; seeing; walking or climbing stairs; dressing or bathing; concentrating, remembering, or making decisions; or conducting independent activities such as doing errands alone, visiting a doctor’s office, or shopping.” *Id.* at 18 n.50.

200. Rebecca Vallas & Shawn Fremstad, *Disability Is a Cause and Consequence of Poverty*, TALK POVERTY (Sept. 19, 2014), <https://talkpoverty.org/2014/09/19/disability-cause-consequence-poverty/>.

201. Mitra et al., *supra* note 196.

202. Powell, *Including Disabled People*, *supra* note 62, at 801 n.173.

203. Mitra et al., *supra* note 196.

household without a disabled adult, or an additional \$17,690 per year.²⁰⁴ Disabled individuals have lower incomes, less savings, and higher expenses than those without a disability.²⁰⁵

Medicaid is the largest source of funding for health-related services for poor and low-income individuals; however, not all qualify.²⁰⁶ The limitations of government benefits make it difficult, if not impossible, to accumulate savings.²⁰⁷ As of 2019, Medicaid covered over eighty-seven million people, including over ten million people with disabilities.²⁰⁸ Some states have programs that use state funds to cover health care for poor and low-income individuals that are more generous than the federal Medicaid program.²⁰⁹ In a recent study of birth outcomes among women with intellectual and developmental disabilities, Medicaid and Medicare were the most common payers for delivery whereas private insurance was the most common payer for nondisabled women.²¹⁰

There has been “historic segregation and isolation” coupled with “explicit exclusion” in “working with people with disabilities.”²¹¹ Lack of training among health care providers can cause disabled patients to feel like they are treated as “other” in the health care system.²¹² Physical barriers exist with equipment that may not adjust, steps or doorways too narrow for wheelchair users, doors too heavy to open, ramps not available in lieu of steps, or x-ray

204. Nanette Goodman et al., *The Extra Costs of Living with a Disability in the U.S.—Resetting the Policy Table* (Nat’l Disability Inst. Working Paper, 2020), <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2020/10/extra-costs-living-with-disability-brief.pdf>.

205. Powell, *Including Disabled People*, *supra* note 62, at 801.

206. CTR. FOR REPRODUCTIVE RTS., WHOSE CHOICE? HOW THE HYDE AMENDMENT HARMS POOR WOMEN 9 (n.d.), https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Hyde_Report_FINAL_nospreads.pdf.

207. Liz Bowen, *Dobbs Is a Disaster for Disability Justice*, SOC’Y FOR CULTURAL ANTHROPOLOGY (Oct. 3, 2022), <https://culanth.org/fieldsights/dobbs-is-a-disaster-for-disability-justice>.

208. *Medicaid Enrollees by Enrollment Group*, KAISER FAM. FOUND. (2019), <https://www.kff.org/medicaid/state-indicator/distribution-of-medicaid-enrollees-by-enrollment-group/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

209. *See* CTR. FOR REPRODUCTIVE RTS., *supra* note 206, at 11.

210. Ilhom Akobirshoev et al., *Birth Outcomes Among US Women with Intellectual and Developmental Disabilities*, 10 *DISABILITY HEALTH J.* 406, 408 (2017).

211. Krahn et al., *supra* note 191, at S204.

212. Richard Besser, *Disability Inclusion: Shedding Light on an Urgent Health Equity Issue*, ROBERT WOOD JOHNSON FOUND. (Dec. 2, 2019), <https://www.rwjf.org/en/insights/blog/2019/12/disability-inclusion-shedding-light-on-an-urgent-health-equity-issue.html>.

and mammography machines that cannot move for patients who are unable to stand.²¹³ Patients with disabilities can have difficulty completing clinic forms.²¹⁴ Blind patients have reported that the form process can violate their right to privacy because someone must read the form to them in a public waiting room.²¹⁵ Deaf patients have reported that getting interpreters for medical appointments can be challenging, with inconsistencies in the interpreter's ability varying from doctor to doctor.²¹⁶ For an individual with limited mobility, securing reliable transportation to medical providers can be another hardship.²¹⁷ This problem is exacerbated in rural areas, where lacking physical infrastructure like sidewalks or public transit can make accessing transportation difficult—if not impossible.²¹⁸

Pregnancy can place disabled individuals at even greater risk.²¹⁹ “Pregnancy can be disabling for many people, but people with chronic health conditions must consider pregnancy as a potential *further* disabling event.”²²⁰ The risk of death associated with childbirth is approximately fourteen times greater than undergoing an abortion.²²¹ People with certain physical disabilities have a larger risk of pregnancy-related complications, like low birth weight or cesarean delivery.²²² Some disabled individuals who take medication to manage health conditions may be unable to use that medication during pregnancy; thus, they must decide whether to “suddenly end

213. *Factsheet: How to Make Healthcare Accessible for All*, REHAB. RSCH. & TRAINING CTR. 1-2 (2017), https://agerrtc.washington.edu/sites/agerrtc/files/files/HealthcareAccess_20170621_final.pdf.

