

NO. 23-3787

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LOURDES MATSUMOTO, NORTHWEST ABORTION ACCESS FUND,
and INDIGENOUS IDAHO ALLIANCE,
Plaintiffs-Appellees,

v.

RAÚL LABRADOR, in his capacity as the
Attorney General for the State of Idaho,
Defendant-Appellant.

On Appeal from the U.S. District Court for the District of Idaho
No. 23-CV-00323-DKG
The Honorable Debora K. Grasham

**BRIEF OF AMICI CURIAE THE STATES OF WASHINGTON,
ARIZONA, CALIFORNIA, COLORADO, CONNECTICUT,
DELAWARE, HAWAI'I, ILLINOIS, MAINE, MARYLAND,
MASSACHUSETTS, MINNESOTA, NEVADA, NEW JERSEY, NEW
MEXICO, NEW YORK, OREGON, RHODE ISLAND, AND VERMONT
IN SUPPORT OF PLAINTIFFS-APPELLEES**

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S.B. 23-188,
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S.B. 345, § 19
90th Leg., Reg. Sess. (Cal. 2023)..... 6

Wash. Rev. Code § 9.02.100..... 4

Wash. Rev. Code § 9.02.110..... 4

Other Authorities

Am. Acad. of Pediatrics, Comm. On Adolescence,
*Policy Statement: The Adolescent’s Right to Confidential
Care When Considering Abortion,*
39 Pediatrics e20163861 (2017)17

American College of Obstetricians & Gynecologists,
Facts are Important: Understanding Ectopic Pregnancy,
<https://www.acog.org/advocacy/facts-are-important/understanding-ectopic-pregnancy>.....16

Aria Bendix,
*Idaho becomes one of the most extreme anti-abortion states with
law restricting travel for abortions,* NBC News (April 6, 2023),
<https://www.nbcnews.com/health/womens-health/idaho-most-extreme-anti-abortion-state-law-restricts-travel-rcna78225>.....20

Blake Mayfield,
*Bend’s Planned Parenthood sees 1,000% increase in Idaho
patients since near-total ban took effect,* KTVZ (Nov. 3, 2023),
<https://ktvz.com/news/bend/2023/11/03/bends-planned-parenthood-sees-1000-increase-in-idaho-patients-since-near-total-ban-took-effect/>..22

Bonner General Health, Press Release,
*Discontinuation of Labor & Delivery Services at Bonner
General Hospital* (Mar. 17, 2023),
[https://bonnergeneral.org/wp-content/uploads/2023/03/Bonner-
General-Health-Press-Release-Closure-of-LD-3.17.2023.pdf](https://bonnergeneral.org/wp-content/uploads/2023/03/Bonner-General-Health-Press-Release-Closure-of-LD-3.17.2023.pdf).....19

Brianna Keefe-Oates et al., *Use of Abortion Services in
Massachusetts After the Dobbs Decision Among In-State vs.
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[https://jamanetwork.com/journals/jamanetworkopen/fullarticle
/2808962?utm_source=For_The_Media&utm_medium=referral
&utm_campaign=ftm_links&utm_term=090623](https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2808962?utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=090623).....23

Center for Reproductive Rights,
After Roe Fell: Abortion Laws by State,
<https://reproductiverights.org/maps/abortion-laws-by-state/>.....7

Danny Westneat,
In the WA v. Idaho abortion wars, data shows Idaho is losing,
The Seattle Times (June 28, 2023),
[https://www.seattletimes.com/seattle-news/politics/in-the-wa-
v-idaho-abortion-wars-data-shows-idaho-is-
losing/](https://www.seattletimes.com/seattle-news/politics/in-the-wa-v-idaho-abortion-wars-data-shows-idaho-is-losing/).....21

Elizabeth G. Raymond & David E. Grimes,
*The Comparative Safety of Legal Induced Abortion and
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Guttmacher Institute,
*Monthly Abortion Provision Study—Estimated abortions
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traveling from out of state, January-June 2023*,
<https://www.guttmacher.org/monthly-abortion-provision-study>.....20

Guttmacher Institute,
New Data Show that Interstate Travel for Abortion Care in the United States has Doubled Since 2020, Dec. 7, 2023,
<https://www.guttmacher.org/news-release/2023/new-data-show-interstate-travel-abortion-care-united-states-has-doubled-2020>.....20

Interstate Medical Licensure Compact Commission,
 Rule on Coordinated Information System, Joint Investigations and Disciplinary Actions (amended Nov. 8, 2022)
<https://www.imlcc.org/wp-content/uploads/2022/11/IMLCC-Rule-Chapter-6-Coordinated-Information-System-Joint-Investigations-and-Disciplinary-Actions-Adopted-November-16-2018-Amended-11-8-2022.pdf>.....14

Interstate Medical Licensure Compact,
<https://www.imlcc.org/>.....14

Isaac Maddow-Zimet et al.,
New State Abortion Data Indicate Widespread Travel for Care, Guttmacher Institute, (Sept. 7, 2023),
<https://www.guttmacher.org/2023/09/new-state-abortion-data-indicate-widespread-travel-care>.....19-20

J. Shoshanna Ehrlich,
Grounded in the Reality of Their Lives: Listening to Teens Who Make the Abortion Decision Without Involving Their Parents, 18 Berkeley Women’s L.J. 61, 94 (2003)17

Jessica Hill,
Las Vegas sees big spike in out-of-state abortion seekers, Las Vegas Review-Journal (June 27, 2023),
<https://www.reviewjournal.com/news/politics-and-government/nevada/las-vegas-sees-big-spike-in-out-of-state-abortion-seekers-2800219/>.....22

