

Cause No. \_\_\_\_\_

**San Antonio Family Association; Texas Right to Life; Texas Leadership Coalition; Texans for Fiscal Responsibility; Bexar County Republican Party; Allied Women’s Center of San Antonio; San Antonio Coalition for Life; Unite San Antonio; Patrick Von Dohlen; Michael R. Knuffke; Daniel J. Petri; K. Jason Khattar; Roberto Aguilar; Susan Bayne; Aileen Boone; Kevin Choate; Marilyn Choate; Elizabeth Anne Comeaux; Paul Julianne Comeaux; Sonia Cantoral; Carlos Cortez; Dina Cortez; Eli Danze; Alice Davis; Dennis Dewine; Robert Gonzalez; Sonja Heldt Harris; John William Harris Jr., Sandra Kaye Kiolbassa; Agustín McLamb-Quiñones; Alma Medrano; David Moore; David Nelson; Aloys Joseph Notzon; Anna Rojas; Philip Trickett; Doris Walsh; Von Dohlen Knuffke Financial Group Inc.; Khattar Law Office; Hartzheim Petri CPA,**

Plaintiffs,

v.

**City of San Antonio; Ron Nirenberg, in his official capacity as mayor of the city of San Antonio; Erik Walsh, in his official capacity as city manager of the city of San Antonio,**

Defendants.

IN THE DISTRICT COURT

BEXAR COUNTY, TEXAS

\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFFS’ ORIGINAL PETITION**

The San Antonio city council recently enacted a budget for fiscal year 2024 that forces city taxpayers to contribute \$500,000 to a “Reproductive Justice Fund.” This

fund will provide grants to organizations that pay the travel costs of pregnant women who leave the state to abort their unborn children.<sup>1</sup> The organizations that lobbied for this budgetary provision and hope to obtain this taxpayer money include Jane’s Due Process, Avow, the Buckle Bunnies Fund, Sueños Sin Fronteras, and the Lilith Fund for Reproductive Equity. Many of these organizations facilitate or subsidize out-of-state abortions performed on Texas residents. The Buckle Bunnies Fund also aids or abets illegal self-managed abortions in Texas. *See* Exhibit 2.

The plaintiffs bring suit to enjoin the city and its officials from providing taxpayer money to any organization that pays for abortion travel or that procures elective abortions for Texas residents. It is a criminal offense to engage in conduct in Texas that “procures” a drug-induced abortion—even when the abortion is performed out of state—so long as the procuring conduct occurs within the state of Texas. *See* article 4512.1, Revised Civil Statutes (attached as Exhibit 1); Tex. Penal Code § 1.04(a)(1). It is also a crime to give money to organizations that violate the state’s abortion laws by “procuring” drug-induced abortions, as any donation aids or abets the criminal activities of those organizations even if it is earmarked for non-abortion purposes. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 30 (2010). Any grant of taxpayer money to criminal organizations that violate the state’s abortion laws is an *ultra vires* act that must be enjoined, regardless of how the recipient organization intends to use the money.

## DISCOVERY CONTROL PLAN

1. The plaintiffs intend to conduct discovery under Level 3 of the rules set forth in Rule 190 of the Texas Rules of Civil Procedure.

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1. The city of San Antonio’s adopted budget for fiscal year 2024 is available at <https://www.sanantonio.gov/portals/0/files/budget/fy2024/Adopted-Budget-2024.pdf> (last visited on October 17, 2023). The “Reproductive Justice Fund” is discussed on pages 7, 66, and 161 of this .pdf file.

## PARTIES

2. Plaintiffs Patrick Von Dohlen, Michael R. Knuffke, Daniel J. Petri, K. Jason Khattar, Roberto Aguilar, Susan Bayne, Aileen Boone, Kevin Choate, Marilyn Choate, Elizabeth Anne Comeaux, Paul Julianne Comeaux, Sonia Cantoral, Carlos Cortez, Dina Cortez, Eli Danze, Alice Davis, Dennis Dewine, Robert Gonzalez, Sonja Heldt Harris, John William Harris Jr., Sandra Kaye Kiolbassa, Agustín McLamb-Quiñones, Alma Medrano, David Moore, David Nelson, Aloys Joseph Notzon, Anna Rojas, Philip Trickett, and Doris Walsh are individuals who pay taxes to the city of San Antonio. Most of these individuals also reside in the city of San Antonio.

3. Plaintiffs Von Dohlen Knuffke Financial Group Inc., Khattar Law Office, and Hartzheim Petri CPA are business entities that operate in San Antonio and pay taxes to the city of San Antonio.

4. Plaintiffs San Antonio Family Association, Texas Right to Life, Texas Leadership Coalition, Texans for Fiscal Responsibility, Bexar County Republican Party, Allied Women's Center of San Antonio, San Antonio Coalition for Life, and Unite San Antonio are organizations whose members include taxpayers of San Antonio.

5. Defendant city of San Antonio is a legal government entity as defined in Texas Government Code § 554.001. It may be served with citation by serving Mayor Ron Nirenberg through the city of San Antonio, located at City Hall, 100 Military Plaza, San Antonio, Texas 78205.

6. Defendant Ron Nirenberg is the mayor of the city of San Antonio. He may be served at his office at City Hall, 100 Military Plaza, San Antonio, Texas 78205. He is sued in his official capacity as mayor of the city of San Antonio.

7. Defendant Erik Walsh is the city manager of the city of San Antonio. He may be served at his office at City Hall, 100 Military Plaza, San Antonio, Texas 78205. He is sued in his official capacity as city manager of the city of San Antonio.

## JURISDICTION AND VENUE

8. The Court has subject-matter jurisdiction under the Texas Constitution, Article V, § 8, as the amount in controversy exceeds the minimum jurisdictional limits of the court exclusive of interest. The plaintiffs seek relief that can be granted by courts of law or equity.

9. The Court has jurisdiction over the plaintiffs' request for injunctive relief against defendants Nirenberg and Walsh because they are acting *ultra vires* by providing taxpayer money to abortion-assistance organizations that violate the state's abortion statutes, thereby aiding or abetting the criminal activities of these organizations. *See City of El Paso v. Heinrich*, 284 S.W.3d 366, 368–69 (Tex. 2009); *Holder v. Humanitarian Law Project*, 561 U.S. 1, 30 (2010).

10. The Court has jurisdiction over the plaintiffs' request for declaratory relief against defendants Nirenberg and Walsh and the city of San Antonio because the Declaratory Judgment Act waives governmental immunity in lawsuits challenging the validity of a provision in the city's budget. *See* Tex. Civ. Prac. & Rem. Code §§ 37.004, 37.006; *Texas Lottery Commission v. First State Bank of DeQueen*, 325 S.W.3d 628 (2010); *Texas Education Agency v. Leeper*, 893 S.W.2d 432, 446 (Tex. 1994).

