

Nos. 18-1323, 18-1460

---

---

In The  
**Supreme Court of the United States**

—◆—  
JUNE MEDICAL SERVICES L.L.C., *et al.*,  
*Petitioners,*

v.

DR. REBEKAH GEE, in her official capacity  
as Secretary of the Louisiana Department  
of Health and Hospitals,  
*Respondent.*

—◆—  
DR. REBEKAH GEE, in her official capacity  
as Secretary of the Louisiana Department  
of Health and Hospitals,  
*Petitioner,*

v.

JUNE MEDICAL SERVICES L.L.C., *et al.*,  
*Respondents.*

—◆—  
**On Writs Of Certiorari To The United States  
Court Of Appeals For The Fifth Circuit**

—◆—  
**BRIEF OF AMICI CURIAE NATIONAL  
WOMEN'S LAW CENTER AND 72 ADDITIONAL  
ORGANIZATIONS COMMITTED TO EQUALITY  
AND ECONOMIC OPPORTUNITY FOR WOMEN  
IN SUPPORT OF JUNE MEDICAL SERVICES L.L.C.**

STEPHEN M. CUTLER  
DAVID ELBAUM  
MEREDITH KARP  
SIMPSON THACHER  
& BARTLETT LLP  
425 Lexington Avenue  
New York, NY 10017  
(212) 455-2000

FATIMA GOSS GRAVES  
GRETCHEN BORCHELT\*  
*\*Counsel of Record*  
SUNU CHANDY  
MICHELLE BANKER  
HEATHER SHUMAKER  
LAUREN GORODETSKY±  
NATIONAL WOMEN'S LAW CENTER  
11 Dupont Circle NW, Suite 800  
Washington, DC 20036  
(202) 588-5180  
gborchelt@nwlc.org

± Not admitted in D.C.; supervised  
by D.C. Bar members.

*Counsel for Amici Curiae*

## TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES .....	ii
INTEREST OF THE <i>AMICI CURIAE</i> .....	1
SUMMARY OF THE ARGUMENT .....	2
ARGUMENT .....	4
I. Under Its Precedent, the Court Must Consider Act 620’s Effect on Women’s Equality in Deciding Whether the Law Abridges Their Right to Liberty .....	4
II. Act 620 Curtails Louisiana Women’s Right to Liberty by Undermining Their Equality .....	10
A. The Undue Burden Analysis Must Take Into Account the Economic and Social Circumstances of Those Women Actually Impacted by Act 620 .....	12
B. Act 620 Imposes an Undue Burden on Access to Abortion in Louisiana .....	14
C. Act 620 Deprives Women of Equality by Undermining Their Economic Security, Health, Safety, and Autonomy .....	24
1. Individuals Unable to Obtain Abortion Care Face Substantial Economic and Social Costs .....	25
2. Individuals Unable to Obtain Abortion Care Face Significant Threats to Their Health, Safety, and Autonomy .....	31
CONCLUSION .....	35
APPENDIX .....	1a

## TABLE OF AUTHORITIES

	Page
CASES	
<i>Bradwell v. Illinois</i> , 83 U.S. (16 Wall.) 130 (1872).....	8, 9
<i>Carey v. Population Services International</i> , 431 U.S. 678 (1977) .....	5
<i>Eisenstadt v. Baird</i> , 405 U.S. 438 (1972) .....	5, 6
<i>Frontiero v. Richardson</i> , 411 U.S. 677 (1973) .....	10
<i>Griswold v. Connecticut</i> , 381 U.S. 479 (1965) .....	5
<i>Hoyt v. Florida</i> , 368 U.S. 57 (1961) .....	9
<i>June Medical Services LLC v. Gee</i> , 280 F. Supp. 3d 849 (M.D. La. 2017).....	15
<i>Lawrence v. Texas</i> , 539 U.S. 558 (2003) .....	2, 6
<i>Nevada Department of Human Resources v. Hibbs</i> , 538 U.S. 721 (2003) .....	7
<i>Obergefell v. Hodges</i> , 135 S. Ct. 2584 (2015) .....	4, 6, 17
<i>Planned Parenthood Arkansas &amp; Eastern Oklahoma v. Jegley</i> , No. 4:15–CV–00784–KGB, 2018 WL 3029104 (E.D. Ark. June 18, 2018).....	14

## TABLE OF AUTHORITIES—Continued

	Page
<i>Planned Parenthood of Arizona, Inc. v. Humble</i> , 753 F.3d 905 (9th Cir. 2014).....	13
<i>Planned Parenthood of Indiana &amp; Kentucky, Inc. v. Commissioner</i> , 273 F. Supp. 3d 1013 (S.D. Ind. 2017).....	13
<i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i> , 505 U.S. 833 (1992) .....	<i>passim</i>
<i>Planned Parenthood of the Heartland v. Reynolds ex rel. State</i> , 915 N.W.2d 206 (Iowa 2018) .....	12, 13
<i>Planned Parenthood of Wisconsin, Inc. v. Schimel</i> , 806 F.3d 908 (7th Cir. 2015).....	13, 21
<i>Planned Parenthood of Wisconsin, Inc. v. Van Hollen</i> , 94 F. Supp. 3d 949 (W.D. Wis. 2015) .....	21
<i>Planned Parenthood Southeast, Inc. v. Strange</i> , 33 F. Supp. 3d 1330 (M.D. Ala. 2014) .....	12, 14
<i>Poe v. Ullman</i> , 367 U.S. 497 (1961) .....	5
<i>Roe v. Wade</i> , 410 U.S. 113 (1973) .....	5, 8, 9
<i>Sessions v. Morales-Santana</i> , 137 S. Ct. 1678 (2017) .....	8
<i>Skinner v. Oklahoma</i> , 316 U.S. 535 (1942) .....	5, 6

## TABLE OF AUTHORITIES—Continued

	Page
<i>Stanton v. Stanton</i> , 421 U.S. 7 (1975) .....	7
<i>West Alabama Women’s Center v. Miller</i> , 299 F. Supp. 3d 1244 (M.D. Ala. 2017) .....	13
<i>Whole Woman’s Health v. Hellerstedt</i> , 136 S. Ct. 2292 (2016) .....	<i>passim</i>
<i>Whole Woman’s Health v. Paxton</i> , 280 F. Supp. 3d 938 (W.D. Tex. 2017).....	13
STATE STATUTES	
La. Rev. Stat. § 40:1061.1 .....	22
La. Rev. Stat. § 40:1061.10 .....	<i>passim</i>
OTHER AUTHORITIES	
<i>Abortion Clinics, HFS Provider Lists</i> , ARK. DEP’T OF HEALTH (2019).....	17
KATE BAHN ET AL., CTR. FOR AM. PROGRESS, LINK- ING REPRODUCTIVE HEALTH CARE ACCESS TO LA- BOR MARKET OPPORTUNITIES FOR WOMEN (Nov. 2017) .....	26
JOANNA BARSH & LAREINA YEE, MCKINSEY & CO., UNLOCKING THE FULL POTENTIAL OF WOMEN AT WORK (2012) .....	27
Linda A. Bartlett et al., <i>Risk Factors for Legal Induced Abortion-Related Mortality in the United States</i> , 103 OBSTETRICS & GYNECOLOGY 729 (2004).....	22

## TABLE OF AUTHORITIES—Continued

	Page
TALY BIALOSTOCKI, LA. BUDGET PROJECT, BUILDING A PAID LEAVE PROGRAM FOR LOUISIANA (2019).....	19, 27
M. Antonia Biggs et al., <i>Understanding Why Women Seek Abortions in the US</i> , BMC WOMEN'S HEALTH, July 2013 .....	28
BD. GOVERNORS FED. RESERVE SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2017 (May 2018).....	20
<i>Car Access: Louisiana</i> , NAT'L EQUITY ATLAS (2015).....	17
<i>Child Care Assistance Program</i> , LA. DEP'T OF EDUC. (2019) .....	28
<i>Child Mortality</i> , AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019).....	33
Christine Dehlendorf et al., <i>Disparities in Abortion Rates: A Public Health Approach</i> , 103 AM. J. OF PUB. HEALTH 1772 (2013).....	29
Diana Greene Foster et al., <i>Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States</i> , 108 AM. J. PUB. HEALTH 407 (2018) .....	30
<i>Find a Provider</i> , NAT'L ABORTION FED'N (2019) .....	17
Lawrence B. Finer et al., <i>Timing of Steps and Reasons for Delays in Obtaining Abortions in the United States</i> , 74 CONTRACEPTION 334 (2006).....	22

## TABLE OF AUTHORITIES—Continued

	Page
Diana Green Foster & Katrina Kimport, <i>Who Seeks Abortions at or After 20 Weeks?</i> , 45 PERSP. IN SEXUAL & REPROD. HEALTH 210 (2013).....	21
LYNETTE FRAGA ET AL., CHILD CARE AWARE OF AM., THE US AND THE HIGH COST OF CHILD CARE: APPENDICES (2018).....	28
Lara A. Friel, <i>Heart Disorders in Pregnancy</i> , MERCK MANUAL (2019).....	32
Caitlin Gerdts et al., <i>Side Effects, Physical Health Consequences, and Mortality Associated with Abortion and Birth After an Unwanted Pregnancy</i> , 26 WOMEN'S HEALTH ISSUES 55 (2016) .....	22
Ruth Bader Ginsburg, <i>Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade</i> , 63 N.C. L. REV. 375 (1985).....	7
LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM (N.Y. Univ. Press 2011) .....	23
GREYHOUND (2019), <a href="https://www.greyhound.com">https://www.greyhound.com</a> .....	18
Megan Hall et al., <i>Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis</i> , 11 PLOS MED e1001581 (2014).....	23
Melisa M. Holmes et al., <i>Rape-Related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women</i> , 175 AM. J. OBSTETRICS & GYNECOLOGY 320 (1996) .....	23