214. Horner-Johnson et al., *supra* note 177, at 738.

215. *Id.* at 735.

216. *Id.*

217. *See* Ducharme, *supra* note 174.

218. *Factsheet: How to Make Healthcare Accessible for All*, *supra* note 213, at 1; *Older Adults and People with Disabilities*, RURAL HEALTH INFO. HUB, <https://www.ruralhealthinfo.org/toolkits/transportation/4/population-considerations/older-adults-people-with-disabilities> (last updated June 4, 2019).

219. Ducharme, *supra* note 174.

220. Hassan et al., *supra* note 46, at 198.

221. *ACOG Committee Opinion No. 815: Increasing Access to Abortion*, 136 *OBSTETRICS & GYNECOLOGY* e107, e108 (2020), <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2020/12/increasing-access-to-abortion.pdf>.

222. Caroline Signore et al., *Pregnancy in Women with Physical Disabilities*, 117 *OBSTETRICS & GYNECOLOGY* 935, 942 (2011).

medication,” incurring harmful side effects, “or continue medication that could harm them and their children.”²²³

A recent study found a significant association between women with intellectual and developmental disabilities and elevated risk of adverse birth outcomes.²²⁴ Mothers with intellectual and developmental disabilities were “significantly more likely than other mothers to have preterm deliveries, low birth weight infants, and stillbirths.”²²⁵ In a study conducted by the National Research Center for Parents with Disabilities, respondents who had given birth identified three types of unmet needs for pregnant women with disabilities: clinician knowledge and attitudes, physical accessibility of health care facilities and equipment, and information about pregnancy and postpartum support.²²⁶ Respondents reported their clinicians were less knowledgeable about their specific disability than they would have liked, some clinicians gave inaccurate information, and some clinicians expressed negative views about disabled individuals.²²⁷ One respondent reported that her obstetrician asked her how she was able to be pregnant and jokingly asked whether she used a turkey baster, and another respondent reported that a nurse refused to touch the respondent’s amputated leg while she was in labor.²²⁸ Another nurse told a respondent “it was wonderful that somebody like [her] would still want to have a kid.”²²⁹ Respondents reported inaccessible offices and equipment, like beds, exam tables, and bathrooms.²³⁰ Respondents also have to rely on informal support networks to fill the gaps about disability and pregnancy because providers were not providing information.²³¹ Once children were born, respondents reported a lack of

223. Robyn Powell, *Abortion Is a Disability Issue*, REWIRE NEWS GRP. (May 10, 2022, 9:00 AM), <https://rewirenewsgroup.com/2022/05/10/abortion-is-a-disability-issue/> [hereinafter Powell, *Abortion Is a Disability Issue*].

224. Akobirshoev et al., *supra* note 210, at 406-12.

225. *Id.* at 410.

226. Monika Mitra et al., *Pregnancy Among Women with Physical Disabilities: Unmet Needs and Recommendations on Navigating Pregnancy*, 9 *DISABILITY & HEALTH J.* 457, 457 (2016), <https://www.sciencedirect.com/science/article/abs/pii/S1936657415002125?via%3Dihub>; *see also* NAT’L RSCH. CTR. FOR PARENTS WITH DISABILITIES, *PREGNANCY AMONG WOMEN WITH PHYSICAL DISABILITIES: UNMET NEEDS AND RECOMMENDATIONS ON NAVIGATING PREGNANCY 2* (2016), <https://heller.brandeis.edu/parents-with-disabilities/pdfs/mitra2-unmet-needs-pd.pdf>.

227. Mitra et al., *supra* note 226, at 461.

228. *Id.* at 459.