Kaitlin Washburn,
Planned Parenthood of Illinois reports spike in abortion patients since Roe v. Wade was overturned, Chicago Sun Times

(updated June 12, 2023),
<https://chicago.suntimes.com/2023/6/12/23758431/planned-parenthood-of-illinois-reports-spike-in-abortion-patients-since-roe-v-wade-overturned>.....23

Kandra Kent,
Oregon sees uptick in abortion travel, most out-of-staters come from Idaho, KPTV (Nov. 8, 2022),
<https://www.kptv.com/2022/11/08/oregon-sees-uptick-abortion-tourism-most-out-of-staters-come-idaho/>.....22

Kimya Forouzan, Amy Friedrich-Karnik, & Isaac Maddow-Zimet,
The High Toll of U.S. Abortion Bans: Nearly One in Five Patients Now Traveling Out of State for Abortion Care, Guttmacher Institute (Dec. 7, 2023),
<https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care>.....24

Margaret Moon,
Adolescents’ Right to Consent to Reproductive Medical Care: Balancing Respect for Families with Public Health Goals, 12 Am. Med. Ass’n J. of Ethics 805 (2012).....17

Megan Burbank,
Who is traveling to Washington for abortion care? Crosscut (Nov. 14, 2022),
<https://crosscut.com/equity/2022/11/who-traveling-washington-abortion-care>.....21

National Abortion Federation,
A Year After Dobbs, More People Than Ever Are Traveling For Abortion Care (June 7, 2023),
<https://prochoice.org/a-year-after-dobbs-more-people-than-ever-are-traveling-for-abortion-care/>.....14

National Academies of Sciences, Engineering, and Medicine,
The Safety and Quality of Abortion Care in the United States (National Academies Press 2018),

https://nap.nationalacademies.org/catalog/24950/the-safety-and-quality-of-abortion-care-in-the-united-states	15
Nicole Rideout, <i>One year since the overturn of Roe, OB/GYNs report devastating impacts from lack of abortion access,</i> OSHU News (June 24, 2023), https://news.ohsu.edu/2023/06/24/one-year-since-the-overturn-of-roe-obgyns-report-devastating-impacts-from-lack-of-abortion-access	21
Nina Shapiro, <i>She secretly traveled 2,000 miles for her WA abortion. Why patients from the South are coming here,</i> The Seattle Times (Feb. 26, 2023), https://www.seattletimes.com/seattle-news/she-secretly-traveled-2000-miles-for-her-wa-abortion-why-patients-from-the-south-are-coming-here/	15
Randi Kaye & Stephen Samaniego, <i>Idaho’s murky abortion law is driving doctors out of the state,</i> CNN (updated May 13, 2023), https://www.cnn.com/2023/05/13/us/idaho-abortion-doctors-drain/index.html	19
Reuters Fact Check, <i>Fact Check—Termination of Pregnancy Can Be Necessary to Save a Woman’s Life, Experts Say,</i> Reuters (Dec. 27, 2021), https://www.reuters.com/article/factcheck-abortion-false/fact-check-termination-ofpregnancy-can-be-necessary-to-save-a-womans-life-experts-say-idUSL1N2TC0VD/	16
Selena Simmons-Duffin, Nat’l Public Radio, <i>3 abortion bans in Texas leave doctors ‘talking in code’ to pregnant patients</i> (Mar. 1, 2023), https://www.npr.org/sections/health-shots/2023/03/01/1158364163/3-abortion-bans-in-texas-leave-doctors-talking-in-code-to-pregnant-patients	13

Society of Family Planning,
#WeCount Report, April 2022 to June 2023, Oct. 24, 2023,
[https://societyfp.org/wp-content/uploads/2023/10/
WeCountReport_10.16.23.pdf](https://societyfp.org/wp-content/uploads/2023/10/WeCountReport_10.16.23.pdf).....18

Society of Family Planning,
#WeCount Report, April to August 2022, Oct. 28, 2022,
[https://societyfp.org/wp-content/uploads/2022/10/
SFPWeCountReport_AprtoAug2022_ReleaseOct2022-1.pdf](https://societyfp.org/wp-content/uploads/2022/10/SFPWeCountReport_AprtoAug2022_ReleaseOct2022-1.pdf).....18

U.S. Senator Maria Cantwell,
*SNAPSHOT: Abortion Care in the State of Washington
One Year Post Dobbs*, Press Release (June 23, 2023),
[https://www.cantwell.senate.gov/imo/media/doc/06.23.23
%20Dobbs%20Abortion%20Impact%20Snapshot_FINAL.pdf](https://www.cantwell.senate.gov/imo/media/doc/06.23.23%20Dobbs%20Abortion%20Impact%20Snapshot_FINAL.pdf).....15

I. INTRODUCTION

Amici curiae are States bordering and neighboring Idaho, as well as States across the country, that have chosen to protect access to abortion and allow minors to independently consent to abortion care in some or all circumstances. But Attorney General Labrador’s interpretation of Idaho Code § 18-623 threatens to punish Amici State residents for simply giving information and assistance to minors who access lawful abortion care within Amici States, *outside* Idaho’s borders. This extraterritorial overreach cannot be reconciled with Supreme Court precedent, under which States cannot prevent their residents from accessing abortion care in other states where it is legal—much less from accessing or sharing information about such care.