11. Plaintiffs Patrick Von Dohlen, Michael R. Knuffke, Daniel J. Petri, K. Jason Khattar, Roberto Aguilar, Susan Bayne, Aileen Boone, Kevin Choate, Marilyn Choate, Elizabeth Anne Comeaux, Paul Julianne Comeaux, Sonia Cantoral, Carlos Cortez, Dina Cortez, Eli Danze, Alice Davis, Dennis Dewine, Robert Gonzalez, Sonja Heldt Harris, John William Harris Jr., Sandra Kaye Kiolbassa, Agustín McLamb-Quiñones, Alma Medrano, David Moore, David Nelson, Aloys Joseph Notzon, Anna Rojas, Philip Trickett, Doris Walsh, Von Dohlen Knuffke Financial Group Inc., Khattar Law Office, and Hartzheim Petri CPA are taxpayers of the city of San Antonio. Each of them has taxpayer standing to seek declaratory and injunctive relief against these unlawful expenditures of public funds. *See Bland Independent Sch. Dist. v. Blue*, 34

S.W.3d 547, 556 (Tex. 2000) (“[A] taxpayer has standing to sue in equity to enjoin the illegal expenditure of public funds, even without showing a distinct injury.”).

12. Plaintiffs San Antonio Family Association, Texas Right to Life, Texas Leadership Coalition, Texans for Fiscal Responsibility, Bexar County Republican Party, Allied Women’s Center of San Antonio, San Antonio Coalition for Life, and Unite San Antonio have associational standing to sue the defendants because: (a) at least one of their members pays taxes to the city of San Antonio and would have standing to sue in their own right; (b) the interests that they seek to protect in this litigation are germane to their organization’s purpose; and (c) neither the claims asserted nor the relief requested requires the participation of their individual members in the lawsuit. *See Abbott v. Mexican American Legislative Caucus*, 647 S.W.3d 681 (Tex. 2022).

13. The Court has personal jurisdiction over each of the defendants.

14. Venue is proper because a substantial portion of the events giving rise to the claims occurred in Bexar County, Texas. *See* Tex. Civ. Prac. & Rem. Code §§ 15.002, 15.003, 15.005, 15.035.

15. The plaintiffs bring their claims exclusively under state law and expressly disclaims any federal cause of action or any reliance on federal law that would trigger subject-matter jurisdiction under 28 U.S.C. § 1331.

**CLAIM NO. 1:**

**The Texas Abortion Statutes Outlaw And Criminalize The Provision Of Money To Organizations In Texas That “Procure” Drug-Induced Abortions, Even If The Procured Abortion Occurs Out Of State**

16. The law of Texas provides:

If any person shall designedly administer to a pregnant woman *or knowingly procure to be administered with her consent any drug or medicine*, or shall use towards her any violence or means whatever externally or internally applied, *and thereby procure an abortion*, he shall be confined in the penitentiary not less than two nor more than five years . . .

West's Texas Civil Statutes, article 4512.1 (1974) (emphasis added) (attached as Exhibit 1).

17. This statute imposes felony criminal liability on any person who: (1) “procures” any drug or medicine to be administered to a pregnant woman with her consent; and (2) thereby “procures” an abortion. If any part of the “procurement” activity occurs within Texas, then the act is criminal even if the abortion that has been “procured” takes place outside the state. *See* Tex. Penal Code § 1.04(a)(1) (“Texas has criminal jurisdiction to prosecute when . . . either the conduct or a result that is an element of the offense occurs inside this state”); *see also* Black’s Law Dictionary (11th edition) (“procure *vb.* (14c) 1. To obtain (something), esp. by special effort or means. 2. To achieve or bring about (a result).”).

18. Every Texas-based abortion fund or abortion-assistance organization that “procures” drug-induced abortions for pregnant women, including Jane’s Due Process, Avow, the Buckle Bunnies Fund, and the Lilith Fund for Reproductive Equity, is a criminal organization, even if the abortions that they “procure” occur out of state, so long as any part of their “procurement” activities occur within Texas.

19. Any grant of taxpayer money to Jane’s Due Process, Avow, the Buckle Bunnies Fund, and the Lilith Fund for Reproductive Equity violates article 4512.1, because it aids or abets the criminal activities of these organizations. *See* Tex. Penal Code § 7.02(a)(2). That includes grants to these organizations even if the money is earmarked for non-abortion purposes, because any such grant aids and abets their criminal activities by freeing up money and resources for their “procurement” of drug-induced abortions. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 30 (2010).

20. The Court should declare that the city’s “Reproductive Justice Fund” may not be used to provide money to any organization in Texas that “procures” drug-induced abortions, including Jane’s Due Process, Avow, the Buckle Bunnies Fund,

and the Lilith Fund for Reproductive Equity, regardless of the intended use of the funding. Any such grant of taxpayer money is an *ultra vires* act that must be enjoined.

**CLAIM NO. 2:**

**The Texas Abortion Statutes Outlaw And Criminalize The Provision Of Money To The Buckle Bunnies Fund, Which Aids And Abets Illegal Self-Managed Abortions in Texas**

21. The Buckle Bunnies, which lobbied for the creation of the “Reproductive Justice Fund” and hopes to obtain taxpayer money from it, aids or abets illegal self-managed abortions in Texas. *See* Iris Dimmick, *Abortion access advocates face imposters, legal threats as trigger law nears*, San Antonio Report (August 1, 2022), <https://bit.ly/3R6S3ad> (attached as Exhibit 2) (“[T]he Buckle Bunnies Fund . . . helps Texans access and pay for abortions. That includes . . . guiding women through their self-managed abortions”).

22. Self-managed abortion has been illegal in Texas for more than a century and was never constitutionally protected under *Roe v. Wade*, 410 U.S. 113 (1973), even though the woman who self-aborts cannot be charged with a crime. *See Crissman v. State*, 245 S.W. 438, 438 (Tex. Crim. 1922).

23. Any person who aids or abets a self-managed abortion in Texas, other than the pregnant woman who self-aborts, commits the crime of murder. *See* Tex. Penal Code §§ 1.07, 19.02(b) (defining the offense of murder to include the intentional killing of “an unborn child at every stage of gestation from fertilization until birth.”); *see also* Texas Penal Code § 19.06(1) (exempting “the mother of the unborn child” from murder charges in response to a self-managed abortion). Aiding or abetting a self-managed abortion in Texas also violates the state’s criminal abortion laws. *See* Tex. Health & Safety Code § 170A.002.

24. The Buckle Bunnies Fund is a criminal organization, as is every other organization that aids or abets self-managed abortions in Texas.

25. Any grant of taxpayer money to the Buckle Bunnies Fund violates the state’s abortion laws and the murder statute, because it aids or abets the criminal activities of this organization. *See* Tex. Penal Code § 7.02 (a)(2). That includes grants to Buckle Bunnies that are earmarked for non-abortion purposes, as any such grant aids and abets the fund’s criminal activities by freeing up money and resources for assisting illegal self-managed abortions in Texas. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 30 (2010).

26. The Court should declare that the “Reproductive Justice Fund” may not be used to provide any money to any organization in Texas that aids or abets self-managed abortions in Texas, including the Buckle Bunnies Fund, regardless of the intended use of the funding. Any such grant of taxpayer money is an *ultra vires* act that must be enjoined.

**CLAIM NO. 3:**

**The Texas Abortion Statutes Outlaw And Criminalize The Provision Of Money To Organizations That Aid Or Abet Drug-Induced Abortions If Either Of The Two Abortion Pills Is Swallowed In Texas**

27. Many out-of-state abortion providers dispense abortion-inducing drugs to Texas residents. *See, e.g.,* Jada Yuan, *The New Mexico Provider Trying to Save Abortion for Texas Women*, Washington Post (May 10, 2022) (attached as Exhibit 3), available at <https://wapo.st/3Es1Gxg> (last visited on October 17, 2023).