229. *Id.*

230. *Id.*

231. *Id.* at 460, 462.

information about where to locate accessible equipment, like cribs or changing tables.²³²

Robyn Powell, Erin Andrews, and Kara Ayers published an important study about the barriers disabled individuals face in accessing health care before, during, and after pregnancy.²³³ Original data collected from interviews with disabled parents identified three specific barriers: physical, communicative, and programmatic.²³⁴ Physical barriers are “architectural barriers and inaccessible medical diagnostic equipment.”²³⁵ Communication barriers include failure to provide interpreters for Deaf patients or nonbirthing parents.²³⁶ Programmatic barriers are insufficient “policies and procedures about caring for parents with disabilities, negative attitudes, and lack of knowledge.”²³⁷ One of the participants, a blind mother, cried in the delivery room after undergoing an emergency cesarean section because the head nurse asked, “[H]ow are you going to do this, you’re blind, how are you going to take care of your son?”²³⁸ A father with a physical disability described having to teach medical providers on the maternity floor about how to transfer his disabled spouse, saying, “[Y]ou kind of learn how to do that when you live with a disability—learn how to teach others how to help you.”²³⁹

Disabled individuals need information regarding all aspects of reproductive health care, including how to access abortion care. The American College of Obstetricians and Gynecologists states that safe, legal abortion is a necessary component of women’s health care.²⁴⁰ In the United States, one quarter of women will obtain an abortion by forty-five years of age.²⁴¹ Though data indicate that abortions are safe, they remain stigmatized and politicized, resulting in abnormal regulation.²⁴² However, polling indicates that sixty-one percent of Americans believe abortion should be

232. *Id.*

233. Robyn M. Powell et al., *Becoming a Disabled Parent: Eliminating Access Barriers to Health Care Before, During, and After Pregnancy*, 96 TUL. L. REV. 369, 369-70 (2022).

234. *Id.* at 370.

235. *Id.*

236. *See id.* at 384.

237. *Id.* at 370.

238. *Id.* at 408.

239. *Id.* at 410.

240. ACOG Committee Opinion No. 815: *Increasing Access to Abortion*, *supra* note 221, at e108.

241. *Id.*

242. Brinkley, *supra* note 124, at 65.

legal in all or most cases.²⁴³ Now that states have control over abortion regulation, access is severely restricted and dependent upon the individual's state of residence.²⁴⁴ Some states ban certain insurance providers, like those that administer ACA marketplace plans and Medicaid, from covering abortion while others do not restrict abortion coverage.²⁴⁵ As of November 2022, medication abortion can cost between \$580 and \$800, and surgical abortions can cost between \$715 and \$2,000.²⁴⁶ When having to pay out of pocket for abortion care, the cost for the procedure alone can swallow an entire month or two of government benefits. Disabled individuals are already at severe economic disadvantage prior to seeking abortion care; increased abortion care restrictions will continue to "worsen these inequities."²⁴⁷

Abortion providers are becoming increasingly scarce as new restrictions are passed.²⁴⁸ Facility closures have resulted in a "substantial decrease in access to abortion care in the US."²⁴⁹ Mary Ziegler and Rachel Rebouché, experts in the area of reproductive health law, argue that "[t]he next frontier of abortion definition battles will be *where* an abortion occurs."²⁵⁰ They posit that bans create questions about how pregnancy, miscarriage, and abortion will now be defined and how those definitions will overlap.²⁵¹ Those seeking abortion care need "access to the method of abortion that feels right to them or is the safest for their body."²⁵²

The conversation needs to change from choice to access, as Robyn Powell argues, because a legal right to abortion does not mean anything if disabled individuals cannot access it.²⁵³ In 2020, medication abortions accounted for

243. Hannah Hartig, *About Six-in-Ten Americans Say Abortion Should Be Legal in All or Most Cases*, PEW RSCH. CTR. (June 13, 2022), <https://www.pewresearch.org/short-reads/2022/06/13/about-six-in-ten-americans-say-abortion-should-be-legal-in-all-or-most-cases-2/>.

244. Allison M. Whelan, *Aggravating Inequalities: State Regulation of Abortion and Contraception*, 46 HARV. J. L. & GENDER 131, 133-34 (2023).

245. *How Much Does an Abortion Cost?*, PLANNED PARENTHOOD (Nov. 2022), <https://www.plannedparenthood.org/blog/how-much-does-an-abortion-cost>.

