



NIRH **Policy Vision**

Moving Toward Reproductive Freedom and Abortion Justice

The National Institute
for Reproductive
Health Policy Vision

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FROM **RIGHTS** TO ACCESS

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On Oct. 3, 1977

almost five years after the Supreme Court's *Roe v. Wade* decision established abortion as a fundamental right protected by the US Constitution, **Rosie Jimenez, a young woman from McAllen, Texas, died from complications of an abortion performed by an unlicensed practitioner.** Ms. Jimenez died just four days after the Hyde Amendment went into effect, banning federal funding of abortion in Medicaid programs. Without insurance coverage for the procedure, Ms. Jimenez couldn't afford to see an OB-GYN, so she turned to a less expensive but dangerous option. Like most people who have abortions in the United States, Rosie Jimenez was already a mother. She was a college student with dreams for a bright future. And then she died — not because abortion was illegal, but because it was inaccessible to her.

In 2017,

Dr. Shalon Irving, an epidemiologist at the Centers for Disease Control and Prevention in Atlanta, Georgia, died from complications of high blood pressure three weeks after giving birth. Despite having dangerously high blood pressure, swelling in her legs, blurred vision, and other symptoms that warranted careful monitoring and treatment, her doctor's office repeatedly sent Dr. Irving home, including on the day she died. Dr. Irving, a Black woman, dedicated her career to understanding how inequality, trauma, and violence cause illness and death. But all her education, dedication, and knowledge couldn't save her from the neglect and racism that caused her death.¹ **Dr. Irving's and Rosie Jimenez's deaths were not accidents.**

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These deaths were caused by government policies that regulate pregnant people's decision-making while neglecting their dignity, autonomy, and medical needs. Abortion restrictions, laws that deny abortions and standard miscarriage management to pregnant people experiencing medical complications, forced medical interventions, prosecutions of people because they have experienced a miscarriage or stillbirth, inadequate prenatal and postpartum care, the mistreatment of people—particularly women of color — during childbirth, and family policing that separates newborns from their parents are all part of the same problem. **These harmful occurrences are driven by the belief that a pregnant person does not deserve the same rights as everyone else.**

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***If we want reproductive
freedom, we must build power
at the grassroots level...***
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The past few years have reiterated a truth NIRH has long known: that even while we demand more protections from the federal government, we cannot count on it to protect our rights. **If we want reproductive freedom, we must build power at the grassroots level to create change in our states and communities.** NIRH will use every tool available — from legislation to administrative advocacy to community power-building — to ensure state and local governments protect and expand access to the full range of reproductive health care, from abortion to prenatal and postpartum care. This policy agenda lays out the policies we will pursue and our framework for proactive reproductive health policies that allow people to not just get by but thrive.

If We Don't Protect Everyone, We Protect No One

BY ALLOWING THE STATE TO REGULATE

abortion after “viability,” the Supreme Court’s decision in *Roe v. Wade* established that a pregnant person’s right to make decisions about their own life, health, and bodily autonomy was subject to government interference. From the outset, the Supreme Court’s framework pitted the rights of pregnant people against the “rights” of the fetus, while also asserting the government’s right to control people’s reproductive decision making.

The Supreme Court’s framework pitted the rights of pregnant people against the “rights” of the fetus

Roe permitted states to enact abortion bans as early as 18 weeks of pregnancy; ban public and private insurance from covering abortion; force parental involvement in abortion decision-making for young people; enact targeted regulations of abortion providers that forced clinics to close and increased operating costs for those that remained opened; and pass a host of other restrictions that made abortion inaccessible for many people.

