

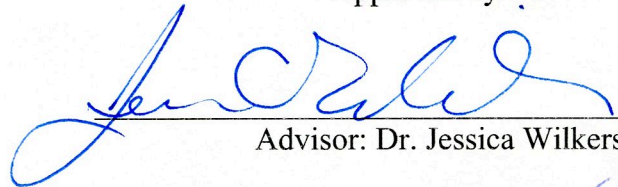
This Clinic Stays Open: a Comprehensive History of Reproductive Rights in Mississippi,
1966-2015

by
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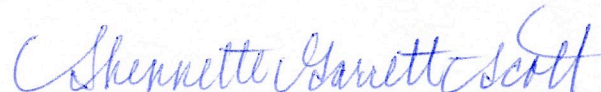
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ABSTRACT

ALICIA PILAR BACON: *This Clinic Stays Open: a Comprehensive History of Reproductive Rights in Mississippi, 1966-2015* (Under the direction of Jessica Wilkerson)

In 1966, Mississippi became the first state to reform its criminal abortion laws when it legalized abortion in the case of rape. From the *Roe v. Wade* decision of 1973 to 1986, Mississippi experienced a rapid and dramatic expansion of abortion services and the practice remained relatively unrestricted. Today, Mississippi boasts some of the most restrictive abortion laws in the nation and only one clinic remains open in the state. Through analysis of newspaper clippings, legislative documents, court rulings, and statistical analyses, this thesis discerns how and when reproductive rights came to be so threatened in Mississippi. The findings show that the level of abortion restrictions women in Mississippi face today is the result of conscious, calculated efforts of legislators and anti-abortion activists to chip away at the legal framework protecting reproductive rights over the course of several decades. The narrative of reproductive rights in Mississippi has largely been obscured and ignored in historical memory and popular media, and despite the state's conservative and religious demography, the current lack of access to abortion services in Mississippi was neither foreordained nor inevitable.

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Introduction

From the mid-1960s to the *Roe v. Wade* decision in 1973, states around the country reformed their criminal abortion laws.¹ Mississippi led this movement when it became the first state to legalize abortion in the case of rape in 1966, amending a state law that had only previously allowed abortion when there was a threat to the life of the mother.² The measure passed the state Senate with only two dissenting votes, and comments from legislators on the matter were relatively matter of fact: “It just permits abortion where a pregnancy was caused by rape. Doctors have been doing it since time immemorial.”³ Other measures from the same legislative session, including those to amend the state’s liquor laws and to keep the state on the Central time zone, appear to have attracted much more discussion, and the abortion law passed with little fanfare in May of that year. Over the course of the next few years, at least one-third of states followed Mississippi’s lead and enacted similar measures reforming their abortion laws.⁴

When the Supreme Court legalized abortion nationwide in the *Roe v. Wade* decision of 1973, Mississippi complied with the ruling and access to abortion services within the state expanded quickly and dramatically. The first abortion clinic in the state opened its doors in 1975, ahead of many states that would be considered liberal by today’s standards. By 1981, at least fourteen abortion providers were operating in

¹ National Abortion Federation, “History of Abortion,” National Abortion Federation, accessed March 28, 2016, <http://prochoice.org/education-and-advocacy/about-abortion/history-of-abortion/>.

² Ibid.

³ “Mississippi Senate,” *The Clarion-Ledger*, May 19, 1966.

⁴ National Abortion Federation, “History of Abortion.”

Mississippi, drastically expanding access to abortion services for the state's women. For the first decade after *Roe*, legislation regulating the practice in Mississippi remained few and far between, and abortion services appeared to be thriving.

Beginning in 1986, state legislators began to regulate the practice nearly out of existence through increasingly restrictive legislation. Clinics soon began to buckle under the pressure of complying with the regulations, and anti-abortion activists began to target abortion providers in order to pressure them into abandoning the practice. By the mid 1990s, the number of abortion clinics had dropped to six, and by 2004 only one clinic remained to serve the entire state. Today, the Jackson Women's Health Organization stands as the last bastion of reproductive rights in Mississippi, its staff working tirelessly to keep the clinic's doors open despite increasing pressure from legislators and activists. In 2012, the state passed HB1390, the most restrictive measure to date. Requiring state abortion clinics to maintain admitting privileges at local hospitals, the law would force the JWHO to close its doors. Though the clinic petitioned every hospital in the area to grant them the necessary admitting privileges, they were denied at every turn. The JWHO would be in violation of state law and would have to cease providing abortion services immediately if HB1390 were implemented, effectively rendering Mississippi the first abortion-free state in the nation. Though the law remains blocked indefinitely by the Fifth Circuit Court of Appeals, a forthcoming decision by the Supreme Court in *Women's Whole Health v. Hellerstedt* may reverse the Fifth Circuit's ruling if the Court rules that such laws are constitutional.⁵

⁵ RH Reality Check, "Whole Woman's Health v. Hellerstedt," RH Reality Check, accessed March 28, 2016, <http://data.rhrealitycheck.org/legal-case/whole-womans-health-v-lahey/>.

When one considers the state's narrative of expanded abortion access and reform from the mid 1960s to the early 1980s, the status of reproductive rights in Mississippi today is baffling. This thesis discerns exactly how and when this dramatic shift occurred, examining the events and processes that rendered Mississippi the abortion battleground it is today. In popular media and historical memory, there is amnesia about the history of reproductive rights in Mississippi. Likely stemming in part from an oversimplified red-state/blue-state formulation of politics, anti-abortion politics have been assumed to be inevitable and ubiquitous. Yet the historical evidence shows that the current state of reproductive rights in Mississippi has been the result of gradual, conscious efforts by anti-abortion legislators and activists to slowly chip away at abortion services and the legal framework supporting the practice. A coalition of politicians, political organizations, and grassroots activists worked simultaneously to restrict the laws regulating abortion and to reframe the rhetoric surrounding abortion, all in an intentional effort to render Mississippi the first abortion-free state. As a result of these processes, reproductive rights in Mississippi today are constantly under threat and nearly nonexistent. I argue that this has not been foreordained by the state's religious and political demography, and that it did not occur swiftly or effortlessly. Mississippians embraced reproductive rights early on, resulting in the rapid expansion of abortion access. It took anti-abortion politicians and activists over two decades to reverse this through calculated efforts to chip away at abortion rights piece by piece.

This thesis opens with an examination of those efforts at the legislative level to erode access to abortion services in Mississippi, providing a legal history of abortion laws passed within the state from the passage of a dual parental consent law in 1986 to the

failed Personhood Amendment in 2011. Until 1986, few laws restricting abortion access existed in Mississippi. After the successful passage of the parental consent law, legislators continued to push for increasingly restrictive regulations. By 2005, over fourteen laws limiting abortion had been passed, and that number has continued to climb over the past decade.⁶ However, legislative efforts were not entirely removed from those of anti-abortion activists. Activists were often behind the passage of abortion laws, as they made substantial efforts to lobby legislators to push for regulations that furthered the anti-abortion agenda. This chapter also places these restrictions within a national context, examining how restrictions in Mississippi align with restrictions in the rest of the country. Though popular conceptions would hold that Mississippi is unique for its level of restrictions, my research demonstrates that while Mississippi may lead for its level of restrictions, the rest of the country is following.

Though restrictive legislation undermined reproductive rights in Mississippi considerably, the efforts of anti-abortion activists were no less instrumental to the process. Chapter two explores these efforts, examining the state's organized right-to-life movement and grassroots anti-abortion activists. While the organized movement made significant gains through legislative lobbying, grassroots activists worked on the ground to pressure abortion providers to withdraw their services and to keep women away from the state's clinics. These combined efforts have significantly challenged the ability of abortion providers to continue offering their services. Though at least fourteen abortion providers operated in Mississippi at one time, only one clinic remains open today.

⁶ Casey Parks, "No Apologies: Inside Mississippi's Pro-Life Movement," *The Jackson Free Press*, September 28, 2005, <http://www.jacksonfreepress.com/news/2005/sep/28/no-apologies-inside-mississippi-pro-life-movement/>.

Chapter two provides a case study of that clinic, the Jackson Women's Health Organization, in order to assess the impact of anti-abortion activism in Mississippi. The history of the JWHO is particularly significant for the study of reproductive rights in Mississippi because it opened during a turning point in the anti-abortion movement. In the 1990s, many anti-abortion activists became disillusioned with the movement's largely passive strategies and began to pursue more direct action, resulting in a violent escalation of protests. In 1993, a protestor shot and killed Dr. David Gunn of Florida and another protester murdered Dr. Bayard Britton, also of Florida, the following year. At the same time, increasingly restrictive abortion laws were implemented in broad swaths of the country after the *Planned Parenthood v. Casey* ruling of 1992. In Mississippi, abortion clinics buckled under the strain of aggressive protests and mounting legislative barriers. Activist Susan Hill opened the JWHO in early 1995 to address the growing inadequacy of abortion services in Mississippi in spite of these pressures. The clinic has managed to withstand every challenge it has faced in the two decades since its founding, and today it is the last clinic operating in Mississippi.

The anti-abortion movement in the United States has never been monolithic, and divides persist over the best strategy to achieve its broader goals. One wing of the movement has long favored the passage of legislation that makes it difficult for abortion providers to operate. Rather than framing the argument in terms of saving the unborn, proponents of this type of legislation argue that regulations help to protect the health and safety of women. These laws, Targeted Regulation of Abortion Providers (TRAP) laws, impose structural and procedural requirements on clinics that are costly and often difficult to meet. The passage of increasingly burdensome TRAP laws in large swaths of

the nation has contributed to a significant decline in access to abortion services as clinics fail to comply with state regulations and ultimately close their doors. Chapter three places Mississippi within this broader context, providing a legal history of HB1390, a TRAP law that requires abortion providers to maintain admitting privileges at local hospitals, a seemingly impossible requirement in a state where hospitals often deny privileges to abortionists. If implemented JWHO will likely close. The chapter examines a similar Texas law, HB2, which led to the closure of a substantial amount of the state's abortion clinics almost immediately after its passage. The legal history of HB2 is inextricably linked to that of HB1390, and its future holds significant implications for women's reproductive health in Mississippi.

This thesis builds on the few studies on the reproductive history of the South and histories of post-*Roe* abortion. The history of reproductive health policy in the South as a whole is an understudied topic. Johanna Schoen's monograph *Choice and Coercion*, a study of pre-*Roe* sterilization, abortion, and birth control in North Carolina, stands as the rare exception to this.⁷ The study of reproductive policy in the post-*Roe* period is only just now beginning to emerge despite the vast implications this subject has held for American women's lives and the nation's political climate for the past four decades. Johanna Schoen's *Abortion after Roe* and stands out as one of the first and only works to begin to grapple with the transformation of policy, the language of activism, and the impact of restrictions on American women's health in this period.⁸ In *Abortion after Roe*, Schoen argues that the public understanding of the fetus began to shift in the 1980s as

⁷ Johanna Schoen, *Choice and Coercion* (Chapel Hill: University of North Carolina Press, 2005)

⁸ Johanna Schoen, *Abortion after Roe* (Chapel Hill: University of North Carolina Press, 2015).

advancements in medical technology led to a proliferation of fetal images that had previously been unavailable. Anti-abortion activists began to reframe their rhetoric, articulating the idea that the fetus was a child with rights and interests worthy of protecting.⁹ By the 1990s, anti-abortion activists had largely grown disillusioned with passive protesting and lobbying and their tactics began to escalate. Protests became increasingly aggressive and violent as activists became even more convinced of what they viewed as their moral duty to protect unborn children from being murdered.¹⁰

Schoen examines the tangible impact these efforts had on abortion providers and women nationwide as the practice became increasingly stigmatized and protestors rendered clinic's battle zones. Many abortion providers were pressured into withdrawing their services, and women seeking abortion began to fear they were committing a shameful, moral act.

Jennifer Donnally's dissertation, *The Politics of Abortion and the Rise of the New Right*, examines the increasing politicization and transformation of the abortion debate in the post-*Roe* period from the legislative side. Donnally contends that the political anti-abortion movement has never been monolithic, and divisions developed early on as activists split over the best strategy to eliminate abortion access.¹¹ Two wings of the movement emerged, hard-liners and incrementalists. Hard-liners favored legislation targeted at protecting the rights of the fetus, such as the failed Human Life Amendment. Incrementalists preferred a more moderate, gradual approach, pushing for legislation that would test the limits of the legal frameworks protecting abortion access established by

⁹ Johanna Schoen, *Abortion after Roe*, 14-16.

¹⁰ *Ibid.*, 160.

¹¹ Jennifer Donnally, "The Politics of Abortion and the Rise of the New Right," (PhD diss., University of North Carolina at Chapel Hill, 2013), 1-7.

the *Roe v. Wade* and *Casey v. Planned Parenthood* rulings. These laws targeted the ability of abortion providers to continue offering their services and of women to obtain them without facing significant obstacles. A notable development out of this wing of the movement was the proliferation of Targeted Regulation of Abortion Providers (TRAP) Laws, which impose substantial financial burdens on clinics by requiring them to meet specific procedural and structural standards. This has contributed to widespread closures of abortion clinics nationwide and a significant national contraction of reproductive rights.¹²

This thesis makes extensive use of newspaper clippings and articles spanning from the 1960s to present-day, legislative documents, and court rulings in addition to the secondary literature offered by Schoen and Donnally. Additionally, this work draws heavily on research reports from the Guttmacher Institute, NARAL Pro-Choice America, and several scholarly journals in discussions of Mississippi's abortion laws in relation to that of the rest of the nation as well as analysis of the detrimental effects TRAP laws have had on abortion providers and women nationwide. However, my research was somewhat limited by the fact that Mississippi does not and has never kept transcripts of its legislative sessions. As a result, in-depth analysis of the 1966 law allowing abortion in the case of rape, as well as subsequent laws, proved difficult. Newspaper clippings on the 1966 law were scarce, and without the legislative record, examination of this law is largely limited to speculation. Abortion became more politicized in the 1970s and 1980s, and newspaper coverage more expanded, making it easier to track laws since *Roe*. However, due to the immense workload the Jackson Women's Health Organization faces,

¹² See also, Mary Ziegler, *After Roe*, (Boston: Harvard University Press, 2015) and Sara Dubow, *Ourselves Unborn*, (Oxford University Press, 2010).

I was unable to gain a direct interview with clinic staff and had to seek out other avenues to fill the gaps in my research. Fortunately, the Sallie Bingham Archives at Duke University allowed me access to their collection on Susan Hill, which holds many documents on the JWHO.

The history of reproductive policy in Mississippi is relatively uncharted territory. No comprehensive history of abortion in the state exists to date, and as such there is little recognition of the fact that Mississippi has not always been the abortion battleground it is today. This thesis draws on Schoen and Donnally's arguments, providing a case study of the ways the transformation of anti-abortion activism, legislation, and rhetoric in the post-*Roe* period have impacted reproductive rights in Mississippi specifically. The conscious efforts of activists and legislators to reframe the abortion debate and chip away at the legal framework protecting the practice in the 1980s, often in tandem, have been so successful in Mississippi that the narrative of the dramatic expansion of reproductive rights in the state following the *Roe* decision has been almost entirely erased from popular media and historical memory. Through examination of the processes that rendered abortion access in the state nearly nonexistent, this thesis helps to fill the significant gap in literature on the history of abortion in Mississippi.

Chapter One: Rolling Back *Roe*, 1986-2011

In 1973, the United States Supreme Court handed down its landmark ruling that legalized abortion throughout the nation. In *Roe v. Wade*, the Supreme Court ruled that the constitutional right to privacy encompasses a woman's decision whether or not to terminate a pregnancy. As a result of this ruling, abortion could no longer be outlawed in the first trimester, and regulations on second and third trimester abortions had to be reasonably related to maternal health.¹³ As women began to receive access to legal, safe abortions, state governments and advocacy groups began working to restrict abortion access through any means possible. These efforts became even more urgent into the 1980s and 1990s, as the issue of abortion became increasingly politicized on a national scale. In 1992, the Supreme Court ruled in *Casey v. Planned Parenthood* to expand the ability of states to enact more stringent restrictions on abortion access, resulting in a surge of new laws and regulations across the nation.¹⁴

Contemporary pundits consider Mississippi the most conservative, pro-life state in the nation, and this is assumed to have been ever-present and inevitable. However, between 1973 and 1986, Mississippi experienced dramatically expanded access to abortion services with relatively few attempts to regulate the practice. Abortion clinics opened without incident, reaching a peak of six clinics in the state operating at one time by the

¹³ United States Supreme Court, "Roe v. Wade," January 22, 1973, <http://caselaw.findlaw.com/us-supreme-court/410/113.html>

¹⁴ Alex McBride, "Casey v. Planned Parenthood (1992)," Public Broadcasting Service, accessed January 1, 2016, http://www.pbs.org/wnet/supremecourt/rights/landmark_casey.html.

early 1980s, and very few legal restrictions limited women's access to abortion services. In 1979, the *Jackson Daily News* reported that the rate of abortion in Mississippi had risen, projecting numbers of upwards of 5,000 each year since the *Roe decision*.¹⁵

This chapter charts the history of Mississippi's abortion laws, examining how and when the state came to be one of the most restrictive on the issue in the nation. Key moments in this history include the passage of a parental consent law in 1986, the passage of a law mandating a twenty-four hour waiting period in 1991, and the passage of a law restricting the use of state funds for abortion only in the case of rape, incest, or life-threatening pregnancy in 2002. The legal history sheds light on how Mississippi legislators responded to *Roe* by creating laws intended to significantly restrict access while still upholding the basic provisions of the Supreme Court rulings. Lastly, this chapter discusses the ultimate failure of the 2011 proposed constitutional amendment that would have effectively outlawed abortion in the state by asserting that life begins at the moment of fertilization.¹⁶ Analysis of Amendment 26, or the Personhood Amendment, reckons with how this amendment could fail in even one of the most restrictive and most conservative states in the nation.

¹⁵Jerry Oglethorpe, "Numbers Thrive in State, Could Be 5,000 Each Year," *Jackson Daily News* (Jackson, MS), August 9, 1979.

¹⁶Emily Wagster Pettus, "Mississippi 'Personhood' Amendment Fails," *the Huffington Post*, November 8, 2011, http://www.huffingtonpost.com/2011/11/08/mississippi-personhood-amendment_n_1082546.html,

1986 Parental Consent Law

In the years immediately following the *Roe v. Wade* decision of 1973, access to legal abortion in the state of Mississippi was relatively free of legal restrictions, with the number of reported abortions rapidly increasing from 1,510 in 1976 to 5,288 in 1985.¹⁷ Though the dramatic expansion and preservation of abortion services persisted for over a decade, politicians soon began working to chip away at abortion access through the legislative process. These efforts were not isolated from those of anti-abortion activists, however, and it was through their combined efforts that access to abortion services in Mississippi was gradually dismantled. In the early 1980s, activists began to organize to decide the best strategies to achieve their broader goals. In 1986, a group of young female activists, encouraged by anti-abortion leaders, formed a group called “Parents Can Help” and lobbied the state capitol to pass a law requiring minors to have consent from both of their parents in order to obtain an abortion.¹⁸ Their efforts were ultimately successful, and with the law’s passage, Mississippi started down the path that would leave it one of the most restrictive states in the nation.