246. *Id.*

247. Powell, *Including Disabled People*, *supra* note 62, at 804.

248. Powell, *Disability Reproductive Justice*, *supra* note 43, at 1873.

249. Rader et al., *supra* note 138, at 2041.

250. Rachel Rebouché & Mary Ziegler, *Fracture: Abortion Law and Politics After Dobbs*, 76 SMU L. REV. 27, 62 (2023).

251. *See id.* at 66-67.

252. NAT'L P'SHIP FOR WOMEN & FAMS. & AUTISTIC SELF ADVOC. NETWORK, ACCESS, AUTONOMY, AND DIGNITY: ABORTION CARE FOR PEOPLE WITH DISABILITIES 6 (2021) [hereinafter ABORTION CARE FOR PEOPLE WITH DISABILITIES], <https://nationalpartnership.org/wp-content/uploads/2023/02/repro-disability-abortion.pdf>.

253. *See* Powell, *Disability Reproductive Justice*, *supra* note 43, at 1886.

fifty-three percent of abortions in the United States.²⁵⁴ A medication abortion involves taking two drugs, Mifepristone and Misoprostol, within the first ten weeks of pregnancy to terminate the pregnancy.²⁵⁵ In 2017, 339,640 medication abortions were provided in nonhospital facilities, which was a twenty-five percent increase from 2014.²⁵⁶ The FDA in December 2021 relaxed some federal restrictions on medication abortion, particularly for low-income populations and disabled individuals.²⁵⁷ States continue to restrict access to medication abortion.²⁵⁸ These restrictions include limiting the ability of a physician to prescribe medication, requiring inaccurate risk information to be provided to the patient, requiring patients to take the medication abortion in the clinic, or prohibiting the use of telemedicine.²⁵⁹ For disabled individuals, laws requiring appointments at clinics for medication abortion can be “physically or logistically difficult.”²⁶⁰

A recent study analyzed survey respondents who tried but failed to obtain an abortion.²⁶¹ A twenty-four-year-old respondent from a Southern state described the difficulty caused by the nearest provider being in another state: “I would’ve had to have a consultation appointment before an abortion. It would have caused me to take too much time off work and lose too much money. Also many people already knew about the pregnancy and would’ve judged me.”²⁶² Respondents described barriers like “low hourly wages and a lack of savings that precluded their ability to pay for care, partners who did not or would not contribute to abortion costs, and having to decide between paying essential monthly bills and paying for an abortion.”²⁶³ The need for

254. Rachel K. Jones et al., *Medication Abortion Now Accounts for More Than Half of All US Abortions*, GUTTMACHER INST. (Dec. 1, 2022), <https://www.guttmacher.org/article/2022/02/medication-abortion-now-accounts-more-half-all-us-abortions>.

255. *The Availability and Use of Medication Abortion*, KAISER FAM. FOUND. (Mar. 20, 2024), <https://www.kff.org/womens-health-policy/fact-sheet/the-availability-and-use-of-medication-abortion/>.

256. Jones et al., *supra* note 136.

257. Whelan, *supra* note 244, at 134-35.

258. *The Availability and Use of Medication Abortion*, *supra* note 255.

259. Whelan, *supra* note 244, at 158.

260. Whelan & Goodwin, *supra* note 113, at 996.

261. Heidi Moseson et al., “*It Just Seemed Like a Perfect Storm*”: *A Multi-Methods Feasibility Study on the Use of Facebook, Google Ads, and Reddit to Collect Data On Abortion-Seeking Experiences from People Who Considered But Did Not Obtain Abortion Care in the United States*, 17 PLOS ONE, Mar. 3, 2022, article no. e0264748, at 1, 1, <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0264748&type=printable>.

262. *Id.* at 5.

263. *Id.* at 7.

time off work, childcare costs, and long distance travel were overlapping factors for those unable to seek abortion care. Respondents reported having to drive up to four hours to a clinic and having to stay at a hotel, thereby increasing the costs to an unobtainable amount.²⁶⁴ One respondent, a twenty-five-year-old woman from a Southern state, described the overlapping barriers as a “perfect storm of everything coming together” so that she could not have the procedure.²⁶⁵ At the time of her pregnancy, she faced a four-hour drive across state lines to the nearest clinic, stigma from her partner and family members about having an abortion, and a lack of childcare for her existing child with special needs.²⁶⁶ She regretted not having the procedure, saying that she wished she “would have tried harder [to have the abortion] . . . [A]t the time I did the best I could do.”²⁶⁷