If We Don't Protect Everyone, We Protect No One

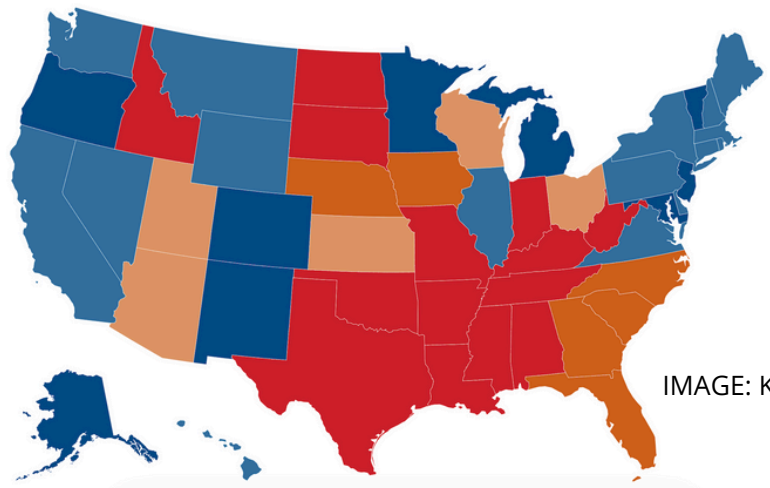
Certainly, under *Roe*, more people were able to get abortions than under the pre-*Roe* status quo. **But what would have happened if the reproductive rights movement had been clear in 1973 that *Roe* was the floor and not the ceiling?** Instead of settling for a world of unequal access, we might have fought for true reproductive liberation. Instead of fighting against abortion restrictions for decades, we could have been fighting for expansive abortion policies and reproductive justice. In that world, abortion, contraception, and pregnancy care would be accessible for everyone. No one would be criminalized because of their pregnancy outcome, and we wouldn't be in a devastating pregnancy-related health crisis that disproportionately burdens Black, Latine, and Indigenous pregnant and parenting people.

NIRH is working to liberate reproductive health care from government interference. The reproductive rights and justice movement and our allies must look beyond *Roe* to recognize everyone's fundamental right to reproductive freedom and enact the policies necessary to ensure access to that freedom, not just for those with means, but for everyone.

NIRH Advocates for Policies that Enshrine and Protect Reproductive Freedom in State and Local Laws

Ensuring that the right to reproductive freedom is protected by law is a key step toward reproductive liberation. To do so, state and local governments must enact policies that empower people to make the reproductive health decisions that are best for them. Prior to *Dobbs*, states passed hundreds of laws limiting access to reproductive health care, and passage of these restrictive laws has only accelerated post-*Dobbs*. **Currently, 14 states ban abortion completely; seven states ban abortion at 18 weeks gestation or earlier; and 20 states ban abortion at 22 weeks or later or at “viability.”**ⁱⁱⁱⁱⁱ

- Abortion Banned (14 states)
- Gestational limit between 6 and 12 weeks LMP (6 states)
- Gestational limit between 15 and 22 weeks LMP (5 states)
- Gestational limit at or near viability (16 states)
- No gestational limits (9 states & DC)



Thirty-six states have laws that require some form of parental involvement for young people to get an abortion.^{iv} Thirty-two states and the District of Columbia^v restrict state funding for abortion.^{vi}

NIRH Advocates for Policies that Enshrine and Protect Reproductive Freedom in State and Local Laws

Government allowance of abortion restrictions, enshrining of fetal rights into law, and use of language that treats fetuses as legal people have all opened the door to the prosecution and persecution of pregnant people.

According to Pregnancy Justice, **between January 2006 and June 2022, 1,400 pregnant people were arrested under the “pretext of protecting ‘unborn life.’”** Prosecutors disproportionately prosecute people who are poor. The vast majority of criminal charges between January 2006 and June 2022—85%—were brought against legally “indigent” people.^{vii}

Two states require health care professionals to test pregnant people for drug use, **21 states require testing of newborns if they suspect prenatal drug use, and 14 states and the District of Columbia require health care professionals to report suspected drug use,** which can lead to family separation as newborns are taken away from their parents.^{viii}

NIRH Advocates for Policies that Enshrine and Protect Reproductive Freedom in State and Local Laws

Discriminatory drug testing disproportionately harms Black families. One study that examined medical records found that Black pregnant patients were more likely than white patients to be tested for drug use, despite being less likely than white patients to have a positive test. Black pregnant patients with no history of substance use were also more likely to be tested than white pregnant patients with no history of substance use.^{ix}

Reproductive freedom is fundamental to people's ability to control their destinies, futures, and health. Abortion bans, restrictions, and limits on where and when people can access health care, along with economic and political inequities, take that power away. And while many states have enacted new restrictions on reproductive freedom, some states and localities have supported reproductive freedom by working to end government interference in reproductive health care and decision making. Post-*Dobbs*, we can rewrite the reproductive freedom landscape to ensure that all abortion seekers can access the care they need or want. In the first three months after *Dobbs* was decided, **17 states and at least 24 localities passed legislation or issued executive orders to protect and expand abortion access**, and these efforts to protect reproductive freedom continue.^x