28. Some of these Texas residents who obtain abortion drugs from out-of-state providers ingest each of the two abortion drugs (mifeprex and misoprostol) in a state where abortion remains legal, and are instructed to do so by their providers.

29. But some of these patients return home after receiving the drugs and complete the abortion process in Texas, either by swallowing the second drug (misoprostol) in Texas or expelling the unborn child in Texas. *See, e.g.,* Shefali Luthra, *‘I would wish this on absolutely no one’: How three women dealt with pregnancy in the year*

since Texas' six-week abortion ban, The 19th (August 29, 2022) (attached as Exhibit 4), available at <https://bit.ly/3fLntWd> (last visited on October 17, 2023).

30. Anyone who aids or abets an abortion of this sort has violated the state's criminal abortion laws and the murder statute, which impose criminal liability on abortion funders and facilitators if any part of the abortion process occurs within Texas. *See* Tex. Penal Code § 1.04(a)(1) ("Texas has criminal jurisdiction to prosecute when . . . either the conduct or a result that is an element of the offense occurs inside this state").

31. Every abortion fund or abortion-assistance organization that aids or abets drug-induced abortions in which the pregnant woman completes the abortion process in Texas is a criminal organization, even if the drugs are dispensed by an out-of-state abortion provider.

32. Any grant of taxpayer money to Jane's Due Process, Avow, the Buckle Bunnies Fund, Sueños Sin Fronteras, and the Lilith Fund for Reproductive Equity violates the state's abortion laws and the murder statute, unless those organizations disavow an intent to facilitate any criminal abortion in which the pregnant woman completes the abortion process in Texas.

33. The Court should declare that the "Reproductive Justice Fund" may not be used to provide any money to any organization in Texas that aids or abets drug-induced abortions in which the pregnant woman completes the abortion process in Texas, either by swallowing the second drug (misoprostol) in Texas or expelling the unborn child in Texas. Any such grant of taxpayer money is an *ultra vires* act that must be enjoined.

**CLAIM NO. 4:**  
**The Reproductive Justice Fund Violates The State Constitution's  
Gift Clause**

34. The establishment of the Reproductive Justice Fund also violates the state constitution's gift clause, which is codified at article III, section 52(a) of the Texas Constitution.

35. The gift clause provides, in relevant part:

Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on non-assessable property and casualty, life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in this State.

Tex. Const. art. III, § 52(a); *see also Bullock v. Calvert*, 480 S.W.2d 367, 369 (Tex. 1972) (“[U]nder Art. 3, §§ 51 and 52 of the Constitution there may be no grant of public money for private individuals or associations.”).

36. The Supreme Court of Texas has interpreted the gift clause to allow transfers of public funds to private entities so long as the payment: “(1) serves a legitimate public purpose; and (2) affords a clear public benefit received in return.” *Texas Municipal League Intergovernmental Risk Pool v. Texas Workers' Compensation Commission*, 74 S.W.3d 377, 383 (Tex. 2002). Neither of these requirements is satisfied.

37. To determine whether the city's payment of public funds to abortion-assistance organizations serves “legitimate public purpose,” a court must find that the city has: “(1) ensure[d] that the statute's predominant purpose is to accomplish a public purpose, not to benefit private parties; (2) retain[ed] public control over the funds to ensure that the public purpose is accomplished and to protect the public's investment; and (3) ensure[d] that the political subdivision receives a return benefit.” *Id.* at 384.

The Reproductive Justice Fund fails this test. The “predominant purpose” of these expenditures is to benefit private parties: the abortion-assistance organizations and the pregnant women who travel out of state to kill their unborn children.

38. The grant of money to these abortion-assistance organizations also fails to provide a “clear public benefit in return.” *Id.* at 383. There is no “clear public benefit” from providing taxpayer subsidies to organizations that help women abort their pregnancies in another state.

39. Because the provision in the city’s budget establishing the Reproductive Justice Fund is “inconsistent with” article III, section 52(a) of the Texas Constitution, it should be declared invalid under the Uniform Declaratory Judgment Act.

40. And because the city’s officials are violating article III, section 52(a) of the Texas Constitution by providing taxpayer money to abortion-assistance organizations, their expenditures of taxpayer money are *ultra vires* and must be enjoined.

### CAUSES OF ACTION

41. The plaintiffs bring their claims for relief under the Uniform Declaratory Judgment Act. They also bring suit under *City of El Paso v. Heinrich*, 284 S.W.3d 366, 368–69 (Tex. 2009), which authorizes *ultra vires* claims against public officials who act in violation of state law.

42. The plaintiffs do not contend that the Texas Penal Code or the abortion and murder statutes on which they rely establish a private right of action or give them standing to sue anyone who violates those laws. *See Spurlock v. Johnson*, 94 S.W.3d 655 (Tex. App.—San Antonio 2002, no pet.) (“[T]he Texas Penal Code does not create private causes of action”). The plaintiffs’ standing comes from *Bland Independent Sch. Dist. v. Blue*, 34 S.W.3d 547, 556 (Tex. 2000), which gives taxpayers “standing to sue in equity to enjoin the illegal expenditure of public funds,” and their causes of action come from the UDJA, which gives private citizens a cause of action to sue

municipalities that enact invalid or unconstitutional ordinances, as well as *Heinrich*, which gives private citizens a cause of action to sue public officials who act *ultra vires* by violating state law. The budgetary provision establishing the Reproductive Justice Fund is invalid—and the actions of city officials are *ultra vires* and unlawful—*because* they violate and are “inconsistent with” a state-law criminal prohibition, but that does not immunize an allegedly unlawful expenditure of taxpayer funds from judicial review.

### DEMAND FOR JUDGMENT

The plaintiffs demand the following relief:

- a. a declaration that the provision in the city’s budget establishing the Reproductive Justice Fund is invalid because it is “inconsistent with . . . the general laws enacted by the Legislature of this State” under article XI, section 5 of the state constitution;
- b. a declaration that the provision in the city’s budget establishing the Reproductive Justice Fund is invalid because it violates the state constitution’s gift clause;
- c. a declaration that the Reproductive Justice Fund may not be used to provide any taxpayer money to Jane’s Due Process, Avow, the Buckle Bunnies Fund, the Lilith Fund for Reproductive Equity, or any other organization in Texas that “procures” drug-induced abortions, aids or abets self-managed abortions in Texas, or aids or abets drug-induced abortions in which the pregnant woman swallows either of the two abortion-inducing drugs in Texas, or expels her unborn child in Texas;
- d. a temporary and permanent injunction that prohibits the defendants from providing any taxpayer money to Jane’s Due Process, Avow, the Buckle Bunnies Fund, Sueños Sin Fronteras, the Lilith Fund for Reproductive Equity, or any organization in Texas that “procures” drug-induced abortions, aids or abets self-managed abortions in Texas, or aids or abets drug-induced abortions in which the pregnant woman swallows either of the two abortion-inducing drugs in Texas, or expels her unborn child in Texas;
- e. an award of nominal and compensatory damages;

- f. an award of costs and attorneys' fees; and
- g. all other relief that the Court may deem just, proper, or equitable.