Diana Greene Foster conducted a study over a period of ten years examining the outcomes of what happened when pregnant persons obtained an abortion and what happened when they were turned away. Foster’s book, “The Turnaway Study: Ten Years, a Thousand Women, and the Consequences of Having—or Being Denied—an Abortion,” was published in 2020, prior to *Dobbs*. However, she recognized that “politics drives abortion access in the United States” and the ability of obtaining an abortion depended on where someone lived.²⁶⁸ The data showed that “denying women access to wanted abortions jeopardizes their physical health, economic security, and the well-being of their children.”²⁶⁹ Foster speculated that if *Roe* was overturned by the Court, women with resources would still be able to obtain abortion care.²⁷⁰ However, not all women would have the means to travel and, as a result, would be forced to carry their pregnancy to term.²⁷¹ “[F]or those women, all the burdens outlined in this book—worse physical health, reduced life aspirations, higher exposure to domestic violence, increased poverty, lowered chance of having a wanted pregnancy, worse outcomes for their other children—will result.”²⁷²

Patients are traveling from states where abortion has been outlawed or severely restricted to states where medication abortion or surgical procedures

264. *Id.* at 10.

265. *Id.*

266. *Id.*

267. *Id.* (first alteration in the original).

268. FOSTER, *supra* note 125, at 2.

269. *Id.* at 284.

270. *Id.* at 287.

271. *Id.* at 288.

272. *Id.*

are still legal. For example, abortion is legal in Illinois but outlawed in Missouri.²⁷³ Planned Parenthood in Fairview Heights, Illinois has seen a seven hundred percent increase in abortion patients since *Dobbs*.²⁷⁴ To manage the influx, the facility has expanded its operating schedule to ten-hour days, six days a week.²⁷⁵ Even with those efforts, there is still a two week wait time for abortion care.²⁷⁶ Before *Dobbs*, patients from outside of the state made up approximately seven percent of total patients; now, nearly half of the patients at the location are from outside of the state.²⁷⁷ Two months after *Dobbs*, a health center in New Mexico was already at capacity, having seen eighty percent of its patients coming from out of state.²⁷⁸ When *Roe* was in place, only twenty percent of the center's patients were from out of state.²⁷⁹

Disabled individuals are more than twice as likely to live in poverty than nondisabled individuals.²⁸⁰ Thus, traveling out of state, or even out of county, may be too high a barrier to overcome to access abortion care. Those living in certain areas of the United States may find themselves "locked in a state surrounded by other abortion-hostile states, thus requiring them to travel even further for care."²⁸¹ By the time pregnant individuals can find an accessible clinic and coordinate a transportation plan, they may find themselves outside the state's gestational limit for the abortion.²⁸² With the overturning of *Casey*, so also goes the restriction against spousal notification

273. Justina Coronel, *Tale of Two States: A Year After Roe v. Wade Overturned in Missouri and Illinois*, KSDK (June 22, 2023, 8:21 PM), <https://www.ksdk.com/article/news/local/roe-wade-missouri-illinois-abortion/63-86b3f352-2ebb-424c-a545-2baec503cb47>.

274. *Id.*

275. *Id.*

276. *Id.*

277. *Id.*

278. Reena Diamante, 'We Have Already Reached Capacity': Abortion Clinics Overwhelmed by Out-Of-State Travel, SPECTRUM NEWS NY 1 (Aug. 31, 2022, 3:25 PM), <https://ny1.com/nyc/all-boroughs/politics/2022/08/31/abortion-services-have-taken--emotional-toll--on-patients--advocates-say->.

279. *Id.*

280. Press Release, Nat'l Council on Disability, Highlighting Disability / Poverty Connection, Federal Agency Urges Congress to Alter Federal Policies That Disadvantage People with Disabilities (Oct. 26, 2017), <https://www.prnewswire.com/news-releases/highlighting-disability--poverty-connection-federal-agency-urges-congress-to-alter-federal-policies-that-disadvantage-people-with-disabilities-300544099.html>.

281. Whelan, *supra* note 244, at 175; see also *Interactive Map: US Abortion Policies and Access After Roe*, GUTTMACHER INST., <https://states.guttmacher.org/policies/> (last visited Apr. 9, 2024).