## TABLE OF AUTHORITIES—Continued

	Page
<i>Infant Mortality</i> , AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019).....	33
INST. FOR WOMEN'S POL'Y RES., 44 MILLION U.S. WORKERS LACKED PAID SICK DAYS IN 2010 (Jan. 2011) .....	19
INST. FOR WOMEN'S POL'Y RESEARCH, ACCESS TO PAID SICK DAYS IN LOUISIANA (Mar. 2015).....	19
SANDY E. JAMES ET AL., NAT'L CTR. FOR TRANS- GENDER EQUALITY, 2015 U.S. TRANSGENDER SURVEY (2016).....	33
Rachel K. Jones & Jenna Jerman, <i>Population Group Abortion Rates and Lifetime Incidence of Abortion: United States, 2008–2014</i> , 107 AM. J. PUB. HEALTH 1904 (2017) .....	16, 20, 21
Rachel K. Jones et al., <i>At What Cost? Payment for Abortion Care by U.S. Women</i> , 23 WOMEN'S HEALTH ISSUES e173 (2013) .....	19
Rachel K. Jones et al., <i>Differences in Abortion Service Delivery in Hostile, Middle-Ground and Supportive States in 2014</i> , 28 WOMEN'S HEALTH ISSUES 212 (2018).....	22
KELLEEN KAYE ET AL., NAT'L CAMPAGIN TO PREVENT TEEN & UNPLANNED PREGNANCY, THE BENE- FITS OF BIRTH CONTROL IN AMERICA (2014).....	29, 31
Joan B. Kelly & Michael P. Johnson, <i>Differentia- tion Among Types of Intimate Partner Vio- lence: Research Update And Implications for Interventions</i> , 46 FAM. CT. REV. 477 (2008).....	23



## TABLE OF AUTHORITIES—Continued

	Page
LYN KIELTYKA ET AL., LA. DEP'T OF HEALTH, LOUISIANA MATERNAL MORTALITY REVIEW REPORT 2011-2016 (Aug. 2018) .....	33
NIRANJANA M. KOWLESSAR ET AL., AGENCY FOR HEALTHCARE RESEARCH & QUALITY, HOSPITAL STAYS FOR NEWBORNS, 2011 (Oct. 2013) .....	25
Alexis D. Light et al., <i>Transgender Men Who Experienced Pregnancy After Female-to-Male Gender Transitioning</i> , 124 OBSTETRICS & GYNECOLOGY 1120 (2014) .....	33
MARK LINO ET AL., U.S. DEP'T OF AGRIC., EXPENDITURES ON CHILDREN BY FAMILIES, 2015 (2017) .....	29
LOUISIANA DEP'T OF HEALTH, INDUCED TERMINATIONS OF PREGNANCY BY WEEKS OF GESTATION, RACE, AGE, AND MARITAL STATUS REPORTED OCCURRING IN LOUISIANA, 2018 .....	16
LOUISIANA WOMEN'S POL'Y AND RESEARCH COMM'N, 2018 ANNUAL REPORT (2019) .....	18
<i>Low Birthweight</i> , AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019).....	26
Jennifer Manlove & Hannah Lantos, <i>Data Point: Half of 20- to 29-Year-Old Women Who Gave Birth in Their Teens Have a High School Diploma</i> , CHILD TRENDS (Jan. 11, 2018) .....	30
<i>Maternal Mortality</i> , AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019).....	32

## TABLE OF AUTHORITIES—Continued

	Page
Elizabeth Miller et al., <i>Intimate Partner Violence and Health Care-Seeking Patterns Among Female Users of Urban Adolescent Clinics</i> , 14 MATERNAL CHILD HEALTH J. 910 (2010) .....	23
MISS. DEP'T OF HEALTH, DIRECTORY OF MISSISSIPPI HEALTH FACILITIES (July 2009) .....	17
ANNE MORRISON & KATHERINE GALLAGHER ROBINS, NAT'L WOMEN'S LAW CTR., PART-TIME WORKERS ARE PAID LESS, HAVE LESS ACCESS TO BENEFITS – AND TWO-THIRDS ARE WOMEN (Sept. 2015).....	18
NAT'L PARTNERSHIP FOR WOMEN & FAMILIES, BY THE NUMBERS: WOMEN CONTINUE TO FACE PREGNANCY DISCRIMINATION IN THE WORKPLACE (Oct. 2016) .....	26
NAT'L WOMEN'S LAW CTR., ACCOMMODATING PREGNANCY ON THE JOB: THE STAKES FOR WOMEN OF COLOR AND IMMIGRANT WOMEN (May 2014).....	27
NAT'L WOMEN'S LAW CTR., POVERTY RATES STATE BY STATE, 2018 (Oct. 2019).....	17
PAID LEAVE MEANS A STRONGER LOUISIANA, NAT'L PARTNERSHIP FOR WOMEN & FAMILIES (Jan. 2019).....	27
Kim Painter, <i>Doctors Say Abortions Do Sometimes Save Women's Lives</i> , USA TODAY (Oct. 22, 2012) .....	32
<i>Pregnancy Mortality Surveillance System</i> , CDC (2019).....	32

## TABLE OF AUTHORITIES—Continued

	Page
PRINCIPLES OF MEDICAL THERAPY IN PREGNANCY (Norbert Gleicher ed., 1985) .....	32
Sarah C.M. Roberts et al., <i>Implications for Women of Louisiana’s Law Requiring Abor- tion Providers to Have Hospital Admitting Privileges</i> , 91 CONTRACEPTION 368 (2015).....	20
Sarah C.M. Roberts et al., <i>Risk of Violence from the Man Involved in the Pregnancy After Re- ceiving or Being Denied an Abortion</i> , BMC MED., Sept. 2014.....	34
Daniel Schneider & Kristen Harknett, <i>It’s About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality</i> , SHIFT (Oct. 2019) .....	19
<i>Selected Economic Characteristics: 2018 Ameri- can Community Survey 1-Year Estimates</i> , U.S. CENSUS BUREAU (2019).....	20
Jennifer Bennett Shinall, <i>The Pregnancy Pen- alty</i> , 103 MINN. L. REV. 749 (2018) .....	30
SHARON G. SMITH ET AL., CDC, NATIONAL INTI- MATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2015 DATA BRIEF – UPDATED RELEASE (Nov. 2018) .....	23
ADAM SONFIELD ET AL., THE SOCIAL AND ECO- NOMIC BENEFITS OF WOMEN’S ABILITY TO DE- TERMINE WHETHER AND WHEN TO HAVE CHILDREN (2013) .....	29
ADIE TOMER, BROOKINGS, TRANSIT ACCESS AND ZERO-VEHICLE HOUSEHOLDS (Aug. 2011).....	17

## TABLE OF AUTHORITIES—Continued

	Page
TRUVEN HEALTH ANALYTICS, THE COST OF HAVING A BABY IN THE UNITED STATES (Jan. 2013) .....	25
JASMINE TUCKER & KAYLA PATRICK, NAT'L WOMEN'S LAW CTR., WOMEN IN LOW-WAGE JOBS MAY NOT BE WHO YOU EXPECT (Aug. 2017) .....	18
Deborah Tuerkheimer, <i>Conceptualizing Violence Against Pregnant Women</i> , 81 IND. L.J. 667 (2006).....	34
<i>Uninsured Women</i> , AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019).....	26
Joanna Venator & Richard V. Reeves, <i>Three Rea- sons College Matters for Social Mobility</i> , BROOKINGS (Feb. 6, 2015).....	31
<i>Working Mothers Who Are Eligible for FMLA Unpaid Leave</i> , INST. FOR CHILD, YOUTH & FAM. POL'Y (2019).....	27

**INTEREST OF THE *AMICI CURIAE***

The National Women’s Law Center is a nonprofit legal advocacy organization founded in 1972 and is dedicated to the advancement and protection of the legal rights and opportunities of women and all who suffer from sex discrimination. The Center focuses on issues of key importance to women and their families, including economic security, employment, education, health, and reproductive rights, with particular focus on the needs of low-income women and those who face multiple and intersecting forms of discrimination. Because the ability to decide whether to bear children is of tremendous significance to women’s equality, the Center seeks to preserve the right to safe, legal abortion, and has participated as *amicus* in this Court and the lower courts in numerous cases to help secure this right.

This brief is also submitted on behalf of 72 additional organizations, listed in the Appendix to this brief.<sup>1</sup> Other *amici curiae* are organizations also committed to obtaining full legal, economic, and social equality and economic security for women and others with capacity for pregnancy and their families.<sup>2</sup>

---

<sup>1</sup> No party or its counsel authored this brief in whole or in part, and no person or entity other than *amici*, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for the parties have consented to the filing of this brief.

<sup>2</sup> While this brief refers to a woman’s right to obtain an abortion, *amici* recognize that individuals who do not identify as women, including transgender men and non-binary persons, may

*Amici* write to highlight the ways in which restrictions on abortion, like Louisiana Revised Statutes § 40:1061.10 (“Act 620”), impinge on women’s right to liberty by unduly burdening their right to decide whether to carry a pregnancy to term and undermining their equality. *Amici* describe the serious adverse consequences to women’s economic security, health, safety, and autonomy that can result from such restrictions.