Respectfully submitted.

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Dated: October 17, 2023

*Counsel for Plaintiff*

# Exhibit 1

# West's Texas Statutes and Codes

Volume 4 **SUPERSEDED**

**REVISED CIVIL STATUTES**

Articles 2461 to 5561

ST. PAUL, MINN.  
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deformity or injury, by any system or method, or to effect cures thereof.

2. Who shall diagnose, treat or offer to treat any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof and charge therefor, directly or indirectly, money or other compensation; provided, however, that the provisions of this Article shall be construed with and in view of Article 740, Penal Code of Texas<sup>1</sup> and Article 4504, Revised Civil Statutes of Texas as contained in this Act.

[1925 P.C.; Acts 1949, 51st Leg., p. 160, ch. 94, § 20(b); Acts 1953, 53rd Leg., p. 1029, ch. 426, § 11.]

<sup>1</sup> See, now, article 4504a.

#### Art. 4510b. Unlawfully Practicing Medicine; Penalty

Any person practicing medicine in this State in violation of the preceding Articles of this Chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), and by imprisonment in the county jail for not more than thirty (30) days. Each day of such violation shall be a separate offense.

[1925 P.C.; Acts 1939, 46th Leg., p. 352, § 10.]

#### Art. 4511. Definitions

The terms, "physician," and "surgeon," as used in this law, shall be construed as synonymous, and the terms, "practitioners," "practitioners of medicine," and, "practice of medicine," as used in this law, shall be construed to refer to and include physicians and surgeons.

[Acts 1925, S.B. 84.]

#### Art. 4512. Malpractice Cause for Revoking License

Any physician or person who is engaged in the practice of medicine, surgery, osteopathy, or who belongs to any other school of medicine, whether they used the medicines in their practice or not, who shall be guilty of any fraudulent or dishonorable conduct, or of any malpractice, or shall, by any untrue or fraudulent statement or representations made as such physician or person to a patient or other person being treated by such physician or person, procure and withhold, or cause to be withheld, from another any money, negotiable note, or thing of value, may be suspended in his right to practice medicine or his license may be revoked by the district court of the county in which such physician or person resides, or of the county where such conduct or malpractice or false representations occurred, in the manner and form provided for revoking or suspending license of attorneys at law in this State.

[Acts 1925, S.B. 84.]

### CHAPTER SIX ½. ABORTION

#### Article

- 4512.1 Abortion.
- 4512.2 Furnishing the Means.
- 4512.3 Attempt at Abortion.
- 4512.4 Murder in Producing Abortion.
- 4512.5 Destroying Unborn Child.
- 4512.6 By Medical Advice.

#### Art. 4512.1 Abortion

If any person shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years; if it be done without her consent, the punishment shall be doubled. By "abortion" is meant that the life of the fetus or embryo shall be destroyed in the woman's womb or that a premature birth thereof be caused.

[1925 P.C.]

#### Art. 4512.2 Furnishing the Means

Whoever furnishes the means for procuring an abortion knowing the purpose intended is guilty as an accomplice.

[1925 P.C.]

#### Art. 4512.3 Attempt at Abortion

If the means used shall fail to produce an abortion, the offender is nevertheless guilty of an attempt to produce abortion, provided it be shown that such means were calculated to produce that result, and shall be fined not less than one hundred nor more than one thousand dollars.

[1925 P.C.]

#### Art. 4512.4 Murder in Producing Abortion

If the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same it is murder.

[1925 P.C.]

#### Art. 4512.5 Destroying Unborn Child

Whoever shall during parturition of the mother destroy the vitality or life in a child in a state of being born and before actual birth, which child would otherwise have been born alive, shall be confined in the penitentiary for life or for not less than five years.

[1925 P.C.]

#### Art. 4512.6 By Medical Advice

Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother.

[1925 P.C.]

# Exhibit 2



August is  
National Immunization  
Awareness Month

FOR MORE INFO

# SAN ANTONIO Report

NONPROFIT JOURNALISM FOR AN INFORMED COMMUNITY

GOV & POLITICS

## Abortion access advocates face impostors, legal threats as trigger law nears



by Iris Dimmick  
August 1, 2022



Buckle Bunnies Fund co-founder Makayla Montoya Frazier, center, attends a press conference hosted by San Antonio Councilwoman Teri Castillo (D5). Castillo and other council members proposed a resolution condemning Texas' abortion ban and recommending that no city funds be used to investigate criminal charges related to the ban. Credit: Scott Ball / San Antonio Report

Amid the hundreds of pending requests for assistance from or to volunteer with the abortion access fund she co-founded,

Makayla Montoya Frazier knows there could be a trap lurking behind every phone call or text.

“There are definitely people who are trying to catch us right now,” said Montoya Frazier of the [Buckle Bunnies Fund](#), which helps Texans access and pay for abortions. That includes paying for transportation to a state where abortion is still legal, sharing information about abortion pills and guiding women through their self-managed medication abortions.

Some are contacting Buckle Bunnies posing as either someone who needs an abortion or as a potential volunteer in attempts to gather evidence for criminal charges or a civil case against the fund, Montoya Frazier and/or other volunteers, she said.



How does she know?

“It’s pretty obvious” given the answers — or non-answers — she gets when she asks certain questions, she said. “People, like, either can’t answer them or they just won’t.”

Montoya Frazier declined to say what kinds of questions she asks that are impostor giveaways. “Because the services that we provide are so wraparound [and intimate], it’s usually pretty easy to weed out who’s real and who’s not real.”

She’s well aware of the risks that come with the work Buckle Bunnies does. Because of them, most Texas nonprofit abortion access funds have stopped distributing money and clinics in the state have stopped providing abortions.

But not the Buckle Bunnies.

“If we’re scared of lawsuits, then nobody gets care,” Montoya Frazier said.



## Layers of criminal, civil consequences

Abortion access advocates face an unprecedented, murky legal landscape crafted by Republican lawmakers and anti-abortion activists. There are several layers of laws — new and old — that restrict abortion in Texas and prescribe high punishments for providers.

After the U.S. Supreme Court struck down *Roe v. Wade* last month, the Texas Supreme Court allowed the state to enforce its 1925 abortion ban, which exposes anyone who helps someone get an abortion to fines and lawsuits. So far, there haven't been any reports of criminal charges brought under the 1925 law.

Texas' "trigger law," which will ban nearly all abortions starting on Aug. 25 in the wake of *Roe v. Wade* being overturned, will add criminal charges for doctors who could face life in prison and fines up to \$100,000 for an illegal abortion.

It does not criminalize people who receive abortions, and it allows narrow exceptions to save the life of the mother or to prevent "substantial impairment of major bodily function."

Bexar County District Attorney Joe Gonzales and other DAs across the state have said they won't pursue prosecutions under the 1925 law or the coming trigger law.

Securing medication for abortions via telehealth or mail was already illegal in Texas when new penalties went into effect in December 2021 that added jail time and a fine of up to \$10,000 for anyone who prescribes the pills by those means.

Senate Bill 8 from the 2021 legislative session will also remain in effect. That law, titled the Texas Heartbeat Act, allows anyone to sue someone accused of providing an abortion or assisting in any way after six weeks of pregnancy — before most women know they are pregnant.