282. Whelan & Goodwin, *supra* note 113, at 997.

for abortion procedures.²⁸³ States may now enact spousal consent laws, which will put those who experience intimate partner violence at risk. This includes disabled individuals, as they are more likely to experience intimate partner violence than those without a disability.²⁸⁴ Lack of accurate information about where to access abortions, gestational limits, long distances to travel for care, and cost of services are all factors that can overlap, compounding one's inability to obtain abortion care.²⁸⁵

Caitlin Myers, a labor economics professor at Middlebury College, collects data on abortion access and compiles it in the Myers Abortion Facility Database.²⁸⁶ In 2022, less than one percent of the United States population was more than two hundred miles from a provider, with the average person twenty-five miles from a provider.²⁸⁷ As of April 2023, fourteen percent of the population was more than two hundred miles from the nearest abortion clinic, with the average person being eighty-six miles from a provider.²⁸⁸ Myers says she cannot study gender differences in the labor market “without studying the effects of family formation and childbearing on women's careers, and you can't study family formation and childbearing without studying reproductive policy.”²⁸⁹ A recent survey found that seventy-five percent of abortion patients are disproportionately poor or low income;²⁹⁰ Myers says this population is credit constrained.²⁹¹ With subprime credit scores, “this is not a population that just hops on a plane easily.”²⁹²

283. Planned Parenthood of Se. Pa. v. Casey, 505 U.S. 833, 887-98 (1992), *overruled by* Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022).

284. Whelan, *supra* note 244, at 177; *see also* *Sexual Violence and Intimate Partner Violence Among People with Disabilities*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/violenceprevention/sexualviolence/svandipv.html> (last updated June 1, 2020).

285. Moseson et al., *supra* note 261, at 2.

286. Caitlin Myers, *Myers Abortion Facility Database*, CTR. FOR OPEN SCI.: OSF HOME, <https://osf.io/8dg7r/> [<https://perma.cc/FJ3B-K459>] (last updated May 16, 2024).

287. Selena Simmons-Duffin & Shelly Cheng, *How Many Miles Do You Have to Travel to Get Abortion Care? One Professor Maps It*, NAT'L PUB. RADIO (NPR) (June 22, 2023, 5:01 AM), <https://www.npr.org/sections/health-shots/2023/06/21/1183248911/abortion-access-distance-to-care-travel-miles>.

288. *Id.*

289. *Id.*

290. JENNA JERMAN ET AL., GUTTMACHER INST., CHARACTERISTICS OF US ABORTION PATIENTS IN 2014 AND CHANGES SINCE 2008 (2016), https://www.guttmacher.org/sites/default/files/report_pdf/characteristics-us-abortion-patients-2014.pdf.

291. Simmons-Duffin & Cheng, *supra* note 287.

292. *Id.*

Because insurance coverage of abortions is restricted across the country and because abortion care is often cost-prohibitive, there are organizations that work to provide funding for abortions. These organizations, through private donations, help pay for abortion care throughout the United States.²⁹³ Abortion funds operate independently, but there is a National Network of Abortion Funds that can provide support to members.²⁹⁴ Some states and local governments have also allocated funds for financial assistance. The Oregon Legislature allocated fifteen million dollars to the Reproductive Health Equity Fund to expand access for vulnerable populations in obtaining reproductive health care.²⁹⁵ The Atlanta City Council passed a resolution donating \$300,000 to Access Reproductive Care Southeast to help people obtain abortion care, particularly those people who travel out of state.²⁹⁶ These efforts attempt to ease financial barriers, which disabled individuals disproportionately experience.

III. Federal Legislative Solutions

For those who are disabled, “reproductive autonomy is rarely prioritized in state policy, health care institutions or clinical practice.”²⁹⁷ Policymakers often lack an informed understanding of the consequences that result from enacting health care laws.²⁹⁸ Understanding how barriers impede abortion care is essential to develop effective policy that will improve access.²⁹⁹ Some Congress members have recently introduced legislation to try to mitigate harm from state abortion restrictions.

Congresswoman Cori Bush, the first Black woman and nurse to represent Missouri,³⁰⁰ has been very active in introducing and co-sponsoring legislation to advocate for reproductive health care. The Protect Sexual and Reproductive Health Act was introduced in June 2023, and it focuses on

293. Anna Bernstein & Benny Del Castillo, *Spotlight on an Abortion Fund: How Funds Help Fill the Gap for Pregnant People in Need*, CENTURY FOUND. (Oct. 12, 2022), <https://tcf.org/content/report/spotlight-on-an-abortion-fund-how-funds-help-fill-the-gap-for-pregnant-people-in-need/>.