---

◆

### SUMMARY OF THE ARGUMENT

Abortion restrictions such as Act 620 deny women the right to liberty guaranteed under the Fourteenth Amendment’s Due Process Clause by unduly burdening a woman’s right to decide whether to carry a pregnancy to term. These laws impose substantial costs on women and deprive them of the ability to participate in society on equal terms.

As this Court has repeatedly affirmed, the Constitution protects “personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education” because such decisions are among “the most intimate and personal choices a person may make in a lifetime, choices . . . central to the liberty protected by the Fourteenth Amendment.” *Lawrence v. Texas*, 539 U.S. 558, 573–74 (2003)

---

also become pregnant and are equally entitled to protection of their ability to obtain an abortion.

(quoting *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 851 (1992)).

This brief focuses on the equality principles that animate this Court’s Due Process jurisprudence and the undue burden standard applicable to regulations of abortion. These principles “guided the Court” in *Casey*, and they “should be our guides today.” 505 U.S. at 897. Accordingly, this brief addresses the actual burdens that Act 620 imposes on women’s ability to make reproductive decisions, as well as the resulting negative impacts that deny women’s equal participation in social and economic life. These include significant and, at times, insurmountable costs that threaten women’s financial well-being, job security, workforce participation, educational attainment, health, personal security, and autonomy. These costs have particularly detrimental effects on low-income women, women living in poverty, women of color, women who already have children, women subjected to intimate partner violence, and transgender and non-binary individuals. These impacts confirm that Act 620 unduly burdens individuals’ reproductive autonomy and inhibits their equal participation in society, thereby depriving them of the right to liberty promised by the Constitution.

*Amici* respectfully request that this Court reverse the judgment of the Fifth Circuit.



## ARGUMENT

### **I. Under Its Precedent, the Court Must Consider Act 620’s Effect on Women’s Equality in Deciding Whether the Law Abridges Their Right to Liberty.**

Act 620 requires that a physician providing abortions hold “active admitting privileges” at a hospital located within thirty miles from where the abortion is provided.<sup>3</sup> The purpose and effect of this provision will be to drastically reduce the number of abortion providers, leaving one provider in one clinic in a state with nearly one million women of reproductive age, thereby sharply curtailing the availability of abortion care in Louisiana.<sup>4</sup> Just three years ago, this Court invalidated an identical Texas law and reaffirmed that a woman’s right to decide to have an abortion is “a constitutionally protected personal liberty.” *Whole Woman’s Health v. Hellerstedt* (“*WWH*”), 136 S. Ct. 2292, 2300, 2309 (2016). But a constitutional right that is not accessible because of state-imposed barriers is no right at all.

*WWH* follows a long line of precedent holding that the Constitution limits the state’s ability to regulate “choices central to personal dignity and autonomy,” including the decision whether to have an abortion. *Casey*, 505 U.S. at 851; *see also Obergefell v. Hodges*, 135 S. Ct. 2584, 2597 (2015) (the “fundamental liberties” protected by due process include “intimate choices that

---

<sup>3</sup> La. Rev. Stat. § 40:1061.10.

<sup>4</sup> *See* Pet. App. 254a–57a.



define personal identity and beliefs”). For over seventy years, the Court has recognized that reproductive decisions are foundational liberties protected by the Fourteenth Amendment. *See, e.g., Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965); *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942). As the Court explained in *Eisenstadt*, the Constitution protects “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.” 405 U.S. at 453. This decision “is at the very heart of this cluster of constitutionally protected choices. . . . concern[ing] the most intimate of human activities.” *Carey v. Population Servs. Int’l*, 431 U.S. 678, 684–85 (1977).

Building on these cases and Justice Harlan’s opinion in *Poe v. Ullman*, 367 U.S. 497, 541 (1961), the *Casey* Court reaffirmed the fundamental right of women to “control their reproductive lives.” *Casey*, 505 U.S. at 846–51, 856 (reaffirming the essential holding from *Roe v. Wade*, 410 U.S. 113 (1973)). The Constitution thus protects a woman’s right to decide whether or when to carry a pregnancy to term, one of “the most intimate and personal choices a person may make in a lifetime, choices . . . central to the liberty protected by the Fourteenth Amendment.” *Casey*, 505 U.S. at 851.

The Court has relied on equal protection values in determining the scope of protected liberty interests. *See, e.g., Eisenstadt*, 405 U.S. at 453 (extending right to use contraception to single persons under the Equal

Protection Clause); *Skinner*, 316 U.S. at 541 (invalidating statute mandating sterilization of certain felons, implicating “one of the basic civil rights of man,” “lest . . . invidious discriminations [be] made against groups or types of individuals in violation of. . . equal protection”); *Casey*, 505 U.S. at 851, 858 (relying on *Eisenstadt* and *Skinner*). In *Lawrence*, the Court held that “[e]quality of treatment and the due process right to demand respect for conduct protected by the substantive guarantee of liberty are linked in important respects.” 539 U.S. at 575. And this Court recently confirmed that equality of treatment informs the determination of whether a government action deprives individuals of a liberty interest guaranteed by due process. *Obergefell*, 135 S. Ct. at 2603–04. Where laws regulate a class of persons’ “existence or control [over] their destiny,” the law not only “burden[s] the liberty” of the regulated class but also “abridge[s] central precepts of equality.” *Id.* at 2604 (quoting *Lawrence*, 539 U.S. at 578).

In *Casey*, the Court recognized that women’s right to control their reproductive lives is particularly grounded in principles of equality. The Court explained that the right to abortion not only safeguards women’s decisional autonomy, it also is central to her status in society: “The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.” 505 U.S. at 856. That is, a woman’s agency over her own body affects “her ability to stand in relation to man, society, and the state as an independent,

self-sustaining, equal citizen.” Ruth Bader Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 N.C. L. REV. 375, 383 (1985). Accordingly, this Court must consider Act 620’s effect on women’s equality in determining whether the law is unconstitutional.

Abortion restrictions like Act 620 limit women’s autonomy and dignity as a class by retreating to the now-proscribed notion that “the female [is] destined solely for the home and the rearing of the family, and only the male for the marketplace and the world of ideas.” *Stanton v. Stanton*, 421 U.S. 7, 14–15 (1975). Abortion restrictions rest on an “assumption . . . that women can simply be forced to accept the ‘natural’ status and incidents of motherhood.” *Casey*, 505 U.S. at 928 (Blackmun, J., concurring in part, dissenting in part). Stereotypes relegating women to the role of “mothers or mothers-to-be” but “presuming a lack of domestic responsibilities for men” are “mutually reinforcing” and “create[] a self-fulfilling cycle of discrimination that force[s] women to continue to assume the role of primary family caregiver.” *Nevada Dep’t of Human Res. v. Hibbs*, 538 U.S. 721, 736 (2003). By assuming that one’s physiology should dictate one’s role in society, such laws are harmful to all individuals.

Abortion restrictions also perpetuate sex stereotypes by limiting women’s future educational and employment opportunities and thereby denying their ability “to participate equally” in society. *Casey*, 505 U.S. at 856; *see also id.* at 928 (Blackmun, J., concurring in part, dissenting in part) (“Because motherhood

has a dramatic impact on a woman’s educational prospects, employment opportunities, and self-determination, restrictive abortion laws deprive her of basic control over her life.”); *Roe*, 410 U.S. at 170 (Stewart, J., concurring) (emphasizing “the interests of a woman in giving of her physical and emotional self during pregnancy and the interests that will be affected throughout her life by the birth and raising of a child”).

While “now untenable,” for generations “the lawbooks of our Nation were rife with overbroad generalizations about the way men and women are.” *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1689, 1691 (2017). In particular, principles of “male dominance” and woman-as-mother were “once habitual” in this Court’s jurisprudence. *Id.* at 1690–91. Just as previous state limitations on women’s ability to participate in public life presumed that the “paramount destiny and mission of woman are to fulfil[] the noble and benign offices of wife and mother,” *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 141 (1872), laws that deprive women of their ability to decide whether to end a pregnancy force women to fulfill that same destiny. The Court has since made clear that “[t]his ‘ancient principle’ [of ‘male dominance’] no longer guides the Court’s jurisprudence.” *Sessions*, 137 S. Ct. at 1691 n.9.

Accordingly, in *Casey*, the Court recognized that forcing a woman to carry a pregnancy to term subjects her “to anxieties, to physical constraints, to pain that only she must bear” and causes “suffering [that] is too intimate and personal for the State to insist, without more, upon its own vision of the woman’s role, however

dominant that vision has been in the course of our history and our culture.” *Casey*, 505 U.S. at 852. The *Casey* Court recognized that one’s beliefs about whether to become a parent “define the attributes of personhood” and are so “central to personal dignity and autonomy” that they cannot be “formed under compulsion of the State.” *Id.* at 851. The Court held a spousal notification requirement violated the right to liberty because it harkened back to “the common-law understanding of a woman’s role within the family.” *Id.* at 897. The Court cautioned that its prior decisions based on “the common-law principle that ‘a woman had no legal existence separate from her husband,’” and the view that women had “‘special responsibilities’ [in the home] that precluded full and independent legal status under the Constitution” were “no longer consistent with our understanding of the family, the individual, or the Constitution.” *Id.* at 896–97 (quoting *Bradwell*, 83 U.S. (16 Wall.) at 141 (Bradley, J., concurring) and *Hoyt v. Florida*, 368 U.S. 57, 62 (1961)). To the contrary, the Court recognized that “[a]n entire generation has come of age free to assume *Roe*’s concept of liberty in defining the capacity of women to act in society.” *Id.* at 860.