"Any person who was complicit in these illegal abortions — including [provider] Whole Woman's Health employees, volunteers, and donors, and anyone who aided or abetted these illegal abortions in any manner, apart from the formerly pregnant woman upon whom the illegal abortion was performed — is equally liable under the Texas Heartbeat Act and equally guilty of murder," wrote attorney Jonathan Mitchell, the former solicitor general of Texas and architect of Senate Bill 8, in a recent court filing.

SB 8 is being challenged in court by abortion access funds, a process that will likely take years to wind through the appeals process.

The risk of abortion funds and clinics being prosecuted by "politically motivated" district attorneys is "very real," said Elizabeth Myers, an attorney who represents several abortion access funds, including Lilith Fund, which like Buckle Bunnies serves all of Texas.

Until each law is reviewed by a court — either through a court declaration or a criminal prosecution — the legal landscape of abortion is in limbo, she said.

"The problem with the [criminal prosecution] option is that it requires that you subject yourself to the immediate harm of the criminal justice system," Myers said. "And that's a lot to ask."

That threat of immediate harm has caused most abortion providers and assistance funds to halt their work.

"I don't think there's a point where we've lost all hope," Lilith Fund board member Vanessa Martinez told the San Antonio Report. "We're looking at ways that we can continue to help Texans in need. We know that it can't include abortion access at this point in time, but that doesn't mean that we're not going to try to find ways to assist."

The Lilith Fund's [hotline](#) remains active three days a week.

"It's still open for people to get First Amendment-protected information on where else they can go for resources," said Erika Galindo, organizing program manager for Lilith Fund in San Antonio. "We're hoping to slowly — as we're figuring it out — unveil some of the next steps of what this might look like, but we do know that we're walking a very fine line."

The fund has launched the [Texas Abortion Hype Squad](#), a program that trains volunteers to spread the word about how people can access abortion.

"It's our duty to protect each other by giving each other accurate information," Galindo said.



Protesters demonstrate in downtown San Antonio following the Supreme Court's decision in June to overturn Roe v. Wade.  
Credit: Nick Wagner / San Antonio Report

## **'Fear campaign'**

Abortion access funds are not going away, Myers said. "They've just pivoted their operations a bit until they get clarity that they can return to everything that they were doing before."

Until then, they'll have to deal with legal threats. SB 8 author Mitchell has already filed numerous petitions in an attempt to get testimony and other evidence about abortion procedures or assistance that may have been illegal.

Those petitions are "a continuation of the fear campaign that started several years ago," Myers said, and they're not being done by Mitchell.

Buckle Bunnies Fund has received such a petition from former Big Spring Mayor Shannon Thomason, Montoya Frazier said. Under Thomason in 2020, Big Spring essentially [outlawed abortion within city limits](#).

Montoya Frazier said she's also received two cease-and-desist letters this year that demand Buckle Bunnies halt operations. She said these "intimidation tactics" are designed to get Buckle Bunnies to stop its work.

Because the fund's founders have chosen to continue, they're at greater risk than funds that have stopped.

Montoya Frazier acknowledges the increased emotional toll this work now takes, work that still brings her a deep sense of satisfaction.

"It's so stressful. I just want to do my job," she said. "I have to take all these other tiny steps, which means I'm taking time [away from] helping people."

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# Exhibit 3

MAGAZINE

# The New Mexico Provider Trying to Save Abortion for Texas Women

This 73-year-old physician is on a mission to make his clinic a refuge for women's health care on the border

By Jada Yuan

May 10, 2022 at 12:07 p.m. EDT

**F**ranz Theard plies his trade in the sunniest of shadow worlds. His innocuously named Women's Reproductive Clinic of New Mexico is hidden in plain sight, down a slope in a strip mall, neighboring a Subway and a State Farm office, in a border town of a border town. It's less than a mile from the Texas state line, amid the sprawl of El Paso, which is itself a crossing to Ciudad Juárez in old Mexico, as folks here call it, surrounded by fireworks stores and delicious tacos and the desert beyond.

Here, this 73-year-old Haitian American OB/GYN and abortion provider sits in windowless exam rooms,

handing patients pills to end their pregnancies, skirting Texas law by a trick of New Mexico geography. (And, if the protesters stationed outside during all business hours are to be believed, charting his path to hell.) He is alone on the southern edge of America, at the westernmost corner of the country's second biggest state. And if *Roe v. Wade* is overturned, Theard soon may be one of the only abortion providers in the western United States.

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## The Washington Post Magazine



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“You’re going to go to your favorite hospital and blame the cramps on — tell them you’re having a miscarriage,” Theard (pronounced thay-ARD) told 32-year-old mother of three Cynthia Mena, explaining that she’d need a shot of medication because pregnancy termination can trigger her blood type to create antibodies that could attack future pregnancies. “Just don’t tell them about the pill. I recommend that you don’t,” Theard went on. “They’ll treat you like you killed Jesus or something.” (Texas is full of antiabortion OB/GYNs who often shame their patients, Theard explained.)

Gov. Greg Abbott (R) has been an unstoppable force behind Texas’s S.B. 8, a.k.a. the “Heartbeat Act,” a law imposing some of the tightest abortion restrictions in the country. Ever since it went into effect in September, Theard’s clinic has had an influx of patients from East Texas who’ve suddenly found themselves without options in their own state. Many of them, like Mena, went to clinics in big cities like Dallas, Houston, Austin or San Antonio, only to get turned away because a gestational heartbeat could be detected on an ultrasound, which usually happens around six weeks — often before most women know they’re pregnant. Providers have been incentivized to stick to the law, because it also contains provisions for people to sue anyone — from providers to Uber drivers — who “aids and abets” an illegal abortion.

Theard thought S.B. 8 would go the way of 2013’s H.B. 2, which banned abortion after 20 weeks and which

Abbott (then Texas's attorney general) fought tirelessly to keep in place, before it was struck down by the U.S. Supreme Court in 2016. "We figured the same thing was going to happen. They were just rattling their sabers. I felt confident that this can't last," said Theard. "It doesn't make any sense, people putting bounties on doctors. But it's here and it looks like it's gonna stay."

Now he's made it his mission to persuade the women of East Texas to come west instead of going to Oklahoma, Louisiana, Kansas or Arkansas — all states with mandatory 24- to 72-hour waiting periods, and where getting an appointment may take two to three weeks because of the sudden increased demand from Texas. And in some of those states, the laws are getting increasingly more strict. "Thank God we're in New Mexico," which has some of the most liberal abortion laws in the country, says Theard. That demand will only increase if *Roe v. Wade* is overturned and Texas bans abortion outright, as is expected.

Just because Texas is making it almost impossible to get an abortion doesn't mean demand is down. Studies released in March showed that the law didn't stop Texas women from getting abortions — they just went out of state. Last year, Theard says, his clinic treated 1,845 abortion patients, in the middle of the pandemic. And that's before S.B. 8 started driving patients his way. In April he did 260 abortions, up 85 from the same month last year; half were from East Texas. Theard estimates that 95 percent of all of his patients are Hispanic.