294. *Id.*

295. *The Oregon Reproductive Health Equity Fund*, SEEDING JUST., <https://www.seedjustice.org/reproductive-health-equity-fund/> (last visited Aug. 19, 2023).

296. Jess Mador, *Atlanta City Council Approves Donation to an Abortion Fund*, WABE (Aug. 2, 2022), <https://www.wabe.org/atlanta-city-council-approves-donation-to-an-abortion-fund/>.

297. Hassan et al., *supra* note 46, at 197-201.

298. Whelan, *supra* note 244, at 178.

299. Moseson et al., *supra* note 261, at 2.

300. *About Cori*, CORI BUSH, <https://bush.house.gov/about> (last visited Apr. 11, 2024).

improving access to comprehensive sexual and reproductive health care services.³⁰¹ It would establish a \$2.5 billion reproductive health justice and equity grant program to support various community services, including travel expenses, childcare, lodging, medical care, comprehensive sex education, and mobile sexual and reproductive health care clinics.³⁰² It has been referred to the House Energy and Commerce Subcommittee on Health.³⁰³ Congresswoman Bush also co-sponsored the Right to Contraception Act, introduced by Representative Kathy Manning in June 2023.³⁰⁴ The purpose of the act is “[t]o protect an individual’s ability to access contraceptives” as well as protect a medical “provider’s ability to provide contraceptives, contraception, and information related to contraception.”³⁰⁵ It has been referred to the Subcommittee on Health.³⁰⁶

Identical bills in both the House and Senate were introduced in June 2023, titled the Reproductive Health Travel Fund Act of 2023.³⁰⁷ The findings in support of the Act recognized that *Dobbs* “decimated access for millions of people in the United States.”³⁰⁸

(5) People have always had abortions and always will, even in the face of legal, financial, and logistical barriers, or criminalization. While some will self-manage their abortions, and have the option of using pills that are medically safe and effective, many others are traveling hundreds of miles out of State, or are forced to carry pregnancies to term.

(6) Just months after the *Dobbs* decision, one-third of women of reproductive age in the United States faced excessive travel times for abortion. For residents of States that had banned

301. *Protect Sexual and Reproductive Health Act*, CORI BUSH, https://bush.house.gov/imo/media/doc/one_pager_protect_sexual_and_reproductive_health_act.pdf (last visited Apr. 11, 2024).

302. *Id.*

303. *H.R. 4281 - Protect Sexual and Reproductive Health Act*, CONGRESS.GOV, <https://www.congress.gov/bill/118th-congress/house-bill/4281> (last visited Apr. 11, 2024).

304. *H.R. 4121 - Right to Contraception Act*, CONGRESS.GOV., <https://www.congress.gov/bill/118th-congress/house-bill/4121/cosponsors> (last visited Apr. 11, 2024).

305. Right to Contraception Act, H.R. 2121, 118th Cong. (2023).

306. *Id.*

307. Press Release, Cori Bush, Bush, Strickland, Baldwin, Murray, Fletcher Launch Bicameral Push to Create Reproductive Health Travel Fund Release (June 22, 2023), <https://bush.house.gov/media/press-releases/bush-strickland-baldwin-murray-fletcher-launch-bicameral-push-to-create-reproductive-health-travel-fund>.

308. Reproductive Health Travel Fund Act, S. 2152, 118th Cong. § 2(2) (2023).

abortion, travel times increased by more than 4 hours on average. . . .

(7) Longer travel times lead to a host of other burdens for abortion patients, including the cost of transportation, food, lodging, childcare, and lost wages.

. . . .

(14) Clinics in States where abortion is legal and more accessible continue to receive an influx of people seeking abortions. Provider shortages, together with this rapid increase in patients, is causing longer waits for appointments, particularly for clinics near States with bans, many of which have had waiting times of more than 3 weeks.

(15) When people are not able to access an abortion when they need it, they are often forced to seek an abortion much further into their pregnancy. This increases costs exponentially.³⁰⁹

As a result, the Act would establish a grant program authorized at \$350 million per year for each fiscal year from 2024 through 2028.³¹⁰ The funds would be available to pay for travel-related expenses incurred in accessing abortion services, including round trip travel, lodging, meals, childcare, translation services, doula care, patient education and information services, and lost wages.³¹¹ The lawmakers recognized the disproportionate impact of *Dobbs* on marginalized populations, “particularly people of color, people with disabilities, [and] low-income persons,” and the Act is intended to “provide equitable access to reproductive and abortion care for all Americans.”³¹²

In July 2023, Cori Bush introduced the Reproductive Health Care Accessibility Act “to improve reproductive health care of individuals with disabilities.”³¹³ The findings to support the legislation are of important note. The Act recognizes that reproductive health care “is critical to a person’s long-term health” and “[d]isabled people have higher mortality rates from reproductive related cancers” because of lack of access to health care.³¹⁴ It also finds that though disabled individuals have “an equal right to

309. *Id.* § 2(5)-(7), (14)-(15).