Under the language of the parental consent law, a woman under the age of eighteen must have written consent from both of her parents in order to obtain an abortion in the state of Mississippi.¹⁹ The law includes provisions if the woman’s parents are divorced, one is unavailable to give consent, or if the fetus is the result of incest with the woman’s father. However, if a woman is unwilling or unable to obtain consent of

¹⁷ Shawn McIntosh, “State’s Abortions Soared in Decade, Board Reports,” *Jackson Daily News*, April 18, 1987.

¹⁸ Casey Parks. “No Apologies: Inside Mississippi’s Pro-Life Movement.”

¹⁹ *Mississippi Code of 1972 Annotated*, § 41-41-53, accessed January 1, 2016, <https://www.lexisnexis.com/hottopics/mscode/>.

both of her parents, she must petition the Chancery Court to waive this requirement by finding that she is either mature enough to make the decision on her own or that the abortion is in her best interest.²⁰ Without parental consent or such a ruling, minors in the state of Mississippi have few options to terminate their pregnancies safely and legally. Notably, the age of sexual consent in the state of Mississippi is 16, meaning that though a young woman is deemed mature enough to engage in sexual acts at that age, she is not considered mature enough to make her own decisions regarding the consequences of those sexual acts.²¹ At its core, the parental consent denies young women the ability to exert control over their reproductive health, taking the decision out of their hands entirely.

Ed Grant, then-executive director of the America United for Life organization and Chicago anti-abortion attorney, proposed the original parental consent law before the Mississippi Judiciary Committee. In statements given to the *Jackson Daily News*, Grant stated that the intention of the law was only to bring parents into the decision of whether an abortion should occur or not, claiming the legislation would not prevent abortion: “If a judge rules that she is mature enough to make decisions and that an abortion would be in her best interests, she can have the abortion.”²² Though Grant’s remarks made the law appear rather innocuous, they obscured the true purpose of the restriction. In 1985, almost one-third of the abortions performed in Mississippi were performed on young women

²⁰ *Mississippi Code of 1972 Annotated*, § 41-41-53.

²¹ The Age of Consent, “Mississippi Age of Consent Laws,” The Age of Consent, accessed January 1, 2016, <http://www.ageofconsent.us/state-laws/mississippi-age-of-consent-laws/>.

²² Joe Atkins, “Anti-Abortion Expert Wins Support for Parental Consent Requirement,” *Jackson Daily News*, March 5, 1986.

under the age of nineteen.²³ Passing laws that targeted young women, perhaps the most vulnerable of all abortion seekers, was an effective way of bringing those figures down. For many young women, the need to obtain parental consent may very well do more than delay the abortion process: it may render it an outright impossibility. Moreover, the difficulties inherent in navigating the court system on one's own and the lack of anonymity in small town courthouses, plus a lack of legal and financial resources, would have made the alternative of petitioning the court an inconceivable notion for many of those affected.

The 1986 parental consent law did not pass without incident, however, and its ultimate implementation came only after a long process of lawsuits, court orders, and rulings on constitutionality. Though the original state House of Representatives bill only sought parental notification, the Senate pushed for full parental consent.²⁴ The language of the final bill was the result of a compromise between both houses, and it ultimately passed with only one dissenting vote in the Senate and seventy-eight to thirty-nine in the House in early 1986.²⁵ Although at the time it seemed that then-Governor William Allain's signature would be the final step in the process, the Mississippi and national American Civil Liberties Union quickly stepped in with a lawsuit intended to block implementation of the law. The suit challenged the law on constitutional grounds, contending that the statute "violates a minor patient's right to privacy," and that "minors must be free of unwarranted government interference in private procreative decision-

²³ Shawn McIntosh, "State's Abortions Soared in Decade, Board Reports," *Jackson Daily News*, April 18, 1987.

²⁴ Joe Atkins, "Abortion Bill Now in Allain's Hands," *Jackson Daily News*, April 2, 1986.

²⁵ *Ibid.*

making.”²⁶ ACLU representatives also pointed out that young women would encounter difficulties in navigating the court system and that the written consent requirement discriminated against people who were illiterate. Lastly, they argued that the standard for abortion should match the age at which the state allowed minors to consent to most other major medical decisions.²⁷ The lawsuit found a sympathetic ear in U.S. District Judge Henry T. Wingate, who found the questions of constitutionality were significant enough to warrant a restraining order blocking implementation of the law: “This court recognizes the legitimate and significant state interest in protecting immature minors. At the same time, the court is aware that the right to privacy in connection with decisions affecting procreation extends to minors as well as adults.”²⁸ Wingate’s court order blocked implementation of the law for several years, until the 1992 Supreme Court ruling on *Casey v. Planned Parenthood* affirmed a similar law passed in Pennsylvania as constitutional because it did not place an “undue burden” on a woman’s ability to gain access to abortion.²⁹ Ultimately, this precedent, in both the Fifth U.S. Circuit Court of Appeals and the Supreme Court, meant passage for Mississippi’s parental consent law, finally leading to enforcement in 1993.³⁰

²⁶ Tom Brennan, “ACLU Sues to Block Abortion Law for Minors,” *The Clarion-Ledger*, June 28, 1986.

²⁷ Tom Brennan, “ACLU Sues to Block Abortion Law for Minors.”

²⁸ Beverly Pettigrew, “Abortion Law Now Faces Constitutional Test After Judge’s Restraining Order,” *Jackson Daily News*, July 3, 1986.

²⁹ Alex McBride, “Casey v. Planned Parenthood.”

³⁰ Jerry Mitchell, “Abortion Consent Law Upheld,” *The Clarion-Ledger*, November 16, 1993.

After the parental consent law was finally implemented, Mississippi abortion rates began to decline sharply overall³¹ combined with a significant drop in the number of abortions performed on women between the ages of fifteen and nineteen.³² Interviewed in 1987, Mississippi Right to Life president Bill Conlee expressed a belief that enforcement of the parental consent law would make a substantial difference, asserting that: “In other states, it has reduced the teen abortion rate by as much as a third.”³³ By 2012, abortions performed on the fifteen to nineteen years old age group made up only thirteen percent of the 2,176 total.³⁴ The parental consent law was the first in a line of restrictive laws. Encouraged by their early success, activists continued to push for further restrictions on abortion access.

1991 Twenty-Four Hour Waiting Period Law

In early 1990, the Mississippi House Judiciary B subcommittee voted to kill a bill that would place further restrictions on abortion, citing “very serious constitutional problems.”³⁵ The bill would have required a twenty-four hour waiting period before an abortion could be performed and require physicians to provide women with information on abortion alternatives and on risks associated with abortion. It was labeled a “[loser]

³¹ William Robert Johnson, “Historical Abortion Statistics, Mississippi (USA),” Johnston’s Archive, accessed January 1, 2016, <http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-MS.html>,

³² Jerry Mitchell, “Abortion Consent Law Upheld.”

³³ Shawn McIntosh, “State’s Abortions Soared in Decade, Board Reports.”

³⁴ The Henry J. Kaiser Family Foundation, “Reported Legal Abortions by Age Group Within the State of Occurrence,” accessed January 1, 2016, <http://kff.org/womens-health-policy/state-indicator/distribution-of-abortions-by-age/>.

³⁵ Andy Kanengiser, “Bill to Restrict Abortions Killed by House Panel,” *The Clarion Ledger*, February 28, 1990.

from a legal standpoint” that would cost the state untold sums of money in litigation.³⁶ Despite this early warning, the state of Mississippi would eventually end up following a later incarnation of the same law all the way to the Fifth U.S. Circuit Court of Appeals in a winding saga that would last well over two years, despite vocal opposition from the Mississippi State Medical Association and key pro-choice groups in the state. Eventually, the twenty-four hour waiting period and informed consent law would make its way onto the Mississippi law books, with dramatic consequences for abortion rates within the state.

Proponents of the twenty-four hour waiting period and informed consent law argued publicly that it would simply give women more time to consider information on abortion risks and alternatives as well as to think through the decision they were making.³⁷ In an interview with *The Clarion-Ledger* in 1991, senator Amy Tuck Powell argued: “Women can still have an abortion under this bill- they just have to wait twenty-four hours.”³⁸ Statements such as this one obscured the complexity of the matter in an attempt to make the legislation seem more palatable to the voting public, ignoring the issues facing the impoverished and rural women who have long made up a large percentage of the Mississippi population. Even if lawmakers claimed to want to protect women’s health, the law in fact placed heavy burdens on women seeking legal medical service. At the time of the law’s proposal, just two abortion clinics in Jackson and one in Southaven served the entire state,³⁹ leaving women in eighty counties without an immediate provider. Under this law, women must make two trips rather than one, likely

³⁶ Andy Kanengiser, “Bill to Restrict Abortions Killed by House Panel.”

³⁷ Beverly Pettigrew Kraft, “24-hour Delay for Abortion Stands,” *The Clarion-Ledger*, December 8, 1992.

³⁸ Jay Eubank, “Mabus Vetoes Abortion Bill,” *The Clarion-Ledger*, March 28, 1991.

³⁹ J. Lee Howard, “Abortion Rule Angers Women,” *The Clarion-Ledger*, August 11, 1992.

adding significant travel and lodging costs to the high cost of the procedure itself. For many women, the lost income, high costs, and extra time imposed by the waiting period might prove insurmountable obstacles: “We see patients coming in trying to pay for abortions with rolls of quarters. We’ve even had to give people money to travel back home on because we wouldn’t take their last dollar.”⁴⁰ Even if they desperately wanted and needed an abortion, many women did not have the resources to return for an abortion.

Groups opposing abortion saw the law as aiding their own protests outside of clinics. From the 1980s to the present, groups like the Christian Action Group and Pro-Life Mississippi have been stalwart staples outside of Mississippi’s abortion clinics, hoping to sway the women who enter them through intimidation, misinformation, and shame. Interviewed in 1992, anti-abortion activist Roy McMillan expressed that the law would work to his group’s advantage by giving anti-abortion protestors another day to persuade women visiting the clinics not to have an abortion. McMillan hoped that his group would be able to track down the women by their license plate numbers or follow them home and use the extra time to convince them not to return for the procedure.⁴¹

Medical opposition to the law was vocal. The Mississippi State Medical Association and several key abortion providers and clinic administrators strongly opposed the bill’s passage, arguing that the law would require physicians to overstep their bounds by requiring them to provide non-medical information including adoption alternatives and information on the father’s obligations.⁴² The law would intrude upon the physician’s relationship with the patient, critics contended, forcing them to meet rigid

⁴⁰ Beverly Pettigrew Kraft, “24-Hour Law for Abortion Ruled Legal,” *The Clarion-Ledger*, August 7, 1992.

⁴¹ J. Lee Howard, “Abortion Rule Angers Women.”

⁴² Jay Eubank, “Mabus Vetoes Abortion Bill.”

requirements that would hinder their medical discretion and levy severe penalties of fines and jail time if not met.⁴³ Medical providers led the opposition to the law during its circuitous journey through the courts, keeping the debate raging even after its eventual implementation.

Though the law met an early demise in the Judiciary Committee in 1990, its later incarnation proved successful in 1991, eventually passing in the Senate 41-6 and in the House 109-9.⁴⁴ However, Democratic Governor Ray Mabus used his first veto of the 1991 legislature to override the bill, arguing that the law was an invasion of privacy and as such posed questions over its constitutionality.⁴⁵ In a somewhat expected turn, the legislature voted to override Mabus's veto the very next day, with proponents asserting their belief in the soundness and constitutionality of the statute.⁴⁶ The matter was far from over, however, as a group of medical professionals quickly filed suit, claiming, "the law restricted their ability to exercise medical judgment and discretion in treating patients," and noting, "the U.S. Supreme Court and numerous lower courts have rejected identical twenty-four hour waiting period laws in other states."⁴⁷ The judge in the case, Henry Wingate, agreed. He was the same judge who ruled against the parental consent law. Expressing the belief that the Supreme Court would likely rule the law unconstitutional, Wingate issued a court order blocking the law's implementation for an indefinite period of time on August 30, 1991. The law's proponents remained determined, however, and

⁴³ Jay Eubank, "Mabus Vetoes Abortion Bill."

⁴⁴ Jay Eubank, "3 of 4 Female Senators back Abortion Bill," *The Clarion-Ledger*, March 8, 1991.

⁴⁵ Jay Eubank, "Mabus Vetoes Abortion Bill."

⁴⁶ Jay Eubank, "Abortion Bill Veto Overriden," *The Clarion-Ledger*, March 29, 1991.

⁴⁷ J. Lee Howard, "Judge Blocks State's New Abortion Law," *The Clarion-Ledger*, August 31, 1992.

the state attorney general appealed to the Fifth Circuit Court soon after Wingate handed down his own ruling. The appeal went before the Fifth Circuit in August of 1992, just two months after the Supreme Court handed down its ruling in *Casey v. Planned Parenthood*. With that new precedent in its pocket, the Fifth Circuit lifted the court injunction, ruled the law constitutional and ultimately allowed the law to go into effect.⁴⁸ Although medical opponents continued to fight, appealing to the Supreme Court later that year, their efforts were ultimately unsuccessful and the Supreme Court declined to hear their appeal.⁴⁹ Despite its 1990 demise in the Judiciary Committee and warnings that it would be a costly legal failure, legislators ultimately succeeded in placing the twenty-four hour waiting period law into the Mississippi law books.

Implemented largely at the same time as the parental consent law, the twenty-four hour waiting period markedly decreased abortion rates in Mississippi. In 1991, the number of abortions performed on Mississippi residents within the state was estimated to be 6,140.⁵⁰ The state began enforcing the law in August of 1992, and estimates for that year dropped to 5,790.⁵¹ By 1995 rates had plummeted to 3,440, never to rise above 4,000 again in recent history.⁵² While it is unclear exactly what aspect of the law was the most effective at bringing the rates down, and if the decline would have been nearly as significant without the concurrent parental consent law, it is clear that these restrictions posed serious obstacles for many Mississippi women.

⁴⁸ Beverly Pettigrew Kraft, “24-hour Delay for Abortion Stands.”

⁴⁹ Beverly Pettigrew Kraft, “24-hour Delay for Abortion Stands.”

⁵⁰ William Robert Johnson, “Historical Abortion Statistics, Mississippi (USA).”

⁵¹ *Ibid.*

⁵² *Ibid.*

2002 Law Restricting Use of Public Funds

In 1976, anti-abortion advocates won their first real victory with the passage of the Hyde Amendment, which prohibits the use of federal funds for abortion procedures through Medicaid. The only exceptions to the Hyde Amendment are if the pregnancy is the result of rape or incest or where the pregnancy endangers the life of the mother. The law allows the states to decide whether to use state funding for abortion procedures, and since the amendment's passage only four states have opted to do so.⁵³ Though proponents of such restrictions often argue that tax dollars should not fund abortions under any circumstance, this ignores that such restrictions disproportionately target low-income women who have no other options. Medicaid restrictions on abortion access mean that one in four impoverished women who would rather obtain an abortion must come up with alternative funding or carry to term.⁵⁴ In 2014, Mississippi had a poverty rate of 24.1 percent overall and 25.7 percent for women aged 18-64, making it the most impoverished state in the union.⁵⁵ The number of Mississippians enrolled in Medicaid ranges from around 600,000-700,000 at any given time,⁵⁶ a not insignificant percent of its population of roughly three million.⁵⁷ Impoverished Mississippians who require financial assistance

⁵³ Guttmacher Institute, "State Funding of Abortion under Medicaid," accessed January 1, 2016, http://www.guttmacher.org/statecenter/spibs/spib_SFAM.pdf.

⁵⁴ John Light, "Five Facts You Should Know About the Hyde Amendment," Bill Moyers, accessed January 1, 2016, <http://billmoyers.com/content/five-facts-you-should-know-about-the-hyde-amendment/>.

⁵⁵ Talk Poverty, "Mississippi 2014," accessed January 1, 2016, <http://talkpoverty.org/state-year-report/mississippi-2014-report/>.

⁵⁶ Medicaid, "Mississippi," Medicaid, accessed January 1, 2016, <https://www.medicaid.gov/medicaid-chip-program-information/by-state/mississippi.html>.

⁵⁷ United States Census Bureau, "QuickFacts, Mississippi," accessed January 1, 2016, <http://quickfacts.census.gov/qfd/states/28000.html>.

for their abortions face the same restrictions as millions of other Americans under the Hyde Amendment.

In 2002, Mississippi legislators extended these restrictions to the state level with a bill banning the use of public funds for abortion except in the case of rape or incest, danger to the mother, or fetal malformation incompatible with life.⁵⁸ Much of the legislation was intended to target a state-funded hospital, the University of Mississippi Medical Center, as legislators alleged that the Center exceeded guidelines in performing elective abortions and as such abused state funding.⁵⁹ Under the resulting legislation, medical facilities that perform abortions may not receive any state funding.⁶⁰ This legislation was the result of the combined efforts of legislators and anti-abortion activists, with all involved parties vehemently opposed to the idea of any government money going to fund abortion procedures. With the passage of this law, anti-abortion activists and legislators signaled the lengths they would go to in order to regulate abortion nearly out of existence, leaving no legislative stone unturned in the process. Then- Lieutenant Governor Amy Tuck stressed this commitment in a 2005 interview: “Not one red cent...Not one penny could be spent on funding abortions. This sent a very strong message across our state and across the nation for other states to look at passing similar legislation.”⁶¹ Tuck’s statement suggests the movement’s deeper moral and ideological opposition to abortion in the passage of this legislation, as Tuck was not interested in providing evidence of fraud or abuse in the public funding for abortion.

⁵⁸ Jack Elliott Jr., “Legislators Ban Abortion Money,” *The Clarion-Ledger*, April 4, 2002.

⁵⁹ Jack Elliott Jr., “Legislators Ban Abortion Money.”

⁶⁰ *The Last Abortion Clinic*, directed by Raney Aronson-Rath, aired November 8, 2005 (Boston: PBS Frontline, 2005), DVD.

⁶¹ *Ibid.*

Signed into law by Democratic Governor Ronnie Musgrove in the same year, this restriction further limited the options of the thousands of Mississippi women living in dire poverty already facing the effects of the Hyde Amendment. For many of these women, especially in the Mississippi Delta, there is little other option than to carry their pregnancies to term in light of the substantial financial burdens of traveling long distances to the state's lone clinic and having to shoulder the entire cost of the procedure themselves. When interviewed on the matter, then-President of Pro-Life Mississippi, Terri Herring, rejected that this was an issue even worth addressing: "We don't feel bad that people in the Delta can't have an abortion. To say that poor women— we want to be sure that poor women can get their abortions, like we're doing them a favor by helping them kill their baby, is— is just not OK with me. It's not acceptable to make that to seem something so bad."⁶² For anti-abortion activists like Herring, the far-reaching consequences of such restrictive legislation matters little when compared to the movement's moral commitment to saving the unborn through the elimination of access to abortion.

In 2010, Republican Governor Haley Barbour reaffirmed these restrictions when he signed a law with roughly the same provisions as the 2002 law. This law, the "Federal Abortion-Mandate Opt-Out Act," was intended to ensure that no public funds would be used for abortion procedures after the implementation of Obamacare provisions in 2014, despite the fact that the healthcare reform already upheld most Hyde Amendment

⁶² *The Last Abortion Clinic.*

restrictions.⁶³ Under the 2010 law, Mississippi does not allow any qualified health plans that offer abortion coverage to participate in the state's healthcare exchange. The only exceptions to this provision are in the case of rape or incest or if the pregnancy threatens the life of the mother, which in fact increases the restrictions set forth by the original 2002 law by eliminating coverage for malformed fetuses deemed incompatible with life. The 2010 law not only further limits the amount of state and federal funds that are likely to be used for abortion in Mississippi, but also further limits the reproductive options of low-income citizens who are not on Medicaid but are still required to purchase healthcare under the provisions of Obamacare.