Theard opened his office on weekends to make it easier for patients to come from East Texas and got his staff on board with the cause. "I don't need the money, to be honest with you," he told me, when I visited his clinic on a Saturday in late March. Fliers supporting Beto O'Rourke in his governor's race against Abbott were displayed around the waiting room. "People ask me, 'What's your goal? What do you want to do? I am so left-wing, liberal Democrat. I would like for Santa Teresa, New Mexico, to be almost like continuing getting abortion pills in El Paso — to be known as the exception to the S.B. 8 rule in Texas. Anybody who gets pregnant, you don't really have to leave the state of Texas to get your pill.'" (Technically, you do have to leave Texas.)

To that end, he's offering incentives, like rolling the tax New Mexico charges for the procedure into a flat \$700 fee, or the free abortions he offered on International Women's Day in March and on Armed Forces Day in May. For those traveling long distances, he offers \$100 to \$150 back as a fuel rebate, on a discretionary basis and if the journey seems like a financial hardship. ("If you tell me you flew in your private jet, I don't give you a refund," he says.)

Mena, who works in accounts receivable for a tire company, had her third child just a year ago and recently found out that her husband cheated on her. She doesn't want to add another child to the mix. And when a clinic in Dallas turned her down, she found Theard on Google and decided it was worth driving 10 hours from Irving, Tex., to see him. All told, she'll have spent more than \$1,400: \$700 for the procedure, and the rest for gas, two days of a rental car and one night in a hotel. She's a fan of Theard's — but not of the new law. "I was very disappointed and angry, and it's not fair," she said. "Because I had to go all the way to another state so I can get a service that I need."

**I**nside Theard's waiting room on that March Saturday, 14 patients sat in silence, accompanied by their sisters, mothers or female friends, staring at their phones or at the soundless Scott Bakula procedural playing on TV. Because the staff recognizes how uncomfortable and taboo this all is, they call patients into their appointments with numbers, not by name. "We have patients that come, like, with all these insecurities, nervous," says medical assistant Rocio Negrete. "They're afraid to say the 'abortion' word. When they call, they're like, 'I have a situation. I don't know how to say it.'"

Since the new law, that fear has gotten worse. "We do have some patients that come in like, 'No one's gonna arrest me, right? No one's gonna be outside waiting for me?'" says medical assistant Elizabeth Hernandez. They also worry that they're going to get arrested on their way back to Texas, or when they go to the pharmacy for prescriptions for antibiotics and pain medication.

Theard has wire-rimmed glasses, a warm smile surrounded by a salt-and-pepper goatee, and a penchant for dark humor that seems to put his patients immediately at ease. He asks them where they're from, what they do, and subtly peppers in questions about their partners — and parents, if they're younger — to make sure no one is forcing them to have this procedure. He often urges patients to use birth control or a different method if theirs failed them. (His favorite sign-off: "Don't be a repeat customer. We love you, but don't come back.")

He immigrated to Washington, D.C., from Haiti in 1964, when he was 15, the biracial son of a German mother (a secretary) and Haitian father (government statistician). He was admitted to Catholic University that summer without a high school diploma and with minimal ability to speak English. (He spoke only French and German but later picked up English from watching horror films and American football.) Medical school at George Washington University allowed him to defer fighting in the Vietnam War.

He figured out early on that he wanted to be an OB/GYN specializing in high-risk pregnancies. "People don't die, more or less," he explains about his preference. "Usually it's a happy experience, and I've always enjoyed working with women."

Abortions, which Theard started doing in 1973 during his residency at what is now MedStar Washington Hospital Center in D.C., were a natural extension. *Roe v. Wade* had just been decided by the Supreme Court that January, and all of Theard's medical idols not only had their own abortion practices but were teaching him how to perform the procedure.

He had been a young man when abortion wasn't legal and had seen his friends taking their girlfriends up to New York to get abortions from Haitian doctors who were "charging them a lot of money because they were taking a big risk," he says. "But once *Roe vs. Wade* became the law, I mean, I've never seen clinics so busy. Just like when you discovered the birth control pill. It was a big demand."

He continued doing abortions on a military base in Frankfurt, Germany, after the Army held him to his

deferred draft. A fellowship at the William Beaumont Army Medical Center brought him to El Paso. He left the Army to open his OB/GYN practice downtown in 1983, and an abortion clinic followed the next year. The New Mexico clinic came in 2010, both because Theard anticipated the overturn of *Roe* and because he couldn't stand the paperwork and "constant harassment" connected with performing abortions in Texas; he closed the El Paso clinic last year. In Texas, he would get fined constantly for technicalities, deal with surprise inspections and have to pay for patient literature ("with stupid stuff like 'abortion causes breast cancer' ") that the state demanded he pass out.

Following a nasty bout of covid-19 late last year, he retired from doing surgical abortions, which means the closest place to get one is four hours north in Albuquerque. He's too old, he says, but a lot of the decision is emotional. "I mean, imagine crushing something and taking it out. It's not pleasant," he says. "It's heartbreaking to a certain extent. Honestly, I didn't like to do it. I hate to admit it to myself. It's not just because I'm getting old. I just didn't want to deal with it. It was hard." He did it for 34 years.

Still, he continues to do medical abortions. "It feels satisfying to be able to help people who are desperate — and they are desperate — to get something done," he says. "And I can't understand why the other OB/GYNs don't feel the same way. It's part of what we do. I think abortion is woman's care."

**A**s the last patient filed out on Saturday afternoon, Theard was getting a rundown from his nursing staff about the man they'd had to call the police on that morning. "I've seen that scenario before," Theard said. "We haven't had one of those guys in a while."

For once, Theard wasn't the target of anyone's rage. An agitated young man in a tracksuit had stormed into the women-only waiting area at least three times demanding to see his wife, who was in the treatment rooms. She had come out to placate him and returned to the back, only to have him storm in again. Soon, they were outside, locked in a screaming match.

"He was angry, blamed her for having an affair," said Theard, who had managed to give her a sonogram and then refunded all her money. The last time they had called the police, a man and his wife were both hauled to jail, and then they sued Theard for wrongful arrest, a case that was dismissed.

Outside the clinic, five protesters handed out brochures reading "Pray for Unborn Babies." A parked van was offering free ultrasounds — a technique for persuading the undecided. As I got out of my car, I was peppered with questions about what Jesus would think of what I was doing, until a distinguished and wiry older gentleman named Juan Carlos, who serves as security, ushered me inside.

"I know them all," Theard says of the protesters, some of whom trade hellos with him. He's fine with them asking to talk to any woman who seems undecided. "I don't have any problems with that," he says. "I mean, if a patient can be swayed that way, then she didn't want to have the abortion."

Once or twice a month, one man will place dozens of signs all the way down the street. "The signs are, like,

really, really ugly. There's one, 'This is what's for lunch: shredded baby,' " says Hernandez. Or they'll compare the clinic to Auschwitz or condemn Theard by name. The man has hung baby dolls in the trees and left doll parts and baby shoes at the clinic's door.

The clinic is in regular contact with the FBI. It's ostensibly for the staff's protection; Theard believes they are simultaneously being surveilled. He installed security cameras on the FBI's guidance. "I think it helps, and the girls like it because if somebody gets irate, there's a camera in the waiting area and they know they really can be documented," he says.