NIRH will push for and support efforts to proactively define expansive reproductive rights and justice policies that:





ENSHRINE PROTECTIONS FOR REPRODUCTIVE HEALTH CARE INTO STATE AND LOCAL LAWS. THIS INCLUDES:

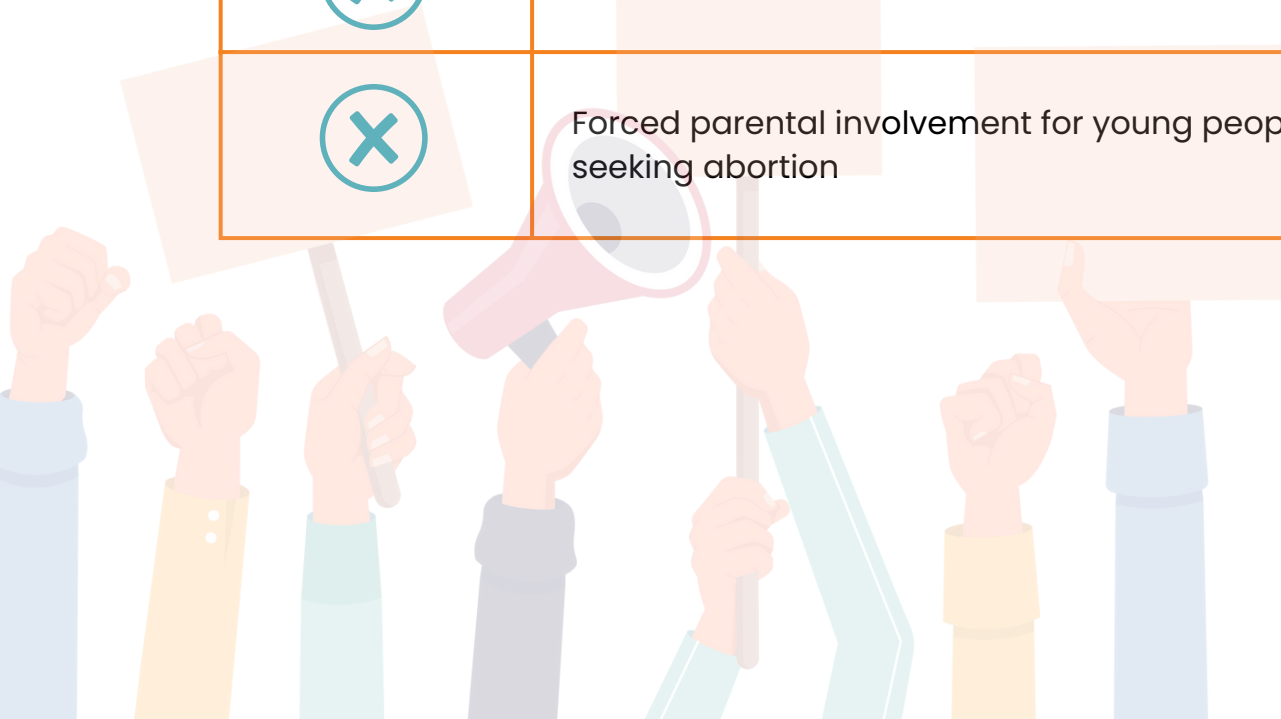
	Amending state constitutions to recognize reproductive freedom as a fundamental right and ensure people can access the full range of reproductive health care—from abortion to prenatal and postpartum care—without restrictions or limitations and free from government interference and policing
	Passing legislation that recognizes the right to reproductive freedom and prohibits the government from discriminating against or interfering with that right



NIRH will push for and support efforts to proactively define expansive reproductive rights and justice policies that:





REPEAL ANY EXISTING RESTRICTIONS ON ABORTION CARE. THIS INCLUDES REPEALING LAWS SUCH AS:

	Bans or restrictions on when in pregnancy a person can obtain an abortion
	Targeted regulations of abortion providers
	Laws that give rights to fetuses or embryos
	Forced parental involvement for young people seeking abortion



NIRH will push for and support efforts to proactively define expansive reproductive rights and justice policies that:

REMOVE ABORTION FROM THE CRIMINAL CODE AND END THE POLICING AND CRIMINALIZATION OF PREGNANT PEOPLE AND ABORTION PROVIDERS AND HELPERS. THIS INCLUDES:

	Removing any criminal penalties for providing or helping someone obtain an abortion
	Enacting policies to end the entanglement of the health care and policing systems, including banning health care providers from notifying the police because of actions a pregnant person has taken, such as a suspected self-managed abortion or drug or alcohol use
	Protecting people who are forced to travel to receive abortion care due to extreme limitations in their states
	Ensuring that pregnant people cannot be prosecuted, punished, or detained because of their pregnancy outcomes or because of actual or suspected alcohol or drug use, or forced to undergo medical interventions

NIRH Advocates for Policies that Will Expand Access to Reproductive Health Care.