Idaho’s law spells grave harm for Amici States and their residents. First, Attorney General Labrador’s interpretation of Idaho Code § 18-623 threatens to punish, and will chill, the ability of medical providers, counselors, and trusted adults in Amici States to provide their Idaho patients, clients, relatives, and friends with vital information and support about lawful healthcare in Amici States. These harms are real and far-reaching, as many Idahoans seek and receive lawful abortion care within Amici States’ borders. Second, the threatened criminalization of travel and provision of information will delay patients’ ability

to access lawful care, leading to increased health risks, illness, and death. This is true not only for Idahoans, but also for any residents of Amici States who are traveling in or happen to be in Idaho and require urgent reproductive healthcare. These risks will fall disproportionately on the most vulnerable young people who may be unable to inform their parents due to fear for their safety.

Idaho cannot, consistent with the Constitution, threaten to punish residents of Amici States for giving information about and helping young people access lawful healthcare within our borders. The district court correctly granted a preliminary injunction enjoining Idaho from enforcing this unconstitutional regime. Consistent with fundamental principles of federalism, Amici States respectfully urge this Court to affirm that order.

II. INTEREST OF AMICI CURIAE

Amici are the States of Washington, Arizona, California, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Vermont (Amici States). Amici States have chosen to protect the right to give and receive abortion care. In many Amici States, this includes allowing some or all minors to independently consent to such care. Idaho Code § 18-623 purports to criminalize adults—including residents of Amici States—

who “recruit,” “harbor,” or “transport” minors to receive care that is legal in Amici States, and Attorney General Labrador’s interpretation of the law reflects the law is intended to sweep broadly and chill the provision of information. Amici States have important sovereign interests in preserving our authority to regulate public health within our borders. *See State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 422 (2003). These interests include protecting patient access to legal healthcare, regardless of where the patient happens to reside. It also includes protecting the ability of Amici State residents to counsel and assist patients, including Idaho patients, in accessing such care. In addition, Amici States are themselves providers or administrators of healthcare to many, offering a range of reproductive care, including abortion. Amici States own and operate public hospital systems, employ healthcare personnel, and license and regulate the many healthcare providers that operate within our jurisdictions. Accordingly, Amici States have an interest in preventing uncertainties caused by Idaho’s law that may chill the provision of healthcare within those systems.

III. ARGUMENT

A. Amici States Have Chosen to Protect Access to Abortion Care, Including Many that Protect Minors’ Ability to Access Abortion Care

Amici States do not challenge Idaho’s ability to make sovereign decisions regarding abortion within its borders (to the degree consistent with federal and

state constitutional limitations). Likewise, Amici States too may exercise our police powers over public health policy within our own borders. Some Amici States have enacted laws allowing minors to access reproductive healthcare. Although these laws differ in specifics, they allow minors in at least some circumstances to independently consent to abortion care without requiring parental consent or notification, including in states bordering and neighboring Idaho.

In Washington, voters codified the right to choose abortion into state law through the initiative process, “declar[ing] that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions,” including the “right to choose or refuse to have an abortion.” Wash. Rev. Code § 9.02.100; *see also* Wash. Rev. Code § 9.02.110 (“The state may not deny or interfere with a pregnant individual’s right to choose to have an abortion prior to viability of the fetus, or to protect the pregnant individual’s life or health.”). People of any age—including minors—have the right in Washington to independently consent to their own abortion care, and parental consent is not required. Wash. Rev. Code § 9.02.100; *State v. Koome*, 530 P.2d 260 (Wash. 1975) (striking down law requiring an unmarried minor to obtain parental consent before receiving abortion care).

In Oregon, state law ensures that a “consenting individual” cannot be deprived of “the choice of terminating the individual’s pregnancy[,]” nor can a healthcare provider acting within the scope of their license be prohibited from “terminating or assisting in the termination of a patient’s pregnancy.” Or. Rev. Stat. § 659.880. Minors aged 15 and older can independently consent to abortion care, and minors under 15 can independently consent when the provider reasonably believes that involving the parent may result in abuse or neglect, or would not be in the minor’s best interest. Or. Rev. Stat. § 109.640.

In California and Nevada, minors can independently consent to abortion care. *See Am. Acad. of Pediatrics v. Lungren*, 940 P.2d 797, 883–89 (Cal. 1997) (invalidating Cal. Health & Safety Code § 123450, which imposed parental consent and notification requirements decades ago); *Glick v. McKay*, 937 F.2d 434, 442 (9th Cir. 1991) (invalidating similar law, Nev. Rev. Stat. § 442.255). In the meantime, California has enshrined the right of every individual to choose an abortion not only in statute, *see* Cal. Health & Safety Code § 123462 (declaring that every individual has “the fundamental right to choose to bear a child or to choose and to obtain an abortion”), but also constitutionally, with voters recently approving an amendment protecting the “fundamental right to choose to have an abortion.” Cal. Const., art. 1, § 1.1. And in Nevada, individuals

have the legal right to choose to have an abortion when performed by a licensed physician within the first 24 weeks of pregnancy. Nev. Rev. Stat. § 442.250.

Several Amici States bordering or neighboring Idaho have also enacted laws sometimes known as “shield laws” that are intended to protect abortion access for everyone, regardless of their home state, within those states. Nevada law, for example, prevents state executive agencies from assisting another state seeking to punish someone for providing, securing, assisting with, inquiring about, or receiving reproductive services that are legal in Nevada. S.B. 131, 82nd Leg., Reg. Sess. (Nev. 2023). Washington law likewise prohibits, *inter alia*, Washington law enforcement from cooperating with investigations initiated under other states’ anti-abortion laws against those who provide, receive, or facilitate access to abortion care that is legal in Washington. Engrossed Substitute H.B. 1469, 68th Leg., Reg. Sess. (Wash. 2023), *enacted as* 2023 Wash. Sess. Laws, ch. 193. Oregon and California have enacted similar laws. *See* H.B. 2002, §§ 3, 5(a), 82nd Leg., Reg. Sess. (Or. 2023), *amending* Or. Rev. Stat. § 15.430; S.B. 345, § 19(b), (d), 90th Leg., Reg. Sess. (Cal. 2023).