As in *Casey*, Act 620 perpetuates a particular historical and cultural “vision of the woman’s role” in society that is “repugnant to our present understanding . . . of the nature of the rights secured by the Constitution.” *Id.* at 852, 898. Act 620 relies on paternalistic and pretextual claims about women’s best interests and reinforces antiquated stereotypes. Like the admitting privileges law invalidated in *WWH*, Act 620

singles out abortion for requirements that are not applicable to comparable procedures under the guise of protecting women’s health, suggesting that women are incapable of making decisions about their own health, bodies, and place in society. And like the admitting privileges law enjoined in *WWH*, Act 620 provides no health benefits to women. 136 S. Ct. at 2311–12; Pet. App. 215a–16a. The Court risks repeating and even worsening the “long and unfortunate history of sex discrimination,” *Frontiero v. Richardson*, 411 U.S. 677, 684 (1973) (plurality), by allowing states, in the asserted name of women’s health, to control a woman’s right to determine what is in her own best interests and to decide whether to carry a pregnancy to term.

Laws that unduly burden a woman’s right to decide whether to carry a pregnancy to term thus reinforce the persistent social and economic inequalities confronted by women and impede their ability to participate as full and equal members of society. By abridging women’s equal right to self-determination, autonomy, and dignity, these regulations deprive women of the right to liberty guaranteed by the Fourteenth Amendment.

## **II. Act 620 Curtails Louisiana Women’s Right to Liberty by Undermining Their Equality.**

Act 620’s medically unnecessary admitting privileges requirement imposes an undue burden on Louisiana women’s right to abortion.<sup>5</sup> If this Court were to

---

<sup>5</sup> See Brief for Pet’rs, Arg. § II.B.

uphold Act 620—which will effectively force pregnant women to bear children—it would render empty the constitutional promise of liberty for women by allowing a state government to profoundly structure their individual lives and personal decisions.

For many Louisianans seeking abortions—particularly people with limited incomes, people of color, those who already have children, and individuals subjected to intimate partner violence—the financial, logistical, and geographical barriers to abortion caused by Act 620 will be insurmountable, forcing them to carry their pregnancy to term and give birth. At a minimum, if Act 620 goes into effect, many Louisianans will experience increased travel times and distances, delaying their ability to obtain care at the state’s one remaining clinic. Even if a woman is ultimately able to reach a clinic, she will be forced to incur significantly longer wait times and increased costs, including the costs of travel, lodging, child care, and more expensive procedures.

These barriers to abortion access wreak devastating consequences for women’s financial well-being, job security, workforce participation, and educational attainment, thus undermining women’s ability to “participate equally in the economic and social life of the Nation.” *Casey*, 505 U.S. at 856. This denial of equality, in turn, abridges the fundamental right to liberty: it limits a woman’s ability to shape her life in accordance with her own views of herself and her role in society, rather than under the “compulsion of the State.” *Id.* at 851–52.

**A. The Undue Burden Analysis Must Take Into Account the Economic and Social Circumstances of Those Women Actually Impacted by Act 620.**

When a state attempts to regulate a woman’s Fourteenth Amendment right to access abortion, this Court analyzes whether the regulation has “the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion.” *Casey*, 505 U.S. at 874, 877–78; *WWH*, 136 S. Ct. at 2300. Where—like the identical admitting privileges law struck down in *WWH*—a law fails to “confer[] medical benefits sufficient to justify the burdens upon access,” it fails the undue burden analysis. *WWH*, 136 S. Ct. at 2300.

*Casey* and *WWH* require that courts evaluate the burdens on the class of people actually impacted by the regulation. *See id.* at 2320; *Casey*, 505 U.S. at 894–95. Very often, this inquiry will focus on those women who, due to their lack of financial and social resources, will be disproportionately affected. Indeed, *Casey* shows that “the interaction of the state regulation and existing social conditions can create an obstacle for women.” *Planned Parenthood Se., Inc. v. Strange*, 33 F. Supp. 3d 1330, 1358 (M.D. Ala. 2014), *amended by* 2014 WL 5426891 (M.D. Ala. Oct. 24, 2014). As the Supreme Court of Iowa recently recognized, “[t]here are few hurdles that are of level height for women of different races, classes, and abilities,” and “[t]here are few impositions that cannot be solved by wealth.” *Planned Parenthood of the Heartland v. Reynolds ex rel. State*, 915 N.W.2d 206, 232 (Iowa 2018). “Yet, it is axiomatic



that a right that is only accessible to the wealthy or privileged is no right at all.” *Id.*

Thus, in *WWH*, the Court considered the “particularly high barrier for poor, rural, or disadvantaged women.” 136 S. Ct. at 2302. Lower courts have similarly focused on those who are disproportionately impacted by such restrictions in applying the undue burden standard. *See, e.g., Planned Parenthood of Wis., Inc. v. Schimel*, 806 F.3d 908, 919 (7th Cir. 2015) (Wisconsin’s admitting privileges requirement may impose burdens that are “prohibitively expensive” for low-income women); *Planned Parenthood of Ariz., Inc. v. Humble*, 753 F.3d 905, 915 (9th Cir. 2014) (courts may “consider the ways in which an abortion regulation interacts with women’s lived experience, socioeconomic factors, and other abortion regulations”); *Whole Woman’s Health v. Paxton*, 280 F. Supp. 3d 938, 953 (W.D. Tex. 2017) (invalidating restriction because “delay and extra cost would be particularly burdensome for low-income women”), *appeal filed*, No. 17-51060 (5th Cir. Dec. 1, 2017); *W. Ala. Women’s Ctr. v. Miller*, 299 F. Supp. 3d 1244, 1261 (M.D. Ala. 2017) (highlighting that a law would be “particularly devastating for low-income women who represent the majority of women seeking abortions in Alabama”), *aff’d sub nom. W. Ala. Women’s Ctr. v. Williamson*, 900 F.3d 1310 (11th Cir. 2018), *cert. denied*, 139 S. Ct. 2606 (2019); *Planned Parenthood of Ind. & Ky., Inc. v. Comm’r*, 273 F. Supp. 3d 1013, 1015, 1021–27 (S.D. Ind. 2017) (focusing on the “compelling evidence” that “women, particularly low-income women, face significant financial and other

burdens”), *aff’d*, 896 F.3d 809 (7th Cir. 2018), *petition for cert. filed*, No. 18-1019 (U.S. Feb. 4, 2019); *Planned Parenthood Ark. & E. Okla. v. Jegley*, No. 4:15–CV–00784–KGB, 2018 WL 3029104, at \*22 (E.D. Ark. June 18, 2018) (issuing TRO against admitting privileges requirement for physicians who provide medication abortion based in part on burdens on low-income women), *appeal dismissed per stipulation*, No. 18-02463 (8th Cir. Nov. 9, 2018); *see also* Pet. App. 260a–62a, 264a.

In applying the undue burden analysis, this Court should therefore evaluate the burdens Act 620 imposes based on its real-world context, taking into consideration the ways in which it interacts with other laws and compounds the existing economic and social disparities many Louisiana women already face. *See WWH*, 136 S. Ct. at 2320; *Casey*, 505 U.S. at 894–95.

### **B. Act 620 Imposes an Undue Burden on Access to Abortion in Louisiana.**

This Court and others have correctly concluded that admitting privileges laws like Act 620 violate the Constitution because they impose an undue burden on the right to abortion. *See, e.g., WWH*, 136 S. Ct. at 2318 (enjoining admitting privileges requirement); *Schimmel*, 806 F.3d at 922 (same); *Strange*, 33 F. Supp. 3d at 1332–33 (same). In *WWH*, this Court struck down Texas’s identical admitting privileges law where it caused “the number of facilities providing abortions [to] drop[] in half,” and where the state admitted there

was no evidence the law would “have helped even one woman obtain better treatment.” *Id.* at 2311–12. So too here.

Full enforcement of Act 620 would leave one clinic and one physician to care for every person seeking an abortion in Louisiana. One physician cannot provide care for the roughly 10,000 women who seek abortions in the state each year.<sup>6</sup> Act 620 will create substantial delays from extended wait times and crowding at the one remaining clinic, as well as lengthier—sometimes out-of-state—travel to a clinic, or preclude access to abortion altogether.<sup>7</sup> *See WWH*, 136 S. Ct. at 2313 (“[C]losures meant fewer doctors, longer waiting times, and increased crowding.”). Considering the real-world context in which Act 620 operates, including Louisiana’s existing 24-hour mandatory delay requirement,<sup>8</sup> which necessitates two visits to a clinic by each woman, the closure of clinics caused by Act 620 will compound waiting times, while also compressing the time period during which a woman may obtain an abortion. As the district court found, Act 620 will effectively impose a ban on abortion after seventeen weeks, as no physicians in the state will provide abortion after

---

<sup>6</sup> Pet. App. 273a.

<sup>7</sup> Pet. App. 273a–74a.

<sup>8</sup> Current Louisiana law provides that a woman must wait at least seventy-two hours after receiving state-mandated information to obtain an abortion. La. Rev. Stat. § 40:1061.10(D)(2)(a). This provision, however, is not currently being enforced per agreement in an ongoing lawsuit. *See June Med. Servs. LLC v. Gee*, 280 F. Supp. 3d 849, 869 (M.D. La. 2017). The twenty-four hour mandatory delay remains in effect.

that time.<sup>9</sup> By forcing people to delay their care due to increased wait times, or to travel increased distances or flee their state to exercise their constitutional rights, Act 620 imposes both economic and dignitary burdens on those seeking to terminate a pregnancy.