He doesn't wear a bulletproof vest, and never has, even though clinics were bombed in the 1980s, and doctors were shot and killed in the mid-'90s and late 2000s. Sometimes people would come into the clinic to cast a curse; staff once caught someone with white powder trying to perform some kind of ritual. In the '80s, members of a group called Operation Rescue would block the entrance to Theard's clinic in downtown El Paso, pulling women as they tried to enter, telling Theard they knew where he lived.

And they did know where he lived. They'd come to his house and march around his cul-de-sac for hours on end, terrifying his first wife, and daughter and son, who were 7 and 8 at the time. "It was not a pleasant time, so to speak," he says. "But my two kids who bore the brunt of the stress are, thank God, liberal Democrats like me." The last time it happened was three years ago: Someone chalked his driveway with antiabortion messages like "baby killer."

In a way, he respects their stamina. "Roe was a liberation for my generation, but then we got lazy. We weren't forceful enough," he says. While there have been street demonstrations since the leaked Supreme Court draft decision, Theard says that since the early '90s, he has never seen an abortion rights person ("not even a crazy one") outside his clinic to counter the antiabortion demonstrators. "A lot of blah-blah, but no on-the-ground support. They did not walk the walk. It's just like everybody's so scared."

He worries that he's part of a dying breed. Everyone he knows who owns an abortion clinic in Texas is 70 or older. "We're all baby boomers," he says. "It's important, but I can't find a young doctor who wants to do it." He worries about what will happen when he's gone and hopes someone who can do surgical abortions will move to the area. "I don't have a plan B," he says. "I'm recruiting."

*Jada Yuan is a Washington Post staff writer.*

# Exhibit 4



Sign up for our  
newsletter

Abortion

# **‘I would wish this on absolutely no one’: How three women dealt with pregnancy in the year since Texas’ six-week abortion ban**

To mark the first anniversary of SB 8 going into effect, The 19th spoke with Texans who sought an abortion in this past year. Each has a different story. But all shared

similar sentiments: anger, sorrow, frustration and fear.

Tiff  
found  
out  
she  
was

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**Shefali Luthra**  
Health Reporter



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**Published** August 29, 2022,  
4:13 a.m. PT

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pregnant on New Year's Day.

Her period was three days late, just enough to suspect that something was off. Still, when she saw the two pink lines, she was shocked.

She was 16. She didn't know what to do or what would happen with her parents, whom she describes as conservative.

"I was like, 'Oh my God. This is it. I'm not going to have a place to live. They're going to kick me out,'" she recalled.

Tiff, whose full name has been withheld to protect her privacy, wanted an abortion. She went to a gynecologist, who told her she was five weeks and five days pregnant. Since September 1, 2021, Texas law has banned abortion past six weeks of pregnancy.

Her parents didn't approve of abortion as an option. And because she is a minor, state law required that they would have to sign off on any abortion, unless she could get a state judge to deem her mature enough to decide for herself — a process that could take weeks.

With all of those factors at play, it was all but impossible to get an abortion in Texas. Tiff, who lives just outside of Houston, could theoretically have tried to go out of state — but getting the funds to do that would've required convincing her parents. She also considered trying to find abortion pills online. But if none of those options worked, she would give birth shortly after her 17th birthday — still a child herself, living at home.

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“I promised myself when I was younger that I would absolutely never raise a kid in my house with my parents,” she said. “I just don’t feel like I can give the baby what he needs to have a good life.”

September 1 will mark one year since Texas became the first state to ban most abortions. The state’s law, known as Senate Bill 8, was without precedent. Rather than criminal punishment, it relied on civil litigation — anyone who “aided or abetted” an illegal abortion could be sued for \$10,000. That novel structure allowed it to stay in effect even with *Roe v. Wade* in place.

Six weeks is an incredibly short window: Because of how pregnancies are dated — people learn they have conceived at the first missed menstrual period, at which point they are already technically four weeks pregnant — the law gave people two weeks at the most to get a legal abortion in the state of Texas.

SB 8 offered a first glimpse into a world without Roe, which for nearly five decades protected the federal right to an abortion. It also provided an early clue that the current Supreme Court, which upheld the Texas abortion ban, might be prepared to overturn the 1973 case. So this summer, when five of the court's justices struck down Roe — giving states the power to directly and completely outlaw abortion — health care providers, policy researchers and legal experts across the country already had a sense for just how seismic the impact would be. In Texas, they had already seen a trial run.

In the past year, the law's impact has been expansive. Clinics in nearby states — Oklahoma, Kansas, New Mexico, Colorado and Louisiana — reported a surge in new patients traveling from Texas. Wait times for an abortion ballooned, jumping from a few days to as long as four weeks. The law even inspired copycat legislation in other states, including a law in Oklahoma that took Texas' punitive structure and applied it to virtually all abortions. That ban took effect in May, banning abortion in yet another state two months before Roe would be overturned.

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In 2020, the last full year before SB 8 took effect, Texas recorded about 55,000 abortions performed in the state — the third most in the country, behind only Florida and New York. In 2021, the state recorded closer to 50,000, and the number of abortions performed in September, October, November and December — after the law took effect — fell by about half compared to the previous months in the year. Data from the first three months of 2022, the latest available, shows the number of abortions never picked up; each month, about half as many abortions were performed in state compared to the same timespan a year prior. As of March, about 1,400 people in Texas were traveling out of state for an abortion each month. The number of people requesting medication abortion pills from Aid Access, a European medical service, tripled, research suggests.

The landscape for Texans with unintended pregnancies has completely changed.

While some successfully got an abortion in a clinic — either in their home state, or after traveling hundreds of miles to another — countless others did not. Some tried to induce abortions at home with medication abortion. Still others carried their unwanted pregnancies to term.

The 19th spoke with three Texas women who sought an abortion in this past year. Each has a different story. But all shared similar sentiments: anger, sorrow, frustration and fear.

“I would wish this on absolutely no one,” Tiff said.

After learning she was pregnant, Tiff tried for months to find an abortion. But she worried that leaving the state for a procedure could open her up to prosecution when she came home. (It would not.) Her parents’ disapproval made it even harder to consider leaving the state for an abortion.

Tiff looked online for any website that might help her find medication abortion pills. She posted on Reddit, asking for advice. One of her friends gave her mugwort, an herb commonly used by people trying to induce abortions but that evidence suggests is ineffective. She may have tried other herbs, too, she said, but those months are such a blur that it's hard to remember.

At five months pregnant, Tiff was hospitalized due to concerns about her mental health brought on, she said, by the stress of her pregnancy. It was only then that the reality set in. She was pregnant. There was no way she was getting an abortion. And in a few months, she would have a child.

On August 11, Tiff, 17, gave birth to a son. Her parents are supportive. Her ex-boyfriend is not. Even now, with a weeks-old baby boy, it's hard for Tiff to fathom what she has been through.

She loves her baby. "But I still ideally would have had that abortion," she said.

Minors like Tiff have faced a particularly onerous burden. In Texas, people younger than 18 were required to obtain parental consent before they could get an abortion. If their parents were unwilling to provide that, the minor could appeal to a judge in a process known as “judicial bypass” to argue that they were mature enough to get the procedure.