Though state law prohibits the use of any government funding for abortions, Mississippi funnels the proceeds from special "Choose Life" license plates into crisis pregnancy centers throughout the state.⁶⁴ These centers have been widely criticized for their widespread efforts to intimidate, berate, and misinform the women who visit them in order to turn them against abortion through any means possible. This is the only real alternative service that legislators and activists offer to Mississippi women who face unplanned pregnancies, and the value of the work these centers perform is questionable.

Personhood Amendment 2011

In 2011, Mississippi legislators attempted to pass the most severe abortion restriction to date. Rather than deciding the issue in the legislature and in courtrooms this time, however, legislators turned to the voting public. Amendment 26, commonly

⁶³ Emily Wagster Pettus, "Second Ban on Abortion Funding Goes to Miss. Governor," *the Associated Press*, 2010, <https://www.memphisdailynews.com/editorial/ArticleEmail.aspx?id=49642>.

⁶⁴ *The Last Abortion Clinic*.

referred to as the “Personhood Amendment,” sought to amend the Mississippi constitution to include a new definition of what constitutes a person under the state’s legal parameters: “The term ‘person’ or ‘persons’ shall include every human being from the moment of fertilization, cloning or the functional equivalent thereof.”⁶⁵ Under the language of this amendment, all fertilized eggs would be granted full legal rights and protections at the moment of conception, effectively outlawing abortion in the state. Though a similar measure had been handily defeated in Colorado in 2008, many feared that the odds of defeating the proposition in an overwhelmingly conservative and pro-life state such as Mississippi were slim to none. When it was announced that the proposed amendment would be on the 2011 general election ballot, however, citizens soon began to divide over the issue.

Many of those in favor of the amendment agreed with its hard-line stance, believing the provision’s inflexibility necessary to “make the state safer for unborn children.”⁶⁶ Those opposed raised questions over the amendment’s constitutionality and application, challenging the lack of provisions in the case of rape, incest, or threat to the mother’s health. Many dissenters wondered if the amendment would threaten fertility treatments such as in vitro fertilization, access to birth control, or even lead to homicide convictions for women who had miscarriages. Though proponents of the amendment denied that it would eliminate IVF or birth control,⁶⁷ the amendment’s total ambiguity on such matters did little to placate these fears. Supporters also did not dispute concerns over the lack of exceptions for rape or incest, many believing it to be a non-issue. Les Riley, a

⁶⁵ Caitlin E. Borgmann, “What the Mississippi Personhood Amendment Tells Us About Life,” *MISS. LJ* 81 (2011), 115-121.

⁶⁶ Elizabeth Crisp, “Abortion Issue on ’11 Ballot,” *The Clarion-Ledger*, April 2, 2010.

⁶⁷ Gary Pettus, “Personhood Rejected,” *The Clarion-Ledger*, November 11, 2009.

leader in early efforts to get the initiative on the ballot, echoed these sentiments in an interview with the *Clarion Ledger*: “We don’t believe a child should be punished for the sins of his father.”⁶⁸

Though objections to Amendment 26 were not insubstantial, the idea that it would be defeated at the ballot box seemed improbable. The initiative to get the amendment on the ballot had been a successful grassroots effort, after all, with the petition receiving over 17,000 signatures more than the 89,285 required to do so.⁶⁹ The support of the Mississippi Baptist Convention, a handful of vocal physicians, and several influential anti-abortion groups in the state seemed to buttress odds that the amendment would ultimately succeed. Mississippians on both sides of the issue were stunned, then, by the results on election day: the measure had been defeated resoundingly with a vote of 58 percent against 42 percent in favor.⁷⁰

Considering the severity of the state’s abortion restrictions as well as its political and religious demographics, the defeat of Amendment 26 was surprising to many. Questions abound over how a measure that seemed destined to succeed in one of the most pro-life states in the nation could ultimately fail, and why exactly citizens voted the way they did. One might wonder if this might signal a shift in state politics toward more pro-choice beliefs, or if this was simply a fluke. Though there are no clear answers on the matter, evidence may point to a few key factors at work.

⁶⁸ Elizabeth Crisp, “Abortion Issue on ’11 Ballot.”

⁶⁹ Elizabeth Crisp, “Abortion Issue on ’11 Ballot.”

⁷⁰ Mississippi Secretary of State, “Official Tabulation of Vote for Statewide Initiative Measure No.26,” accessed January 1, 2016, <https://www.sos.ms.gov/links/elections/results/statewide/Statewide%20Initiative%20Measure%2026%20-%20General%20Election%202011%20Results.pdf>.

First, religious support for the amendment was divided. While Southern Baptists do make up a significant portion of the state's religious demography, other denominations hold respectable footholds as well. Despite the Mississippi Baptist Convention's wholehearted support for the measure, it is likely that public opposition from key Methodist and Episcopal leaders as well as the refusal of the state's Catholic Diocese to weigh in on the matter had an impact on voter behavior. Religion is deeply engrained in Mississippi's culture, and scriptural ideas and the opinions of religious leaders are often intrinsically linked to political beliefs. For religious support to be so divided on a matter that would theoretically align well with many aspects of Christian doctrine might have raised deeper concerns for many voters. Second, the Mississippi chapter of the NAACP openly opposed the amendment. African Americans have historically made up a significant percentage of Mississippi's population, a fact that remains relatively unchanged today. In 2010, nearly 40 percent of the state's population was African American, making up a relatively substantial portion of the voting bloc. It is possible that the NAACP's stance on Amendment 26 might have held significant weight for many in the decision over how to vote on the issue.⁷¹

Finally, the outcome seems to have little to do with pro-choice sentiments or the strength of such groups in the state. In fact, a significant amount of those who opposed the amendment identified as pro-life. Rather, opponents emphasized the impact the amendment would have on issues of the health and welfare of families and the relationship between doctors and their patients, distancing themselves from pro-choice sentiments entirely. From the language of the arguments, it seems that fears of an end to

⁷¹ United States Census Bureau, "QuickFacts: Mississippi."

fertility treatments, elimination of birth control, and a doctor's total inability to intervene if a pregnancy threatens the life of the mother seem to have posed a substantial enough threat to what Mississippians believed was important for the welfare of their families to take pro-life beliefs out of the picture almost entirely. According to a spokeswoman for Mississippians for Healthy Families, an essential anti-initiative group, the measure was successful "because Mississippi voters ultimately understood that there is no contradiction in being pro-life and standing in opposition to an initiative that threatened the health and very lives of women."⁷² It is likely that the ability to take a firm stance in opposition to a measure that they felt threatened by while still maintaining a respectable distance from pro-choice ideology had a significant impact on voter behavior.

In 2013, a new petition to get a similarly worded amendment on the next general election ballot failed to reach the required number of signatures. Despite the lack of clear answers as to why Amendment 26 failed, the outcome hints at the existence of significant limitations to the anti-abortion agenda. While the demise of Personhood in Mississippi may not be the result of any burgeoning pro-choice mentality in the state, it signifies that there are measures that even voters in the most pro-life, conservative states believe to be too extreme. Proposed personhood amendments will likely continue to crop up throughout the nation, but Mississippi's own reluctance to enact such a measure suggests that these attempts will continue to be unsuccessful. Moreover, the failure of these measures challenges popular assumptions of Mississippi's anti-abortion politics as fundamental and inevitable.

⁷² Gary Pettus, "Personhood Rejected."

Measuring Up Nationally and Regionally

In recent years, Mississippi has consistently topped lists ranking states by the severity of their abortion restrictions. One might wonder whether this is emblematic of a regional trend, as southern states often align politically and culturally, or if Mississippi stands apart in the South. One might also consider how Mississippi measures up nationally, and if the severity of its restrictions are a national norm or an exception. Analysis of Mississippi's laws in comparison to the region and nation show that, contrary to popular belief, Mississippi is not particularly unique in its severity of restrictions on either a regional or national scale.

In its January 2015 report, NARAL Pro-Choice America assessed the severity of abortion restrictions in each state as well as which state legislatures sought to pass new restrictions in 2014.⁷³ It then assigned each state an individual report card based on its level of restriction and a ranking out of fifty, with one being the least restrictive state and fifty the most restrictive state. Mississippi received a report card with a grade of an "F," and it ranked as the 49th most restrictive state in the nation, a relatively unsurprising assessment given its history. What may be surprising, however, is that only thirteen states out of fifty received grades of an "A+," "A," or "A-." In contrast, twenty-five states received "F" grades, and the remaining twelve states hovered somewhere in the middle, with only two of these states rating a grade higher than a "B-". As a whole, the nation received an overall grade of a "D," signifying that despite ideas that might consider the situation in Mississippi to be extreme, it is only performing marginally worse than the nation as a whole in regards to reproductive choice.

⁷³ NARAL Pro-Choice America, *Who Decides?: The Status of Women's Reproductive Rights in the United States*, January 2015.

Ideas of what states make up the south vary widely and it can be difficult to determine which states actually deserve the moniker of “southern.” For the purposes of this regional analysis, For the purposes of this regional analysis, the South is defined using the United States Census Bureau guidelines: Louisiana, Alabama, Mississippi, Georgia, South Carolina, Texas, Oklahoma, Arkansas, Tennessee, Kentucky, Delaware, Maryland, Florida, North Carolina, Virginia, and West Virginia according to United States Census Bureau definitions. Out of these sixteen states, only three earned a grade higher than an “F”: Delaware with a “C,” Maryland with an “A,” and West Virginia with a “B-.” In the rankings of each state from least to most restrictive, the southern state ranked as the least restrictive aside from these three was Florida, ranking at twenty-seven. Five southern states received a ranking between thirty and thirty-nine, with Alabama and Texas tied for the 39th most restrictive states. Five more southern states ranked in the bottom ten most restrictive states. The South as a whole appears to be performing around the same in regards to reproductive choice, signifying that Mississippi is not particularly unique according to regional trends. Furthermore, only two southern states rank in the top five most restrictive in the nation, with only five in the top ten. This evidence suggests that the South is no more or less unique in its tendency toward strict abortion restricts than most of the nation, despite popular beliefs to the contrary.

Though Mississippi is not particularly unique in the severity of its restrictions, its rates of reported abortion have always been rather lower compared to the rest of the region and the nation. In 1973, Mississippi reported ninety-six abortions out of the nation’s 294,678. In the years following the advent of legal abortion, Mississippi’s

number of reported abortions increased dramatically, reaching 5,136 by 1980.⁷⁴

Nationally, the total reported abortions numbered well over one million by the same time period.⁷⁵ Further into the 1980s, however, Mississippi's abortion rates began to decline steadily almost every year, a logical trend considering when the state began to enact stricter restrictions. In 2012, Mississippi only reported 2,112 abortions, less than half of the 1980 rate. However, nationally, abortion rates remained relatively stable over time, with only a handful of years where rates dropped below one million. Regionally, Mississippi's rates of abortion have always been dramatically lower than most other southern states. For example, Alabama reported 3,392 abortions in 1973, 17,920 in 1980, and 7,464 in 2012.⁷⁶ Even Louisiana, the most restrictive state in the nation, topped Mississippi's rates for the same years, with 858 in 1974, 15,025 in 1980, and 7,767 in 2012.⁷⁷ Reported abortions in all southern states except Arkansas dwarf Mississippi's rates considerably. However, access to abortion is severely limited in Mississippi with only one operating clinic today.

Conclusion

Terri Herring, one of the six young activists who lobbied for the 1986 parental consent law, ultimately went on to become President of Pro-Life Mississippi despite early

⁷⁴William Robert Johnson, "Historical Abortion Statistics, Mississippi (USA).

⁷⁵ William Robert Johnson, "Historical Abortion Statistics, United States," Johnston's Archive, accessed January 1, 2016, <http://www.johnstonsarchive.net/policy/abortion/ab-unitedstates.html>.

⁷⁶ William Robert Johnson, "Historical Abortion Statistics, Alabama (USA)," Johnston's Archive, accessed January 1, 2016, <http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-AL.html>.

⁷⁷ William Robert Johnson, "Historical Abortion Statistics, Louisiana (USA)," Johnston's Archive, accessed January 1, 2016, <http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-LA.html>.

uncertainty over her abilities as an activist: “We stumbled through that first year...we felt stupid every day.”⁷⁸ As President of Pro-Life Mississippi, Herring spent over twenty hours a week coordinating with state officials on legislation and projects to honor the unborn.⁷⁹ Activists like Herring, working behind the scenes to shape legislation and influence politicians, have proven instrumental to the successes of the broader anti-abortion movement in Mississippi. While grassroots activism at clinics and protest rallies have posed significant challenges to the ability of abortion providers to offer their services and the commitment of women to obtain them, the conscious efforts of activists and state officials to shape legislation have gradually eroded the legal framework that protects continued reproductive rights in Mississippi.

Today, however, Mississippi ranks as the 49th most restrictive state in the nation in regards to abortion, only topped by Louisiana. The parental consent law of 1986, the twenty-four hour waiting period law of 1991, and the law banning the use of public funds for abortion in 2002 were instrumental in this process. Today, the Mississippi Code⁸⁰ mandates that women must be counseled on any possible risks of abortion, adoption alternatives, and financial liability of the father before they are allowed to undergo the procedure. Women must wait a minimum of twenty-four hours between this counseling and the actual procedure. The performing physician must also perform an ultrasound on the woman, offering her the opportunity to view the image, listen to the heartbeat, and take a printout of the image home. Abortions cannot be performed after twenty weeks gestation without adequate provision for complications that threaten the life of the mother

⁷⁸ Casey Parks. “No Apologies: Inside Mississippi’s Pro-Life Movement.”

⁷⁹ *Ibid.*

⁸⁰ *Mississippi Code of 1972 Annotated*, § 41-41.

or in the case of rape or incest. Minors must obtain the permission of both parents before they can obtain an abortion, and must petition the courts if they are unwilling or unable to do so. Public funds cannot be used for voluntary abortions, and health plans that offer services to the contrary are not allowed on the Mississippi health plan exchange. In 2007, the Mississippi legislature enacted a provision that would immediately ban abortion in the event that the Supreme Court overturns *Roe v. Wade*. The only exceptions to the provision are in the event of threat to the life of the mother or if the pregnancy is the result of a rape that has been reported to and investigated by law enforcement. Through these legislative measures, anti-abortion activists and legislators have firmly established their intention to restrict abortion to the fullest capacity allowed under the law, regulating the practice almost entirely out of existence.

In 2011, however, Mississippi voters strayed from the state's assumed rigid pro-life ideology when they voted against amending the state constitution to grant personhood and legal rights and protections to fetuses by establishing that life begins at the moment of fertilization. Though explanations for this voter behavior remain unclear, the rejection of this measure significantly challenges the assumption that Mississippi's anti-abortion politics have always been innate and inevitable. While legislators and activists have deliberately and gradually chipped away at reproductive rights over the course of the past three decades, the voting public at large has played a relatively minor role in this process. Though it is unlikely that the rejection of Amendment 26 was the result of any deep-seated pro-choice ideology in the majority of the Mississippi population, it implies that the state's voting public is not as deeply committed to the complete elimination of access to abortion services as popular media and historical memory would suggest. If popular

portrayals of the state as a Conservative, Christian monolith that has always rejected reproductive rights were fully accurate, the inevitable passage of such restrictive amendments would likely never be in question.

Chapter Two: Jackson Women's Health Clinic and the Politics of Backlash

After the *Roe* decision, abortion clinics began to spring up across the nation, and the state of Mississippi was no exception. In 1975, Dr. Beverly Smith opened the state's first clinic, the Family Health Services Clinic in Jackson.⁸¹ By 1981, the number of abortion providers operating in the state had climbed to fourteen, and state legal restrictions on abortion remained relatively few.⁸² For nearly two decades after the *Roe* decision, abortion services appeared to be thriving in Mississippi, with abortion rates peaking in 1991 at an all-time high of 8,814.⁸³ However, as anti-abortion protests and legislation began to escalate in the 1980s and 1990s, clinics began to buckle under the mounting pressure and close their doors nationwide. In 1991, the number of abortion providers in the country had fallen to 2,434 from 2,908 in 1982, a 16 percent decline.⁸⁴ Mississippi did not escape this trend, and its number of abortion providers began to dwindle steadily over this same period of time. By 2004, only one clinic, the Jackson Women's Health Organization, was left standing to serve the entire state.⁸⁵ Today, the JWHO remains the last bastion of reproductive rights within state lines, facing a daily

⁸¹ Goerky Smith, "Beliefs Led McMillan to Found, Quit Abortion Clinic," *The Northside Sun*, April 17, 1986.

⁸² Kate Sheppard, "Inside Mississippi's Last Abortion Clinic," *Mother Jones*, January 22, 2013, <http://www.motherjones.com/politics/2013/01/inside-mississippis-last-abortion-clinic>

⁸³ David Crary, "Mississippi's Last Abortion Clinic Persists," *The Seattle Times*, December 28, 2014.

⁸⁴ Johanna Schoen, *Abortion after Roe*, 160.

⁸⁵ R.L. Nave, "Inside the Abortion Clinic Battle," *Jackson Free Press*, August 1, 2012, <http://www.jacksonfreepress.com/news/2012/aug/01/inside-abortion-clinic-battle/>.

onslaught of anti-abortion protesters picketing outside its doors and the effects of increasingly restrictive state legislation.

Despite the promising early beginnings of abortion services in Mississippi, the state now stands apart as a battleground of reproductive rights, and the JWHO is on the frontlines. Though the passage of increasingly restrictive legislation over time has been instrumental to this process, it is not through such efforts alone that reproductive rights in Mississippi have become so imperiled. The organized anti-abortion movement's efforts to lobby state legislators for such legislation has proven essential to the erosion of the legal framework that protects access to abortion. These combined efforts have been wildly successful at making it increasingly difficult for women to obtain abortions and providers to perform them on an institutional level. At the grassroots level, anti-abortion activists have reinforced these burdens through daily clinic protests. Though protestors have often asserted good intentions of helping women who might not be fully committed to their decision to procure an abortion, their efforts created an increasingly hostile environment that placed significant pressure on abortion providers to withdraw their services and rendered it uncomfortable, if not downright terrifying, for women to approach clinic doors. Over time, these efforts, combined with the passage of increasingly restrictive regulations, led to almost complete elimination of abortion access in Mississippi as every clinic but the JWHO succumbed to these mounting pressures.

In the 1990s, anti-abortion activism began to escalate nationwide, with protestors adopting increasingly aggressive, and sometimes violent, strategies. During this period, the battle over abortion became quite literally a life or death matter as tactics escalated from mere intimidation, arson, and vandalism to murder when two abortion doctors were

shot and killed by activists in a two-year period. Already struggling under legislative burdens, this growing climate of fear and violence spurred many abortion providers to abandon the practice. It was within this context that seasoned North Carolinian activist Susan Hill founded the JWHO in early 1995, responding to the growing need for abortion services in the state despite serious fears of backlash.

The JWHO is particularly significant to the history of reproductive rights in Mississippi not only for the broader context of the period in which it was founded, but also for its ability to withstand the burdens imposed by legislation and activists where all other clinics in the state failed to do so. This chapter examines the history of the JWHO in detail, providing a case study of the impact of activist escalation experienced by clinics nationwide. Furthermore, this history demonstrates how abortion providers have responded to legislative and activist efforts to chip away at reproductive rights in Mississippi. While the calculated, gradual process by which this occurred ultimately rendered the narrative of reproductive rights in Mississippi today completely opposed to that of the pre- and immediately post-*Roe* period, Mississippi is still not the abortion-free state that activists had hoped it would be by this time. The perseverance of the JWHO and its staff has helped to ensure this.