Access to reproductive health care is central to the ability to shape and control our lives and our futures. Yet many people—particularly Black, Brown, Indigenous, and other people of color, young people, immigrants, and LGBTQ people—are denied access to safe, affordable, and respectful reproductive health care. Often, this denial of access is by design. Local, state, and federal governments have historically enacted policies that made it harder for these groups to access health care or benefits, such as denying coverage for abortion in publicly funded health plans, including state employee plans, or barring immigrants from using public benefits programs. Because Latinas disproportionately work in low-quality jobs that don't offer health insurance coverage,^{xi} and because many policies make it hard for immigrants to get health insurance coverage, 37% of Latinas are uninsured, a higher proportion than for any other racial or ethnic group.^{xii}

One study found that Black women living in the South experienced significant structural barriers to accessing care, such as not having reproductive health clinics located in the neighborhoods where they live and experiencing racism from providers that affected their use of reproductive health care services. Study participants frequently described birthing as “traumatic” or “horrible.” Others reported that they decided not to seek medical care after experiencing discrimination from a health care provider.^{xiii}

NIRH Advocates for Policies that Will Expand Access to Reproductive Health Care.





At the same time, systemic discrimination — both inside and outside the medical system — has contributed to the pregnancy-related health crisis. Because of inequitable access to health care and resources and discriminatory treatment by health care providers, Black and Indigenous people are, respectively, three and two times more likely to die from pregnancy-related causes than white people.^{xiv}

The *Dobbs* decision has contributed to these inequities. Abortion restrictions threaten the health of pregnant people everywhere, including those who experience pregnancy complications, and exacerbate the maternal mortality crisis Black and Indigenous people are already experiencing. States with abortion restrictions have higher maternal death rates than states with broader abortion access.^{xv} The 12 states that have not expanded Medicaid are among the most restrictive states, with seven of them banning abortion outright.^{xvi}

Ensuring that safe, culturally appropriate reproductive health care is affordable and accessible to those who face the most barriers to care will improve access and outcomes for everyone. State and local governments can implement policies to eliminate barriers to reproductive health care and make abortion, birth control, and prenatal and postpartum care accessible for all.

NIRH will work to expand access to the full range of reproductive health care—from abortion to prenatal and postpartum care—by advocating for policies that:




IMPROVE PUBLIC HEALTH INSURANCE
COVERAGE FOR ABORTION,
CONTRACEPTION, AND PREGNANCY CARE,
INCLUDING:

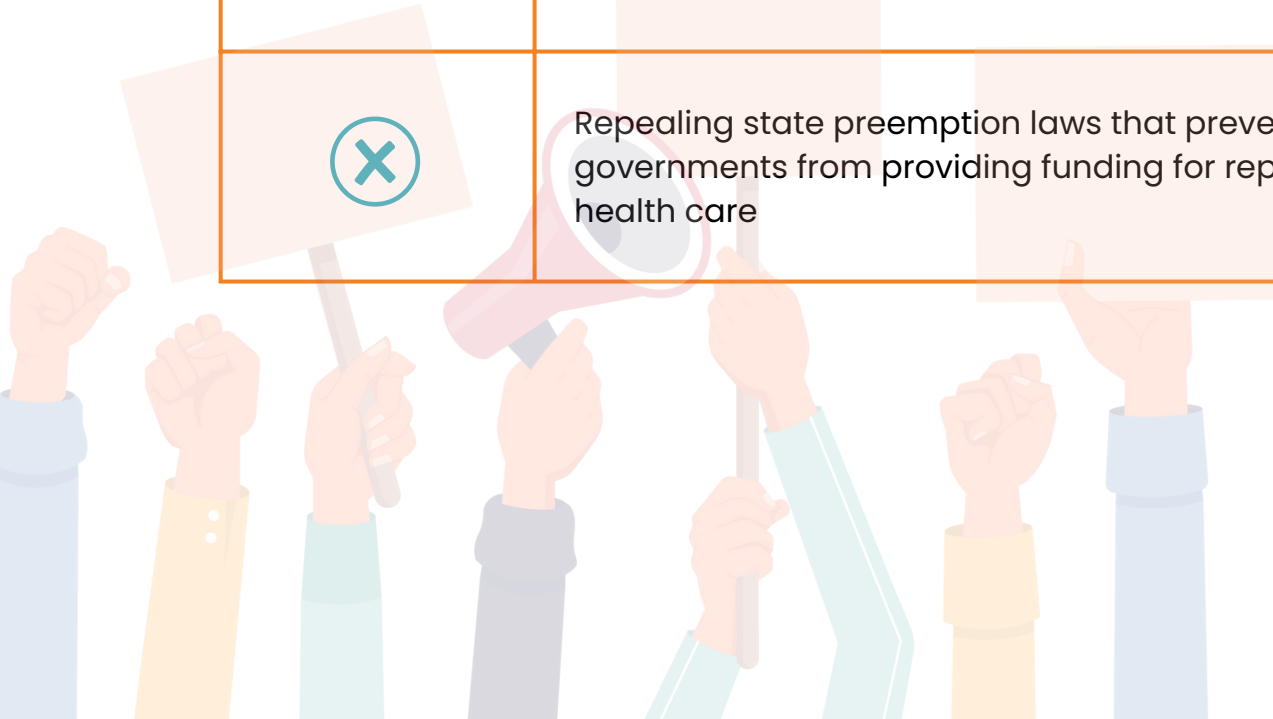
	Repealing bans on public funding of abortion
	Improving reimbursement rates for abortion providers, doulas, and midwives
	Ensuring that coverage for reproductive health care services is comprehensive and meets the needs of providers and patients
	Removing restrictions on access to health coverage, including for immigrants and people who are incarcerated



NIRH will work to expand access to the full range of reproductive health care—from abortion to prenatal and postpartum care—by advocating for policies that:





PROVIDE FUNDING TO MAKE ABORTION, CONTRACEPTION, AND PREGNANCY CARE AFFORDABLE AND ACCESSIBLE FOR EVERYONE. THIS INCLUDES:

	Providing funds to help people pay for abortion care and related expenses, such as travel costs and child care
	Providing funds to improve reproductive health care infrastructure, including for abortion providers, doulas, and midwives
	Repealing state preemption laws that prevent local governments from providing funding for reproductive health care



NIRH will work to expand access to the full range of reproductive health care—from abortion to prenatal and postpartum care—by advocating for policies that:

EXPAND ACCESS TO CULTURALLY APPROPRIATE HEALTH CARE IN THE COMMUNITIES WHERE PEOPLE LIVE BY:

	Changing zoning laws and other restrictions that prevent abortion clinics from opening in particular communities or cities
	Providing funding and other incentives to support community birth centers
	Investing in and expanding telehealth services for reproductive health care
	Creating programs, such as student loan forgiveness and housing subsidies, that encourage reproductive health care providers—including abortion providers, doulas, and midwives—to live and work in underserved communities



A VISION **ROOTED** **IN LIBERATION**

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The ongoing assault on our reproductive rights and freedoms from the federal government, the Supreme Court, and conservative states has certainly been devastating, yet it has also created a moment of opportunity. The old precedents are gone. There is nothing left to cling to, nothing to hold us back from demanding full reproductive freedom. **No limits. No restrictions.**

“
***No limits.
No restrictions.***
”

State elected officials that present their states as havens for reproductive freedom should closely examine their laws and policies. **Do you still have restrictions or limits on abortion? Where can you expand access?** Advocates who live in restrictive states can begin to lay the groundwork to expand access to reproductive health care. There may be opportunities to advocate with your governor, mayor, or health departments to change policies and regulations. You can also introduce the legislation you want to see and use it as an opportunity to educate and engage your communities and lawmakers. Local governments can allocate funding to reproductive health care, educate communities on their rights and access points for care, and pass resolutions to support reproductive freedom and abortion justice. No matter where you are, you can be loud and clear. Demand reproductive freedom and let everyone know we won't settle for anything less than liberation.

Ready to go to work? Want to learn more?
Contact NIRH at partnerships@nirhealth.org.

Endnotes

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