These burdens will especially affect women living in poverty. Women seeking abortion care disproportionately live in poverty. In 2014, nearly half of abortion patients were women with family incomes below the federal poverty level; women whose families earned less than 200% of the federal poverty level made up an additional quarter of abortion patients.<sup>10</sup> At the Hope Clinic in Shreveport, 70% to 90% of patients live below the federal poverty level.<sup>11</sup>

So too will these burdens fall particularly hard on women of color: in 2018, approximately 70% of women in Louisiana who obtained an abortion were women of color.<sup>12</sup> And Louisiana women of color are especially likely to be living in poverty—approximately 28% of Black women, 24% of Hispanic women, 12% of Asian women, and 22% of Native American women in the

---

<sup>9</sup> Pet. App. 260a.

<sup>10</sup> Rachel K. Jones & Jenna Jerman, *Population Group Abortion Rates and Lifetime Incidence of Abortion: United States, 2008–2014*, 107 AM. J. PUB. HEALTH 1904, 1906 (2017).

<sup>11</sup> Pet. App. 155a.

<sup>12</sup> LOUISIANA DEP'T OF HEALTH, INDUCED TERMINATIONS OF PREGNANCY BY WEEKS OF GESTATION, RACE, AGE, AND MARITAL STATUS REPORTED OCCURRING IN LOUISIANA, 2018, [http://ldh.la.gov/assets/oph/Center-RS/vitalrec/leers/ITOP/ITOP\\_Reports/Ap18\\_T21.pdf](http://ldh.la.gov/assets/oph/Center-RS/vitalrec/leers/ITOP/ITOP_Reports/Ap18_T21.pdf).

state live in poverty, compared to 19% of women generally.<sup>13</sup>

The increased travel required under Act 620 will impose an especially grave burden on those without car access.<sup>14</sup> For example, if the Hope Clinic closed, a Monroe resident relying on public transportation would either be forced to travel out of state<sup>15</sup> or pay at least \$150 to take a bus roundtrip to the one remaining clinic in state, with over twenty-two hours of round-trip travel

---

<sup>13</sup> NAT'L WOMEN'S LAW CTR., POVERTY RATES STATE BY STATE, 2018 (Oct. 2019), <https://nwlc-ciw49tixgw5lbab.stackpath.com/wp-content/uploads/2019/10/Poverty-Rates-State-by-State-2018.pdf>.

<sup>14</sup> ADIE TOMER, BROOKINGS, TRANSIT ACCESS AND ZERO-VEHICLE HOUSEHOLDS 9 (Aug. 2011), [https://www.brookings.edu/wp-content/uploads/2016/06/0818\\_transportation\\_tomer.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/0818_transportation_tomer.pdf) (finding 73.6% of zero-vehicle Baton Rouge households are low-income); *Car Access: Louisiana*, NAT'L EQUITY ATLAS (2015), [https://nationalequityatlas.org/indicators/Car\\_access/By\\_race~ethnicity:49791/Louisiana/false](https://nationalequityatlas.org/indicators/Car_access/By_race~ethnicity:49791/Louisiana/false) (finding Black households four times more likely to not have car access than white households).

<sup>15</sup> The nearest out-of-state abortion providers are hours away in Jackson, Mississippi, and Little Rock, Arkansas, both of which are the only surgical abortion providers in their respective states. See *Find a Provider*, NAT'L ABORTION FED'N, <https://prochoice.org/think-youre-pregnant/find-a-provider> (last visited Nov. 25, 2019); MISS. DEP'T OF HEALTH, DIRECTORY OF MISSISSIPPI HEALTH FACILITIES (July 2009), [https://msdh.ms.gov/msdhsite/\\_static/resources/7660.pdf](https://msdh.ms.gov/msdhsite/_static/resources/7660.pdf); *Abortion Clinics, HFS Provider Lists*, ARK. DEP'T OF HEALTH (2019), <https://www.healthy.arkansas.gov/programs-services/topics/hfs-provider-lists>. Regardless, women's ability to access abortion in neighboring states does not remedy Act 620's constitutional infirmities. See *Obergefell*, 135 S. Ct. at 2602 (holding state laws banning same-sex marriage unconstitutional notwithstanding availability of same-sex marriage in other states).

time for just one trip.<sup>16</sup> And she must make this trip twice, or stay overnight with associated costs, to satisfy the 24-hour mandatory delay period. These burdens would likely prove insurmountable to many women seeking an abortion.

Flexibility to travel to multiple clinic visits is also a luxury unavailable to low-wage workers, who are disproportionately women and especially women of color.<sup>17</sup> This is particularly true in Louisiana, where two-thirds of low-wage workers are women.<sup>18</sup> Women are also more likely than men to hold part-time positions without sick leave and flexible schedules, and women of color are disproportionately likely to do so.<sup>19</sup> Extended travel and multiple clinic visits also require considerable advanced planning. However, low-wage workers frequently receive their work schedules just

---

<sup>16</sup> GREYHOUND, <https://www.greyhound.com> (last visited Nov. 25, 2019).

<sup>17</sup> Although women constitute half the workforce, they hold nearly three in five low-wage jobs. Nearly half of these low-wage jobs are held by women of color. JASMINE TUCKER & KAYLA PATRICK, NAT'L WOMEN'S LAW CTR., WOMEN IN LOW-WAGE JOBS MAY NOT BE WHO YOU EXPECT 1 (Aug. 2017), <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2017/08/Women-in-Low-Wage-Jobs-May-Not-Be-Who-You-Expect.pdf>.

<sup>18</sup> LOUISIANA WOMEN'S POL'Y AND RESEARCH COMM'N, 2018 ANNUAL REPORT (2019), [http://gov.louisiana.gov/assets/docs/LWPRC\\_2018AnnualReportONLINE.pdf](http://gov.louisiana.gov/assets/docs/LWPRC_2018AnnualReportONLINE.pdf).

<sup>19</sup> ANNE MORRISON & KATHERINE GALLAGHER ROBBINS, NAT'L WOMEN'S LAW CTR., PART-TIME WORKERS ARE PAID LESS, HAVE LESS ACCESS TO BENEFITS—AND TWO-THIRDS ARE WOMEN 1 (Sept. 2015), [https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2015/08/part-time\\_workers\\_fact\\_sheet\\_8.21.1513.pdf](https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2015/08/part-time_workers_fact_sheet_8.21.1513.pdf).

one week or less in advance,<sup>20</sup> and their schedules often change at the last minute.<sup>21</sup> Moreover, Louisiana does not require that employers provide paid vacation or sick leave<sup>22</sup>—and low-wage jobs in particular lack these benefits.<sup>23</sup> Consequently, if a low-wage worker who needs an abortion is unable to align her work schedule with an over-burdened clinic’s schedule, she may lose income,<sup>24</sup> and even her job, in order to obtain an abortion. In this regard, Act 620 requires low-income

---

<sup>20</sup> Daniel Schneider & Kristen Harknett, *It’s About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality*, SHIFT 1–2 (Oct. 2019), <https://shift.berkeley.edu/files/2019/10/Its-About-Time-How-Work-Schedule-Instability-Matters-for-Workers-Families-and-Racial-Inequality.pdf> (finding two-thirds of workers in retail and food service receive less than two weeks’ notice of their schedules, and half of those get less than a week’s notice).

<sup>21</sup> *Id.*

<sup>22</sup> TALY BIALOSTOCKI, LA. BUDGET PROJECT, BUILDING A PAID LEAVE PROGRAM FOR LOUISIANA 3 (2019), <https://www.labudget.org/wp-content/uploads/2019/05/Building-a-Paid-Leave-Program-for-Louisiana.pdf>.

<sup>23</sup> INST. FOR WOMEN’S POL’Y RESEARCH, ACCESS TO PAID SICK DAYS IN LOUISIANA (Mar. 2015), <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B346%20Louisiana%20Access%20Rates.pdf> (finding 71% of Louisiana workers earning less than \$15,000 annually lack access to paid sick days, compared with 20% of workers making more than \$65,000 annually); INST. FOR WOMEN’S POL’Y RES., 44 MILLION U.S. WORKERS LACKED PAID SICK DAYS IN 2010, at 1 (Jan. 2011), <http://www.iwpr.org/publications/pubs/44-million-u.s.-workers-lacked-paid-sick-days-in-2010-77-percent-of-food-service-workers-lacked-access>.

<sup>24</sup> Rachel K. Jones et al., *At What Cost? Payment for Abortion Care by U.S. Women*, 23 WOMEN’S HEALTH ISSUES e173, e176 (2013).

women to risk employment and economic security in order to exercise their constitutional right to have an abortion.

In addition to travel costs, hotel expenses, and lost wages, many women seeking an abortion will also incur child care costs, as most women having an abortion are already mothers.<sup>25</sup> This is particularly so in Louisiana, where 73% of women who sought abortions were mothers and 43% had two or more children.<sup>26</sup> And many of these families may not be able to absorb extra costs, as 45% of female-led households in Louisiana are living in poverty.<sup>27</sup>

Indeed, according to the Federal Reserve, approximately 40% of adults in the U.S. would struggle to cover an unexpected expense of \$400.<sup>28</sup> Not surprisingly, one study found that one-third of women getting an abortion had to delay or forgo paying bills, food, and even rent.<sup>29</sup> One-half relied on financial assistance

---

<sup>25</sup> Jones & Jerman, *supra* note 10, at 1906.