Other Amici States that do not border Idaho have also protected access to abortion care. Colorado codified abortion as a fundamental right in 2022. Col. Rev. Stat. § 25-6-403. In 2023, Colorado also enacted a shield law

providing protections for persons engaging in legal reproductive healthcare in Colorado against criminal, civil, or professional sanctions from other states. S.B. 23-188, 74th Reg. Sess. (Colo. 2023), *codified at* Colo. Rev. Stat. § 12-30-121. For minors, parental notification is not required in Colorado in circumstances including where the minor declares that she is a victim of child abuse or neglect, or when there is a medical emergency. Col. Rev. Stat. § 13-22-705. Similarly, in Illinois, the Reproductive Health Act enshrines in statute the right to choose an abortion, recognizing that “every individual has a fundamental right to make autonomous decisions about the individual’s own reproductive health[.]” 775 ILCS 55/1-15. Parental notification for minors seeking an abortion is no longer required in Illinois. Ill. Pub. Act 102-0685 (eff. June 1, 2022).

Many other states across the country, including the other Amici States, have similarly protected the individual right to choose their own reproductive care. *See, e.g.*, Center for Reproductive Rights, *After Roe Fell: Abortion Laws by State*, <https://reproductiverights.org/maps/abortion-laws-by-state/> (last accessed Jan. 23, 2024) (interactive map showing state policies on rights to abortion care). Indeed, even in Amici States with more restrictive abortion laws, their legislatures have still recognized the need, under certain circumstances, for

minors to be able to make their own reproductive healthcare decisions without parental consent. *E.g.*, Ariz. Rev. Stat. § 36-2152 (establishing judicial bypass procedures for minors seeking abortion care without written consent of a parent or guardian).

B. Idaho Code § 18-623 Purports to Impermissibly Criminalize Legal Activity in Amici States

In overruling *Roe v. Wade*, 410 U.S. 113 (1973), the Supreme Court said that it would return the power to regulate abortion to each of the States, via their “people and . . . elected representatives.” *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 302 (2022); *see also id.* at 346 (Kavanaugh, J., concurring). The people of the Amici States, through the “constitutional process of democratic self-government,” *id.* at 346 (Kavanaugh, J., concurring), have chosen to protect the right of minors to access, and independently consent to, abortion care.

Amici States recognize that Idaho may regulate abortion within its borders. But Idaho cannot purport to criminalize the lawful provision of abortion care outside the state. At a minimum, as Justice Kavanaugh indicated in *Dobbs*, a State cannot bar one of its residents from “traveling to another State to obtain an abortion”—and the question is “not especially difficult as a constitutional matter.” *Dobbs*, 597 U.S. at 346 (Kavanaugh J., concurring).

Yet Idaho’s Attorney General explicitly interprets Idaho Code § 18-623 to cover prosecutions for “recruitment,” “harboring,” and “transporting” even when the abortion occurs “in another state where abortion is legal.” 4-ER-396; *see also* Idaho Code § 18-623(3). These criminal prohibitions, as interpreted by Attorney General Labrador, potentially cover and are obviously intended to chill speech and activity that is lawful in Amici States. *See* Appellees’ Br. at 48–54. Consider this example. A teenage girl in Moscow, Idaho, calls her aunt in Pullman, Washington—less than ten miles away—to say she is pregnant and feels she cannot safely tell her parents. If the aunt tells her niece about a clinic in Pullman that offers abortion care and counseling, is that “recruitment”? What if the aunt texts her niece a link to the clinic’s informational material? Or if the niece books an appointment and the clinic’s office manager emails her a pre-appointment information sheet? If the aunt pays for her niece’s bus ticket to Pullman, is that “transportation”—or, as the Idaho law would have it, “trafficking”?

These examples illustrate the chilling effect of Idaho’s deliberately overbroad criminal prohibitions on the free flow of lawful and protected speech. Rather than risk criminal prosecution, residents of and professionals in Amici States may choose not to speak at all.

Given the right to interstate travel, the lawfulness of abortion care in Amici States, and the chilling effect that Idaho’s law has on the provision of abortion-related information, such prosecutions would not withstand legal scrutiny. As the Supreme Court has held, a State cannot “bar a citizen of another State from disseminating information about an activity that is legal in that State,” even if it does so “under the guise of exercising internal police powers.” *Bigelow v. Virginia*, 421 U.S. 809, 824–25 (1975). The Court expressly applied this principle to abortion care in *Bigelow*, reversing the conviction of a Virginia newspaper editor who published an advertisement for a New York referral service that helped women obtain legal abortions in New York, at a time when abortion was illegal in Virginia. *Bigelow*, 421 U.S. at 811–12. Under the First Amendment, the Court held that Virginia had no legitimate interest in “regulating what [its own residents] may hear or read about the New York services”—in other words, “shielding its citizens from information about activities outside Virginia’s borders, activities that Virginia’s police powers do not reach.” *Id.*, at 827–28.

So too here. Idaho may enact abortion laws within its borders. But basic principles of federalism and state sovereignty, as recognized in *Dobbs*, do not allow it to chill speech to prevent its citizens from learning about or accessing

legal healthcare outside Idaho’s borders—healthcare Idaho has no power to regulate.