Two key figures stand at the center of the state's anti-abortion movement: Roy McMillan, a fervent activist who was a daily fixture at the JWHO from its opening until his death in 2016, and his wife, Dr. Beverly McMillan, the OB-GYN who opened Mississippi's first abortion clinic in 1975. This chapter examines these two activists in detail in order to demonstrate some of the ways that grassroots activists have operated in

Mississippi and the tangible impact they have made on the ability of abortion providers to continue to provide their services and for women to obtain them.

JWHO History

Mere minutes after Supreme Court handed down the *Roe* ruling in 1973, a young social worker from North Carolina named Susan Hill was asked to help establish the first abortion clinic in Florida.⁸⁶ Just a few years later, she had become a key figure in the reproductive rights movement and a seasoned clinic director. In 1976, she helped found the National Women's Organization with the mission of opening clinics in areas of the country significantly deficient in abortion access.⁸⁷ At its peak, Hill and the NWHO oversaw eleven clinics nationwide, dramatically expanding abortion access for thousands of women in under-served areas.⁸⁸ As Susan Hill embarked on her career helping to expand abortion rights and access nationwide, Mississippi experienced its own expansion of services. The first clinic in the state opened its doors in 1975, and many others soon followed. By the early 1990s, however, clinics and providers began to succumb to not only the efforts of state legislators and activists, but also likely to the growing stigmatization of abortion in the public discourse. This transformation from abortion as a common, necessary medical practice to a shameful, sinful act increasingly isolated abortion providers and their staff.⁸⁹ Many of the abortion providers in Mississippi during the peak of access were most likely private physicians performing the procedure in their

⁸⁶ Johanna Schoen, *Abortion after Roe*, 23.

⁸⁷ *Ibid.*, 42-45.

⁸⁸ Mary Lou Greenberg, "Susan Hill: 37 Years of Courage," *On the Issues Magazine*, January, 2010, http://www.ontheissuesmagazine.com/2010winter/2010winter_Bader.php

⁸⁹ Johanna Schoen, *Abortion after Roe*, 201.

own offices, and they probably began to back away from any association with the practice amid the growing stigmatization and unrest. Moreover, in 1996, the Mississippi legislature passed a law mandating that any physician's office that performs over 100 abortions in a single year must be licensed as an abortion clinic and as such meet all of the necessary structural and procedural requirements.⁹⁰ This law made it increasingly difficult for private physicians to continue performing abortions in their offices without risk of legal ramifications. These factors all likely contributed to the gradual decline of abortion providers and clinics in Mississippi in one way or another, and by the mid-1990s, few providers remained.

In 1994, the *Clarion-Ledger* reported that Susan Hill would soon open a new abortion clinic in Jackson, Mississippi.⁹¹ The clinic was to be the first new abortion clinic in Mississippi in over a decade. With just two other clinics left operating in the state at the time, the new clinic, the Jackson Women's Health Organization, would fill a burgeoning gap in the state's abortion services.⁹² Though Hill was no stranger to establishing abortion clinics, tensions were especially high ahead of the JWHO opening. In the 1980s and 1990s, anti-abortion protestors became increasingly aggressive, their escalating tactics largely motivated by a growing belief that abortion was essentially the murder of a child.⁹³ In *Abortion after Roe*, historian Johanna Schoen argues that the national right to life movement became significantly radicalized after a series of setbacks

⁹⁰ Melanie Simpson, "Health Department May Not be Able to Enforce Abortion Law." *Clarion-Ledger*, July 12, 1996. Susan Hill Papers, David M. Rubenstein Rare Book & Manuscript Library, Duke University.

⁹¹ Jerry Mitchell, "Veteran Activist to Head Abortion Clinic," *The Clarion-Ledger*, December, 24, 1994.

⁹² Jerry Mitchell, "Veteran Activist to Head Abortion Clinic."

⁹³ Johanna Schoen, *Abortion after Roe*, 161.

in the early 1980s. Unable to garner support for a Human Life Amendment in Congress or make significant gains at the national level, many activists became disillusioned with political lobbying and began to adopt confrontational and active protest styles.⁹⁴ When combined with the burgeoning idea that abortion providers were murderers and as such, any action that might save the lives of unborn children was inherently justifiable, the result was a total escalation of anti-abortion activism.

Protest tactics became increasingly urgent, as activists grew discontented with the passive picketing that they perceived to have been largely ineffectual. Protestors physically blocked women from entering clinics, accosted them physically and verbally, and sometimes even followed them home.⁹⁵ Over time, the escalation continued, becoming increasingly violent and targeted at abortion providers and clinics. Activists poured glue into clinic locks and physicians and clinic staff endured threatening phone calls, letters, and even picketing on their own front lawns.⁹⁶ Clinics nationwide experienced vandalism, arson, and even bomb threats; clinic escorts and security guards became essential to clinic operation.⁹⁷ By the time Susan Hill began preparations to open the clinic in Jackson anti-abortion activism had reached a turning point. In 1993, abortion protestor Michael Griffin shot and killed Dr. David Gunn, an abortion provider at Hill's Pensacola, Florida clinic.⁹⁸ The following year, activist Paul Hill murdered Dr. John Bayard Britton and his bodyguard outside another Pensacola clinic, and John Salvi killed two receptionists and wounded seven others at Brookline, Massachusetts Planned

⁹⁴ Johanna Schoen, *Abortion after Roe*, 170.

⁹⁵ *Ibid.*, 171.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*, 210-211.

Parenthood clinics.⁹⁹ It was within the context of this heightened violence that the JWHO opened its doors, and the stakes were high. Though fearful of the backlash that may have been ahead, Susan Hill expressed confidence that the JWHO would prevail when interviewed by the *Clarion-Ledger*: “We’re more careful than we used to be. We’ve had threats for years, violence against buildings, stalking of doctors. Now we take it more seriously.”¹⁰⁰ Responding to the violence, Hill had already taken precautions at her other clinics, including equipping them with medical detectors, buying her physicians bulletproof vests, increasing security, moving physician parking closer to clinic doors, and taking down signs designating physician parking spaces.¹⁰¹ In Jackson, she was no less prepared. Protestors had already begun to swarm the clinic when its doors opened in early 1995, but federal marshals were stationed in vans on each corner of the street, ready to intervene if necessary.¹⁰² Though the marshals eventually left, the protestors stayed, keeping a daily vigil outside the clinic for more than twenty years.

Though federal intervention ensured that the clinic would open relatively free of incident, Hill faced significant obstacles in her preparations to establish the JWHO, including difficulty finding a building to rent and doctors to staff the clinic. By the 1990s, abortion had become highly stigmatized in the public discourse, and activist efforts to hinder and harass providers did not help matters. Hill and a colleague, Ann Rose, scoured Jackson for more than a year in search of a clinic space: “People wouldn’t rent or sell to

⁹⁹Johanna Schoen, *Abortion after Roe*, 211-212.

¹⁰⁰ Jerry Mitchell, “Veteran Activist to Head Abortion Clinic.”

¹⁰¹ Johanna Schoen, *Abortion after Roe*, 211.

¹⁰² *Ibid*, 218.

us. It was almost like we were black in [the South] in the '60s.”¹⁰³ Due to the deep reluctance of many people to be associated with abortion in any way, their options were few and far between. Hill finally settled on a space in an unsavory part of town that was often a hotspot for gang violence. In a happy coincidence, however, the chosen building was next to the office of Helen Barnes, the state’s first black OB-GYN and the physician who performed the first legal abortion in Mississippi after *Roe*.¹⁰⁴

With a location finally established, Hill’s next challenge was to find abortion providers to staff her clinic. Amid the violent escalation of anti-abortion activism in the 1980s and 1990s, the number of physicians willing to continue performing abortions declined considerably nationwide, as many were fearful of the growing threats to their personal safety. In the aftermath of the murders of Drs. Gunn and Britton, the situation worsened. Those who continued to provide abortion services began to take significant precautions to protect their identities and personal safety. With few options and needing to protect her staff, Hill planned to fly six outside doctors into Mississippi to provide abortion services, despite fervent objections from detractors.¹⁰⁵ While this helped protect the safety of the clinic’s physicians and ensured that there were enough providers to meet the substantial demand for abortion services in the state, it was a costly venture. Moreover, it meant that abortions could not be performed every day of the week, a situation that was further complicated by the state’s 24-hour waiting period law. Though

¹⁰³ Allison Yarrow, “Meet the Woman in Charge of the Last Abortion Clinic in Mississippi,” *The Daily Beast*, July 11, 2012, <http://www.thedailybeast.com/articles/2012/07/11/meet-the-woman-in-charge-of-the-last-abortion-clinic-in-mississippi.html>.

¹⁰⁴ Allison Yarrow, “Meet the Woman in Charge of the Last Abortion Clinic in Mississippi.”

¹⁰⁵ Jerry Mitchell, “Veteran Activist to Head Abortion Clinic.”

the difficulties finding a clinic space and abortion providers complicated the clinic's beginnings, they did not prove to be insurmountable obstacles. By 2004, all other abortion clinics in the state had buckled under the mounting pressure of anti-abortion activism and increasingly restriction legislation, but the JWHO managed to weather the storm and remain open under Hill's careful management.

The JWHO entered a new chapter when Dianne Derzis purchased the clinic shortly after Susan Hill succumbed to breast cancer in 2010.¹⁰⁶ Derzis, a longtime activist and abortion clinic owner, was no stranger to the hardships that come along with the profession. In 1998, her clinic in Birmingham, Alabama, the New Woman All Women Health Center, was the target of a bombing that claimed the life of a security guard and critically injured a nurse.¹⁰⁷ The bomb, loaded with dynamite and nails, was so powerful that all of the clinic's windows were blown out and projectiles were found in parts of the building that were far away from the blast site. Though a radical anti-abortion group, the Army of God, quickly took credit for the attack and vowed more violence, Derzis refused to close the clinic's doors for good. Derzis swiftly repaired the damage and reopened the clinic, where it continued to serve the women of Birmingham until its license was revoked for regulatory violations in 2012.¹⁰⁸

Despite her tenacity, Derzis initially balked at the idea of taking over the Jackson clinic, telling those who encouraged her to do so that: "There's no way I'm doing

¹⁰⁶ Allison Yarrow, "Meet the Woman in Charge of the Last Abortion Clinic in Mississippi."

¹⁰⁷ R.L. Nave, "Inside the Abortion Clinic Battle," *The Jackson Free Press*, August 1, 2012, <http://www.jacksonfreepress.com/news/2012/aug/01/inside-abortion-clinic-battle/>

¹⁰⁸ Ibid.

Jackson...I knew what [Hill] had been through there.”¹⁰⁹ When she visited the JWHO, however, she expressed that she quickly fell in love with the clinic, its staff, and the city; there was no turning back. Immediately after purchasing the JWHO, Derzis remodeled and redecorated in an attempt to rid the clinic of its stark, clinical atmosphere. Painting the exterior a dazzling, fluorescent pink, and the interior in shades of bright purple and yellow, Derzis hoped to make patients feel warm and comforted despite what they may have experienced from the anti-abortion protestors outside: “after they see the dead-baby pictures and hear all that stuff, I think they feel, ‘oh wow, this is OK.’ You see the relief on patients’ faces when they walk in.”¹¹⁰ Derzis also covered the chain-link fence outside the clinic with a thick black tarp, creating a barrier through which protestors could no longer shove anti-abortion literature at the women entering the clinic. Despite the daily cacophony of protestors outside the clinic’s walls, Derzis and her staff have worked tirelessly to make the clinic itself an oasis for the women they serve, protecting them emotionally and physically in any way they can.

Though the JWHO initially flew in six doctors to perform abortion services, that number dwindled over the years to a low of two in the mid-2000s. The more outspoken of the two physicians is Dr. Willie Parker, who has been interviewed extensively in recent years about his experiences as a traveling abortion provider at the JWHO. Twice a month, Parker flies into Mississippi to perform the abortions that no Mississippi doctor is

¹⁰⁹ R.L. Nave, “Inside the Abortion Clinic Battle.”

¹¹⁰ Allison Yarrow, “Meet the Woman in Charge of the Last Abortion Clinic in Mississippi.”

willing to.¹¹¹ Because the JWHO is the only clinic left open to serve the abortion needs of the entire state, and because only two doctors are able to meet those needs, Parker and his colleague may see upwards of forty-five women in a single day at the JWHO.¹¹² A Harvard educated OB-GYN, Parker left his successful practice in 2009 to become a full-time abortionist on the same day that late-term abortion provider Dr. George Tiller was gunned down in his church. Though Parker now espouses a firm belief in the necessity of abortion services, this was not always the case. As a devout Christian, Parker vowed to never perform abortions early on in his medical career. However, as he encountered a seemingly endless amount of women with significant reproductive issues in his private practices, he began to grapple with the idea of reproductive justice. As he read civil rights and feminist literature, and recalled that his own grandmother had died in childbirth, he experienced a “come to Jesus” moment. For Parker, becoming an abortion provider was both his civil rights struggle and his Christian duty: “He would serve women in their darkest moment of need.”¹¹³

Just as the anti-abortion protestors outside the clinic cling to their Christian beliefs, so does Parker. It can be difficult to reconcile the idea that the same beliefs that motivate some activists to perform acts of violence against abortion providers can similarly influence the providers themselves to continue performing abortions, but the connection must be acknowledged. Though we might be tempted to see Parker’s Christianity at great odds with that of the protestors outside the JWHO, it is important to consider that faith

¹¹¹ John H. Richardson, “Inside the Abortion Ministry of Willie Parker,” *Esquire*, July 30, 2014, <http://www.esquire.com/news-politics/a23771/abortion-ministry-of-dr-willie-parker-0914/>.

¹¹² *Ibid.*

¹¹³ John H. Richardson, “Inside the Abortion Ministry of Willie Parker.”

can influence beliefs in a variety of ways. While the protestors see the JWHO as murdering 2,000 unborn children each year, Parker sees the JWHO as protecting the safety and livelihood of 2,000 women. However opposed their positions may be, they are still borne out of the same belief system. And that belief system is what keeps Parker going as he tirelessly rushes from his home in Chicago, to a clinic in Montgomery, to the JWHO, and back again, even amid threats to his personal safety.¹¹⁴ Dr. Willie Parker's "abortion ministry" is as key to the JWHO's continued success as is Derzis' indefatigable opposition to Mississippi's restrictive legislation and her continued activism.

Despite her initial misgivings about the JWHO, Derzis has been the clinic's most steadfast defender in recent years, fighting tirelessly against the waves of increasingly restrictive legislation in recent years. Though the clinic's fate hangs in the balance indefinitely after the 2012 passage of a law, HB1390, requiring the clinic's physicians to maintain admitting privileges at local hospitals, Derzis and the JWHO staff firmly believe in the message emblazoned on the banners outside the clinic's doors: "This Clinic Stays Open." Interviewed by the *Jackson Free Press* at the height of the litigation over HB1390, administrator Shannon Brewer found the idea that the JWHO could one day close unfathomable: "I know Dianne will be fighting to the last day...she is not one to give up. As long as she doesn't, I'm going to be there beside her."¹¹⁵ Though a forthcoming Supreme Court ruling on the constitutionality of Targeted Regulation of Abortion Provider (TRAP) laws may ultimately result in the clinic's closure, the JWHO will continue to serve the women of Mississippi until that day comes, despite the obstacles the clinic and its staff face daily.

¹¹⁴ John H. Richardson, "Inside the Abortion Ministry of Willie Parker."

¹¹⁵ R.L. Nave, "Inside the Abortion Clinic Battle."

Backlash

In 2005, activist Terri Herring boasted that Pro-Life Mississippi efforts had contributed to the closures of five state abortion clinics since its founding, even going so far as to move the organization's offices right next door to a Jackson clinic that eventually closed its doors in 2004.¹¹⁶ Herring's work pushing for abortion regulations at the state capitol made her the most powerful anti-abortion lobbyist in the state at one time, and this broader strategy of the state's anti-abortion movement significantly contributed to the legal dismantling of reproductive rights in Mississippi. However, the tangible impact on abortion clinics that Herring claimed would have been nearly impossible without the efforts of those activists who chose to work at a grassroots level rather than an institutional one. When the Jackson Women's Health Organization opened its doors in early 1995, local anti-abortion activists were already in place to protest the new clinic. Many of them never really left. For the more than twenty years that the JWHO has been open, the clinic and its staff have faced daily protests, harassment, and even vandalism.

Though clinic escorts report encountering anywhere from two to twenty protestors outside the JWHO on any given day, one activist stood out in particular.¹¹⁷ From the day of the clinic's opening until his death in early 2016, Roy McMillan was a permanent fixture outside of the JWHO. McMillan had become a seasoned member of the anti-abortion movement long before the JWHO opened in 1995, having protested outside of area clinics for more than a decade at that point. When he began protesting, three

¹¹⁶ *The Last Abortion Clinic*.

¹¹⁷ Lauren Rankin, "Clinic Escort Series: Michelle Colon – Jackson, Mississippi," *A is For*, May 6, 2015, <http://www.aisfor.org/clinic-escort-series-1/#sthash.C20BQs1h.28VQznpQ.dpbs>.

abortion providers operated in Jackson. By 1994, only one clinic remained open with only one physician, Dr. Joseph Booker, providing abortions for the entire state.¹¹⁸

McMillan credited the dearth of abortion providers to the anti-abortion movement's efforts to intimidate area physicians: "We found out where they lived; we picketed their homes...we made it very uncomfortable to be an abortionist in Jackson."¹¹⁹ When the JWHO opened to help fill the gap in abortion services left behind, McMillan was ready and waiting.

McMillan's fervent dedication to the anti-abortion cause is likely best attributed to his own family background. In his myriad interviews and statements to the media over the years, McMillan often recounted the pitiful tale of how he was abandoned at birth, left lying naked in a shoebox on the doorstep of a church in rural Mississippi in 1943.¹²⁰ If abortion had been legal at the time, McMillan claimed, he probably would have met the same fate as the fetuses he dedicated his life to protecting.¹²¹ McMillan's story stresses what a tragedy this would have been, as it would have never allowed the childless couple that graciously adopted him the opportunity to be parents. For abortion opponents, this testimony underscores exactly why it is so necessary that women choose adoption over abortion. However, much of McMillan's story has proven to be greatly exaggerated, if not outright false. Though McMillan was abandoned at a church, his mother was in fact a close relative of the family that ended up raising him, and she made sure they knew that he was there and that those who found him knew whom to call.¹²²

¹¹⁸ Lisa Belkin, "Kill for Life?," *The New York Times*, October 30, 1994.

¹¹⁹ Lisa Belkin, "Kill for Life?"

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Lisa Belkin, "Kill for Life?"

McMillan knew who his mother was, despite his claims to the contrary, and his adoptive mother vehemently denied in a *New York Times* interview that he was naked in a shoebox: “That’s ridiculous. Where on earth did you get that idea?”¹²³ When confronted in that same article with these inconsistencies in his story, McMillan stated that since he started his anti-abortion career using that story, he did not want to change it later on. This story, embellished early on, was just the first instance of McMillan’s flair for the dramatic.