<sup>26</sup> Sarah C.M. Roberts et al., *Implications for Women of Louisiana's Law Requiring Abortion Providers to Have Hospital Admitting Privileges*, 91 *CONTRACEPTION* 368, 370 (2015).

<sup>27</sup> *Selected Economic Characteristics: 2018 American Community Survey 1-Year Estimates*, U.S. CENSUS BUREAU, <https://data.census.gov/cedsci/table?q=DP03&lastDisplayedRow=144&table=DP03&tid=ACSDP1Y2018.DP03&hidePreview=true&g=0400000US22> (last visited Nov. 25, 2019).

<sup>28</sup> BD. GOVERNORS FED. RESERVE SYS., *REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2018*, at 21 (May 2019), <https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf>.

<sup>29</sup> Rachel K. Jones et al., *supra* note 24, at e176.



from others,<sup>30</sup> but such assistance is never assured. Because women needing abortions are already more likely to have low incomes, be mothers, and be single,<sup>31</sup> these financial risks may force the woman to forgo the procedure altogether. *See Planned Parenthood of Wis., Inc. v. Van Hollen*, 94 F. Supp. 3d 949, 991 (W.D. Wis. 2015) (“At some point, the additional costs associated with travel—including gas, tolls, hotel room stays, bus tickets, lost wages and childcare—may reach a tipping point where they become too great for a household to bear and the woman would not be able to get the abortion. . . .”) (internal quotation marks and alterations omitted), *aff’d sub nom. Schimel*, 806 F.3d 908.

Even for people able to raise the additional money, take time off work, book travel, and secure child care, Act 620 will force many to delay abortion care to later in pregnancy. The resources and arrangements needed to obtain abortion care if Act 620 goes into effect often cannot be secured overnight. In fact, logistical barriers are one of the primary reasons that women delay abortion care,<sup>32</sup> which Act 620 will only exacerbate. Many women, particularly low-income women, already have abortions later than they would prefer because they need time to raise money for the procedure and related

---

<sup>30</sup> *Id.*

<sup>31</sup> Jones & Jerman, *supra* note 10, at 1906.

<sup>32</sup> Diana Green Foster & Katrina Kimport, *Who Seeks Abortions at or After 20 Weeks?*, 45 PERSP. IN SEXUAL & REPROD. HEALTH 210 (2013).

travel.<sup>33</sup> This delay is compounded by appointment wait times, which will certainly lengthen if there is only one abortion provider left in the state. Delays can lead to a more expensive procedure.<sup>34</sup> And although abortion is extremely safe, the risk of medical complications increases with time.<sup>35</sup> Of course, if too much time elapses, the abortion may be unattainable altogether, as the district court found that Act 620 would effectively impose a ban on abortion after seventeen weeks.<sup>36</sup>

As this Court noted in *Casey*, the impact of unduly restrictive abortion laws may profoundly affect people

---

<sup>33</sup> Lawrence B. Finer et al., *Timing of Steps and Reasons for Delays in Obtaining Abortions in the United States*, 74 *CONTRACEPTION* 334, 335, 341 (2006).

<sup>34</sup> The average cost of an abortion procedure at 10 weeks gestation was \$508, compared to a median cost of \$1,195 at 20 weeks; in states with major abortion restrictions (such as Louisiana), patients paid the most at \$1,350 for the procedure. Rachel K. Jones et al., *Differences in Abortion Service Delivery in Hostile, Middle-Ground and Supportive States in 2014*, 28 *WOMEN'S HEALTH ISSUES* 212, 215–16 (2018).

<sup>35</sup> Linda A. Bartlett et al., *Risk Factors for Legal Induced Abortion-Related Mortality in the United States*, 103 *OBSTETRICS & GYNECOLOGY* 729, 731 (2004); Caitlin Gerdts et al., *Side Effects, Physical Health Consequences, and Mortality Associated with Abortion and Birth After an Unwanted Pregnancy*, 26 *WOMEN'S HEALTH ISSUES* 55, 58 (2016).

<sup>36</sup> La. Rev. Stat. § 40:1061.1(E); *see also* Pet. App. 260a (“There would be no physician in Louisiana providing abortions between 17 weeks and 21 weeks, six days gestation. Women seeking abortion at this stage of their pregnancies would be denied all access to abortion in Louisiana and will be unable to exercise their constitutional right.”).

who are subject to intimate partner violence. 505 U.S. at 889–90. Laws that increase logistical hurdles to obtain abortion care exacerbate these risks. An estimated 21% of women in the U.S. are raped during their lifetimes,<sup>37</sup> and physical and sexual violence by male intimate partners affects an estimated one in four U.S. women across the lifespan.<sup>38</sup> About half of women who become pregnant as a result of rape will have abortions.<sup>39</sup> And numerous studies show an association between intimate partner violence and pregnancy termination.<sup>40</sup> Abusers, however, often attempt to control women by limiting access to money, transportation, and other economic resources.<sup>41</sup> Requiring women

---

<sup>37</sup> SHARON G. SMITH ET AL., CDC, NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2015 DATA BRIEF—UPDATED RELEASE 2 (Nov. 2018), <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

<sup>38</sup> Elizabeth Miller et al., *Intimate Partner Violence and Health Care-Seeking Patterns Among Female Users of Urban Adolescent Clinics*, 14 MATERNAL CHILD HEALTH J. 910, 914–15 (2010).

<sup>39</sup> Melisa M. Holmes et al., *Rape-Related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*, 175 AM. J. OBSTETRICS & GYNECOLOGY 320, 322 (1996).

<sup>40</sup> See Megan Hall et al., *Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis*, 11 PLOS MED e1001581 (2014).

<sup>41</sup> See LEIGH GOODMARK, A TROUBLED MARRIAGE: DOMESTIC VIOLENCE AND THE LEGAL SYSTEM 42 (N.Y. Univ. Press 2011); Joan B. Kelly & Michael P. Johnson, *Differentiation Among Types of Intimate Partner Violence: Research Update And Implications for Interventions*, 46 FAM. CT. REV. 477, 481 (2008) (describing “coercive controlling violence” as including “intimidation; emotional abuse; isolation; minimizing, denying and blaming; use of

to raise additional funds, travel longer distances, or stay out of town overnight increases the likelihood that they will be forced to disclose their decisions to abusive partners (as well as to employers or other family). Act 620 thus poses the same concerns of possible coercion and abuse that led the *Casey* Court to invalidate the spousal notification law in that case. As the Court explained, “[w]e must not blind ourselves to the fact that the significant number of women who fear for their safety and the safety of their children are likely to be deterred from procuring an abortion as surely as if the [State] had outlawed abortion in all cases.” *Casey*, 505 U.S. at 894.

When there are fewer clinics—in this case, only one—the costs imposed on women, including lost wages, additional child care, travel expenses, threats to their safety, and burdens on their dignity, combine to impose an undue burden on their access to abortion.

### **C. Act 620 Deprives Women of Equality by Undermining Their Economic Security, Health, Safety, and Autonomy.**

By preventing women from obtaining an abortion or requiring them to incur substantial costs to exercise this fundamental right, Act 620 undermines their financial well-being, job security, workforce participation, educational attainment, and personal health, safety, and autonomy. These consequences do not occur

---

children; asserting male privilege; economic abuse; and coercion and threats”).

in a vacuum, but rather must be considered in light of Louisiana's existing economic, social, and public health disparities. This deprivation of equal rights, in turn, denies Louisianans' right to liberty.

### **1. Individuals Unable to Obtain Abortion Care Face Substantial Economic and Social Costs.**

Many women unable to obtain an abortion will face negative consequences with respect to their economic security, workforce participation, and educational opportunities.

To begin, pregnancy and childbirth impose significant, direct health care costs on women. In Louisiana, the average amount paid for a vaginal delivery is \$10,318 and for a cesarean delivery is \$13,943.<sup>42</sup> These expenses are compounded if the child has low birthweight<sup>43</sup> or requires intensive neonatal care,<sup>44</sup> and Louisiana has one of the highest percentages of low-birthweight

---

<sup>42</sup> TRUVEN HEALTH ANALYTICS, THE COST OF HAVING A BABY IN THE UNITED STATES 53 (Jan. 2013), <http://www.nationalpartnership.org/our-work/resources/health-care/maternity/archive/the-cost-of-having-a-baby-in-the-us.pdf>.

<sup>43</sup> NIRANJANA M. KOWLESSAR ET AL., AGENCY FOR HEALTHCARE RESEARCH & QUALITY, HOSPITAL STAYS FOR NEWBORNS, 2011, at 5 (Oct. 2013), <https://www.hcup-us.ahrq.gov/reports/statbriefs/sb163.pdf> (average hospital costs for newborns with low birth weight is \$27,200, compared to \$3,200 for all newborns).

<sup>44</sup> TRUVEN HEALTH ANALYTICS, *supra* note 42, at 62 (average newborn cost for hospitalizations that included NICU care was \$32,595 for vaginal delivery and \$47,429 for cesarean delivery).

infants.<sup>45</sup> Women without health insurance may bear these costs in their entirety.<sup>46</sup>

Beyond these immediate health costs, forcing women to continue their pregnancies undermines their economic security.<sup>47</sup> Pregnant workers often face discrimination in the workplace.<sup>48</sup> For example, pregnant workers, particularly in physically-demanding and low-wage jobs, with a medical need for temporary accommodations, such as avoiding heavy lifting, too often

---

<sup>45</sup> *Low Birthweight*, AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019), <https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/birthweight/state/LA> (follow “National Low Birthweight”) (Louisiana ranks 49th with 10.7% of infants weighing less than 5.5 pounds at birth).