310. *Id.* § 3(i).

311. *Id.* § 3(c)(1).

312. Press Release, Cori Bush, *supra* note 307.

313. Reproductive Health Care Accessibility Act, H.R. 4901, 118th Cong. pmb. (2023).

314. *Id.* § 2(5).

reproductive autonomy,” barriers to accessible care are created because of “harmful stereotypes.”³¹⁵ Additionally, diversity and inclusion are important in the health care profession, yet “the rate of students and trainees with disabilities in medical and allied health education remains low compared to those without disabilities.”³¹⁶ The Act creates a training program for health care providers that includes “comprehensive disability clinical care curricula” regarding sexual and reproductive health care and establishes programs to recruit individuals with disabilities into the reproductive health care workforce.³¹⁷ Additionally, the Act would fund research to evaluate programs and services that are effectively providing reproductive health care services for disabled individuals.³¹⁸ The Act has been referred to the House Committee on Energy and Commerce.³¹⁹

On August 3, 2022, Senators Tammy Duckworth and Patty Murray introduced the Reproductive Health Care Accessibility Act, a similar bill to the one in the House, to help ensure individuals with disabilities can access reproductive services.³²⁰ The legislation would provide funding to train health care professionals on the barriers that disabled individuals face in accessing reproductive health care.³²¹ In addition, the legislation would provide funding to recruit and train people with disabilities to enter the health care profession, provide funding for education programs for disabled individuals, and develop a study to analyze reproductive health care for disabled individuals.³²² The senators released a joint statement about the necessity of this legislation:

All Americans deserve to decide if, when, and how to start and raise a family—including the roughly one in four adults with disabilities, who report wanting children as much as those without disabilities do. But people with disabilities have long experienced discrimination and barriers when accessing sexual and

315. *Id.* § 2(7).

316. *Id.* § 2(10).

317. *Id.* sec. 3, § 760A(a).

318. *Id.* sec. 3, § 760A(d)(1).

319. *All Actions: H.R. 4901 — 118th Congress (2023-2024)*, CONGRESS.GOV, <https://www.congress.gov/bills/118th-congress/house-bill/4901/all-actions?s=2&r=1&q=%7B%22search%3A%22%22%20%22H.R.+4901%22%27D> (last visited July 11, 2024).

320. Reproductive Health Care Accessibility Act, S. 4764, 117th Cong. (2022).

321. *Protect Sexual and Reproductive Health Act*, *supra* note 301.

322. Press Release, Tammy Duckworth, Duckworth, Murray Introduce Bill to Help Women with Disabilities Access Reproductive Healthcare (Aug. 4, 2022), <https://www.duckworth.senate.gov/news/press-releases/duckworth-murray-introduce-bill-to-help-women-with-disabilities-access-reproductive-healthcare>.

reproduction to subjugate disabled people.”³²⁹ Reproductive justice and disability justice advocates must continue to pressure policymakers to dismantle structural systems that negatively impact marginalized populations. This involves addressing intersecting factors that constrain bodily autonomy, including ability, race, sex, poverty, and carceral status.

It is critical that health care providers receive training, both initial and continuing, about meeting the needs of disabled patients. Members of the disability community should be consulted to ensure the accessibility of physical facilities and equipment.³³⁰ Reproductive health care options need to be discussed with patients “without shaming, stigmatizing, or stereotyping people with disabilities who are or want to become pregnant.”³³¹ Additionally, a recognition of the factors directly impacting disabled individuals—high poverty rates, poorer health indicators and social determinants of health, and higher risk of pregnancy-related complications—is necessary in developing initiatives that will lead to better public health outcomes. A comprehensive understanding of the health care needs of disabled individuals and of the ways those needs are often ignored, is imperative to address the historical disparity faced by this group.

329. Powell, *Including Disabled People*, *supra* note 62, at 611.

330. ABORTION CARE FOR PEOPLE WITH DISABILITIES, *supra* note 252, at 15.

331. *Id.*