Infamous for his aggressive style of sidewalk counseling, McMillan used every tactic he could to persuade the women entering the JWFO to reconsider their decisions to terminate their pregnancies, from displaying graphic photographs of aborted fetuses, to mimicking the voices of children crying out for their mothers, to physically blocking clinic entrances: “When cars left the clinic, McMillan cried out, ‘Mommy, please don’t kill me, Mommy! I have a dream, Mommy.’”¹²⁴ By 2005, McMillan had been arrested over sixty times for his activism and had been placed under a restraining order to stay at least fifteen feet away from the JWFO at all times- an order he openly admitted to breaking: “I violate it—not routinely, though—in order to get literature to women, to pray or cry with a person.”¹²⁵ Boundaries appeared to be a mere suggestion to McMillan, and he had little qualms about crossing lines. Though McMillan was a prominent member of Mississippi’s anti-abortion movement, his tactics were often divisive. Fellow sidewalk protesters like Bruce Stuckey expressed that McMillan’s aggressive tactics often did

¹²³ Lisa Belkin, “Kill for Life?”

¹²⁴ Jerry Mitchell, “Abortion Activist Roy McMillan Dies,” *The Clarion-Ledger*, January 21, 2016, <http://www.clarionledger.com/story/news/2016/01/21/anti-abortion-activist-roy-mcmillan-dies/79119222/>.

¹²⁵ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

more harm than good, scaring away women who might otherwise be sympathetic to their message: “I had her on the ropes. She was crying, and I told her I could take her right then to the Crisis Pregnancy Center, but then Roy started in with his banter, and she just turned and ran toward the abortion clinic.”¹²⁶

At the height of anti-abortion violence in the 1990s, McMillan came under fire for much more than his contentious sidewalk counseling tactics. After Michael Griffin shot and killed Dr. David Gunn in 1993, a petition circulated throughout the anti-abortion movement proclaiming that the murder was justifiable “provided it was carried out for the purpose of defending the lives of unborn children.”¹²⁷ More than thirty people signed the petition that declared the use of force necessary to “defend innocent human life.”¹²⁸ Roy McMillan was one of them. McMillan’s close friend Paul Hill, who later murdered Dr. John Bayard Britton, circulated the petition, and it is Hill that McMillan credited for the escalation of his own activism.¹²⁹ In the 1980s, McMillan’s role in the movement was limited to penning and sending out news releases for area anti-abortion groups. Hill, he said, inspired him first to begin picketing, and then later to trespass, and to commit such malicious mischief as gluing shut clinic locks.¹³⁰ Many feared that it would not be long until McMillan himself escalated to violence, and he did little to disabuse them of the notion. In a 1994 interview with the *New York Times*, McMillan asserted his belief that “[It is] not a sin to go out and shoot an abortionist [...] whatever is biblically justifiable to

¹²⁶ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

¹²⁷ Lisa Belkin, “Kill for Life?”

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Lisa Belkin, “Kill for Life?”

protect the born child is biblically justifiable to protect the unborn child.”¹³¹ Though McMillan shied away from his connections to Paul Hill and refused to publicly condone such violence in later years, fears that he would eventually resort to violence against the JWFO and its staff remained high until his death in 2016. Though the local anti-abortion movement mourned the loss, clinic staff hoped that fewer women would be scared away from seeking out abortion services in his absence.¹³²

While Roy McMillan drew significant attention for his work in the anti-abortion movement, it is his wife’s story that is perhaps the most intriguing. In 1975, Dr. Beverly Smith opened the first abortion clinic in Mississippi after a group of citizens and clergy approached her, concerned because Mississippi women had to travel out of state to obtain abortions.¹³³ The group had already found a building, staff, and equipment, but could not find a single doctor that was willing to perform abortions. Though initially hesitant, Smith accepted their offer, and by 1976 the clinic was so busy that Smith could not handle the workload all on her own.¹³⁴ By 1980, however, Smith had resigned from the clinic and had firmly aligned with the anti-abortion movement. In 1982, she married Roy McMillan.¹³⁵ While some might assume that it was McMillan who brought Smith into the movement, in actuality it was the other way around. In the early 1980s, Smith began to work publicly with the anti-abortion movement, and in 1982 she was slated as a pro-life speaker at a debate on abortion rights at Southern Farm Bureau Insurance, McMillan’s

¹³¹ Lisa Belkin, “Kill for Life?”

¹³² Jerry Mitchell, “Abortion Activist Roy McMillan Dies.”

¹³³ Beverly McMillan, “Former Abortionist Dr. Beverly McMillan,” Pro-Life Action League, accessed March 1, 2016, <http://prolifeaction.org/providers/mcmillan.php>

¹³⁴ Ibid.

¹³⁵ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

workplace.¹³⁶ At the time, McMillan had never been involved with the anti-abortion movement; he just thought Smith was cute when he saw her speak and decided to ask her on a date. After their marriage, McMillan took a begrudging role as the editor of an anti-abortion publication, his life quickly overtaken by the movement as he followed his wife around on her speaking engagements throughout Mississippi.¹³⁷ Soon after taking the job, however, he began down the path that would ultimately lead to his infamy as a sidewalk protestor. His wife, however, never quite took to grassroots activism, preferring to work behind the scenes.

Beverly Smith McMillan's conversion to the anti-abortion movement is one of the more perplexing aspects of the history of reproductive rights in Mississippi. In the 1960s, she was a feminist, a member of the National Organization for Women, and fervently in favor of abortion rights.¹³⁸ In 1969, she began her medical residency working in the Infected Obstetrics Ward at Cook County Hospital in Chicago, where she spent her days treating women presenting with fever, bleeding, and enlarged uteruses: "About halfway through [that first night on call] it finally hit me that these women were coming from the back alley abortion mills in Chicago."¹³⁹ Horrified by this experience, Smith came to believe that legal abortion was a social responsibility, and she was delighted when the *Roe v. Wade* ruling came down in 1973. Soon after her move to Mississippi, however, she began to feel depressed despite the clinic's success and her own booming OB-GYN practice. Grappling with thoughts of suicide, she turned to Christianity. In 1977, much like Dr. Willie Parker, she expressed having her own "come to Jesus moment," though

¹³⁶ Casey Parks, "No Apologies: Inside Mississippi's Pro-Life Movement."

¹³⁷ Casey Parks, "No Apologies: Inside Mississippi's Pro-Life Movement."

¹³⁸ Ibid.

¹³⁹ Beverly McMillan, "Former Abortionist Dr. Beverly McMillan."

hers moved her to reject abortion rather than to embrace it: “What had been very easy for me to do up till this time started to become harder and harder to do. I didn't understand why because nothing that I was reading in the New Testament said Thou Shalt Not Commit Abortions. But it was the Holy Spirit starting to work on me.”¹⁴⁰ Her breaking point came when she reviewed the remains of a twelve-week-old fetus to make sure that the abortion was complete and became unable to differentiate the fetus’ arm from that of her two-year old son.¹⁴¹ She stopped performing abortions immediately and soon aligned with the anti-abortion movement.

While conversions like Beverly Smith McMillan’s are puzzling, they are not an aberration. As the anti-abortion movement began to pick up steam in the mid 1970s, many abortion providers began to grapple with their experiences due to the advancement of medical technology that led to earlier fetal viability, the monotony of the work itself, and the pressure of meeting the immense demand for abortion services.¹⁴² While some providers, experiencing depression or burnout, simply stopped performing abortion services, others were more vocal about their reservations regarding the practice. Bernard Nathanson, despite having actively lobbied for the legalization of abortion in the 1960s and being key to the establishment of several reproductive rights organizations, became the first abortion provider to repudiate the practice in the early 1970s. Though most providers who turned sides, like Beverly Smith McMillan, credit a sort of spiritual or religious experience as their reason for leaving the field, Nathanson believed his conversion to be the result of a rational process. By this time, advancing medical

¹⁴⁰ Beverly McMillan, “Former Abortionist Dr. Beverly McMillan.”

¹⁴¹ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement,”

¹⁴² Johanna Schoen, *Abortion After Roe*, 130-134.

technology had begun to show brain activity in fetuses at eight weeks and heart function even earlier at six weeks. This raised significant ethical questions for Nathanson, who began to urge people to recognize the truth that abortion was the taking of a human life.¹⁴³ Nathanson began to write extensively about his newfound beliefs throughout the 1970s, contributing to a growing body of literature that exploited first-person accounts, often of abortion providers, to demonstrate the “disturbing nature of abortion.”¹⁴⁴ Though often written by people who purportedly supported abortion, these materials were often co-opted by the anti-abortion movement as “proof that abortion providers and their patients were truly mentally disturbed.”¹⁴⁵ Though legal abortion was still a relatively new concept at this time, the anti-abortion movement had already begun to politicize both the practice and the fetus itself. It was within this context that Beverly Smith McMillan underwent her own conversion.

Though it is easy to discern why many abortion providers turned away from the practice early on, it is more difficult to explain why some joined the antiabortion movement. Johanna Schoen argues that a lack of dialogue between abortion providers left little room for physicians and staff to express their frustrations and troubles.¹⁴⁶ Very few providers were members of the National Abortion Federation, and providers were often cut off from their peers. Some, like nurse Joan Appleton, felt that they could not approach their feminist supervisors about their concerns for fear of how they might have been received.¹⁴⁷ Lacking a forum to voice their misgivings within the abortion community,

¹⁴³ Johanna Schoen, *Abortion After Roe*, 132.

¹⁴⁴ *Ibid.*, 133.

¹⁴⁵ *Ibid.*, 134.

¹⁴⁶ *Ibid.*, 138-139.

¹⁴⁷ *Ibid.*, 139.

some of those who turned away from the practice found the validation, and even praise, they craved within the anti-abortion movement.¹⁴⁸ Others, who craved intensity and drama and were disappointed by the environment in abortion clinics, felt the anti-abortion movement could fulfill such emotional needs. Still others were driven by workplace tensions and resentments, especially those who had been unprepared for the immense workload and emotional toll.¹⁴⁹ Whatever their reasons for defecting to the anti-abortion movement, their presence was significantly damaging to the pro-choice cause. Often, former providers would exaggerate and distort their experiences in order to buttress anti-abortion arguments that “abortion providers were murdering children, that they were motivated solely by financial gain, that they did not care about the well-being of women and...that abortions were dangerous procedures.”¹⁵⁰ These testimonies fed into activist attempts to construct increasingly lurid narratives of abortion, and the resulting materials were crucial to the recruitment of activists who joined the movement in the 1980s after viewing these images and movies.¹⁵¹ Over time, the defection of abortion providers like Beverly Smith McMillan served to bolster the anti-abortion movement and push it into increasingly radical directions.

Despite fears that Roy McMillan or his peers would resort to violence against the JWHS, the clinic has managed to escape this sort of escalation. However, the daily harassment and antagonism of clinic staff and patients is a sort of violence in itself, even if the violence is mental and emotional rather than physical. On its website, Pro-Life Mississippi lists the number of “babies saved at the abortion clinic” and “women offered

¹⁴⁸ Johanna Schoen, *Abortion After Roe*, 139.

¹⁴⁹ *Ibid.*, 138.

¹⁵⁰ *Ibid.*, 139.

¹⁵¹ *Ibid.*, 140-141.

prolife help literature by sidewalk counselors” for each year.¹⁵² For 2010, the website boasted over 180 babies saved and 3,300 pamphlets handed out, and that number does not consider the efforts of other organizations who maintain a daily presence at the JWFO.¹⁵³ These numbers only underscore the intensity of anti-abortion activist efforts to pressure the clinic to close and patients to reconsider through any means possible. The impact is even more poignant when one considers that these profound “successes” have been made at just one single clinic, and that the scale of these efforts must be immense in order to get one woman to change her mind let alone close to 200.

In early 2015, however, activists escalated from verbal harassment when the JWFO fell victim to a vandalism attack that severely damaged its security cameras and generator: “Damage found indicates that they were trying to destroy the power lines coming into the building, no doubt hoping to stop all patient care for the near future.”¹⁵⁴ This attack came on the heels of a 2014 court decision that indefinitely blocked a law, HB1390, which would have forced the clinic to close its doors for good and rendered Mississippi the first abortion-free state.¹⁵⁵ Though Mississippi already boasts a litany of laws limiting abortion, thanks to the efforts of organizations like Pro-Life Mississippi that have effectively lobbied for such restrictions as a dual parental consent law, this does not

¹⁵² Pro-Life Mississippi, “2016 PLM Ministry Data,” accessed March 1, 2016, <http://www.prolifemississippi.org>.

¹⁵³ Ibid.

¹⁵⁴ David S. Cohen and Krysten Connon, “Not an Isolated Incident,” *Slate*, March 25, 2015, http://www.slate.com/articles/health_and_science/medical_examiner/2015/03/mississippi_s_only_abortion_clinic_attacked_governor_can_t_stop_legal_procedure.html.

¹⁵⁵ Cameron McWhirter, “Federal Court Blocks Mississippi Law Threatening Abortion Clinic,” *the Wall Street Journal*, July 29, 2014, <http://www.wsj.com/articles/federal-court-blocks-mississippi-law-threatening-abortion-clinic-1406670053>.

seem to be enough for the activists who want to end abortion outright in the state.¹⁵⁶ As frustrations grow, so does the likelihood of escalation like vandalism and violence. Though the clinic recovered from the vandalism and had continued to provide abortion services, the threat of future violence is constant: in 2014 alone the National Abortion Federation reported 6,948 acts of violence and 194,615 acts of disruption against abortion clinics nationwide.¹⁵⁷

Conclusion

Today, only one clinic, the Jackson Women's Health Organization, remains standing to serve the entire state, leaving Mississippi women with few options. Though much of the gains the anti-abortion movement has made in Mississippi have been at the legislative level, reproductive rights in the state have only become so deeply imperiled with the added efforts of anti-abortion activists to pressure abortion providers to withdraw their services and women to reconsider their choice. These efforts not only hastened the closures of all but one of the state's clinics, but also contributed to the stigmatization of abortion and forced many women to travel across state lines to obtain abortion services. Johanna Schoen contends that while in the 1970s most people viewed abortion as a woman's right, by the late 1980s, more and more patients began to see it as a "shameful, immoral, and selfish act."¹⁵⁸ While much fewer women expressed emotional conflict or regret over their decision to terminate their pregnancies previously, the

¹⁵⁶ Casey Parks, "No Apologies: Inside Mississippi's Pro-Life Movement."

¹⁵⁷ National Abortion Federation, "NAF Violence and Disruption Statistics," National Abortion Federation, accessed March 1, 2016, http://5aa1b2xfmfh2e2mk03kk8rsx.wpengine.netdna-cdn.com/wp-content/uploads/Stats_Table_2014.pdf.

¹⁵⁸ Johanna Schoen, *Abortion After Roe*, 204-205.

escalation of anti-abortion activism led more and more women to fear God would punish them or that they were committing murder.¹⁵⁹ This stigmatization has only continued to heighten over the years. Furthermore, while clinic closures have forced many women that live too far from Jackson to cross state lines into Tennessee, Alabama, and other surrounding states to procure abortions, more are forced to travel by the immensity of the clinic's workload itself. As a result of anti-abortion escalation, fewer physicians nationwide are unwilling to perform abortions, leaving fewer doctors to perform more abortions in Mississippi: "The clinic only offers abortions three days a week. Their schedule is always full, but they can't find enough doctors willing to perform the procedure[...] and there is such a level of harassment and discrimination around doctors providing abortion care that it makes it really difficult to find physicians that are brave enough and willing to provide care."¹⁶⁰ It is clear that the effects of daily clinic protests do not disappear as soon as a woman escapes the harassment and enters the clinic; now, she may never get there at all.

From the moment the JWHO opened its doors in 1995, it became an instant target of anti-abortion activism. While fears that the protests might turn violent at any time have persisted throughout the clinic's tenure, the JWHO and its dedicated staff have persisted in their efforts to protect their patients and their privacy:

The Pink House Defenders...aren't passive in our methods... We create our own unique posters and banners to protect the identity of our patients and our building. We have taken back our power as abortion rights activists and refuse to remain quiet...Yes, we engage and we know the names of protesters...We video them

¹⁵⁹ Johanna Schoen, *Abortion After Roe*, 204-205.

¹⁶⁰ *The Last Abortion Clinic*.

and take their photos just like they do to patients, and you know what? They don't enjoy it! But our efforts have been successful.¹⁶¹

Despite the onslaught of activism and increasingly restrictive legislation, the JWHO has worked to live up to the signs outside their doors that proclaim “this clinic stays open.” While clinic staff await the forthcoming Supreme Court decision in *Whole Women's Health vs. Hellerstedt* that will likely determine whether or not a law, HB1390, that would force the clinic to close its doors will go into effect, they remain steadfast in their convictions. So, though, do Mississippi's anti-abortion activists.

¹⁶¹ Lauren Rankin, “Clinic Escort Series: Michelle Colon – Jackson, Mississippi,”

Chapter Three: the Trouble with TRAP Laws

In the decades following *Roe*, right-to-life activists had to decide the best strategy to chip away at the legal framework that upheld abortion access. Amidst ideological differences, the movement split into two camps, incrementalists and hardliners.¹⁶² Though both had a common goal of ending abortion in the United States, they differed dramatically in the strategies they would undertake. The hardliners would work to establish fetal personhood, advocating for legislation that would extend constitutional rights and privileges to the fetus at the moment of conception. The incrementalists would work within the confines of the Supreme Court's ruling, restricting abortion access by limiting the timeframe in which it could be performed and by imposing regulations upon the clinics themselves.¹⁶³ In 1992, the Supreme Court further imposed a new standard to determining the constitutionality of abortion laws in *Planned Parenthood v. Casey*, ruling that legislation must not pose an undue burden to a woman's constitutional right to the procedure: "An undue burden exists, and therefore a provision of law is invalid if its purpose or effect is to place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability."¹⁶⁴ Though the ruling imposes this new standard upon future abortion legislation, it does not clarify exactly what constitutes an

¹⁶² Jennifer Donnally, *The Politics of Abortion and the Rise of the New Right*, 5-6.

¹⁶³ *Ibid.*, 3-4.

¹⁶⁴ United States Supreme Court, *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992), <http://caselaw.findlaw.com/us-supreme-court/505/833.html>.

undue burden, leaving that decision to the subjectivity of lower courts.¹⁶⁵ As a result of this lack of clearly defined limits, anti-abortion legislators and activists have pushed for increasingly restrictive and inventive legislation over time. This chapter will focus on the gains the incrementalists have made through the proposal and passage of TRAP, or Targeted Regulation of Abortion Provider, laws. This legislation, which often involves waiting periods, mandatory counseling, hospital admitting privilege requirements, and specific building and staffing requirements, significantly increases the costs of providing abortion services, resulting in clinic closures and decreased access to abortion services for many women. This chapter will briefly discuss the broader history of TRAP laws and assess the impact of these laws on a national scale as they become widespread in broad swaths of the country.

History and Impact of TRAP Laws

Limited in the ways in which they can restrict abortion under the language of *Roe v. Wade*, legislators have often had to be creative in their attempts to regulate the practice. Working within the legal framework established by *Roe* and the subsequent *Planned Parenthood v. Casey* decision, anti-abortion legislators and activists who favor an incremental strategy have come to push abortion regulations that increasingly limit access to abortion services since the 1990s.¹⁶⁶ Though these laws do not technically bar women from obtaining abortions, they pose significant barriers to the abortion providers

¹⁶⁵ United States Supreme Court. *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992).