<sup>46</sup> *Uninsured Women*, AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019), [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/Uninsured\\_women/state/LA](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/Uninsured_women/state/LA) (follow “National Uninsured”) (finding 11% of women aged 19–24 have no health insurance).

<sup>47</sup> KATE BAHN ET AL., CTR. FOR AM. PROGRESS, LINKING REPRODUCTIVE HEALTH CARE ACCESS TO LABOR MARKET OPPORTUNITIES FOR WOMEN 18 (Nov. 2017), [https://cdn.americanprogress.org/content/uploads/2017/11/16060404/110817\\_ReproRightsEconOpportunity-report1.pdf](https://cdn.americanprogress.org/content/uploads/2017/11/16060404/110817_ReproRightsEconOpportunity-report1.pdf) (women in states with more barriers to reproductive health care, including Louisiana, experience worse overall economic conditions).

<sup>48</sup> NAT'L PARTNERSHIP FOR WOMEN & FAMILIES, BY THE NUMBERS: WOMEN CONTINUE TO FACE PREGNANCY DISCRIMINATION IN THE WORKPLACE 1 (Oct. 2016), <http://www.nationalpartnership.org/our-work/resources/economic-justice/pregnancy-discrimination/by-the-numbers-women-continue-to-face-pregnancy-discrimination-in-the-workplace.pdf> (nearly 31,000 charges of pregnancy discrimination were filed between 2010 and 2015 with Equal Employment Opportunity Commission and state-level agencies).

have requests for accommodation denied.<sup>49</sup> Pregnant women are also denied promotions because of employers' preconceptions about pregnant women's career plans.<sup>50</sup>

Louisianans forced to carry their pregnancies to term may also face job insecurity because state law does not require paid parental leave, nor does it require employers to provide unpaid leave beyond what is legally mandated by the Family and Medical Leave Act ("FMLA").<sup>51</sup> Approximately 65% of Louisiana workers are either ineligible for FMLA or cannot afford to take unpaid time off work.<sup>52</sup> For many Louisianans, having a child means risking a paycheck or even their jobs. That choice places substantial costs on women in Louisiana, especially women of color, who are key breadwinners for their families—82% of Black mothers, 50% of Latina mothers, and 46% of white mothers are the primary wage earners or earn at least 40% of joint earnings.<sup>53</sup>

---

<sup>49</sup> NAT'L WOMEN'S LAW CTR., ACCOMMODATING PREGNANCY ON THE JOB: THE STAKES FOR WOMEN OF COLOR AND IMMIGRANT WOMEN 1 (May 2014), [http://nwlc.org/sites/default/files/pdfs/the\\_stakes\\_for\\_woc\\_final.pdf](http://nwlc.org/sites/default/files/pdfs/the_stakes_for_woc_final.pdf).

<sup>50</sup> JOANNA BARSH & LAREINA YEE, MCKINSEY & CO., UNLOCKING THE FULL POTENTIAL OF WOMEN AT WORK 7 (2012).

<sup>51</sup> BIALOSTOCKI, *supra* note 22, at 3.

<sup>52</sup> *Working Mothers Who Are Eligible for FMLA Unpaid Leave*, INST. FOR CHILD, YOUTH & FAM. POL'Y, <http://www.diversitydatakids.org/data/map/513/working-mothers-who-are-eligible-for-fmla-unpaid-leave-share> (last visited Nov. 25, 2019).

<sup>53</sup> PAID LEAVE MEANS A STRONGER LOUISIANA, NAT'L PARTNERSHIP FOR WOMEN & FAMILIES (Jan. 2019), <http://www>.

Women able to return to work after having a child will also need child care. Affordable, high-quality care that enables women to work and ensures the well-being of children can be difficult to find, particularly for those in low-wage and part-time jobs with non-standard, irregular, or unpredictable hours. In Louisiana, there were 3,826 children on the waiting list for child care assistance as of September 2019,<sup>54</sup> while the average annual cost of full-time center care for an infant in Louisiana is over \$7,500.<sup>55</sup>

And, of course, child care is only one of many child-rearing expenditures. A 2013 study found that 40% of women surveyed sought abortions because they were not prepared to support a child financially, while nearly 30% cited their need to focus on parenting existing children.<sup>56</sup> The average total annual cost of supporting one child in a single-parent household ranges from \$11,450 to \$13,280 depending on the child's age; and the costs of raising two children range from

---

[nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-means-a-stronger-louisiana.pdf](http://nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-means-a-stronger-louisiana.pdf).

<sup>54</sup> *Child Care Assistance Program*, LA. DEP'T OF EDUC., <https://www.louisianabelieves.com/early-childhood/child-care-assistance-program> (follow "Child Care Program Waitlist Statistics") (last updated Sept. 2019).

<sup>55</sup> LYNETTE FRAGA ET AL., *CHILD CARE AWARE OF AM., THE US AND THE HIGH COST OF CHILD CARE: APPENDICES 2* (2018), <https://usa.childcareaware.org/wp-content/uploads/2018/10/appendices18.pdf>.

<sup>56</sup> M. Antonia Biggs et al., *Understanding Why Women Seek Abortions in the US*, *BMC WOMEN'S HEALTH*, July 2013, at 6.



\$19,210 to \$20,660.<sup>57</sup> The total costs of raising a child account for 27% of low-income families' gross income.<sup>58</sup>

Beyond the immediate costs associated with having a child, women also face diminished earnings, interference with career advancement, disruption of education, and fewer resources for children they already have. This is especially true with respect to childbirth from unintended pregnancies.<sup>59</sup>

Studies show having a child creates both an immediate decrease in women's earnings and a long-term drop in their lifetime earning trajectory.<sup>60</sup> Women earn 3% more for each year of delayed childbearing,<sup>61</sup> and women without children have greater employment

---

<sup>57</sup> MARK LINO ET AL., U.S. DEP'T OF AGRIC., EXPENDITURES ON CHILDREN BY FAMILIES, 2015, at 15 (2017), [https://fns-prod.azureedge.net/sites/default/files/crc2015\\_March2017\\_0.pdf](https://fns-prod.azureedge.net/sites/default/files/crc2015_March2017_0.pdf).

<sup>58</sup> *Id.* at 10.

<sup>59</sup> Christine Dehlendorf et al., *Disparities in Abortion Rates: A Public Health Approach*, 103 AM. J. OF PUB. HEALTH 1772, 1775 (2013) (“[U]nintended childbirth is associated with decreased opportunities for education and paid employment. . . .”); ADAM SONFIELD ET AL., THE SOCIAL AND ECONOMIC BENEFITS OF WOMEN'S ABILITY TO DETERMINE WHETHER AND WHEN TO HAVE CHILDREN 14–15 (2013), [https://www.guttmacher.org/sites/default/files/report\\_pdf/social-economic-benefits.pdf](https://www.guttmacher.org/sites/default/files/report_pdf/social-economic-benefits.pdf).

<sup>60</sup> *See, e.g.*, SONFIELD ET AL., *supra* note 59, at 14–15 (reviewing studies documenting how controlling family timing and size contributes to educational and economic advancements).

<sup>61</sup> KELLEEN KAYE ET AL., NAT'L CAMPAGIN TO PREVENT TEEN & UNPLANNED PREGNANCY, THE BENEFITS OF BIRTH CONTROL IN AMERICA 4 (2014), <https://powertodecide.org/sites/default/files/resources/primary-download/benefits-of-birth-control-in-america.pdf>.

rates than both mothers and pregnant women.<sup>62</sup> Compared to women who obtained abortion care, women denied such care were four times more likely to live below the federal poverty level.<sup>63</sup> Additionally, women unable to obtain abortions were more likely to be receiving public assistance and less likely to have a full-time job six months later.<sup>64</sup>

Being forced to carry an unintended pregnancy to term can also undermine educational opportunities. Young people who give birth are much less likely to obtain a high school diploma relative to their counterparts.<sup>65</sup> Overall, 53% of young women who gave birth as teens receive a high school diploma by age twenty-nine, compared to 90% of women who did not. A full 30% of women who had a teen birth have not attained a high school education or GED by age twenty-nine.<sup>66</sup>

In short, the costs of forced motherhood will have significant economic and social consequences on people unable to obtain an abortion. Women who delay

---

<sup>62</sup> Jennifer Bennett Shinall, *The Pregnancy Penalty*, 103 MINN. L. REV. 749, 795–96 (2018).

<sup>63</sup> Diana Greene Foster et al., *Socioeconomic Outcomes of Women Who Receive and Women Who Are Denied Wanted Abortions in the United States*, 108 AM. J. PUB. HEALTH 407, 412–13 (2018).

<sup>64</sup> *Id.* at 409.

<sup>65</sup> Jennifer Manlove & Hannah Lantos, *Data Point: Half of 20- to 29-Year-Old Women Who Gave Birth in Their Teens Have a High School Diploma*, CHILD TRENDS (Jan. 11, 2018), <https://www.childtrends.org/half-20-29-year-old-women-gave-birth-teens-high-school-diploma>.

<sup>66</sup> *Id.*

childbearing can more easily mitigate the earnings loss associated with motherhood by investing in education and obtaining crucial early work experience. Women able to choose later childbearing and further education achieve greater socioeconomic mobility and are likely to pass on their educational advantage to their children.<sup>67</sup> The ability to decide whether and when to become mothers has contributed to significant gains for women across the socioeconomic spectrum.<sup>68</sup> These consequences underscore the importance to a woman's liberty to choose whether or when to incur these substantial costs.