That process could take days or even weeks depending on where in the state someone lived and how quickly the court moved, said Irma Garcia, the client services manager for Jane’s Due Process, a Texas advocacy group that helps minors who are seeking abortions. Those delays could mean missing the six-week window. Unless their parents offered consent, people younger than 18 were typically unable to get approved for an abortion under the Texas law, Garcia said.

And for most, traveling out of state — neighboring New Mexico, for instance, does not require parental notification or consent for minors to get an abortion — wasn’t viable, either. Teens were less likely to have the money, resources and privacy to take multi-day trips without their parents or caretakers knowing.

“Many minors cannot safely get out of the house and maintain confidentiality,” Garcia said. “This was a full abortion ban for many youth in Texas.”

Things are only more difficult now. Since June 24, when Roe was overturned, Texas has begun enforcing a law banning virtually all abortions. Clinics have closed their doors, with some making plans to relocate to neighboring states. Texas’ abortion funds — nonprofit organizations that help people pay for abortions — have stopped covering those costs. And many of the states people in Texas once turned to — Oklahoma, Arkansas, Louisiana and Mississippi — have banned abortions in most circumstances.

“The last year was certainly incredibly difficult for abortion providers, for people needing abortions, for the people who were supporting them,” said Kari White, an associate professor at the University of Texas at Austin and the lead investigator of the Texas Policy Evaluation Project, which has studied the impact of Texas’ six-week abortion ban. “The circumstances are just far poorer now with no in-state abortion being available, and many out-of-state options being shut off, and financial assistance really being curtailed.”

(CHANELLE NIBBELINK FOR THE 19TH)

Those neighboring states were critical, said Kaleigh, a Dallas resident. (Kaleigh has told few people about the abortion and requested her full name be withheld.) The 29-year-old took a pregnancy test this past April after she missed her period twice and battled daily nausea. She’d been putting it off, she said — she and her boyfriend weren’t ready to be parents. She was scared of what she would see.

Kaleigh knew about the six-week abortion ban. So she opened her computer and searched the internet for “pregnancy clinics.” One kept appearing at the top of her search list. So she made an appointment, and that Tuesday showed up for her sonogram at the Prestonwood Pregnancy Center, a crisis pregnancy center in the Dallas suburb of Richardson. (The center did not respond to multiple requests for comment.)

“All they did was just asked me about why I was trying to ... get an abortion. ‘Do you want to see your baby?’” she recalled.

After the sonogram was complete, they showed her pictures, she said, and gave her a critical piece of information: Kaleigh was eight weeks pregnant. She could not get an abortion in Texas.

Kaleigh and her boyfriend were on the same page. They could drive to another state for an abortion — they had a car, and they had the money. They could work remotely if needed. So she started calling clinics. She tried some in Texas, just in case somehow, they might make an exception. When none could see her, she called the three abortion providers then operating in Louisiana. The earliest appointment she could get wouldn't be for three weeks.

She couldn't bear the idea of being pregnant that long.

Finally, Kaleigh found something: a clinic in Sunland Park, New Mexico, just a mile from the Texas border city El Paso. The drive was nine hours, and they could see her that Friday. So on Thursday night, she and her boyfriend drove west. The next morning, she got two pills at the clinic: mifepristone to take there and misoprostol to take at home.

The abortion was a relief, but Kaleigh couldn't stop thinking about what it took to get it. Ten years ago, at age 19, she'd had an abortion. Then, like in April, she'd found out at eight weeks pregnant.

In 2012, though, she could legally get an abortion in Texas. Per state law, she still had to make multiple visits to the clinic. The process took about a week in total, but she didn't have to worry about driving for hours across state lines, potentially navigating morning sickness while in transit.

“It was just so much more difficult to figure out how to safely do this, you know?” she said. “It wasn't a problem 10 years ago. Since the six-week ban, it's like a totally different place.”

“I feel like the world hates women,” she added. “How can we not take it that way?”

SB 8 is technically still on the books. But it's now no longer the dominant abortion ban in the state.

Since Roe was overturned, the Texas government began enforcing an abortion ban that predates Roe, one originally passed in the 1800s. It prohibits all abortions, with a narrow exception if the abortion is needed to save the pregnant person's life. This past Thursday, the state's trigger ban also took effect. That law replaces a near-total abortion ban with one that also makes abortion a felony, punishable with lifetime imprisonment and a fine of up to \$100,000.

“I think it is probably more confusing now than it was a year ago,” said White, the UT professor. “There are essentially no services here. With the exception of New Mexico facilities, and depending on what part of Texas you live in, facility-based abortion services are not nearby.”

Instead, she said, people seeking abortions may try to induce them on their own, through what is called self-managed abortions. Some may use ineffective mechanisms, like certain herbs or vitamin C supplements. Others may do so through dangerous means, such as inflicting physical trauma on themselves.

Abortion providers and reproductive rights advocates are instead trying to help people access mifepristone and misoprostol, the medication abortion pills that people can safely take from their homes. It's a process that requires knowing someone who can help people safely access authentic, accurately labeled pills.

Maria, also from Dallas, learned she was pregnant in January. Between her vomiting and abdominal pain, she thought she had a terrible stomach bug until she showed up at the hospital and was given a pregnancy test. (Maria is her middle name; she requested her full name be withheld because her family does not approve of the procedure.)

Maria, 27, was five weeks along when she found out. The hospital staff congratulated her, but she didn't want to be pregnant.

Theoretically, she could have made it to an abortion clinic. But her immigration status is tenuous. Would going to a clinic in Texas show up on her record? Could it jeopardize her ability to live in the United States? Her immigration concerns meant she couldn't travel out of state, either. She viewed self-managing as her only option.

She texted a woman she knew, someone who worked in reproductive health advocacy. That person had helped Maria six years ago, when she had her first abortion. They connected her with someone else who was based in Texas and could mail her abortion pills. By the time the pills reached Maria's house, she was six weeks pregnant.

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When the first pills came, they were broken. Maria couldn't use them. When a second set of pills arrived she was seven weeks pregnant. She had heard stories about medication abortions — there could be hours of pain, and a good amount of blood. People had told her that if she needed to go to the hospital, she should just tell them she had miscarried; theoretically, no one would know the difference. But Maria was still afraid. What if someone in the hospital suspected she had an abortion? What if she was arrested anyway?

“I was just really freaked out. I was really scared,” she said.

She took the pills alone in her apartment; the person who had gotten her pregnant didn't support her getting an abortion, and she didn't feel able to tell her friends or family. The pain from her abortion lasted two whole days — at some points, Maria said, “I thought I wanted to die.” Even once the pain abated, her bleeding continued about a month longer. She felt awful, but she couldn't tell anyone.

“People were like, ‘You look really pale.’ I knew why I was pale,” she said. “I was like, ‘Oh, I'm weak, I haven't had water or eaten well.’”

Maria's body has recovered. But still, she rarely tells people she knows about the abortion. When she has talked about it, it's because she wants other people with experiences like hers to know that they're not alone.

As she has watched abortion rights erode in Texas, that kind of awareness feels even more critical, she said.

“I’m not the only one,” she said. “There’s a lot of girls wanting to have an abortion. And they’re just scared.”

### **The 19th**

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Filing Description:  
Status as of 10/17/2023 8:45 AM CST

Associated Case Party: San Antonio Family Association

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