C. Idaho Code § 18-623 Will Impose Significant Harms on Amici States

1. Idaho Code § 18-623 Harms Amici States’ Healthcare Providers, Residents, and Youth

Idaho Code § 18-623 imposes immediate harms on Amici States. By imposing the threat of criminal prosecution on medical professionals and others, the law chills the ability of providers, organizations, and others in Amici States to convey necessary information to minor patients. The law also forces costly delays for adolescents traveling to receive care—not only for Idahoans but also for residents of Amici States who may need care while traveling in or temporarily residing in Idaho. As the Governor of Washington warned, Idaho Code § 18-623 will endanger women and girls from Washington (and other Amici States) “if they travel to [Idaho] and find themselves in need of urgent reproductive health care services.” 3-ER-353. Both harms will most acutely affect care involving vulnerable young people, who may be unable to safely discuss their care with their parents.

First, under Attorney General Labrador’s interpretation of Idaho Code § 18-623, medical professionals, reproductive health organizations, and others in Amici States will fear criminal prosecution and may be chilled from

providing appropriate care, information, and counseling to their patients, clients, relatives, and friends.¹ For example, it is unclear whether a Washington medical provider who, while consulting with a pregnant Idahoan, offers a pamphlet detailing options or providing pre-appointment information could be guilty of “recruiting.” It is likewise unclear whether an adult, such as a close family member, who knows about transportation options for a minor Idahoan seeking to end a pregnancy could be guilty of “abortion trafficking” by sharing that information. Exacerbating this harm, some telehealth medical providers and other professionals may not know the location of the person they are speaking with. For example, a nurse practitioner informing a minor patient by telephone or online about independent consent laws in the nurse’s state. Or a crisis hotline worker advising an anonymous caller about abortion resources, travel assistance, or other types of support available in the worker’s state, without knowing the caller lives in Idaho.

¹ Idaho’s Attorney General has also opined that referring a patient across state lines to obtain out-of-state abortion care could violate Idaho Code § 18-622. *See* 4-ER-393. A district court in Idaho has preliminarily enjoined the Attorney General’s enforcement of § 18-622 under that interpretation, and that appeal is currently pending in this Court. *See Planned Parenthood Greater Nw., v. Labrador*, No. 1:23-CV-00142-BLW, 2023 WL 4864962 (D. Idaho July 31, 2023), *appeal docketed*, No. 23-35518 (9th Cir. 2023).

Given this uncertainty (which is obviously the intended consequence of the law and its broad construction), providers, counselors, and others in Amici States may choose to self-censor rather than face the risk of criminal prosecution—inhibiting the free flow of information about protected healthcare within Amici States’ borders. *See Virginia v. Hicks*, 539 U.S. 113, 119 (2003) (in context of an overbreadth challenge, self-censorship “harm[s] not only [the speaker] but society as a whole, which is deprived of an uninhibited marketplace of ideas”).

These harms are hardly hypothetical, as responses to other states’ existing laws demonstrate. For example, Texas’s prohibition on “aiding and abetting” abortion has chilled doctors from referring patients for care in other states where abortion is legal—or even counseling them about their options—including in cases involving serious medical complications. *See, e.g.,* Selena Simmons-Duffin, Nat’l Public Radio, *3 abortion bans in Texas leave doctors ‘talking in code’ to pregnant patients* (Mar. 1, 2023), <https://www.npr.org/sections/health-shots/2023/03/01/1158364163/3-abortion-bans-in-texas-leave-doctors-talking-in-code-to-pregnant-patients> (last visited Jan. 23, 2024). And in the context of providers in Amici States, these fears are further exacerbated for dually-licensed providers, for whom a licensing enforcement action in Idaho for violation of

Idaho Code § 18-623 could also result in restrictions, fines, and even enforcement action in other states due to reciprocal licensing schemes.²

Second, Idaho Code § 18-623 will increase barriers to access by impacting patients' ability to arrange travel and housing, find funds, and manage other logistics. These barriers will cause delays in care that increase medical risks, affecting not only patients but also healthcare providers in Amici States endeavoring to provide high-quality, safe, and effective care. This only exacerbates the existing delays in care arising from the logistical challenges of the post-*Dobbs* patchwork itself.³ University of Washington doctors say that,

² See, e.g., Interstate Medical Licensure Compact, <https://www.imlcc.org/> (last visited Jan. 23, 2024) (showing over 40 states as members of the Compact); Interstate Medical Licensure Compact Commission, Rule on Coordinated Information System, Joint Investigations and Disciplinary Actions, at ¶ 6.5(a) (amended Nov. 8, 2022) <https://www.imlcc.org/wp-content/uploads/2022/11/IMLCC-Rule-Chapter-6-Coordinated-Information-System-Joint-Investigations-and-Disciplinary-Actions-Adopted-November-16-2018-Amended-11-8-2022.pdf> (last visited Jan. 23, 2024) (“Any disciplinary action by a disciplining Board shall be considered unprofessional conduct and may be a basis for discipline by other member Boards. This includes any action that does not have a corresponding ground by the other member Board’s Medical Practice Act or in addition to any other specific violation of the Medical Practice Act in the other member state.”).