## **2. Individuals Unable to Obtain Abortion Care Face Significant Threats to Their Health, Safety, and Autonomy.**

Forcing women and others who can become pregnant to carry a pregnancy threatens their health, safety, and bodily autonomy, often with grave results. These harms are particularly detrimental for women of color, transgender and non-conforming individuals, and survivors of intimate partner violence.

Some people need abortions for health reasons. Pregnancy is contraindicated for some women, and some pregnant women develop conditions—such as

---

<sup>67</sup> See Joanna Venator & Richard V. Reeves, *Three Reasons College Matters for Social Mobility*, BROOKINGS (Feb. 6, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/02/06/three-reasons-college-matters-for-social-mobility>.

<sup>68</sup> KAYE ET AL., *supra* note 63, at 29–31.

severe infection, heart failure, or severe preeclampsia—for which pregnancy termination is medically necessary.<sup>69</sup> If a woman is unable to terminate the pregnancy, the potentially serious health consequences can have a devastating impact on all aspects of her life.

Childbirth also presents one of the most serious health risks many women experience in their lifetimes. As the district court found, carrying a pregnancy to term creates much greater health risks for women than an abortion.<sup>70</sup> Rates of pregnancy-related mortality are also rising in the United States to crisis levels—more than doubling from 1987 to 2016.<sup>71</sup> Louisiana has the highest maternal mortality rate in the country, with particularly devastating effects on Black women.<sup>72</sup> Between 2011 and 2016, Black women

---

<sup>69</sup> See Kim Painter, *Doctors Say Abortions Do Sometimes Save Women's Lives*, USA TODAY (Oct. 22, 2012), <http://www.usatoday.com/story/news/nation/2012/10/19/abortion-mother-life-walsh/1644839>; see also PRINCIPLES OF MEDICAL THERAPY IN PREGNANCY 8–9 (Norbert Gleicher ed., 1985); Lara A. Friel, *Heart Disorders in Pregnancy*, MERCK MANUAL, <https://www.merckmanuals.com/professional/gynecology-and-obstetrics/pregnancy-complicated-by-disease/heart-disorders-in-pregnancy> (last updated Feb. 2019).

<sup>70</sup> Pet. App. 218a–19a.

<sup>71</sup> *Pregnancy Mortality Surveillance System*, CDC, <https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm> (last updated Oct. 10, 2019).

<sup>72</sup> *Maternal Mortality*, AM.'S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019), [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal\\_mortality\\_a/state/ALL](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/maternal_mortality_a/state/ALL) (follow “National Maternal Mortality”).

comprised 68% of maternal deaths in Louisiana.<sup>73</sup> The state also has one of the worst infant mortality rates (ranked 46th)<sup>74</sup> and child mortality rates (ranked 47th).<sup>75</sup>

Being denied an abortion also poses grave threats to transgender men and non-binary people who become pregnant. For some, pregnancy can increase experiences of gender dysphoria—the distress resulting from one’s physical body not aligning with one’s sense of self.<sup>76</sup> And gender dysphoria is a serious, potentially life-threatening condition: a staggering 40% of the transgender community has attempted suicide in their lifetime, with transgender people of color attempting suicide at higher rates than white counterparts.<sup>77</sup> Because pregnancy and childbirth can exacerbate experiences of gender dysphoria, access to abortion is critical.

---

<sup>73</sup> LYN KIELTYKA ET AL., LA. DEP’T OF HEALTH, LOUISIANA MATERNAL MORTALITY REVIEW REPORT 2011-2016, at 17, 21 (Aug. 2018), [http://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/maternal/2011-2016\\_MMR\\_Report\\_FINAL.pdf](http://ldh.la.gov/assets/oph/Center-PHCH/Center-PH/maternal/2011-2016_MMR_Report_FINAL.pdf).

<sup>74</sup> *Infant Mortality*, AM.’S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019), [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/IMR\\_MCH/state/LA](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/IMR_MCH/state/LA) (follow “National Infant Mortality”).

<sup>75</sup> *Child Mortality*, AM.’S HEALTH RANKINGS, UNITED HEALTH FOUND. (2019), [https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/child\\_mortality\\_a/state/LA](https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/child_mortality_a/state/LA) (follow “National Child Mortality”).

<sup>76</sup> Alexis D. Light et al., *Transgender Men Who Experienced Pregnancy After Female-to-Male Gender Transitioning*, 124 OBSTETRICS & GYNECOLOGY 1120, 1123–24 (2014).

<sup>77</sup> SANDY E. JAMES ET AL., NAT’L CTR. FOR TRANSGENDER EQUALITY, 2015 U.S. TRANSGENDER SURVEY 112–114 (2016), <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

The barriers posed by Act 620 may have life or death consequences for transgender and gender non-conforming individuals who are unable to terminate an unwanted pregnancy.

Finally, being forced to continue a pregnancy can also threaten personal safety. Women in abusive relationships who sought and obtained abortion care experienced a decrease in physical violence from the man involved in the pregnancy; women who sought but were denied care were not so fortunate.<sup>78</sup> Women denied an abortion remain tethered to the abuser and at risk for continued violence, even if they end the romantic relationship.<sup>79</sup> Pregnant women in abusive relationships are also at risk of being killed by their abusers.<sup>80</sup>

The decision whether or when to have a child is one of the most important decisions most women will make. Impairing the ability to make this decision has drastic implications for women's economic security, health, safety, and autonomy. Restrictions on abortion like Act 620 thus undermine women's ability "to participate equally in the economic and social life of the

---

<sup>78</sup> Sarah C.M. Roberts et al., *Risk of Violence from the Man Involved in the Pregnancy After Receiving or Being Denied an Abortion*, BMC MED., Sept. 2014, at 5; see also *id.* (women denied abortion were more likely to have sustained contact with the man involved in pregnancy).

<sup>79</sup> *Id.*

<sup>80</sup> Deborah Tuerkheimer, *Conceptualizing Violence Against Pregnant Women*, 81 IND. L.J. 667, 672 (2006).

Nation” and violate the fundamental right to liberty.  
*Casey*, 505 U.S. at 856.

---

◆

**CONCLUSION**

For the foregoing reasons, *amici curiae* respectfully request that this Court reverse the decision of the Court of Appeals for the Fifth Circuit.

Respectfully submitted,

STEPHEN M. CUTLER  
DAVID ELBAUM  
MEREDITH KARP  
SIMPSON THACHER  
& BARTLETT LLP  
425 Lexington Avenue  
New York, NY 10017  
(212) 455-2000

FATIMA GOSS GRAVES  
GRETCHEN BORCHELT\*  
*\*Counsel of Record*  
SUNU CHANDY  
MICHELLE BANKER  
HEATHER SHUMAKER  
LAUREN GORODETSKY<sup>±</sup>  
NATIONAL WOMEN’S LAW  
CENTER  
11 Dupont Circle NW,  
Suite 800  
Washington, DC 20036  
(202) 588-5180  
gborchelt@nwlc.org

<sup>±</sup> Not admitted in D.C.;  
supervised by D.C. Bar  
members.

*Counsel for Amici Curiae*

December 2, 2019

**APPENDIX**

Abortion Access Front

Abortion Access Hackathon

American Association of University Women

American Federation of State, County and Municipal  
Employees

American Federation of Teachers, AFL-CIO

American Sexual Health Association

American-Arab Anti-Discrimination Committee  
(ADC)

Anti-Defamation League

Asian Pacific American Labor Alliance

California Women Lawyers

California Women's Law Center

Center for American Progress

Center for Law and Social Policy

Coalition of Labor Union Women

Colorado Women's Bar Association

Columbia Law School Sexuality and Gender Law  
Clinic

Connecticut Women's Education and Legal Fund

Desiree Alliance

Equal Rights Advocates

Feminist Women's Health Center



Freedom From Religion Foundation

Gender Justice

Girls Inc.

Guttmacher Institute

Hadassah, The Women's Zionist Organization of  
America, Inc.

Healthy and Free Tennessee

International Action Network for Gender Equity &  
Law

Jacobs Institute of Women's Health

KWH Law Center for Social Justice and Change

LatinoJustice PRLDEF

Lawyers Club of San Diego

Legal Momentum, the Women's Legal Defense and  
Education Fund

Legal Voice

Mabel Wadsworth Center

Maine Women's Lobby

NARAL Pro-Choice America

National Alliance to End Sexual Violence

National CAPACD- National Coalition for Asian  
Pacific American Community Development

National Center for Law and Economic Justice

National Consumers League

3a

National Education Association

National Employment Law Project

National Family Planning & Reproductive Health  
Association

National Institute for Reproductive Health

National Network to End Domestic Violence

National Partnership for Women & Families

National Women's Health Network

National Women's Political Caucus

Northwest Health Law Advocates

Nurses for Sexual and Reproductive Health

Oklahoma Call for Reproductive Justice

Partnership for Working Families

People For the American Way Foundation

Population Connection Action Fund

Power to Decide

Progress Florida

Reproductive Health Access Project

Sanctuary for Families

Service Employees International Union (SEIU)

Shriver Center on Poverty Law

SIECUS: Sex Ed for Social Change

The Women's Law Center of Maryland

4a

UltraViolet

Washington State Coalition Against Domestic  
Violence

Women Employed

Women Lawyers On Guard Inc.

Women's Bar Association of the District of Columbia

Women's Bar Association of the State of New York

Women's Medical Fund, Inc.

Women's Rights and Empowerment Network (WREN)

WV FREE, Advocates for Reproductive Health, Rights  
and Justice

Young Women United

---