¹⁶⁶ Rachel Benson Gold and Elizabeth Nash, “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price,” Guttmacher Institute, accessed March 1, 2016, <https://www.guttmacher.org/pubs/gpr/16/2/gpr160207.html>.

themselves. In attempting to comply with these standards, clinics may incur significant costs that are difficult, if not impossible, to overcome. Abortion providers are often unwilling to raise the cost of abortion services in order to compensate for the added expense, and many clinics buckle under the pressure and close.¹⁶⁷ Though the explicit intention of TRAP laws is not to prompt the closure of clinics, it is often an inherent consequence.

The *Roe v. Wade* ruling of 1973 established a trimester framework that placed limits on state regulation of abortion at specific stages of gestation. In the first trimester, states could not outlaw or regulate any aspect of abortions. In the second and third trimesters, they could only enact regulations related to maternal health. States could only enact abortion laws protecting the life of the fetus in the third trimester.¹⁶⁸ Operating within the confines of this ruling, legislators and activists began to devise ways to limit abortion access without violating constitutional precedent. In the 1970s and 1980s, legislators began to push waiting period and informed consent laws, requiring women to return for a second clinic visit before they could obtain an abortion and for clinics to provide patients with counseling and medical information on the procedure and its associated risks. Though these regulations complicated the process of obtaining an abortion and often resulted in increased costs to abortion providers, legislators could argue that the extra time and counseling was reasonably related to maternal health as it allowed women to fully weigh any risks of the procedure. These initial TRAP regulations were ultimately upheld in the *Planned Parenthood v. Casey* decision of 1992, when the

¹⁶⁷ Rebecca J. Mercier, “TRAP Laws and the Invisible Labor of US Abortion Providers.” *Critical Public Health* Vol . 26, No.1, 82.

¹⁶⁸ United States Supreme Court. “*Roe v. Wade*.”

Supreme Court ruled that states could enact regulations that did not pose an undue burden to women's access to abortion services and rejected the rigid trimester framework to protect the state's interest in potential life.¹⁶⁹ In *Casey*, the Court upheld parts of a Pennsylvania law that required counseling and a twenty-four hour waiting period, only rejection a provision that would require a woman to obtain her husband's permission for the procedure.¹⁷⁰ In the wake of these expanded limits to state regulation, legislators began to push for more inventive and restrictive legislation that would both impose substantial burdens to abortion providers and deter women from going through with the procedure. Over time, TRAP laws expanded from waiting periods and counseling to building and staffing requirements, hospital admitting privilege requirements, and reporting requirements, steadily increasing the hoops providers and patients must jump through.

Anti-abortion activists have often exploited the idea that abortions are exceedingly dangerous and may lead to life-threatening complications, and this same notion is often the driving force behind TRAP laws. Legislators claim that by enacting these restrictions, they can greatly diminish the risks associated with what is, in their view, a highly dangerous procedure. By framing this type of legislation in rhetoric of health and safety, the focus on ending abortion is almost entirely eliminated from the discussion and the laws themselves appear innocuous and reasonable. However, statistics on abortion safety and complications contradict this notion entirely. According to the

¹⁶⁹ United States Supreme Court. "Planned Parenthood of Southeastern Pennsylvania v. Casey (1992)," June 29, 1992, <http://caselaw.findlaw.com/us-supreme-court/505/833.html>.

¹⁷⁰ United States Supreme Court. "Planned Parenthood of Southeastern Pennsylvania v. Casey (1992)."

Guttmacher Institute, less than 0.3 percent of abortion patients experience a serious complication, and the risk of death from childbirth is actually fourteen times higher than the risk of death from abortion.¹⁷¹ The safety of these procedures is likely the result of the rigorous standard of care established by the National Abortion Federation, rendering further legislation by the state relatively pointless if it is truly intended to lower risks of morbidity and injury. Moreover, almost nine in ten abortions are performed in the first trimester, and the most of these procedures are noninvasive and involve the use of prescription medication rather than surgical intervention.¹⁷² In these instances, complications are far more likely to occur when a patient is already at home than when she is still in the clinic, making hospital admitting privileges relatively useless. Furthermore, the ability of an abortion provider to follow a patient to a hospital is not nearly as important that a hospital be nearby for an emergency transfer if necessary. Finally, a range of medical providers can safely perform abortion procedures, not just board-certified OB-GYNs. By requiring that all abortion providers meet this requirement, legislation simply reduces the pool of available physicians instead of resolving a legitimate health and safety need.

TRAP laws are perhaps the most inventive and effective ways anti-abortion legislators and activists have sought, and succeeded, to limit abortion access. By shifting the conversation on abortion to a discussion of promoting the health and safety of the patient and lowering the presumed risks of the procedure, legislators are able to greatly limit the ability of clinics to open and operate without using inflammatory rhetoric or

¹⁷¹ Rachel Benson Gold and Elizabeth Nash, “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price.”

¹⁷² Rachel Benson Gold and Elizabeth Nash, “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price.”

restricting the procedure itself. Through this tactic, legislators are able to achieve political aims of eliminating abortion without ever blatantly stating their desire to do so, allowing legislation to pass quietly and relatively free of incident.

As of a 2013 study by the Guttmacher Institute, more than 27 states now hold TRAP requirements, affecting some 60 percent of reproductive-age women.¹⁷³ That number has likely expanded in recent years as legislators have continued to test the limits of the *Casey* ruling. In a further study, the Guttmacher Institute examined two types of TRAP laws that have been the primary focus of legislative efforts recently: hospital admitting requirements and facility requirements. Facility requirements have become increasingly prevalent, requiring abortion clinics to meet the same standards as ambulatory surgical centers, despite the fact that ambulatory surgical centers typically carry out much more invasive procedures requiring more anesthesia than abortion clinics. The costs of compliance with these building and equipment standards are often insurmountable for many clinics. Hospital admitting privileges in particular, which require abortion clinics to maintain transfer agreements with local hospitals, are especially damaging in rural communities where few hospitals are willing to risk association with abortion.¹⁷⁴ As a result of these new regulations and resulting closures, women in broad swaths of the United States face significantly limited access to abortion services and may have to travel increasing distances to obtain care. Low-income women

¹⁷³Rachel Benson Gold and Elizabeth Nash, “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price.”

¹⁷⁴Rachel Benson Gold and Elizabeth Nash. “Laws Affecting Reproductive Health and Rights: State Trends at Midyear, 2014,” The Guttmacher Institute, accessed March 1, 2016, <http://www.guttmacher.org/statecenter/updates/2014/statetrends22014.html>.

are likely disproportionately affected by clinic closures and increased costs of abortion services, with limited resources to overcome financial and travel barriers.

In a 2015 study, the Texas Policy Evaluation Project at the University of Texas at Austin conducted a study on the effects of the ambulatory surgical center and hospital admitting requirements imposed by Health Bill 2 by examining abortion rates, wait times, and holding interviews with eighteen Texas women who reported attempting self-inducing an abortion in the past five years. Researchers found that the number of medical abortions decreased 70% in the six months after parts of HB 2 were enforced, wait times rose to 20-23 days in many cities, and rates of self-induced attempts at abortion, already higher than the national average in 2012, have likely risen.¹⁷⁵ At the time of the study, only eighteen clinics were left operating in the state, a number that is likely to continue to decline if the United States Supreme Court finds HB 2 fully constitutional.

Though the statistics speak volumes about the impact TRAP laws have on women's lives, the report's first-person interviews are even more telling. The women interviewed reported that a combination of a lack of financial resources, clinic closures, the stigma associated with abortion, and their poverty level led them to consider and attempt self-induction of an abortion.¹⁷⁶ Several of the women who contacted abortion clinics found that their clinic had either closed or the cost of the procedure was too high and determined that traveling to a farther clinic was out of the question: "I didn't have any money to go to San Antonio or Corpus. I didn't even have any money to get across

¹⁷⁵ Texas Policy Evaluation Project, "Texas Women's Experiences Attempting Self-Induced Abortion in the Face of Dwindling Options,"

http://www.utexas.edu/cola/txpep/_files/pdf/TxPEP-Research-Brief-WomensExperiences.pdf, November 17, 2015, 1.

¹⁷⁶ *Ibid.*, 2.

town. Like I was just dirt broke. I was poor.”¹⁷⁷ At least ten of the women reported experiencing full abortions after taking medications. Absent the care of a licensed abortion provider, many of the women expressed a difficulty determining what symptoms were abnormal or whether the method of self-induction they were using was safe, but were fearful of the legal ramifications that may have resulted from their actions: “And after a while taking all the pills was very nauseating and I didn’t want to do it anymore. So it was a lot to take in and I wasn’t taking it well, but I kept doing it anyway.”¹⁷⁸ Other women’s efforts were less successful, and they ended up carrying their pregnancies to term despite their financial inability or lack of desire to do so. Another drove 150 miles to the next nearest clinic after the one in her area closed despite facing an extra month waiting time, increasing the risks of her procedure.¹⁷⁹

Though many studies focus on the pressures TRAP laws impose on women seeking abortion access, little research has been conducted evaluating the tangible effects on abortion providers. In an August 2015 study, “Trap Laws and the Invisible Labor of US Abortion Providers,” researchers assessed the strain on the abortion workforce in North Carolina after the 2011 Women’s Right to Know Act, which enacted counseling, waiting period, and ultrasound requirements.¹⁸⁰ Researchers sought to draw attention to invisible labor, or the work undertaken by abortion providers to minimize the effects of the new laws on patients, finding that providers made major adaptations to their practices at their own expense. Rather than require their patients to come for two separate visits,

¹⁷⁷ Texas Policy Evaluation Project, “Texas Women’s Experiences Attempting Self-Induced Abortion in the Face of Dwindling Options.”

¹⁷⁸ Ibid.

¹⁷⁹ Ibid., 4.

¹⁸⁰ Rebecca J. Mercier, Mara Buchbinder & Amy Bryant, “TRAP laws and the invisible labor of US abortion providers,” *Critical Public Health*, 26:1, 2016, 80.

they implemented telephone counseling despite the need for additional staff and the strain posed to existing staff: “If an abortion patient calls and we’re in the middle of seeing other patients, we have to stop what we’re doing and try to do the counseling so that she can get in when she wants to.”¹⁸¹ In order to compensate for the added workload and higher call volume, many clinics extended their hours and even fielded calls outside of daily hours: “For [this provider], answering phones and performing counseling in off-hours, at home, or while traveling, had become a standard way to facilitate patient access.”¹⁸² Hiring additional staff raised operating costs extensively, but few clinics were willing to pass those costs onto their patients. In those clinics that did not hire additional staff, previously existing staff members found themselves working extra hours without added compensation. In addition to the time and financial burdens resulting from compliance, providers noted an emotional toll stemming from their accommodation of the law: “[The 24-hour counseling is] so inappropriate. It’s so undermining of what these poor families are going through.... We do it, but it’s really disturbing.”¹⁸³ In accommodating a law that they saw held little benefit and posed the possibility of harm to patients, abortion providers felt their commitment to providing responsible, empathetic care was greatly compromised. The implications of these consequences of compliance with increasingly restrictive TRAP laws are immense. The profession has already experienced a significant decline in the number of physicians willing to perform abortion services in recent years due to increased violence and stigmatization, a phenomenon that will likely continue as the costs and burdens of providing abortion care continue to rise.

¹⁸¹ Rebecca J. Mercier, Mara Buchbinder & Amy Bryant, “TRAP laws and the invisible labor of US abortion providers,” 81.

¹⁸² *Ibid.*, 82.

¹⁸³ *Ibid.*, 83.

2012 Admitting Privilege Law

In early 2012, Mississippi legislators enacted an abortion restriction pundits described as the most restrictive in the nation. Under the law, House Bill 1390, abortion providers in the state would be required to maintain admitting privileges at local hospitals in order to continue performing abortions.¹⁸⁴ The law would also require abortion providers to be licensed OB-GYNs, making Mississippi the only state in the nation to hold this restriction.¹⁸⁵ Proponents of this legislation, like Republican Senator Dean Kirby, argued that it was simply intended to make abortion as safe as possible: “This doesn’t make any reference as to whether abortions are legal or illegal in Mississippi. It just says you will be a board certified OB-GYN and have an admitting hospital.”¹⁸⁶ On the surface, this law falls squarely under the *Casey* ruling and appears a relatively innocuous and reasonable health regulation. However, this law would effectively legislate abortion out of existence in Mississippi if allowed to take effect.

By 2012, Mississippi only had one remaining abortion clinic in the state, the Jackson Women’s Health Organization. In conservative states, there is often a significant dearth of physicians who are willing to associate themselves with abortion and risk being ostracized or harassed by their peers or neighbors. Mississippi is no exception to this. Returning to the Jackson Women’s Health Organization, which flies multiple out-of-state

¹⁸⁴ Mississippi Legislature Regular Session 2012, “House Bill 1390,” Mississippi Legislature, accessed March 1, 2016, <http://billstatus.ls.state.ms.us/documents/2012/html/HB/1300-1399/HB1390IN.html>.

¹⁸⁵ Rachel Benson Gold and Elizabeth Nash, “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price.”

¹⁸⁶ Jeffrey Hess, “Mississippi Legislature Passes Abortion Clinic Bill,” Kaiser Health News, April 4, 2012, <http://khn.org/news/mississippi-abortion-clinic-bill/>.

physicians into Mississippi several days a week to perform abortions, the new law would likely halt the clinic's ability to bring in doctors. Local hospitals often refuse to grant admitting privileges to out-of-state physicians, making compliance with the law no easy task. Moreover, partnerships with abortion providers often violate policies of religiously affiliated hospitals, which make up the majority of Mississippi's providers. For others, the fear of a loss of business resulting from such an association might likely prove just as insurmountable. At the time of the law's passage, only one of the clinic's physicians held admitting privileges at an area hospital and it seemed unlikely that its other physicians would be able to follow suit.¹⁸⁷ If unable to find enough providers that could meet the necessary qualifications mandated under this law, the JWFO would be forced to close its doors.

Though proponents of the legislation argued that HB1390 was intended as a health regulation to ensure the safety of the procedure, statements of many of those in favor contradict this assertion. In an interview with National Public Radio in June of 2012, Republican Representative Sam Mims, the law's author, expressed his conviction that a physician should be able to follow a patient to a local hospital in the event of complications during an abortion and his belief that the law would ensure this.¹⁸⁸ However, Mims' later statements reveal the true intentions behind the legislation: "It shows you that the Mississippi House and the Mississippi Senate we are anti-abortion, and we believe that life begins at conception. So if this legislation reduces the number of

¹⁸⁷ CNN Wire Staff, "Mississippi Governor Signs Bill Tightening Restrictions on Abortion Providers," CNN, April 17, 2012, <http://www.cnn.com/2012/04/17/politics/mississippi-abortion/>

¹⁸⁸ Debbie Elliott, "Sole Abortion Clinic in Mississippi Fights Law to Stay Open," National Public Radio, June 29, 2012, <http://www.npr.org/2012/06/29/155976574/sole-abortion-clinic-in-miss-fights-law-to-stay-open>.

abortions in Mississippi we believe it is a positive result.”¹⁸⁹ Upon signing the bill into law, Republican Governor Phil Bryant expressed similar sentiments: “Today you see the first step in a movement I believe to do what we campaigned on to say we’re going to try and end abortion in Mississippi.”¹⁹⁰ Despite claims that HB1390 was necessary to protect the health and safety of Mississippi women, it was truly intended to further conservative political aims to restrict abortion access in the state by any means possible.

Introduced in early 2012, House Bill 1390 swiftly passed the legislature. In April of 2012, Governor Phil Bryant signed the bill into law. Though the law was scheduled to take effect on July 1, 2012, the Center for Reproductive Rights quickly filed suit on behalf of the JWHO to block the law’s implementation, arguing that the law was unconstitutional. A federal court partially blocked the law in July of 2012, restricting state officials from imposing civil or criminal penalties upon the clinic while it attempted to comply with the regulations as litigation continued.¹⁹¹ Though JWHO continued its attempts to obtain admitting privileges at area hospitals, within a few months of the preliminary injunction it appeared that the efforts would likely never be realized, as every hospital in the surrounding counties declined to grant the clinic hospital admitting privileges.¹⁹² With the refusal of all area hospitals to provide the necessary admitting privileges, closure of the JWHO seemed inevitable barring further court action.

¹⁸⁹ Roslyn Anderson, “Gov. Bryant Signs Abortion Bill,” Mississippi News Now, April 16, 2012, <http://www.msnewsnow.com/story/17461039/gov-bryant-to-sign-abortion-bill>.

¹⁹⁰ Roslyn Anderson, “Gov. Bryant Signs Abortion Bill.”

¹⁹¹ Jessica Mason Pieklo, “Federal Court Blocks Mississippi Admitting Privileges Law,” RH Reality Check, accessed February 1, 2016, <http://rhrealitycheck.org/article/2013/04/15/federal-court-blocks-mississippi-admitting-privileges-law/>.

¹⁹² Center for Reproductive Rights, “Mississippi’s Lone Abortion Clinic Fights to Stay Open,” Reproductive Rights, February 1, 2016,

Lawyers defending the law argued that it would not place an undue burden on the ability of women in the state to obtain abortions even in the event of the clinic's closure. Women would still be able to obtain abortions, they claimed, even if they had to cross state lines to receive such services.¹⁹³ In April of 2013, U.S. District Court Judge Daniel P. Jordan III ruled in favor of the JWHO, rejecting this argument and blocking all enforcement of the law indefinitely:

[Enforcement of the law] would result in a patchwork system where constitutional rights are available in some states but not others. It would also nullify over twenty years of post-*Casey* precedents because states could survive the undue-burden test by merely saying that abortions are available elsewhere.¹⁹⁴

The state appealed the ruling to the U.S. Fifth Circuit Court of Appeals, who ruled two-one against the law in 2014, affirming once more that the law would indeed place an undue burden on women's constitutionally-protected right to have an abortion.¹⁹⁵ The ruling allowed the JWHO to remain open pending any further litigation, granting the clinic a continued reprieve.

Texas Health Bill Two

In June of 2013, the Texas legislature proposed an omnibus bill that would come to be the subject of intense litigation and will likely settle the question of the

<http://www.reproductiverights.org/feature/mississippi-last-abortion-clinic-admitting-privileges>.

¹⁹³ Jessica Mason Pieklo, "Federal Court Blocks Mississippi Admitting Privileges Law."

¹⁹⁴ Ibid.

¹⁹⁵ Cameron McWhirter, "Federal Court Blocks Mississippi Law Threatening Abortion Clinic," *the Wall Street Journal*, July 29, 2014, <http://www.wsj.com/articles/federal-court-blocks-mississippi-law-threatening-abortion-clinic-1406670053>

constitutionality of TRAP laws once and for all with an impending United States Supreme Court decision. The bill, Texas Health Bill 2, combines multiple TRAP law restrictions in a sweeping piece of legislation that bans abortions past twenty weeks gestation, places restrictions on medication abortion, and imposes ambulatory surgical center requirements, reporting requirements, and hospital admitting privilege requirements. Opponents of the legislation have raised issues with many of its components, including the section of the bill banning abortion after twenty weeks gestation, or “The Preborn Pain Act.”¹⁹⁶ Based largely on debunked scientific claims that fetuses can feel pain at that stage of gestation, this section of the legislation asserts: “the state has a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that these children are capable of feeling pain.”¹⁹⁷ Moreover, any abortions performed after the twenty week mark due to defect of the fetus or threat to the life of the mother, must be performed in a manner that provides the best opportunity for the fetus to survive.