³ The National Abortion Hotline reported sharp increases in their provision of financial assistance in the year following *Dobbs*: 235% for plane or bus fares, 195% for hotel rooms, and 403% for rideshares. National Abortion Federation, *A Year After Dobbs, More People Than Ever Are Traveling For Abortion Care* (June 7, 2023), <https://prochoice.org/a-year-after-dobbs-more-people-than-ever-are-traveling-for-abortion-care/> (last visited Jan. 23, 2024).

since *Dobbs*, they have seen an increase in the gestational ages at which patients first come to see them to obtain abortion care.⁴ The medical director for Cedar River Clinics in Washington has said the same: “Patients are further along in their pregnancies when they come to see us.”⁵

While abortion is safe at virtually any stage—and, without question, far safer than carrying a pregnancy to term—delays in receiving abortion care make treatment more complex, increasing the risks for the patient, the duration of the procedure, travel-related barriers, and financial costs.⁶ In addition, many pregnancy and miscarriage complications require time-sensitive treatment, including abortion care, to stabilize emergency conditions. In these urgent

⁴ U.S. Senator Maria Cantwell, *SNAPSHOT: Abortion Care in the State of Washington One Year Post Dobbs*, Press Release (June 23, 2023), https://www.cantwell.senate.gov/imo/media/doc/06.23.23%20Dobbs%20Abortion%20Impact%20Snapshot_FINAL.pdf (last visited Jan. 23, 2024).

⁵ Nina Shapiro, *She secretly traveled 2,000 miles for her WA abortion. Why patients from the South are coming here*, *The Seattle Times* (Feb. 26, 2023), <https://www.seattletimes.com/seattle-news/she-secretly-traveled-2000-miles-for-her-wa-abortion-why-patients-from-the-south-are-coming-here/> (last visited Jan. 23, 2024).

⁶ Elizabeth G. Raymond & David E. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 *Obstetrics & Gynecology* 215, 215 (2012) (concluding the risk of death associated with childbirth is approximately 14 times higher than that with abortion); National Academies of Sciences, Engineering, and Medicine, *The Safety and Quality of Abortion Care in the United States* 12, 77-78 (National Academies Press 2018), <https://nap.nationalacademies.org/catalog/24950/the-safety-and-quality-of-abortion-care-in-the-united-states> (last visited Jan. 23, 2024).

circumstances, any delay puts the patient's life or health at risk.⁷ See *United States v. Idaho*, 623 F. Supp. 3d 1096, 1116 (D. Idaho 2022), *cert. before judgment granted*, No. 23-727, 2024 WL 61829 (U.S. Jan. 5, 2024) (identifying pregnancy-related complications that require emergency care and the harms caused by discouraging healthcare professionals from providing abortion care that would be necessary to save a patient's life). These delays affect not just Idahoans, but healthcare providers in Amici States, as well as minors traveling to, or temporarily residing in, Idaho and finding themselves urgently needing reproductive care. Further, as providers of health insurance for state employees and their children who may be temporarily visiting or residing in Idaho, Amici States have a direct financial interest in preventing increased risk to patients and increased costs of medical care from undue delays or impeded continuity of care.

Finally, Amici States, including our healthcare providers, recognize that the young people choosing not to disclose their pregnancies or their intent to

⁷ E.g., Reuters Fact Check, *Fact Check—Termination of Pregnancy Can Be Necessary to Save a Woman's Life, Experts Say*, Reuters (Dec. 27, 2021), <https://www.reuters.com/article/factcheck-abortion-false/fact-check-termination-ofpregnancy-can-be-necessary-to-save-a-womans-life-experts-say-idUSL1N2TC0VD/> (last visited Jan. 23, 2024); American College of Obstetricians & Gynecologists, *Facts are Important: Understanding Ectopic Pregnancy*, <https://www.acog.org/advocacy/facts-are-important/understanding-ectopic-pregnancy> (last visited Jan. 23, 2024).

terminate to their parents are often those at greatest risk of violence, family conflict, and other dangers.⁸ Not all young people have the support of “capable parents.”⁹ One study found that one-third of minors who choose not to inform their parents about their reproductive healthcare decisions “already have experienced family violence and fear it will recur.”¹⁰ As the American Academy of Pediatrics’ position statement notes, “risks of violence, abuse, coercion, unresolved conflict, and rejection are significant in unsupportive or dysfunctional families when parents are informed of a pregnancy against the adolescent’s considered judgment.”¹¹ This is why Amici States do not require forced involvement of parents or guardians where doing so would be unsafe or not in the minor’s best interest. *See, e.g.*, Or. Rev. Stat. § 109.640; Col. Rev. Stat. § 13-22-705. Idaho impermissibly seeks to punish those in Amici States for lawful acts taken within Amici’s borders.

⁸ *Cf.* Am. Acad. of Pediatrics, Comm. On Adolescence, *Policy Statement: The Adolescent’s Right to Confidential Care When Considering Abortion*, 139 Pediatrics e20163861, at 4 (2017); J. Shoshanna Ehrlich, *Grounded in the Reality of Their Lives: Listening to Teens Who Make the Abortion Decision Without Involving Their Parents*, 18 Berkeley Women’s L.J. 61, 94 (2003).

⁹ Margaret Moon, *Adolescents’ Right to Consent to Reproductive Medical Care: Balancing Respect for Families with Public Health Goals*, 12 Am. Med. Ass’n J. of Ethics 805, 806 (2012).

¹⁰ Am. Acad. of Pediatrics, *supra* n.8 at 8.

¹¹ *Id.*

2. These Harms Will Have Significant Real-World Effects, Given the Sharp Rises in Idaho Patients Seeking Care in Neighboring Amici States

Following Idaho’s enactment of its “trigger” ban on abortion that went into effect in 2022 (*see* Idaho Code § 18-622(1)(a)), neighboring Amici States have seen huge recent influxes of Idaho residents seeking legal abortion care within our borders. Amici States are ready and willing to provide such care. But the influx of patients means the harms caused by Idaho Code § 18-623—both the chilling effect on those helping Idaho patients and the dangerous delays for patients traveling to receive care—will have significant real-world effects on an ever-increasing population.