Though opponents of the legislations took serious issue with the “Preborn Pain Act” and its medical validity, the majority of the litigation surrounding HB2 has centered on its ambulatory surgical center and hospital admitting privilege requirements. HB2 requires that all Texas abortion clinics meet the same standards as ambulatory surgical centers, facilities that provide surgical services to patients who do not require overnight hospitalization, lengthy recovery times, or extensive observation.¹⁹⁸ This stipulation

¹⁹⁶ State of Texas Legislature, “House Bill No. 2,” accessed February 1, 2016, <http://www.legis.state.tx.us/tlodocs/832/billtext/pdf/HB00002F.pdf>.

¹⁹⁷ Ibid.

¹⁹⁸ Office of the Secretary of State, “Texas Administrative Code Chapter 135: Operating Requirements for Ambulatory Surgical Centers,” Texas Regents, accessed February 1,

imposes additional building and medical requirements on top of those that abortion clinics must already meet, resulting in increased costs, inspections, and bureaucratic hoops that clinics must jump through in order to remain open. Additionally, HB2 requires that all abortion clinics must maintain admitting privileges at a local hospital that provides obstetrical and gynecological services and that is within thirty miles from the clinic.¹⁹⁹ Due to abortion stigma in many rural, conservative communities and the lengthy and costly application process, compliance with this requirement was no easy task for many abortion providers, and the effects were immediate: before the law's passage, Texas had over forty operating abortion clinics. By 2014, only eight clinics remained open statewide.²⁰⁰

Proposed on June 28, 2013, HB2 swiftly passed the legislature and Governor Rick Perry signed the bill into law barely a month later.²⁰¹ By September of that same year, the American Civil Liberties Union, the Planned Parenthood Federation of America, and the Center for Reproductive Rights filed the first lawsuit challenging the law, *Planned Parenthood v. Abbott*. Targeting the medication abortion restrictions and the hospital admitting privilege requirement, the suit alleged that HB2 would pose an undue burden on women's access to abortion services if enforced:

At least 1 in 12 women would have to travel more than 100 miles to obtain abortion care. Even for those facilities that can stay open, not all of their

2016,
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=135&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=135&sch=A&rl=Y).

¹⁹⁹ State of Texas Legislature, "House Bill No. 2."

²⁰⁰ RH Reality Check, "Texas Omnibus Abortion Bill (HB 2)," RH Reality Check, accessed February 1, 2016, <http://data.rhrealitycheck.org/law/texas-omnibus-abortion-bill-hb-2-2013/>.

²⁰¹ Ibid.

physicians have, or will have privileges as of October 29, meaning that they will be forced to serve more women with fewer providers, which is likely to force women to wait for an abortion, which, in turn, increases the risk of the procedure.²⁰²

Not only would thirteen clinics be forced to close, several towns would lose their sole abortion provider, forcing women to travel vast distances in order to obtain care. Entire regions of the state, such as West Texas, would be almost entirely cut off from abortion service. Additionally, the suit argued that the effects of these clinic closures would disproportionately affect low-income women living outside of major metropolitan areas who lack the resources to travel long distances to an abortion provider.

On October 28, 2013, a federal district court judge upheld the medical abortion restriction as constitutional but blocked enforcement of the admitting privileges requirement, finding that “the act’s admitting-privileges provision is without a rational basis and places a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.”²⁰³ The reprieve was short-lived, however, as the state of Texas quickly filed an appeal with the Fifth Circuit Court of Appeals seeking an emergency stay of the district court injunction. The Fifth Circuit ultimately granted the stay, reversing the lower court’s decision because only some, but not all, of Texas abortion clinics would close: “An increase in travel distance of less than 150 miles for some women is not an undue

²⁰² RH Reality Check, “Planned Parenthood v. Abbott,” RH Reality Check, accessed February 1, 2016, <http://data.rhrealitycheck.org/legal-case/planned-parenthood-v-abbott/>.

²⁰³ Western Texas District Court, “Planned Parenthood v. Abbott,” RH Reality Check, accessed February 1, 2016, http://rhrealitycheck.wpengine.netdna-cdn.com/wp-content/uploads/2013/09/PP_V_Abbott.pdf, 4.

burden on abortion rights.”²⁰⁴ Because women would feasibly still be able to obtain access to abortion services without crossing state lines, the Court did not find the inevitable closure of multiple clinics enough to violate their constitutional rights. The United States Supreme Court declined to hear an appeal of the Fifth Circuit Court’s decision and block enforcement of the law, effectively closing the *Planned Parenthood v. Abbott* case.

In 2014, the Center for Reproductive Rights filed a new lawsuit challenging HB2’s constitutionality. The suit, *Whole Woman’s Health v. Hellerstedt*, challenged the law’s ambulatory surgical center and admitting privilege requirements as applied to two specific abortion clinics in McAllen and El Paso. The complaint noted that Whole Woman’s Health in McAllen, the only licensed abortion clinic in the Rio Grande Valley, was forced to close in March of 2014 because none of its doctors were able to obtain hospital admitting privileges. The closure left women in the Rio Grande Valley without an immediate abortion provider, with the next nearest provider over 150 miles away in Corpus Christi.²⁰⁵ Additionally, physicians at Reproductive Services in El Paso were similarly unable to obtain hospital admitting privileges. The only abortion clinic in the entire West Texas region, its closure would force El Paso women to travel over 550 miles to the next nearest clinic in San Antonio.²⁰⁶ A federal district court blocked implementation of the ambulatory surgical center and hospital admitting privilege

²⁰⁴ The United States Fifth Circuit Court of Appeals. “Appeal from the United States District Court for the Western District of Texas,” October 31, 2013 <http://www.ca5.uscourts.gov/opinions/pub/13/13-51008-CV0.pdf>, 12.

²⁰⁵ RH Reality Check, “Whole Woman’s Health v. Hellerstedt,” RH Reality Check, accessed February 1, 2016, <http://data.rhrealitycheck.org/legal-case/whole-womans-health-v-lakey/>.

²⁰⁶ RH Reality Check, “Whole Woman’s Health v. Hellerstedt.”

requirements in regards to the two clinics, finding the combined effects to create “...a brutally effective system of abortion regulation that reduces access to abortion clinics thereby creating a statewide burden for substantial numbers of Texas women” and “...the severity of the burden imposed by both requirements is not balanced by the weight of the interests underlying them.”²⁰⁷ Predictably, the state of Texas swiftly appealed the decision to the Fifth Circuit Court of Appeals, who stayed the lower court’s ruling. In the wake of this decision, all but eight of the remaining abortion clinics in Texas closed their doors.²⁰⁸ Just weeks later, however, the United States Supreme Court vacated the Fifth Circuit’s decision, blocking the ambulatory surgical center requirements entirely and the admitting privileges requirement specifically in regards to the McAllen and El Paso clinics. After another round of litigation in the Fifth Circuit in the wake of this decision, the Supreme Court stayed the resulting decision in order to allow the plaintiffs to file an appeal. In September of 2015, the plaintiffs filed a writ of certiorari to the Supreme Court, and in November of that same year, the Court agreed to hear the case. The forthcoming ruling will further clarify what constitutes an undue burden on women’s access to abortion services and the framework within which anti-abortion legislators can work to limit the practice. Though it is difficult to predict exactly how the Court will rule, the decision will transform how legislators and activists work for and against abortion access and will have a drastic impact on the lives of millions of American women.

²⁰⁷ Western Texas District Court, “Whole Woman’s Health v. Hellerstedt,” August 29, 2014, http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/WWH%20v%20Lakey_Memorandum%20Opinion.pdf.

²⁰⁸ RH Reality Check, “Whole Woman’s Health v. Hellerstedt.”

Conclusion

Working within the legal framework established by the *Roe v. Wade* ruling in 1973 and the subsequent *Planned Parenthood v. Casey* decision in 1992, legislators and activists who favored an incrementalist strategy towards restricting abortion access began to propose legislation that would pose barriers to women and clinics under the guise of promoting women's health and safety. TRAP laws, the resulting type of legislation, impose regulations such as waiting periods, mandatory counseling, hospital admitting privilege requirements, and specific building and staffing requirements in more than 23 states. These regulations have significantly increased the costs of opening and operating for many abortion providers. Widespread clinic closures have increased the distances women in many areas must travel in order to obtain abortion services, an obstacle many women find insurmountable. Additionally, these burdens place an increasing toll on the abortion providers who must adapt in order to comply with regulations while minimizing the costs to patients. Over time, the pool of physicians willing to provide abortion services will likely continue to decline. As TRAP laws continue to raise the stakes for abortion providers, the future of abortion access in the United States remains entirely unclear.

Epilogue

In March of 2016, the Supreme Court heard arguments in *Whole Women's Health v. Hellerstedt*. The forthcoming ruling will further clarify what constitutes an undue burden on women's access to abortion services and the framework within which anti-abortion legislators can work to limit the practice. The decision will have significant consequences nationwide, as a ruling on the constitutionality of TRAP laws will drastically affect existing and proposed legislation nationwide, including Mississippi's own admitting privilege law. While it is difficult to predict exactly how the court will rule, it is clear that the power balance has shifted considerably in the wake of Justice Antonin Scalia's death on February 13, 2016. When arguments began in early March, the Court's three female justices, Elena Kagan, Sonia Sotomayor, and Ruth Bader Ginsburg, commanded much of the debate. As one reporter described the scene:

It felt as if, for the first time in history, the gender playing field at the high court was finally leveled, and as a consequence the court's female justices were emboldened to just ignore the rules...There was something wonderful and symbolic about Roberts losing almost complete control over the court's indignant women, who are just not inclined to play nice anymore.²⁰⁹

²⁰⁹ Dahlia Lithwick, "The Women Take Over," *Slate*, March 2, 2016, http://www.slate.com/articles/news_and_politics/supreme_court_dispatches/2016/03/in_oral_arguments_for_the_texas_abortion_case_the_three_female_justices.html,

Throughout much of the hearing, the female justices and fellow liberal Stephen Breyer worked to discredit Texas Solicitor General Scott Keller's argument, questioning the law's true intentions. The liberal-bloc challenged the idea that the closure of twelve Texas clinics after the passage of HB2 was sheer coincidence, the medical necessity of requiring medication abortions and routine dilation and curettage procedures to be conducted in ambulatory surgical centers, and the notion that the law does not burden women in certain regions of the state unduly because they can travel to New Mexico to obtain abortion services.²¹⁰ Breyer notably attacked the assertion that hospital admitting privileges are necessary to protect the safety of women who experience complications from abortion procedures after being unable to find any instance in the Court record of any woman that could not safely get to a hospital: "What is the benefit to the woman of a procedure that is going to cure a problem of which there is not one single instance in the nation, though perhaps there is one, but not in Texas."²¹¹ Kagan then pressed Keller further, asking why Texas would require higher medical standards for abortion clinics than for medical facilities that perform far riskier procedures. Liposuction and colonoscopies, she asserted, carried far greater risks of complications. Each of his arguments discounted, Keller finally responded: "But legislatures react to topics that are of public concern."²¹² In just one short sentence, Keller revealed the true root of the matter: these regulations are not about protecting women's health but politics.

Though the Court's changing dynamic certainly lent itself to a lively hearing in *Whole Women's Health v. Hellerstedt*, the liberal-bloc's fierce rejection of HB2's

²¹⁰ Dahlia Lithwick, "The Women Take Over,"

²¹¹ *Ibid.*

²¹² Dahlia Lithwick, "The Women Take Over."

constitutionality is in no way indicative of how Justices Roberts and Kennedy will rule. However, it does signal that the future of reproductive rights in the United States may not be a foregone conclusion, especially if President Obama is able to appoint one more liberal justice. Until the ruling comes down, however, the future of abortion clinics nationwide, especially that of the Jackson Women’s Health Organization, remains entirely uncertain.

While the Supreme Court debates the constitutionality of TRAP laws, the Mississippi state legislature has made it clear that they are not going to sit idly by in the interim. On February 29, 2016, the *Jackson Free Press* reported that the House of Representatives had passed the “Mississippi Unborn Child Protection from Dismemberment Abortion Act” and it will soon head to the Senate for a vote.²¹³ Sponsored by the same representative who pushed the admitting privilege bill, Republican Representative Sam Mims, the bill would regulate the tools that physicians can use to perform an abortion in order to regulate the dismemberment of an “unborn child’s body.”²¹⁴ Abortion providers would be unable to use clamps, tongs, or scissors, tools that may be used to perform an abortion at any stage of gestation. Diane Derzis, JWHO owner, claimed that the bill set a “dangerous precedent because you can use those instruments at eight or 10 weeks, or any time.”²¹⁵ If the embryo in a woman who goes in for an abortion at five-weeks gestation has implanted, she stated, certain tools would be

²¹³ Arielle Dreher, “‘Unborn Child Protection’ Bill Passes Mississippi House, ‘Dangerous Precedent’?” *Jackson Free Press*, February 29, 2016, <http://www.jacksonfreepress.com/news/2016/feb/29/unborn-child-protection-bill-passes-mississippi-ho/>.

²¹⁴ Ibid.

²¹⁵ Arielle Dreher, “‘Unborn Child Protection’ Bill Passes Mississippi House, ‘Dangerous Precedent’?”

necessary to perform an abortion in a safe manner.²¹⁶ The bill is not unique to Mississippi, however. Similar bills have become law in several states, and even more have been filed across the nation.²¹⁷ While the constitutionality of such legislation will likely come into question, its existence holds disquieting implications for the continuation of safe access to abortion in the United States.

Many pro-choice activists argue that abortion is a social good. When a woman can determine the size and timing of her family free of impediments, it is just as good for society as it is for that individual woman. SisterSong, an organization that advocates for reproductive rights, defines reproductive justice as “the human right to have children, not have children, and parent the children we have in safe and healthy environments.”²¹⁸ The idea of reproductive justice maintains that all women have an inherent right to decide when and how they will become mothers, and that all women must have access to the resources, education, and services that allow them to exercise this right. Activists like those at SisterSong contend that that the debate is no longer about the choice to have an abortion, but rather about access to abortion services. The Supreme Court has upheld that women have a constitutional right to privacy, which to date still encompasses the right to exert full control over their reproductive systems. In recent decades, anti-abortion activists have recognized that working to eliminate a woman’s right to choose is a failing tactic, but eliminating her access to the procedure is not. Without access, there is no choice, and without choice, there is no reproductive justice. If anti-abortion activists and

²¹⁶ Arielle Dreher, “‘Unborn Child Protection’ Bill Passes Mississippi House, ‘Dangerous Precedent’?”

²¹⁷ Ibid.

²¹⁸ “SisterSong: Women of Color Reproductive Justice Collective,” *SisterSong*, accessed May 1, 2016, <http://sistersong.net/reproductive-justice/>.

legislators continue to make significant gains in their efforts to impede access to abortion services nationwide, the right will remain but the choice will not.

Women who are able to exert full autonomy over their bodies and their reproductive choices have more educational, career, and life opportunities than they would have otherwise. “To the world, I am an attorney who had an abortion, and, to myself, I am an attorney because I had an abortion.”²¹⁹ Quoted in the amicus briefs for *Whole Woman’s Health*, one appellate attorney expressed that she owed her personal and professional success to her ability to obtain an abortion, a sentiment echoed by many of her colleagues. Many of these women asserted that they would not have graduated from high school, college, or law school if it were not for abortion. Others expressed that abortion allowed them to escape cycles of poverty, teenage pregnancy, and abusive relationships: “...Access to a safe, legal abortion saved my life. If I had not had an abortion, I would have never been able to graduate high school, go to college, [or] escape my high-poverty rural county in Oregon. I would never have been able to fully participate in the civil and social life of the country.”²²⁰ For these women, exercising their reproductive rights allowed them to take control over their own bodies and lives and ultimately create a better future for themselves and their families. Access to abortion does not just determine when or if a woman will become a mother; it determines her educational prospects, her professional opportunities, and her quality of life. In essence, it determines the life she will lead and the woman she will be. The amicus briefs illustrate that abortion has a direct impact on the number of women who obtain advanced

²¹⁹ Janice MacAvoy, Janie Schulman, et al., Brief for the Supreme Court as Amicus Curiae, *Whole Woman’s Health v. Cole*, No. 15-274, 3.

²²⁰ Janice MacAvoy, Janie Schulman, et al., Brief for the Supreme Court as Amicus Curiae, 10.

education, who enter into the workforce, and who are able to lead established, comfortable lives: “In 1970, only 8.5% of law students enrolled at ABA- approved law schools were women. By 1980, that number had risen dramatically, to 33.6%. Today, women make up nearly half of all law students.”²²¹ This is not just good for women; it is good for the future of our society. Increasingly restrictive abortion legislation, however, could mean that less women will have these same opportunities moving forward.

These restrictions do not exist in a vacuum; they have real, tangible effects on women’s lives. Interviewed in 2005, Katherine Spillar, executive vice president of the Feminist Majority, expressed exasperation with anti-abortion activists: “They all act like abortion started in 1973. Abortion has been a reality for women seeking to control their fertility since the millennium. Whether it is illegal or not, abortion goes on. They know when they can afford a child and when they can't. They will risk their lives, they'll lose their lives, to have an abortion.”²²² Restrictive legislation does not guarantee that fewer women will have abortions. Rather, it ensures that more and more women will seek out illegal, unsafe abortions as they become increasingly desperate and access to abortion services remains threatened. Reproductive justice is especially important for poor women, women of color, and women who live in rural areas. Though many middle and upper class women are able to travel long distances to obtain abortions or seek them out from private physicians when their local clinics close, those women who are already lacking in resources have their burdens doubled when their states enact restrictive legislation. These women are less likely to be able to spare the time and money for travel expenses,

²²¹ Janice MacAvoy, Janie Schulman, et al., Brief for the Supreme Court as Amicus Curiae, 13.

²²² Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

childcare, and time away from work, and are then more likely to remain pregnant. These women may also lack education, access to healthcare services overall, and significant economic opportunities. This further entrenches the cycle of poverty many Americans experience, as scant resources are stretched even further. This is especially important for Mississippi, where over 20 percent of the population lives in poverty and 32 percent of impoverished Mississippians are African-American.²²³ In July of 2015, *the Clarion-Ledger* reported that 246,000 of children in Mississippi, 34 percent, were living in poverty.²²⁴ With only one abortion clinic to serve the entire state and some of the most restrictive abortion laws in the nation, these numbers are only likely to climb further in the coming years. Those women who lack the resources to obtain abortions in Mississippi and must remain pregnant will have fewer economic, educational, and professional opportunities in their lifetimes, and their children are unlikely to fare much better. If Mississippi continues to lead in level of abortion restrictions, it will also continue to lead in poverty.

In the 1950s, somewhere between 200,000 and 1.2 million women sought out illegal abortions each year in the United States at great risk to their health and safety.²²⁵ Thousands of women experienced significant complications from these procedures, and many lost their lives. In the 1940s alone more than 1,000 women a year died from complications from illegal abortions.²²⁶ While we might hope that, with the protections established by *Roe v. Wade*, women would no longer be forced into such situations,

²²³ United States Census Bureau, “QuickFacts, Mississippi.”

²²⁴ Jerry Mitchell, “246,000 Mississippi Children Living in Poverty,” *the Clarion-Ledger*, July 21, 2015.

²²⁵ Robin Abcarian, “No Regrets: Reclaiming Abortion as a Force for Social Good.”