The effect of Idaho’s 2022 trigger ban was immediate. Between April and August 2022, just before and after the *Dobbs* decision was released, Idaho saw a decrease in abortion care of 48 percent.¹² Following Idaho’s abortion ban in August 2022, abortions in Idaho have plummeted to near zero.¹³ Exacerbating

¹² Society of Family Planning, *#WeCount Report, April to August 2022* at 9, Oct. 28, 2022, https://societyfp.org/wp-content/uploads/2022/10/SFPWeCountReport_AprtoAug2022_ReleaseOct2022-1.pdf (last visited Jan. 23, 2024).

¹³ Society of Family Planning, *#WeCount Report, April 2022 to June 2023*, at 10, Oct. 24, 2023, https://societyfp.org/wp-content/uploads/2023/10/WeCountReport_10.16.23.pdf (last visited Jan. 23, 2024) (data showing that less than ten abortions were performed each month in Idaho since September 2022).

the situation, Idaho obstetricians and gynecologists have left the state in droves as a result of the law, in part out of fear of criminal prosecution. *See* Randi Kaye & Stephen Samaniego, *Idaho's murky abortion law is driving doctors out of the state*, CNN (updated May 13, 2023), <https://www.cnn.com/2023/05/13/us/idaho-abortion-doctors-drain/index.html> (last visited Jan. 23, 2024). This exodus has directly contributed to the loss of at least one entire labor and delivery unit at an Idaho hospital. *See* Bonner General Health, Press Release, *Discontinuation of Labor & Delivery Services at Bonner General Hospital* (Mar. 17, 2023), <https://bonnergeneral.org/wp-content/uploads/2023/03/Bonner-General-Health-Press-Release-Closure-of-LD-3.17.2023.pdf> (last visited Jan. 23, 2024).

At the same time, neighboring Amici States saw significant increases in the number of abortions performed, largely due to patients coming from states which prohibit most or all abortions, such as Idaho.¹⁴ Interstate travel for

¹⁴ *Id.* at 4 (“We observed greater increases in states close to states with bans, even if those receiving states had abortion restrictions such as mandated in-person counseling and waiting periods.”); *see also* Isaac Maddow-Zimet et al., *New State Abortion Data Indicate Widespread Travel for Care*, Guttmacher Institute, (Sept. 7, 2023), <https://www.guttmacher.org/2023/09/new-state-abortion-data-indicate-widespread-travel-care> (last visited Jan. 23, 2024) (“Much of the increase [in states that allow abortion] is likely attributable to out-of-state patients who were forced to travel for abortion care, reflecting the reality that states that ban abortion are neglecting the health care needs of their residents.”).

abortion care across the United States has doubled since 2020.¹⁵ In Washington, abortions increased by 36 percent between 2020 and 2023—3,230 more abortions in 2023 than in 2020.¹⁶ By contrast, abortions in Washington increased by only one percent in the previous three-year period, between 2017 and 2020.¹⁷ Ten percent of all patients seeking abortion care in Washington in the first half of 2023 came from out of state.¹⁸ Between January 2022 and early 2023, certain Washington clinics reported an unprecedented 75 percent increase in Idahoan patients.¹⁹ Across ten Eastern and Central Washington clinics that offer abortion, the number of Idahoan patients increased 56 percent since Idaho banned abortion.²⁰ Planned Parenthood’s clinic in Pullman, Washington—just eight

¹⁵ Guttmacher Institute, *New Data Show that Interstate Travel for Abortion Care in the United States has Doubled Since 2020*, Dec. 7, 2023, News Release, <https://www.guttmacher.org/news-release/2023/new-data-show-interstate-travel-abortion-care-united-states-has-doubled-2020> (last visited Jan. 23, 2024).

¹⁶ Maddow-Zimet et al., *supra* n.14.

¹⁷ *Id.*

¹⁸ Guttmacher Institute, *Monthly Abortion Provision Study—Estimated abortions provided by the formal U.S. health care system to patients traveling from out of state, January-June 2023*, <https://www.guttmacher.org/monthly-abortion-provision-study> (last visited Jan. 23, 2024).

¹⁹ Aria Bendix, *Idaho becomes one of the most extreme anti-abortion states with law restricting travel for abortions*, NBC News (April 6, 2023), <https://www.nbcnews.com/health/womens-health/idaho-most-extreme-anti-abortion-state-law-restricts-travel-rcna78225> (last visited Jan. 23, 2024).

²⁰ Danny Westneat, *In the WA v. Idaho abortion wars, data shows Idaho is losing*, The Seattle Times (June 28, 2023), <https://www.seattletimes.com>

miles from the Idaho border—reported that 62 percent of patients in June 2022 were Idahoans.²¹ By July, that share had increased to 78 percent.²² Planned Parenthood has also reported serving Idaho residents at clinics as far as Kennewick and Walla Walla, with drive times of more than four hours from Boise.²³

In Oregon, providers reported in June 2023 an average of 100 to 300 additional abortions performed per month post-*Dobbs*.²⁴ Providers at Oregon Health & Science University have noted that, prior to *Dobbs*, they mainly cared for individuals from Oregon and Washington. But in 2022, the majority of that university’s out-of-state patients were from Idaho and Texas—states with some of the most restrictive anti-abortion laws in the country.²⁵ Some patients have come to Oregon from states with broad abortion protections but—due to capacity

/seattle-news/politics/in-the-wa-v-idaho-abortion-wars-data-shows-idaho-is-losing/ (last visited Jan. 23, 2024).

²¹ Megan Burbank, *Who is traveling to Washington for abortion care?* Crosscut (Nov. 14, 2022), <https://crosscut.com/equity/2022/11/who-traveling-washington-abortion-care> (last visited Jan. 23, 2024).

²² *Id.*

²³ *Id.*

²⁴ Nicole Rideout, *One year since the overturn of Roe, OB/GYNs report devastating impacts from lack of abortion access*, OSHU News (June 24, 2023), <https://news.ohsu.edu/2023/06/24/one-year-since-the-overturn-of-roe-obgyns-report-devastating-impacts-from-lack-of-abortion-access> (last visited Jan. 23, 2024).

²⁵ *Id.*

issues and long wait times for appointments caused by the influx of out-of-state patients—are unable to receive care at home and are forced to travel to receive care.²⁶ Planned Parenthood Columbia Willamette has reported that most of its out-of-state patients seeking abortions are from Idaho.²⁷ Planned Parenthood’s Bend clinic—one of only two clinics in Oregon east of the Cascade Mountains—reports that it has seen a 1,000 percent increase in patients from Idaho since Idaho’s ban took effect.²⁸ And in Nevada, between June 2022 and July 2023, Las Vegas saw a 37 percent increase in out-of-state patients at Planned Parenthood health centers. More than 1,200 patients came to the Las Vegas centers from out of state, including Idaho.²⁹

²⁶ *Id.*

²⁷ Kandra Kent, *Oregon sees uptick in abortion travel, most out-of-staters come from Idaho*, KPTV (Nov. 8, 2022), <https://www.kptv.com/2022/11/08/oregon-sees-uptick-abortion-tourism-most-out-of-staters-come-idaho/> (last visited Jan. 23, 2024).

²⁸ Blake Mayfield, *Bend’s Planned Parenthood sees 1,000% increase in Idaho patients since near-total ban took effect*, KTVZ (Nov. 3, 2023), <https://ktvz.com/news/bend/2023/11/03/bends-planned-parenthood-sees-1000-increase-in-idaho-patients-since-near-total-ban-took-effect/> (last visited Jan. 23, 2024).

²⁹ Jessica Hill, *Las Vegas sees big spike in out-of-state abortion seekers*, Las Vegas Review-Journal (June 27, 2023), <https://www.reviewjournal.com/news/politics-and-government/nevada/las-vegas-sees-big-spike-in-out-of-state-abortion-seekers-2800219/> (last visited Jan. 23, 2024).

Other states that have protected abortion access have likewise seen a rise in out-of-state patients seeking abortion care. For example, the leading abortion care provider in Connecticut, Planned Parenthood of Southern New England, has experienced a 59 percent increase in patients coming to Connecticut to seek abortion care from the 19 states that have banned some or all abortions. Similarly, a study by Brigham and Women's Hospital in Boston, Massachusetts showed that after *Dobbs* there was an overall increase in the number of abortions performed at Massachusetts's leading abortion provider and a 37.5 percent increase in the number of abortions provided to out-of-state residents.³⁰ Planned Parenthood Illinois reported that the number of patients seeking abortions rose 54 percent in the last year. During that time, almost 25 percent of patients at Planned Parenthood clinics traveled from other states, compared with only 7 percent before *Dobbs*.³¹ Indeed, data show that Illinois experienced the largest

³⁰ Brianna Keefe-Oates et al., *Use of Abortion Services in Massachusetts After the Dobbs Decision Among In-State vs. Out-of-State Residents*, JAMA Network Open (Sept. 6, 2023), [https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2808962?utm_source=For The Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=090623](https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2808962?utm_source=For%20The%20Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=090623) (last visited Jan. 23, 2024)

³¹ Kaitlin Washburn, *Planned Parenthood of Illinois reports spike in abortion patients since Roe v. Wade was overturned*, Chicago Sun Times (updated June 12, 2023), <https://chicago.suntimes.com/2023/6/12/23758431/planned-parenthood-of-illinois-reports-spike-in-abortion-patients-since-roe-v-wade-overturned> (last visited Jan. 23, 2024).

increase in the number of patients traveling from out of state for abortion care, though other states with strong protections for abortion also saw sharp increases in out-of-state patients.³²

These sharp increases in Idaho patients seeking care in Amici States provide important context for the harms caused by Idaho Code § 18-623. As Amici States' healthcare providers endeavor to meet the needs of patients from Idaho seeking abortion and other reproductive care, the fear of criminal prosecution on medical professionals and others for the provision of legal healthcare now imposed by Idaho Code § 18-623 are all the more significant.

IV. CONCLUSION

This Court should affirm the district court's order granting a preliminary injunction.

³² Kimya Forouzan, Amy Friedrich-Karnik, & Isaac Maddow-Zimet, *The High Toll of U.S. Abortion Bans: Nearly One in Five Patients Now Traveling Out of State for Abortion Care*, Guttmacher Institute (Dec. 7, 2023), <https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care> (last visited Jan. 23, 2024) (discussing increases in out-of-state patients seeking abortion care in California, Illinois, New Mexico, Colorado, New York, and Ohio).

RESPECTFULLY SUBMITTED this 24th day of January 2024.

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CERTIFICATE OF COMPLIANCE

I certify that pursuant to Federal Rule of Appellate Procedure 32 and Ninth Circuit Rule of Appellate Procedure 32, the attached brief is proportionately spaced, has a typeface of 14 points or more and contains 4,174 words.

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Brief of *Amici Curiae* States of Washington, et al., in Support of Plaintiffs-Appellees to be electronically filed with the with the Clerk of the Court using the Ninth Circuit e-filer portal appellate (ACMS), which will send notification of such filing to all counsel/parties of record.

DATED this 24th day of January 2024, at Seattle, Washington.

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