²²⁶ Robin Abcarian, “No Regrets: Reclaiming Abortion as a Force for Social Good.”

restrictive abortion legislation has eliminated that possibility. On March 5, 2016, the *New York Times* reported that there were more than 700,000 Google searches for “self-induced abortion” or some variant of the idea.²²⁷ Mississippi was the state with the highest rate of these Google searches. Comparing abortion and birth data, researchers found that there seems to be a number of missing pregnancies in the parts of the country where it is hardest to obtain an abortion, a discrepancy which may be explained in part by a rise in self-induced abortions.²²⁸ The 2015 report from the Texas Policy Evaluation Project, “Texas Women’s Experiences Attempting Self-Induced Abortion in the Face of Dwindling Options,” emphasizes that women are not just considering inducing their own abortions, they are actually doing so, using methods that are not entirely safe or effective.²²⁹ Without immediate access to legal abortion services, desperate women will do just about anything to end their pregnancies, even if it comes at great risk to their health. In 2005, Susan Hill expressed her belief that “women are exceedingly wise.”²³⁰ Anti-abortion activists like Roy McMillan, she argued, were unrealistic in assuming that women who seek out abortions do not understand what they are doing: “They know they're either going to have a baby, or they're not going to have a baby. [But McMillan thinks] if they'd just listen to him, that he can tell them the right thing to do in their lives.”²³¹ Women fully understand the choice they are making when they obtain abortions. Women know what is good for them and their families, and they know when an abortion

²²⁷ Seth Stephens-Davidowitz, “The Return of the D.I.Y. Abortion.”

²²⁸ Seth Stephens-Davidowitz, “The Return of the D.I.Y. Abortion.”

²²⁹ Texas Policy Evaluation Project, “Texas Women’s Experiences Attempting Self-Induced Abortion in the Face of Dwindling Options.”

²³⁰ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

²³¹ Casey Parks, “No Apologies: Inside Mississippi’s Pro-Life Movement.”

is in their best interests. For all their efforts, anti-abortion activists and lobbyists will never fully dissuade all women from procuring abortions, they will simply push them into finding new, likely unsafe, ways to exercise their reproductive rights.

The effects of increasingly restrictive anti-abortion legislation on real women's lives are becoming rapidly clear. Without access to safe, legal abortions, many women will take drastic, possibly dangerous measures. Many more will give up their dreams and aspirations of obtaining an education and enjoying successful careers. In Mississippi, where a large swath of the population lives in grinding poverty, economic prosperity will remain stagnant. Though pro-choice activists continue to fight against these restrictions, the future of abortion access, and of our society as a whole, remains in question. And even if the Supreme Court rules to strike down TRAP laws like the one currently blocked in Mississippi, it will likely not be the last time the Jackson Women's Health Organization will face an imminent threat of closure. But, for now, this clinic stays open.

Bibliography

- “2016 PLM Ministry Data.” Pro-Life Mississippi. accessed March 1. 2016.
<http://www.prolifemississippi.org>.
- Abcarian, Robin. “No Regrets: Reclaiming Abortion as a Force for Social Good.” *the Los Angeles Times*. March 9. 2015. <http://www.latimes.com/local/abcarian/la-me-ra-reclaiming-abortion-20150309-column.html>
- Anderson, Roslyn. “Gov. Bryant Signs Abortion Bill.” Mississippi News Now. April 16. 2012. <http://www.msnewsnow.com/story/17461039/gov-bryant-to-sign-abortion-bill>.
- Atkins, Joe. “Abortion Bill Now in Allain’s Hands.” *Jackson Daily News*. April 2. 1986.
- Atkins, Joe. “Anti-Abortion Expert Wins Support for Parental Consent Requirement.” *Jackson Daily News*. March 5. 1986.
- Belkin, Lisa. “Kill for Life?.” *the New York Times*. October 30. 1994.
- Borgman, Caitlin E. “What the Mississippi Personhood Amendment Tells Us About Life.” *MISS. LJ* 81 (2011). 115-121.
- Brennan, Tom. “ACLU Sues to Block Abortion Law for Minors.” *The Clarion-Ledger*. June 28. 1986.
- Cohen, David S. and Krysten Connon. “Not an Isolated Incident.” *Slate*. March 25. 2015. http://www.slate.com/articles/health_and_science/medical_examiner/2015/03/mississippi_s_only_abortion_clinic_attacked_governor_can_t_stop_legal_procedure.html.
- Crary, David. “Mississippi’s Last Abortion Clinic Persists.” *The Seattle Times*. December 28. 2014.
- Crisp, Elizabeth. “Abortion Issue on ’11 Ballot.” *The Clarion-Ledger*. April 2. 2010.
- Donahue, John J. and Steven D. Levitt. “The Impact of Legalized Abortion on Crime.” *the Quarterly Journal of Economics*. Vol. CXVI. Issue 2. May 2001.
- Donnally, Jennifer. “The Politics of Abortion and the Rise of the New Right.” (PhD diss.. University of North Carolina at Chapel Hill. 2013).

- Dreher, Arielle. “‘Unborn Child Protection’ Bill Passes Mississippi House. ‘Dangerous Precedent’?” *Jackson Free Press*. February 29, 2016.
<http://www.jacksonfreepress.com/news/2016/feb/29/unborn-child-protection-bill-passes-mississippi-ho/>.
- Dubow, Sara. *Ourselves Unborn*. (Oxford University Press, 2010).
- Elliott, Debbie. “Sole Abortion Clinic in Mississippi Fights Law to Stay Open.” National Public Radio. June 29, 2012. <http://www.npr.org/2012/06/29/155976574/sole-abortion-clinic-in-miss-fights-law-to-stay-open>
- Elliott Jr., Jack. “Legislators Ban Abortion Money.” *The Clarion-Ledger*. April 4, 2002.
- Eubank, Jay. “3 of 4 Female Senators back Abortion Bill.” *The Clarion-Ledger*. March 8, 1991.
- Eubank, Jay. “Abortion Bill Veto Overriden.” *The Clarion-Ledger*. March 29, 1991.
- Eubank, Jay. “Mabus Vetoes Abortion Bill.” *The Clarion-Ledger*. March 28, 1991.
- Gold, Rachel Benson and Elizabeth Nash. “Laws Affecting Reproductive Health and Rights: State Trends at Midyear, 2014.” The Guttmacher Institute. accessed March 1, 2016.
<http://www.guttmacher.org/statecenter/updates/2014/statetrends22014.html>.
- Gold, Rachel Benson and Elizabeth Nash. “TRAP Laws Gain Political Traction While Abortion Clinics—and the Women They Serve—Pay the Price.” Guttmacher Institute. accessed March 1, 2016.
<https://www.guttmacher.org/pubs/gpr/16/2/gpr160207.html>.
- Greenberg, Mary Lou. “Susan Hill: 37 Years of Courage.” *On the Issues Magazine*. January, 2010.
http://www.ontheissuesmagazine.com/2010winter/2010winter_Bader.php
- Hess, Jeffrey. “Mississippi Legislature Passes Abortion Clinic Bill.” Kaiser Health News. April 4, 2012. <http://khn.org/news/mississippi-abortion-clinic-bill/>
 “History of Abortion.” National Abortion Federation. accessed March 28, 2016.
<http://prochoice.org/education-and-advocacy/about-abortion/history-of-abortion/>.
- “House Bill 1390.” Mississippi Legislature. accessed March 1, 2016.
<http://billstatus.ls.state.ms.us/documents/2012/html/HB/1300-1399/HB1390IN.html>.
- Howard, J. Lee. “Abortion Rule Angers Women.” *The Clarion-Ledger*. August 11, 1992.

- Howard, J. Lee. "Judge Blocks State's New Abortion Law." *The Clarion-Ledger*. August 31. 1992.
- Johnson, William Robert. "Historical Abortion Statistics. Alabama (USA)." Johnston's Archive. accessed January 1. 2016.
<http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-AL.html>.
- Johnson, William Robert. "Historical Abortion Statistics. Louisiana (USA)." Johnston's Archive. accessed January 1. 2016.
<http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-LA.html>
- Johnson, William Robert. "Historical Abortion Statistics. Mississippi (USA)." Johnston's Archive. accessed January 1. 2016.
<http://www.johnstonsarchive.net/policy/abortion/usa/ab-usa-MS.html>.
- Johnson, William Robert. "Historical Abortion Statistics. United States." Johnston's Archive. accessed January 1. 2016.
<http://www.johnstonsarchive.net/policy/abortion/ab-unitedstates.html>.
- Kanengiser, Andy. "Bill to Restrict Abortions Killed by House Panel." *The Clarion Ledger*. February 28. 1990.
- Kraft, Beverly Pettigrew. "24-hour Delay for Abortion Stands." *The Clarion-Ledger*. December 8. 1992.
- Kraft, Beverly Pettigrew. "24-Hour Law for Abortion Ruled Legal." *The Clarion-Ledger*. August 7. 1992.
- The Last Abortion Clinic*. directed by Raney Aronson-Rath. aired November 8. 2005 (Boston: PBS Frontline. 2005). DVD.
- Light, John. "Five Facts You Should Know About the Hyde Amendment." Bill Moyers. accessed January 1. 2016. <http://billmoyers.com/content/five-facts-you-should-know-about-the-hyde-amendment/>.
- Lithwick, Dahlia. "The Women Take Over." *Slate*. March 2. 2016.
http://www.slate.com/articles/news_and_politics/supreme_court_dispatches/2016/03/in_oral_arguments_for_the_texas_abortion_case_the_three_female_justices.html.
- MacAvoy, Janice and Janie Schulman. et al.. Brief for the Supreme Court as Amicus Curiae. *Whole Woman's Health v. Cole*. No. 15-274. 3.
- McBride, Alex. "Casey v. Planned Parenthood (1992)." Public Broadcasting Service.

accessed January 1. 2016.
http://www.pbs.org/wnet/supremecourt/rights/landmark_casey.html.

McIntosh, Shawn. "State's Abortions Soared in Decade. Board Reports." *Jackson Daily News*. April 18. 1987.

McMillan, Beverly. "Former Abortionist Dr. Beverly McMillan." Pro-Life Action League. accessed March 1. 2016. <http://prolifeaction.org/providers/mcmillan.php>

McWhirter, Cameron. "Federal Court Blocks Mississippi Law Threatening Abortion Clinic." *the Wall Street Journal*. July 29. 2014.
<http://www.wsj.com/articles/federal-court-blocks-mississippi-law-threatening-abortion-clinic-1406670053>

Mercier, Rebecca J. "TRAP Laws and the Invisible Labor of US Abortion Providers." *Critical Public Health* Vol . 26. No.1. 82.

Mercier, Rebecca J., Mara Buchbinder & Amy Bryant. "TRAP laws and the invisible labor of US abortion providers." *Critical Public Health*. 26:1. 2016. 80.

Mitchell, Jerry. "246,000 Mississippi Children Living in Poverty." *the Clarion-Ledger*. July 21. 2015.

Mitchell, Jerry. "Abortion Activist Roy McMillan Dies." *The Clarion-Ledger*. January 21. 2016. <http://www.clarionledger.com/story/news/2016/01/21/anti-abortion-activist-roy-mcmillan-dies/79119222/>.

Mitchell, Jerry. "Veteran Activist to Head Abortion Clinic." *The Clarion-Ledger*. December. 24. 1994.

"Mississippi." Medicaid. accessed January 1. 2016. <https://www.medicaid.gov/medicaid-chip-program-information/by-state/mississippi.html>.

"Mississippi 2014." Talk Poverty. accessed January 1. 2016. <http://talkpoverty.org/state-year-report/mississippi-2014-report/>.

"Mississippi Age of Consent Laws." The Age of Consent. accessed January 1. 2016. <http://www.ageofconsent.us/state-laws/mississippi-age-of-consent-laws/>.

Mississippi Code of 1972 Annotated. § 41-41-53. Mississippi Legislature. accessed January 1. 2016. <https://www.lexisnexis.com/hottopics/mscode/>.

"Mississippi's Lone Abortion Clinic Fights to Stay Open." Center for Reproductive

Rights. February 1. 2016. <http://www.reproductiverights.org/feature/mississippi-last-abortion-clinic-admitting-privileges>.

Mississippi Secretary of State. "Official Tabulation of Vote for Statewide Initiative Measure No.26." accessed January 1. 2016.
<https://www.sos.ms.gov/links/elections/results/statewide/Statewide%20Initiative%20Measure%2026%20-%20General%20Election%202011%20Results.pdf>.

"Mississippi Senate." *The Clarion-Ledger*. May 19. 1966.

"Mississippi Governor Signs Bill Tightening Restrictions on Abortion Providers." *CNN*. April 17. 2012. <http://www.cnn.com/2012/04/17/politics/mississippi-abortion/>

"NAF Violence and Disruption Statistics." National Abortion Federation. accessed March 1. 2016.
http://5aa1b2xfmfh2e2mk03kk8rsx.wpengine.netdna-cdn.com/wp-content/uploads/Stats_Table_2014.pdf.

NARAL Pro-Choice America. *Who Decides?: The Status of Women's Reproductive Rights in the United States*. January 2015.

Nave, R.L. "Inside the Abortion Clinic Battle." *Jackson Free Press*. August 1. 2012.
<http://www.jacksonfreepress.com/news/2012/aug/01/inside-abortion-clinic-battle/>.

Oglethorpe, Jerry. "Numbers Thrive in State. Could Be 5,000 Each Year." *Jackson Daily News* (Jackson, MS). August 9. 1979.

Parks, Casey. "No Apologies: Inside Mississippi's Pro-Life Movement." *The Jackson Free Press*. September 28. 2005.
<http://www.jacksonfreepress.com/news/2005/sep/28/no-apologies-inside-mississippis-pro-life-movement/>.

Pieklo, Jessica Mason. "Federal Court Blocks Mississippi Admitting Privileges Law." RH Reality Check. accessed February 1. 2016.
<http://rhrealitycheck.org/article/2013/04/15/federal-court-blocks-mississippi-admitting-privileges-law/>.

Pettigrew, Beverly. "Abortion Law Now Faces Constitutional Test After Judge's Restraining Order." *Jackson Daily News*. July 3. 1986.

Pettus, Gary. "Personhood Rejected." *The Clarion-Ledger*. November 11. 2009.

Pettus, Emily Wagster. "Mississippi 'Personhood' Amendment Fails." *the Huffington*

- Post*. November 8, 2011. http://www.huffingtonpost.com/2011/11/08/mississippi-personhood-amendment_n_1082546.html.
- Pettus, Emily Wagster. "Second Ban on Abortion Funding Goes to Miss. Governor." *the Associated Press*. 2010.
<https://www.memphisdailynews.com/editorial/ArticleEmail.aspx?id=49642>.
- "Planned Parenthood v. Abbott." RH Reality Check. accessed February 1, 2016.
<http://data.rhrealitycheck.org/legal-case/planned-parenthood-v-abbott/>.
"QuickFacts. Mississippi." United States Census Bureau. accessed January 1, 2016. <http://quickfacts.census.gov/qfd/states/28000.html>.
- Rankin, Lauren. "Clinic Escort Series: Michelle Colon – Jackson, Mississippi." *A is For*. May 6, 2015. <http://www.aisfor.org/clinic-escort-series-1/#sthash.C20BQs1h.28VQznpQ.dpbs>.
- "Reported Legal Abortions by Age Group Within the State of Occurrence." The Henry J. Kaiser Family Foundation. accessed January 1, 2016. <http://kff.org/womens-health-policy/state-indicator/distribution-of-abortions-by-age/>.
- Richardson, John H. "Inside the Abortion Ministry of Willie Parker." *Esquire*. July 30, 2014. <http://www.esquire.com/news-politics/a23771/abortion-ministry-of-dr-willie-parker-0914/>.
- Schoen, Johanna. *Abortion after Roe* (Chapel Hill: University of North Carolina Press, 2015).
- Schoen, Johanna. *Choice and Coercion* (Chapel Hill: University of North Carolina Press, 2005).
- Sheppard, Kate. "Inside Mississippi's Last Abortion Clinic." *Mother Jones*. January 22, 2013. <http://www.motherjones.com/politics/2013/01/inside-mississippis-last-abortion-clinic>
- Simpson, Melanie. "Health Department May Not be Able to Enforce Abortion Law." *Clarion-Ledger*. July 12, 1996. Susan Hill Papers. David M. Rubenstein Rare Book & Manuscript Library. Duke University.
- Smith, Goerky. "Beliefs Led McMillan to Found. Quit Abortion Clinic." *The Northside Sun*. April 17, 1986.
- Stephens-Davidowitz, Seth. "The Return of the D.I.Y. Abortion." *The New York Times*. March 5, 2016. http://www.nytimes.com/2016/03/06/opinion/sunday/the-return-of-the-diy-abortion.html?_r=0.
- "SisterSong: Women of Color Reproductive Justice Collective." *SisterSong*. accessed

- May 1. 2016. <http://sistersong.net/reproductive-justice/>.
- “State Funding of Abortion under Medicaid.” the Guttmacher Institute. accessed January 1. 2016. http://www.guttmacher.org/statecenter/spibs/spib_SFAM.pdf.
- State of Texas Legislature. “House Bill No. 2.” accessed February 1. 2016. <http://www.legis.state.tx.us/tlodocs/832/billtext/pdf/HB00002F.pdf>.
- “Texas Administrative Code Chapter 135: Operating Requirements for Ambulatory Surgical Centers.” Texas Regents. Office of the Secretary of State. accessed February 1. 2016. [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=135&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=135&sch=A&rl=Y)
- “Texas Omnibus Abortion Bill (HB 2).” RH Reality Check. accessed February 1. 2016. <http://data.rhrealitycheck.org/law/texas-omnibus-abortion-bill-hb-2-2013/>.
- “Texas Women’s Experiences Attempting Self-Induced Abortion in the Face of Dwindling Options.” Texas Policy Evaluation Project. http://www.utexas.edu/cola/txpep/_files/pdf/TxPEP-Research-Brief-WomensExperiences.pdf. November 17. 2015. 1.
- United States Fifth Circuit Court of Appeals. “Appeal from the United States District Court for the Western District of Texas.” <http://www.ca5.uscourts.gov/opinions/pub/13/13-51008-CV0.pdf>. October 31. 2013. 12
- United States Supreme Court. *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992). <http://caselaw.findlaw.com/us-supreme-court/505/833.html>.
- United States Supreme Court. “Roe v. Wade.” January 22. 1973. <http://caselaw.findlaw.com/us-supreme-court/410/113.html>
- Western Texas District Court. “Planned Parenthood v. Abbott.” RH Reality Check. accessed February 1. 2016. http://rhrealitycheck.wpengine.netdna-cdn.com/wp-content/uploads/2013/09/PP_V_Abbott.pdf. 4.
- Western Texas District Court. “Whole Woman’s Health v. Hellerstedt.” accessed March 1. 2016. http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/WWH%20v%20Lahey_Memorandum%20Opinion.pdf.
- “Whole Woman’s Health v. Hellerstedt.” RH Reality Check. accessed March 28. 2016. <http://data.rhrealitycheck.org/legal-case/whole-womans-health-v-lahey/>.
- Yarrow, Allison. “Meet the Woman in Charge of the Last Abortion Clinic in Mississippi.”

The Daily Beast. July 11, 2012.
<http://www.thedailybeast.com/articles/2012/07/11/meet-the-woman-in-charge-of-the-last-abortion-clinic-in-mississippi.html>.

Ziegler, Mary. *After Roe*. (Boston: Harvard University Press, 2015)